

# AMERICAN STATE PAPERS.

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## MISCELLANEOUS.

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1st CONGRESS.]

No. 1.

[1st SESSION.

### CONTESTED ELECTION OF WILLIAM SMITH, A REPRESENTATIVE FROM SOUTH CAROLINA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 18, 1789.

Mr. CLYMER, from the Committee of Elections, to whom it was referred to report a proper mode of deciding on the petition of David Ramsay, of South Carolina, suggesting that William Smith, returned a member of this House, as elected within that State, was, at the time of his being elected, ineligible, made the following report:

**T**HAT in this case it will be sufficient, in the first instance, that a committee take such proofs as can be obtained in this city respecting the facts stated in the petition, and report the same to the House. That Mr. Smith be permitted to be present from time to time when such proofs are taken, to examine the witnesses, and to offer counter-proofs, which shall also be received by the committee and reported to the House. That, if the proofs so to be reported shall be declared by the House insufficient to verify the material facts stated in the petition, or such other facts as the House shall deem proper to be inquired into, it will then be necessary for the House to direct a further inquiry, especially the procuring whatever additional testimony may be supposed to be in South Carolina, as the case may require. That all questions arising on the proofs be decided by this House, without any previous opinion thereon reported by a committee.

[NOTE.—See No. 6.]

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1st CONGRESS.]

No. 2.

[1st SESSION.

### RETURN OF THE MESSENGER APPOINTED TO DELIVER TO GEORGE WASHINGTON THE CERTIFICATE OF HIS ELECTION TO THE OFFICE OF PRESIDENT OF THE UNITED STATES.

COMMUNICATED TO THE SENATE, APRIL 25, 1789.

SIR:

NEW YORK, *April 24, 1789.*

In pursuance of the orders I received from the Senate, I left New York on Tuesday, the 7th of the present month; and though much impeded by tempestuous weather, bad roads, and the many large rivers I had to cross, yet, by unremitting diligence I reached Mount Vernon, the seat of his excellency General Washington, on Tuesday, the 14th, about 12 o'clock. I found his excellency at home; and after communicating to him the object of my mission and the substance of my instructions, I took an opportunity, on the day of my arrival, to address him as follows:

“Sir, the President of the Senate, chosen for the special occasion, having opened and counted the votes of the electors in the presence of the Senate and the House of Representatives, I was honored with the commands of

the Senate to wait upon your excellency with the information of your being elected to the office of President of the United States of America. This commission was intrusted to me on account of my having been long in the confidence of the late Congress, and charged with the duties of one of the principal civil departments of Government.

"I have now, sir, to inform you, that the proofs you have given of your patriotism, and of your readiness to sacrifice domestic ease and private enjoyment to preserve the liberty and promote the happiness of your country, did not permit the two Houses to harbor a doubt of your undertaking this great, this important office, to which you are called not only by the unanimous votes of the electors but by the voice of America; I have it therefore in command to accompany you to New York, where the Senate and the House of Representatives are convened for the despatch of public business. In executing this part of my commission, where personal gratification coincides with duty, I shall wait your time, and be wholly governed by your convenience."

To this his excellency was pleased to make the following reply:

"Sir, I have been long accustomed to entertain so great a respect for the opinion of my fellow-citizens, that the knowledge of their unanimous suffrages having been given in my favor, scarcely leaves me the alternative for an option. Whatever may have been my private feelings and sentiments, I believe I cannot give a greater evidence of my sensibility for the honor they have done me, than by accepting the appointment.

"I am so much affected by this fresh proof of my country's esteem and confidence, that silence can best explain my gratitude—while I realize the arduous nature of the task which is conferred on me, and feel my inability to perform it, I wish there may not be reason for regretting the choice. All I can promise is, only that which can be accomplished by an honest zeal.

"Upon considering how long time some of the gentlemen of both Houses of Congress have been at New York, how anxiously desirous they must be to proceed to business, and how deeply the public mind appears to be impressed with the necessity of doing it immediately, I cannot find myself at liberty to delay my journey. I shall therefore be in readiness to set out the day after to-morrow, and shall be happy in the pleasure of your company; for you will permit me to say that it was a peculiar gratification to have received the communication from you."

His excellency set out accordingly on Thursday, the 16th. His progress was retarded by the tender and affectionate leave which his neighbors and friends took of him; by the congratulatory addresses which he was obliged to receive by the way; and by the testimonies of public esteem and joy, to which it was necessary for him to pay attention, in the several States through which he passed; but that this might occasion as little delay as possible, he commenced his journey every morning at sun-rise, continued it incessantly throughout the day, and supported the fatigues of it, eight days successively, till he reached this place.

His happy and safe arrival here yesterday having terminated my commission, I submit my conduct in the execution of it to the judgment of the Senate, and have the honor to be, with great esteem and respect,

Sir, your most obedient and most humble servant,

CHARLES THOMSON.

The PRESIDENT of the Senate.

[1st CONGRESS.]

No. 3.

[1st SESSION.]

#### TITLES OF THE PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 5, 1789.

Mr. BENSON, from the committee appointed to consider and report what style and titles it will be proper to annex to the office of President and Vice President of the United States, if any other than those given in the constitution, and to confer with a committee of the Senate appointed for the same purpose, made the following report:

That it is not proper to annex any style or title to the respective styles and titles of the office expressed in the constitution.

[NOTE.—See report of committee of the Senate, No. 7.]

[1st CONGRESS.]

No. 4.

[1st SESSION.]

#### APPLICATION OF VIRGINIA FOR A CONVENTION OF THE SEVERAL STATES TO REPORT AMENDMENTS TO THE CONSTITUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 5, 1789.

VIRGINIA, to wit:

IN GENERAL ASSEMBLY, November 14, 1788.

*Resolved*, That an application be made, in the name and on behalf of the Legislature of this Commonwealth, to the Congress of the United States, in the words following, to wit:

The good people of this Commonwealth, in convention assembled, having ratified the constitution submitted



to their consideration, this Legislature has, in conformity to that act, and the resolutions of the United States in Congress assembled, to them transmitted, thought proper to make the arrangements that were necessary for carrying it into effect. Having thus shown themselves obedient to the voice of their constituents, all America will find that, so far as it depended on them, that plan of Government will be carried into immediate operation.

But the sense of the people of Virginia would be but in part complied with, and but little regarded, if we went no further. In the very moment of adoption, and coeval with the ratification of the new plan of Government, the general voice of the convention of this State pointed to objects no less interesting to the people we represent, and equally entitled to our attention. At the same time that, from motives of affection to our sister States, the Convention yielded their assent to the ratification, they gave the most unequivocal proofs that they dreaded its operation under the present form.

In acceding to the Government under this impression, painful must have been the prospect, had they not derived consolation from a full expectation of its imperfections being speedily amended. In this resource, therefore, they placed their confidence—a confidence that will continue to support them whilst they have reason to believe that they have not calculated upon it in vain.

In making known to you the objections of the people of this Commonwealth to the new plan of Government, we deem it unnecessary to enter into a particular detail of its defects, which they consider as involving all the great and unalienable rights of freemen. For their sense on this subject we beg leave to refer you to the proceedings of their late convention, and the sense of the House of Delegates, as expressed in their resolutions of the 30th day of October, 1788.

We think proper, however, to declare that, in our opinion, as those objections were not founded in speculative theory, but deduced from principles which have been established by the melancholy example of other nations in different ages, so they will never be removed until the cause itself shall cease to exist. The sooner, therefore, the public apprehensions are quieted, and the Government is possessed of the confidence of the people, the more salutary will be its operations, and the longer its duration.

The cause of amendments we consider as a common cause; and, since concessions have been made from political motives which we conceive may endanger the republic, we trust that a commendable zeal will be shown for obtaining those provisions which experience has taught us are necessary to secure from danger the unalienable rights of human nature.

The anxiety with which our countrymen press for the accomplishment of this important end will ill admit of delay. The slow forms of Congressional discussion and recommendation, if indeed they should ever agree to any change, would, we fear, be less certain of success. Happily for their wishes, the constitution has presented an alternative, by admitting the submission to a convention of the States. To this, therefore, we resort, as the source from whence they are to derive relief from their present apprehensions.

We do, therefore, in behalf of our constituents, in the most earnest and solemn manner, make this application to Congress, that a convention be immediately called, of deputies from the several States, with full power to take into their consideration the defects of this constitution that have been suggested by the State conventions, and report such amendments thereto as they shall find best suited to promote our common interests and secure to ourselves and our latest posterity the great and unalienable rights of mankind.

JOHN JONES, *Speaker Senate.*

THOMAS MATHEWS, *Speaker House Del.*

[1st CONGRESS.]

No. 5.

[1st SESSION.]

APPLICATION OF NEW YORK FOR A CONVENTION OF THE SEVERAL STATES TO  
REPORT AMENDMENTS TO THE CONSTITUTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 6, 1789.

STATE OF NEW YORK:

IN ASSEMBLY, *February 5, 1789.*

*Resolved*, If the honorable the Senate concur therein, that an application be made to the Congress of the United States of America, in the name and behalf of the Legislature of this State, in the words following, to wit:

The people of the State of New York, having ratified the constitution agreed to on the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, by the convention then assembled at Philadelphia, in the State of Pennsylvania, as explained by the said ratification, in the fullest confidence of obtaining a revision of the said constitution by a general convention, and in confidence that certain powers in and by the said constitution granted would not be exercised until a convention should have been called and convened for proposing amendments to the said constitution: In compliance, therefore, with the unanimous sense of the convention of this State, who all united in opinion that such a revision was necessary to recommend the said constitution to the approbation and support of a numerous body of their constituents, and a majority of the members of which conceived several articles of the constitution so exceptionable, that nothing but such confidence, and an invincible reluctance to separate from our sister States, could have prevailed upon a sufficient number to assent to it, without stipulating for previous amendments. And from a conviction that the apprehensions and discontents which those articles occasion cannot be removed or allayed unless an act to revise the said constitution be among the first that shall be passed by the new Congress, we, the Legislature of the State of New York, do, in behalf of our constituents, in the most earnest and solemn manner, make the application to the Congress, that a convention of deputies from the several States be called as early as possible, with full powers to take the said constitution into their consideration, and to propose such amendments thereto as they shall find best calculated to promote our common interests, and secure to ourselves and our latest posterity the great and unalienable rights of mankind.

By order of the Assembly:

JOHN LANSING, JUN., *Speaker.*

IN SENATE, *February 7, 1789.*

By order of the Senate:

PIERRE VAN CORTLANDT, *President.*

1st CONGRESS.]

No. 6.

[1st SESSION.

CONTESTED ELECTION OF WILLIAM SMITH, A REPRESENTATIVE FROM SOUTH CAROLINA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 12, 1789.

Mr. CLYMER, from the Committee of Elections, to whom it was referred to take proofs of the facts stated in the petition of David Ramsay, suggesting that William Smith, elected a member of this House within the State of South Carolina, was, at the time when he was elected, ineligible, by reason that he had not been seven years a citizen of the United States, reported as followeth:

That Mr. Smith appeared before them, and admitted that he had subscribed, and had caused to be printed, in the State Gazette of South Carolina of the 24th of November last, the publication which accompanies this report, and to which the petitioner doth refer as proof of the facts stated in his petition. That Mr. Smith also admitted that his father departed this life in the year one thousand seven hundred and seventy, about five months after he sent him to Great Britain. That his mother departed this life about the year one thousand seven hundred and sixty, and that he was admitted to the bar of the Supreme Court in South Carolina in the month of January, one thousand seven hundred and eighty-four.

The committee also report the following counter-proofs, produced by Mr. Smith, viz: Printed copies of the following acts of the Legislature of the State of South Carolina, viz: An act entitled "An act to oblige every free male inhabitant of this State, above a certain age, to give assurance of fidelity and allegiance to the same, and for other purposes therein mentioned," passed the twenty-eighth of March, one thousand seven hundred and seventy-eight. An act entitled "An act disposing of certain estates, and banishing certain persons therein mentioned," passed the twenty-sixth of February, one thousand seven hundred and eighty-two. An act entitled "An act to alter and amend an act entitled an act for disposing of certain estates and banishing certain persons, passed at Jacksonburgh, in the State of South Carolina, on the twenty-sixth day of February, in the year one thousand seven hundred and eighty-two," passed in March, one thousand seven hundred and eighty-three. An act entitled "An act to confer the right of citizenship on aliens," passed the twenty-sixth of March, one thousand seven hundred and eighty-four. Also, an ordinance of the Legislature of the said State, entitled "An ordinance to encourage subjects of foreign states to lend money at interest on real estates within this State," passed the twenty-sixth of March, one thousand seven hundred and eighty-four. A certified copy of an extract from an act of the Legislature of that State, entitled "An act for raising and paying into the public Treasury of this State, a tax, for the uses therein mentioned," passed the ninth of September, one thousand seven hundred and seventy-nine; and a printed copy of the constitution of South Carolina. Also, a certificate from John Edwards and William Hort, Commissioners of the Treasury of that State, under their seal of office.

1st CONGRESS.]

No. 7.

[1st SESSION.

TITLE OF THE PRESIDENT OF THE UNITED STATES.

COMMUNICATED TO THE SENATE, MAY 14, 1789.

The committee (LEE, ELLSWORTH, and JOHNSON) appointed to consider and report under what title it will be proper for the President of the United States in future to be addressed, and confer thereon with such committee as the House of Representatives may appoint for that purpose, made the following report:

That, in the opinion of the committee, it will be proper thus to address the President: *His Highness the President of the United States of America, and Protector of their Liberties.*

[NOTE.—See report of a committee of the House of Representatives, No. 3.]

1st CONGRESS.]

No. 8.

[1st SESSION.

ILLEGALITY OF THE ELECTIONS OF THE REPRESENTATIVES FROM NEW JERSEY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 21, 1789.

Mr. CLYMER, from the Committee of Elections, to whom it was referred to report a proper mode of investigation and decision on the petitions of a number of the citizens of New Jersey, complaining of the illegality of the election of the members holding seats in this House, as elected within that State, made the following report:

That it will be proper to appoint a committee before whom the petitioners are to appear, and who shall receive such proofs and allegations as the petitioners shall judge proper to offer, in support of their said petition, and who

shall, in like manner, receive all proofs and allegations from persons who may be desirous to appear, and be heard in opposition to the said petition; and to report to the House all such facts as shall arise from the proofs and allegations of the respective parties.

*Resolved*, That this House doth agree with the committee in the said report; and that it be an instruction to the said Committee of Elections to proceed accordingly.

[NOTE.—See No. 9.]

1st CONGRESS.]

No. 9.

[1st SESSION.

### ILLEGALITY OF THE ELECTIONS OF THE REPRESENTATIVES FROM NEW JERSEY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, AUGUST 18, 1789.

Mr. CLYMER, from the Committee of Elections, reported that the committee, pursuant to the instruction to them contained in the resolution of the twenty-fifth of May, relative to the petition of a number of citizens of the State of New Jersey, complaining of the illegality of the election of the members of this House, as elected within that State, do ascertain the following facts, as arising from the proofs, to wit:

1st. That the elections for members of this House held within that State, in consequence of an act of the Legislature thereof, entitled “An act for carrying into effect, on the part of the State of New Jersey, the constitution of the United States, assented to, ratified, and confirmed by this State on the eighteenth day of December, one thousand seven hundred and eighty-seven,” passed the twenty-first of November, one thousand seven hundred and eighty-eight, were closed in the several counties of Bergen, Morris, Monmouth, Hunterdon, Somerset, Middlesex, Sussex, Salem, Cape May, Cumberland, Burlington, and Gloucester; and the lists of the several persons voted for, and the number of votes taken for each, were received by the Governor at the respective times appearing from the said lists and the endorsements thereon, which lists accompany this report.

2d. That the election in the county of Essex, the remaining county in the State, closed on the 27th of April, and the list was received by the Governor on the 3d of May.

3d. That in consequence of a summons from the Governor, (a copy whereof accompanies this report,) dated the 27th of February, to four members of the Council, a privy council, consisting of the Governor and the four members so summoned, did assemble at Elizabethtown on the 3d of March, and, being so assembled, Mr. Haring, another member of the Council, received a note from the Governor, (a copy whereof accompanies this report,) in consequence whereof Mr. Haring did then also attend the privy council, as a member thereof.

4th. That the Governor then appointed another meeting of the privy council, to be held on the 18th of March, at which day the Governor and eleven members of the Council did assemble, and did then determine, from the lists of the twelve counties specified in the first fact above stated, the four members now holding seats in this House the four persons elected members of this House within that State; against which determination of the Council three of the members then present did protest; and a protest (a copy whereof accompanies this report) was, with the consent of the Council, delivered into the Council in form, on the subsequent day.

5th. That there was no determination of the Governor and privy council in the premises until the 18th of March.

6th. That the Governor did, on the 19th of March, issue a proclamation, (a copy whereof accompanies this report.)

[NOTE.—See No. 8.]

1st CONGRESS.]

No. 10.

[1st SESSION.

### RHODE ISLAND DESIRES TO MAINTAIN FRIENDLY RELATIONS WITH THE UNITED STATES.

COMMUNICATED TO THE SENATE, SEPTEMBER 26, 1789.

UNITED STATES, *September 26, 1789.*

*Gentlemen of the Senate:*

Having yesterday received a letter written in this month by the Governor of Rhode Island, at the request and in behalf of the General Assembly of that State, addressed to the President, the Senate, and the House of Representatives of the eleven United States of America in Congress assembled, I take the earliest opportunity of laying a copy of it before you.

GEO. WASHINGTON.

## STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

IN GENERAL ASSEMBLY, *September session, 1789.**To the President, the Senate, and the House of Representatives of the eleven United States of America in Congress assembled.*

The critical situation in which the people of this State are placed, engage us to make these assurances, on their behalf, of their attachment and friendship to their sister States, and of their disposition to cultivate mutual harmony and friendly intercourse. They know themselves to be a handful, comparatively viewed; and although they now stand, as it were alone, they have not separated themselves, or departed from the principles of that confederation, which was formed by the sister States in their struggle for freedom and in the hour of danger; they seek, by this memorial, to call to your remembrance the hazards which we have run, the hardships we have endured, the treasure we have spent, and the blood we have lost together, in one common cause, and especially the object we had in view—the preservation of our liberty. Wherein, ability considered, they may truly say they were equal in exertions with the foremost, the effects whereof, in great embarrassments and other distresses consequent thereon, we have since experienced with severity; which common sufferings, and common danger, we hope and trust, yet form a bond of union and friendship not easily to be broken.

Our not having acceded to or adopted the new system of Government, formed and adopted by most of our sister States, we doubt not, have given uneasiness to them. That we have not seen our way clear to do it, consistent with our idea of the principles upon which we all embarked together, has also given pain to us; we have not doubted but we might thereby avoid present difficulties, but we have apprehended future mischief. The people of this State, from its first settlement, have been accustomed and strongly attached to a democratical form of Government. They have viewed in the constitution an approach, though, perhaps, but small, towards that form of Government from which we have lately dissolved our connexion, at so much hazard and expense of life and treasure; they have seen with pleasure the administration thereof, from the most important trust downwards, committed to men who have highly merited, and in whom the people of the United States place, unbounded confidence: yet even in this circumstance, in itself so fortunate, they have apprehended danger, by way of precedent. Can it be thought strange, then, that with these impressions they should wait to see the proposed system organized and in operation? to see what further checks and securities would be agreed to and established, by way of amendments, before they could adopt it as a constitution of Government for themselves and their posterity? These amendments, we believe, have already afforded some relief and satisfaction to the minds of the people of this State; and we earnestly look for the time when they may, with clearness and safety, be again united with their sister States, under a constitution and form of Government so well poised, as neither to need alteration, or be liable thereto, by a majority only of nine states out of thirteen—a circumstance which may possibly take place against the sense of a majority of the people of the United States. We are sensible of the extremes to which democratical Government is sometimes liable, something of which we have lately experienced; but we esteem them temporary and partial evils compared with the loss of liberty and the rights of a free people; neither do we apprehend they will be marked with severity by our sister States, when it is considered that during the late trouble, the whole United States, notwithstanding their joint wisdom and efforts, fell into the like misfortune; that from our extraordinary exertions this State was left in a situation nearly as embarrassing as that during the war; that in the measures which were adopted Government unfortunately had not that aid and support from the moneyed interest which our sister States of New York and the Carolinas experienced under similar circumstances, and especially when it is considered that, upon some abatement of that fermentation in the minds of the people, which is so common in the collision of sentiments and of parties, a disposition appears to provide a remedy for the difficulties we have labored under on that account. We are induced to hope that we shall not be altogether considered as foreigners, having no particular affinity or connexion with the United States; but that trade and commerce, upon which the prosperity of this State much depends, will be preserved as free and open between this and the United States, as our different situations, at present, can possibly admit; earnestly desiring and proposing to adopt such commercial regulations on our part, as shall not tend to defeat the collection of the revenue of the United States, but rather to act in conformity to, or co-operate therewith; and desiring also to give the strongest assurances that we shall, during our present situation, use our utmost endeavors to be in preparation, from time to time, to answer our proportion of such part of the interest or principal of the foreign and domestic debt as the United States shall judge expedient to pay and discharge.

We feel ourselves attached, by the strongest ties of friendship, kindred, and of interest, with our sister States; and we cannot, without the greatest reluctance, look to any other quarter for those advantages of commercial intercourse which we conceive to be more natural and reciprocal between them and us.

I am, at the request, and in behalf of the General Assembly, your most obedient humble servant,

JOHN COLLINS, *Governor.*

His Excellency the *PRESIDENT of the United States.*

[1st CONGRESS.]

No. 11.

[1st SESSION.]

## DEATH OF THE DAUPHIN OF FRANCE.

COMMUNICATED TO CONGRESS, SEPTEMBER 29, 1789.

UNITED STATES, *September 29, 1789.**Gentlemen of the House of Representatives:*

His Most Christian Majesty, by a letter dated the 7th of June last, addressed to the President and members of the General Congress of the United States of North America, announces the much lamented death of his son, the Dauphin. The generous conduct of the French monarch and nation towards this country renders every event that may affect his or their prosperity interesting to us; and I shall take care to assure him of the sensibility with which the United States participate in the affliction which a loss so much to be regretted must have occasioned both to him and to them.

GEO. WASHINGTON.

1st CONGRESS.]

No. 12.

[2d SESSION.

ROBERT MORRIS SOLICITS AN INQUIRY INTO HIS OFFICIAL CONDUCT AS SUPERINTENDENT OF THE FINANCES OF THE UNITED STATES.

COMMUNICATED TO THE SENATE, FEBRUARY 8, 1790.

NEW YORK, February 8, 1790.

*To the President, the Senate, and House of Representatives of the United States of America: The memorial of Robert Morris, late Superintendent of the Finances of the said United States, humbly sheweth:*

That on the twentieth day of June, one thousand seven hundred and eighty-five, and subsequent to your memorialist's resignation of his office of Superintendent, the Congress passed a resolution in the words following: "*Resolved*, That three commissioners be appointed to inquire into the receipts and expenditures of public moneys during the administration of the late Superintendent of the Finance, and to examine and adjust the accounts of the United States with that Department during his administration, and to report a state thereof to Congress;" which resolution, to persons unacquainted with the nature of the office, and the mode of conducting the business of the Department, gave occasion to the supposition that your memorialist had accounts both difficult and important to settle with the United States in respect to his official transactions. That though your memorialist foresaw the disagreeable consequences which might result to himself from the diffusion of such an opinion, he, notwithstanding, not only forbore any representation on the subject, but scrupulously avoided every species of interference, direct or indirect, lest it should be imagined either that he was actuated by the desire of obtaining from Congress those marks of approbation which had in repeated instances been bestowed on the servants of the public, or that he feared to meet the proposed investigation. Respect for the sovereign of the United States, concurring with motives of delicacy to forbid even the appearance of asking what, if merited, it was to be presumed would be conferred, (as being the proper reward of services not of solicitation,) and a firm confidence on the rectitude of his conduct, leaving your memorialist no inducement to evade any inquiry into it which it might be thought fit to institute.

That your memorialist, taking it for granted that the reasons which had produced a determination to establish a mode of inquiry into the transactions of the most important office under the Government, would have ensured a prosecution of the object, till it had been carried into effect, long remained in silent expectation of the appointment of commissioners, according to the resolution which had been entered into for that purpose; but it has so happened, from what cause your memorialist will not undertake to explain, that no further step has ever been taken in relation to it; and your memorialist has remained exposed to the surmises which the appearance of an intention to inquire into his conduct had a tendency to excite, without having been afforded an opportunity of obviating them. That the unsettled condition of certain accounts of a commercial nature between the United States and the late house of Willing, Morris, & Co., and your memorialist, prior to his appointment as Superintendent of the Finances, having been confounded with his transactions in that capacity, your memorialist has in various ways been subjected to injurious imputations on his official conduct, the only fruits of services which, at the time they were rendered, he trusts he may, without incurring the charge of presumption, affirm were generally esteemed both important and meritorious, and were at least rendered with ardor and zeal, with unremitting attention, and unweary application.

That your memorialist, desirous of rescuing his reputation from the aspersions thrown upon it, came, in the month of October, 1788, to the city of New York, as well for the purpose of urging the appointment of commissioners to inspect his official transactions, as for that of procuring an adjustment of the accounts which existed previous to his administration. But the first object was frustrated by the want of a sufficient number of members to make a Congress; and the last was unavoidably delayed, by the preliminary investigations requisite on the part of the commissioner named by the late Board of Treasury towards a competent knowledge of the business. That in the month of February, 1789, your memorialist returned to New York for the same purposes; but the obstacles which he had before experienced still operated to put it out of his power to present the memorial which had been prepared by him in October, praying for an appointment of commissioners. That he was, therefore, obliged to confine himself to measures for the settlement of his accounts respecting the transactions antecedent to his appointment as Superintendent, which he entered upon accordingly, with the commissioner appointed by the Board of Treasury, and in which as much progress as time and circumstances would permit was made, until the 4th of March last, when that commissioner, conceiving his authority by the organization of the new Government to have ceased, declined further proceedings; and, of course, your memorialist was obliged to wait the establishment of the new Treasury Department for the further prosecution of that settlement, which has been accordingly resumed, and he hopes will speedily be accomplished. But inasmuch as no mode of inquiry into his official conduct has hitherto been put into operation, and as doubts of its propriety have been raised by an act of the Government, your memorialist conceives himself to have a claim upon the public justice for some method of vindicating himself, which will be unequivocal and definitive. Wherefore, and encouraged by a consciousness of the integrity of his administration, your memorialist is desirous that a strict examination should be had into his conduct while in office, in order that, if he has been guilty of mal-administration, it may be detected and punished; if otherwise, that his innocence may be manifested and acknowledged. Unwilling, from this motive, that longer delay should attend the object of the resolution which has been recited, your memorialist humbly prays that an appointment of commissioners may take place to carry the said resolution into effect.

And your memorialist, as in duty bound, will pray, &c.

ROBERT MORRIS.

[NOTE.—See report No. 20.]

1st CONGRESS.]

No. 13.

[2d SESSION.

## ABOLITION OF SLAVERY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 5, 1790.

Mr. FOSTER, from the committee to whom were referred the petitions of the people called Quakers, and of the Pennsylvania Society for Promoting the Abolition of Slavery, made the following report:

That, from the nature of the matters contained in those memorials, they were induced to examine the powers vested in Congress, under the present constitution, relating to the abolition of slavery, and are clearly of opinion—

1st. That the General Government is expressly restrained from prohibiting the importation of such persons "as any of the States now existing shall think proper to admit, until the year 1808."

2d. That Congress, by a fair construction of the constitution, are equally restrained from interfering in the emancipation of slaves who already are, or who may, within the period mentioned, be imported into or born within any of the said States.

3d. That Congress have no authority to interfere in the internal regulations of particular States, relative to the instruction of slaves in the principles of morality and religion; to their comfortable clothing, accommodations, and subsistence; to the regulation of their marriages, and the prevention of the violation of the rights thereof, or to the separation of children from their parents; to a comfortable provision in cases of sickness, age, or infirmity; or to the seizure, transportation, or sale of free negroes; but have the fullest confidence in the wisdom and humanity of the Legislatures of the several States, that they will revise their laws, from time to time, when necessary, and promote the objects mentioned in the memorials, and every other measure that may tend to the happiness of slaves.

4th. That, nevertheless, Congress have authority, if they shall think it necessary, to lay at any time a tax or duty, not exceeding ten dollars for each person of any description, the importation of whom shall be by any of the States admitted as aforesaid.

5th. That Congress have authority to interdict, or (so far as it is or may be carried on by citizens of the United States for supplying foreigners) to regulate the African trade, and to make provision for the humane treatment of slaves, in all cases, while on their passage to the United States or to foreign ports, as far as it respects the citizens of the United States.

6th. That Congress have also authority to prohibit foreigners from fitting out vessels, in any port of the United States, for transporting persons from Africa to any foreign port.

7th. That the memorialists be informed that, in all cases to which the authority of Congress extends, they will exercise it for the humane objects of the memorialists, so far as they can be promoted on the principles of justice, humanity, and good policy.

1st CONGRESS.]

No. 14.

[2d SESSION.

## APPLICATION OF STEAM TO NAVIGATION.

COMMUNICATED TO THE SENATE, JULY 2, 1790.

NEW YORK, June 22, 1790.

*To the honorable the Senate of the United States of America: the petition of John Fitch, now of the city of Philadelphia, humbly sheweth:*

That your petitioner, in the spring of the year 1785, conceived the idea of applying steam to the purposes of propelling boats or vessels through the water; that fully satisfied, in his own mind, of the practicability of such a scheme, of its great immediate utility, and the important advantages which would in future result therefrom, not only to America, but to the world at large, if the scheme should be carried into effectual operation, he divested himself of every other occupation, and undertook the arduous task, not doubting that, when perfected, he should be amply rewarded. In his first attempts to procure assistance from Congress, and the Legislatures of many of the States, from the peculiar situation of their finances, and the seeming improbability of the success of his scheme, he met with no relief. Not entirely discouraged by those disappointments, he continued his application to his project, and prayed several of the States for an exclusive right *to the use of fire and steam to navigation*. That New York, New Jersey, Pennsylvania, Delaware, and Virginia granted him an exclusive right, agreeably to the prayer of his petition, for fourteen years.

That the impracticability of procuring experienced workmen in America, your petitioner's total ignorance of the construction of a steam engine, together with the necessary deviation from the form described in the books, in order to accommodate its weight and bulk to the narrow limits of a vessel, have caused him not only to expend about eight thousand dollars in successive experiments, but nearly four years of some of his grants have expired, before he has been able to bring his engine to such perfection as to be carried into use. That, having at length fully succeeded in his scheme, (proofs of which he is prepared to offer to this honorable House,) he trusts he now comes forward, not as an imaginary projector, but as a man who, contrary to the popular opinion, has really accomplished a design, which, on examination, will clearly evince the many and important advantages which must result therefrom to the United States; some of which your petitioner begs leave to enumerate: The Western waters, which have hitherto been navigated with great difficulty and expense, may now be ascended with safety, convenience, and great velocity; consequently, by these means, an immediately increased value will be given to the Western territory; all the internal waters of the United States will be rendered much more convenient and safe,

and the carriage on them more expeditious. That from these advantages will result a great saving in the labor of men and horses, as well as in the expenses of the traveller.

Your petitioner also conceives that the introduction of a complete steam engine, formed upon the newest and best principles, into such a country as America, where labor is high, would entitle him to public countenance and encouragement, independent of its use in navigation. He begs leave to acquaint the honorable House, that the great length of time and vast sum of money expended in bringing the scheme to perfection, have been wholly occasioned by his total ignorance of the improved state of steam engines, a perfect knowledge of which has not been acquired without an infinite number of fruitless experiments; for not a person could be found who was acquainted with the minutiae of Bolton & Watt's new engine; and whether your petitioner's engine is similar or not to those in England he is to this moment totally ignorant, but is happy to inform Congress that he is now able to make a complete steam engine, which, in its effects, he believes is equal to the best in Europe; the construction of which he has never kept a secret. That, on his first undertaking the scheme, he knew there were a great variety of modes of applying the power of steam to the propelling of boats through the water, perhaps all equally effective; but this formed no part of his consideration, knowing that, if he could bring his steam engine to work in a boat, he would be under no difficulty in applying its force; therefore he trusts no interference with him in *propelling boats by the power of steam, under any pretence of a different mode of application*, will be permitted; for, should that be the case, the employment of his time and the amazing expense attending the perfecting his scheme, would, whilst they gave to the world at large a valuable discovery, and to America peculiar and important advantages, eventuate in the total ruin of your petitioner; for a thousand different modes may be applied by subsequent navigators, all of them benefiting by the expense and persevering labor of your petitioner, and thus sharing with him those profits which they never earned; such a consequence he is confident will not be permitted by that body whom he has now the honor to address.

Your petitioner, therefore, prays that your honorable House will take the subject of his petition into consideration, and, by granting him an exclusive right to the use of steam to navigation in the United States for a limited time, do him that justice which he conceives he merits, and which he trusts will redound to the honor and add to the true interests of America.

Your petitioner begs leave to refer the honorable House to the 31st act of the 10th of William the Third, to show that the Parliament of Great Britain, notwithstanding their existing patent law, have granted special acts for particular valuable discoveries, without confining the grantee to any *specified mode*. This act is entitled "An act for the encouragement of a new invention, by Thomas Savory, for raising water and *occasioning motion to all sorts of mill work by the impellant force of fire*."

Bolton & Watt having taken out a patent for their improvement in steam engines, wasted several years (as your petitioner has done) in experiments, and then Parliament, by act of George III., 1775, granted a prolongation.—(See Doctor Price on Mining, page 313, folio.)

Sir Thomas Lombe had a patent for his famous silk mill, obtained from Italy, and erected at Derby, in England, in 1734; after which Parliament granted not only a prolongation of fourteen years, but a sum of £14,000 sterling, in consideration of the very great hazard he ran and the expense he had incurred by introducing it into England.—(See England Illustrated, vol. 1, page 152, quarto.)

The foregoing precedents your petitioner conceives sufficient to justify his application to Congress for a law in his favor, independent of the general one now in force. All which he prays they will take into their serious consideration, and afford him such relief as they, in their wisdom, shall deem expedient.

And your petitioner, as in duty bound, will ever pray.

JOHN FITCH.

1st CONGRESS.]

No. 15.

[2d SESSION.

PLAN FOR ESTABLISHING UNIFORMITY IN THE COINAGE, WEIGHTS, AND MEASURES,  
OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JULY 13, 1790.

SIR:

NEW YORK, July 4, 1790.

In obedience to the order of the House of Representatives of January 15th, I have now the honor to enclose you a report on the subject of measures, weights, and coins. The length of time which intervened between the date of the order and my arrival in this city, prevented my receiving it till the 15th of April; and an illness which followed soon after added, unavoidably, some weeks to the delay; so that it was not till about the 20th May that I was able to finish the report. A desire to lessen the number of its imperfections induced me still to withhold it awhile, till, on the 15th of June, came to my hands, from Paris, a printed copy of a proposition made by the Bishop of Autun, to the National Assembly of France, on the subject of weights and measures; and three days afterwards I received, through the channel of the public papers, the speech of Sir John Riggs Miller, of April 13th, in the British House of Commons, on the same subject. In the report which I had prepared, and was then about to give in, I had proposed the latitude of 38°, as that which should fix our standard, because it was the medium latitude of the United States; but the proposition before the National Assembly of France, to take that of 45° as being a middle term between the equator and both poles, and a term which might consequently unite the nations of both hemispheres, appeared to me so well chosen, and so just, that I did not hesitate a moment to prefer it to that of 38°. It became necessary, of course, to conform all my calculations to that standard—an operation which has been retarded by my other occupations.

These circumstances will, I hope, apologize for the delay which has attended the execution of the order of the House; and, perhaps, a disposition on their part to have due regard for the proceedings of other nations, engaged on the same subject, may induce them still to defer deciding ultimately on it till their next session. Should this

be the case, and should any new matter occur in the mean time, I shall think it my duty to communicate it to the House, as supplemental to the present report.

I have the honor to be, with sentiments of the most profound respect,

Sir, your most obedient and most humble servant,

THOMAS JEFFERSON.

The SPEAKER of the House of Representatives.

The SECRETARY OF STATE, to whom was referred, by the House of Representatives, to prepare and report a proper plan or plans for establishing uniformity in the currency, weights, and measures of the United States, in obedience thereto, makes the following report:

To obtain uniformity in measures, weights, and coins, it is necessary to find some measure of invariable length, with which, as a standard, they may be compared.

There exists not in nature, as far as has been hitherto observed, a single subject or species of subject, accessible to man, which presents one constant and uniform dimension.

The globe of the earth itself, indeed, might be considered as invariable in all its dimensions, and that its circumference would furnish an invariable measure; but no one of its circles, great or small, is accessible to admeasurement through all its parts, and the various trials to measure definite portions of them have been of such various result as to show there is no dependence on that operation for certainty.

Matter, then, by its mere extension, furnishing nothing invariable, its motion is the only remaining resource.

The motion of the earth round its axis, though not absolutely uniform and invariable, may be considered as such for every human purpose. It is measured obviously, but unequally, by the departure of a given meridian from the sun, and its return to it, constituting a solar day. Throwing together the inequalities of solar days, a mean interval, or day, has been found, and divided, by very general consent, into 86,400 equal parts.

A pendulum, vibrating freely, in small and equal arcs, may be so adjusted in its length, as, by its vibrations, to make this division of the earth's motion into 86,400 equal parts, called seconds of mean time.

Such a pendulum, then, becomes itself a measure of determinate length, to which all others may be referred as to a standard.

But even the pendulum is not without its uncertainties.

1. The difficulty of ascertaining, in practice, its centre of oscillation, as depending on the form of the bob, and its distance from the point of suspension; the effect of the weight of the suspending wire towards displacing the centre of oscillation; that centre being seated within the body of the bob, and therefore inaccessible to the measure, are sources of considerable uncertainty.

2. Both theory and experience prove that, to preserve its isochronism, it must be shorter towards the equator, and longer towards the poles.

3. The height of the situation above the common level, as being an increment to the radius of the earth, diminishes the length of the pendulum.

4. The pendulum being made of metal, as is best, it varies its length with the variations in the temperature of the atmosphere.

5. To continue small and equal vibrations, through a sufficient length of time, and to count these vibrations, machinery and a power are necessary, which may exert a small but constant effort to renew the waste of motion; and the difficulty is so to apply these, as that they shall neither retard nor accelerate the vibrations.

1. In order to avoid the uncertainties which respect the centre of oscillation, it has been proposed by Mr. Leslie, an ingenious artist of Philadelphia, to substitute, for the pendulum, a uniform cylindrical rod, without a bob.

Could the diameter of such a rod be infinitely small, the centre of oscillation would be exactly at two-thirds of the whole length, measured from the point of suspension. Giving it a diameter which shall render it sufficiently inflexible, the centre will be displaced, indeed; but, in a second rod not the (1) six hundred thousandth part of its length, and not the hundredth part as much as in a second pendulum with a spherical bob of proper diameter. This displacement is so infinitely minute, then, that we may consider the centre of oscillation, for all practical purposes, as residing at two-thirds of the length from the centre of suspension. The distance between these two centres might be easily and accurately ascertained in practice. But the whole rod is better for a standard than any portion of it, because sensibly defined at both its extremities.

2. The uncertainty arising from the difference of length requisite for the second pendulum, or the second rod, in different latitudes, may be avoided by fixing on some one latitude, to which our standard shall refer. That of 38°, as being the middle latitude of the United States, might seem the most convenient, were we to consider ourselves alone; but connected with other nations by commerce and science, it is better to fix on that parallel which bids fairest to be adopted by them also. The 45th, as being the middle term between the equator and pole, has been heretofore proposed in Europe, and the proposition has been lately renewed there under circumstances which may very possibly give it some effect. This parallel is distinguished with us also as forming our principal northern boundary. Let the completion of the 45th degree, then, give the standard for our union, with the hope that it may become a line of union with the rest of the world.

The difference between the second rod for 45° of latitude, and that for 31°, our other extreme, is to be examined.

The second *pendulum* for 45° of latitude, according to Sir Isaac Newton's computation, must be of (2) 39.14912 inches English measure; and a *rod*, to vibrate in the same time, must be of the same length between the centres of suspension and oscillation; and, consequently, its whole length 58.7 (or, more exactly, 58.72368) inches. This is longer than the rod which shall vibrate seconds in 31° of latitude, by about  $\frac{1}{648}$  part of its whole length; a difference so minute, that it might be neglected, as insensible, for the common purposes of life, but, in cases requiring perfect exactness, the second rod, found by trial of its vibrations in any part of the United States, may be corrected by computation for the (3) latitude of the place, and so brought exactly to the standard of 45°.

3. By making the experiment in the level of the ocean, the difference will be avoided, which a higher position might occasion.

4. The expansion and contraction of the rod with the change of temperature, is the fourth source of uncertainty before mentioned. According to the high authority, so often quoted, an iron rod, of given length, may vary, between summer and winter, in temperate latitudes, and in the common exposure of house clocks, from  $\frac{1}{728}$  to  $\frac{1}{2532}$  of its whole length, which, in a rod of 58.7 inches, will be from about two to three hundredths of



an inch. This may be avoided by adjusting and preserving the standard in a cellar, or other place, the temperature of which never varies. Iron is named for this purpose, because the least expandible of the metals.

5. The practical difficulty resulting from the effect of the machinery and moving power is very inconsiderable in the present state of the arts; and, in their progress towards perfection, will become less and less. To estimate and obviate this, will be the artist's province. It is as nothing when compared with the sources of inaccuracy hitherto attending measures.

Before quitting the subject of the inconveniences, some of which attend the pendulum alone, others both the pendulum and rod, it must be added that the rod would have an accidental but very precious advantage over the pendulum in this country, in the event of our fixing the foot at the nearest aliquot part of either; for the difference between the common foot, and those so to be deduced, would be three times greater in the case of the pendulum than in that of the rod.

Let the standard of measure, then, be a uniform cylindrical rod of iron, of such length, as, in latitude  $45^{\circ}$ , in the level of the ocean, and in a cellar, or other place, the temperature of which does not vary through the year, shall perform its vibrations, in small and equal arcs, in one second of mean time.

A standard of invariable length being thus obtained, we may proceed to identify, by that, the measures, weights, and coins of the United States: but here a doubt presents itself, as to the extent of the reformation meditated by the House of Representatives. The experiment made by Congress in the year one thousand seven hundred and eighty-six, by declaring that there should be one money of account and payment through the United States, and that its parts and multiples should be in a decimal ratio, has obtained such general approbation, both at home and abroad, that nothing seems wanting, but the actual coinage, to banish the discordant pounds, shillings, pence, and farthings of the different States, and to establish in their stead the new denominations. Is it in contemplation with the House of Representatives to extend a like improvement to our measures and weights, and to arrange them also in a decimal ratio? The facility which this would introduce into the vulgar arithmetic would, unquestionably, be soon and sensibly felt by the whole mass of the people, who would thereby be enabled to compute for themselves whatever they should have occasion to buy, to sell, or to measure, which the present complicated and difficult ratios place beyond their computation, for the most part. Or, is it the opinion of the Representatives that the difficulty of changing the established habits of a whole nation opposes an insuperable bar to this improvement? Under this uncertainty, the Secretary of State thinks it his duty to submit alternative plans, that the House may, at their will, adopt either the one or the other, exclusively, or the one for the present, and the other for a future time, when the public mind may be supposed to have become familiarized to it.

I.—And first, on the supposition that the present measures and weights are to be retained but to be rendered uniform and invariable, by bringing them to the same invariable standard.

The first settlers of these States, having come chiefly from England, brought with them the measures and weights of that country. These alone are generally established among us, either by law or usage; and these, therefore, are alone to be retained and fixed. We must resort to that country for information of what they are, or ought to be.

This rests, principally, on the evidence of certain standard measures and weights, which have been preserved, of long time, in different depositories. But differences among these having been known to exist, the House of Commons, in the years 1757 and 1758, appointed committees to inquire into the original standards of their weights and measures. These committees, assisted by able mathematicians and artists, examined and compared with each other the several standard measures and weights, and made reports on them in the years 1758 and 1759. The circumstances under which these reports were made entitle them to be considered, as far as they go, as the best written testimony existing of the standard measures and weights of England; and as such, they will be relied on in the progress of this report.

#### MEASURES OF LENGTH.

The measures of length in use among us, are:

The league of 3 miles,  
The mile of 8 furlongs,  
The furlong of 40 poles or perches,  
The pole or perch of  $5\frac{1}{2}$  yards,  
The fathom of 2 yards,

The ell of a yard and quarter,  
The yard of 3 feet,  
The foot of 12 inches, and  
The inch of 10 lines.

On this branch of their subject, the committee of 1757-1758, says that the standard measures of length at the receipt of the exchequer, are a yard, supposed to be of the time of Henry VII, and a yard and ell supposed to have been made about the year 1601; that they are brass rods, very coarsely made, their divisions not exact, and the rods bent: and that in the year 1742, some members of the Royal Society had been at great pains in taking an exact measure of these standards, by very curious instruments, prepared by the ingenious Mr. Graham; that the Royal Society had had a brass rod made pursuant to their experiments, which was made so accurately, and by persons so skilful and exact, that it was thought not easy to obtain a more exact one; and the committee, in fact, found it to agree with the standards at the exchequer, as near as it was possible. They furnish no means, to persons at a distance, of knowing what this standard is. This, however, is supplied by the evidence of the second pendulum, which, according to the authority before quoted, is, at London, 39.1682 English inches, and, consequently, the second rod there is of 58.7523 of the same inches. When we shall have found, then, by actual trial, the second rod for  $45^{\circ}$  by adding the difference of their computed length, to wit,  $\frac{2.87}{100000}$  of an inch, or rather  $\frac{3}{10}$  of a line (which in practice will endanger less error, than an attempt at so minute a fraction as the ten thousandth parts of an inch) we shall have the second rod of London, or a true measure of  $58\frac{3}{4}$  English inches. Or, to shorten the operation, without varying the result,

Let the standard rod of  $45^{\circ}$  be divided into  $587\frac{1}{2}$  equal parts, and let each of these parts be declared a line.

10 Lines an inch,  
12 Inches a foot,  
3 Feet a yard,  
3 Feet 9 inches an ell,  
6 Feet a fathom,

$5\frac{1}{2}$  Yards a perch or pole,  
40 Poles or perches a furlong,  
8 Furlongs a mile,  
3 Miles a league.

#### SUPERFICIAL MEASURES.

Our measures of surface are, the acre of 4 roods, and the rood of 40 square poles; so established by a statute of 33 Edw. I. Let them remain the same.

## MEASURES OF CAPACITY.

The measures of capacity in use among us, are of the following names and proportions:

The gill, four of which make a pint.

Two pints make a quart.

Two quarts a pottle.

Two pottles a gallon.

Two gallons a peck, dry measure.

Eight gallons make a measure called a firkin, in liquid substances, and a bushel, dry.

Two firkins, or bushels, make a measure called a rundlet or kilderkin, liquid, and a strike, dry.

Two kilderkins, or strikes, make a measure called a barrel, liquid, and a coomb, dry; this last term being ancient and little used.

Two barrels, or coombs, make a measure called a hogshead, liquid, or a quarter, dry; each being the quarter of a ton.

A hogshead and a third make a tierce, or third of a ton.

Two hogsheads make a pipe, butt, or puncheon; and

Two pipes make a ton.

But no one of these measures is of a determinate capacity. The report of the committee of 1757, -'8, shows that the gallon is of very various content; and that being the unit, all the others must vary with it.

The gallon and bushel contain—

224 and 1792 cubic inches, according to the standard wine gallon preserved at Guildhall.

231 and 1848, according to the statute of 5th of Anne.

264.8 and 2118.4, according to the ancient Rumford quart, of 1228, examined by the committee.

265.5 and 2124, according to three standard bushels preserved in the Exchequer, to wit, one of Henry VII., without a rim; one dated 1091, supposed for 1591, or 1601, and one dated 1601.

266.25 and 2130, according to the ancient Rumford gallon of 1228, examined by the committee.

268.75 and 2150, according to the Winchester bushel, as declared by statute 13, 14, William III. which has been the model for some of the grain states.

271, less 2 spoonfuls, and 2168, less 16 spoonfuls, according to a standard gallon of Henry VII., and another dated 1601, marked E. E., both in the Exchequer.

271 and 2168, according to a standard gallon in the Exchequer, dated 1601, marked E., and called the corn gallon.

272 and 2176, according to the three standard corn gallons last mentioned, as measured in 1688, by an artist for the Commissioners of the Excise, generally used in the seaport towns, and by mercantile people, and thence introduced into some of the grain states.

277.18 and 2217.44, as established for the measure of coal by the statute 12 Anne.

278 and 2224, according to the standard bushel of Henry VII. with a copper rim, in the Exchequer.

278.4 and 2227.2, according to two standard pints of 1601, and 1602, in the Exchequer.

280 and 2240, according to the standard quart of 1601, in the Exchequer.

282 and 2256, according to the standard gallon for beer and ale, in the Treasury.

There are, moreover, varieties on these varieties, from the barrel to the ton, inclusive: for, if the barrel be of herrings, it must contain 28 gallons by the statute 13 Eliz. c. 11. If of wine, it must contain  $31\frac{1}{2}$  gallons by the statute 2 Henry VI. c. 11. and 1<sup>st</sup> Rich. III. c. 15. If of beer or ale, it must contain 34 gallons by the statute 1 William and Mary, c. 24., and the higher measures in proportion.

In those of the United States which have not adopted the statutes of William and Mary, and of Anne before cited, nor their substance, the wine gallon of 231 cubic inches rests on the authority of very long usage, before the 5th of Anne, the origin and foundation of which are unknown; the bushel is the Winchester bushel, by the 11 Henry VII. undefined; and the barrel of ale 32 gallons, and of beer 36 gallons, by the statute 23 Henry VIII. c. 4.

The Secretary of State is not informed whether there have been any, and what, alterations of these measures, by the laws of the particular States.

It is proposed to retain this series of measures, but to fix the gallon to one determinate capacity, as the unit of measure, both wet and dry; for convenience is in favor of abolishing the distinction between wet and dry measures.

The wine gallon, whether of 224 or 231 cubic inches, may be altogether disregarded, as concerning, principally, the mercantile and the wealthy, the least numerous part of the society, and the most capable of reducing one measure to another by calculation. This gallon is little used among the mass of farmers, whose chief habits and interests are in the size of the corn bushel.

Of the standard measures before stated, two are principally distinguished in authority and practice. The statute bushel of 2150 cubic inches, which gives a gallon of 268.75 cubic inches, and the standard gallon of 1601, called the corn gallon of 271, or 272 cubic inches, which has introduced the mercantile bushel of 2176 inches. The former of these is most used in some of the grain States, the latter in others. The middle term of 270 cubic inches may be taken as a mutual compromise of convenience, and as offering this general advantage: that the bushel being of 2160 cubic inches, is exactly a cubic foot and a quarter, and so facilitates the conversion of wet and dry measures into solid contents and tonnage, and simplifies the connexion of measures and weights, as will be shown hereafter. It may be added, in favor of this, as a medium measure, that eight of the standard, or statute measures before enumerated, are below this term, and nine above it.

The measures to be made for use, being four-sided, with rectangular sides and bottom.

The pint will be 3 inches square, and  $3\frac{3}{4}$  inches deep;

The quart 3 inches square, and  $7\frac{1}{2}$  inches deep;

The pottle 3 inches square, and 15 inches deep, or  $4\frac{1}{2}$ , 5, and 6 inches;

The gallon 6 inches square, and  $7\frac{1}{2}$  inches deep, or 5, 6, and 9 inches;

The peck 6, 9, and 10 inches;

The half-bushel 12 inches square, and  $7\frac{1}{2}$  inches deep; and

The bushel 12 inches square, and 15 inches deep; or 9, 15, and 16 inches.

Cylindrical measures have the advantage of superior strength; but square ones have the greater advantage of enabling every one, who has a rule in his pocket, to verify their contents by measuring them. Moreover, till the circle can be squared, the cylinder cannot be cubed, nor its contents exactly expressed in figures.

Let the measures of capacity, then, for the United States be—

A gallon of 270 cubic inches;  
The gallon to contain 2 pottles;  
The pottle 2 quarts;  
The quart 2 pints;  
The pint 4 gills;  
Two gallons to make a peck;  
Eight gallons a bushel or firkin;

Two bushels, or firkin, a strike or kilderkin;  
Two strikes, or kilderkins, a coomb or barrel;  
Two coombs, or barrels, a quarter or hoghead;  
A hoghead and a third one tierce;  
Two hogheads a pipe, butt, or puncheon; and  
Two pipes a ton.

And let all measures of capacity of dry subjects be stricken with a straight strike.

#### WEIGHTS.

There are two series of weights in use among us; the one called avoirdupois, the other troy.

##### *In the Avoirdupois series:*

The pound is divided into 16 ounces;  
The ounce into 16 drachms;  
The drachm into 4 quarters.

##### *In the Troy series:*

The pound is divided into 12 ounces;  
The ounce (according to the subdivision of the apothecaries) into 8 drachms;  
The drachm into 3 scruples;  
The scruple into 20 grains.

According to the subdivision for gold and silver, the ounce is divided into twenty pennyweights, and the pennyweight into twenty-four grains.

So that the pound troy contains 5760 grains, of which 7000 are requisite to make the pound avoirdupois; of course the weight of the pound troy is to that of the pound avoirdupois as 5760 to 7000, or as 144 to 175.

It is remarkable that this is exactly the proportion of the ancient liquid gallon of Guildhall of 224 cubic inches, to the corn gallon of 272; for 224 are to 272 as 144 to 175. (4.)

It is further remarkable still, that this is also the exact proportion between the specific weight of any measure of wheat, and of the same measure of water: for the statute bushel is of 64 pounds of wheat. Now as 144 to 175, so are 64 pounds to 77.7 pounds; but 77.7 pounds is known to be the weight of (5.) 2150.4 cubic inches of pure water, which is exactly the content of the Winchester bushel, as declared by the statute 13, 14, Will. 3. That statute determined the bushel to be a cylinder of 18½ inches diameter, and 8 inches depth. Such a cylinder, as nearly as it can be cubed, and expressed in figures, contains 2150.425 cubic inches; a result which reflects authority on the declaration of Parliament, and induces a favorable opinion of the care with which they investigated the contents of the ancient bushel, and also a belief that there might exist evidence of it at that day, unknown to the committees of 1758 and 1759.

We find, then, in a continued proportion 64 to 77.7 as 224 to 272, and as 144 to 175; that is to say, the specific weight of a measure of wheat, to that of the same measure of water, as the cubic contents of the wet gallon, to those of the dry; and as the weight of a pound troy to that of a pound avoirdupois.

This seems to have been so combined as to render it indifferent whether a thing were dealt out by weight or measure; for the dry gallon of wheat, and the liquid one of wine, were of the same weight; and the avoirdupois pound of wheat, and the troy pound of wine, were of the same measure. Water and the vinous liquors, which enter most into commerce, are so nearly of a weight, that the difference, in moderate quantities, would be neglected by both buyer and seller; some of the wines being a little heavier, and some a little lighter, than water.

Another remarkable correspondence is that between weights and measures. For 1000 ounces avoirdupois of pure water fill a cubic foot, with mathematical exactness.

What circumstances of the times, or purposes of barter or commerce, called for this combination of weights and measures, with the subjects to be exchanged or purchased, are not now to be ascertained. But a triple set of exact proportionals representing weights, measures, and the things to be weighed and measured, and a relation so integral between weights and solid measures, must have been the result of design and scientific calculation, and not a mere coincidence of hazard. It proves that the dry and wet measures, the heavy and light weights, must have been original parts of the system they compose—contrary to the opinion of the committee of 1757, 1758, who thought that the avoirdupois weight was not an ancient weight of the kingdom, nor ever even a legal weight, but during a single year of the reign of Henry VIII.; and, therefore, concluded, otherwise than will be here proposed, to suppress it altogether. Their opinion was founded chiefly on the silence of the laws as to this weight. But the harmony here developed in the system of weights and measures, of which the avoirdupois makes an essential member, corroborated by a general use, from very high antiquity, of that, or of a nearly similar weight under another (6.) name, seem stronger proofs that this is legal weight, than the mere silence of the written laws is of the contrary.

Be this as it may, it is in such general use with us, that, on the principle of popular convenience, its higher denominations, at least, must be preserved. It is by the avoirdupois pound and ounce that our citizens have been used to buy and sell. But the smaller subdivisions of drachms and quarters are not in use with them. On the other hand, they have been used to weigh their money and medicine with the pennyweights and grains troy weight, and are not in the habit of using the pounds and ounces of that series. It would be for their convenience, then, to suppress the pound and ounce troy, and the drachm and quarter avoirdupois; and to form into one series the avoirdupois pound and ounce, and the troy pennyweight and grain. The avoirdupois ounce contains 18 pennyweights 5½ grains troy weight. Divide it, then, into 18 pennyweights, and the pennyweight, as heretofore, into 24 grains, and the new pennyweight will contain between a third and a quarter of a grain more than the present troy pennyweight; or, more accurately, it will be to that as 875 to 864—a difference not to be noticed, either in money or medicine, below the denomination of an ounce.

But it will be necessary to refer these weights to a determinate mass of some substance, the specific gravity of which is invariable. Rain water is such a substance, and may be referred to every where, and through all time. It has been found by accurate experiments that a cubic foot of rain water weighs 1000 ounces avoirdupois, standard weights of the Exchequer. It is true that among these standard weights the committee report small variations; but this experiment must decide in favor of those particular weights, between which, and an integral mass of water, so remarkable a coincidence has been found. To render this standard more exact, the water should be weighed always in the same temperature of air; as heat, by increasing its volume, lessens its specific gravity. The cellar of uniform temperature is best for this also.

Let it, then, be established that an ounce is of the weight of a cube of rain water, of one-tenth of a foot; or, rather, that it is the thousandth part of the weight of a cubic foot of rain water, weighed in the standard temperature; that the series of weights of the United States shall consist of pounds, ounces, pennyweights, and grains; whereof

24 grains shall be one pennyweight;  
18 pennyweights one ounce;  
16 ounces one pound.

## COINS.

Congress, in 1786, established the money unit at 375.64 troy grains of pure silver. It is proposed to enlarge this by about the third of a grain in weight, or a mill in value; that is to say, to establish it at 376 (or, more exactly, 375.989343) instead of 375.64 grains; because it will be shown that this, as the unit of coin, will link in system with the units of length, surface, capacity, and weight, whenever it shall be thought proper to extend the decimal ratio through all these branches. It is to preserve the possibility of doing this, that this very minute alteration is proposed.

We have this proportion, then, 875 to 864, as 375.989343 grains troy to 371.2626277; the expression of the unit in the new grains.

Let it be declared, therefore, that the money unit, or dollar of the United States, shall contain 371.262 American grains of pure silver.

If nothing more, then, is proposed, than to render uniform and stable the system we already possess, this may be effected on the plan herein detailed; the sum of which is: 1st, That the present measures of length be retained, and fixed by an invariable standard. 2d, That the measures of surface remain as they are, and be invariable also as the measures of length to which they are to refer. 3d, That the unit of capacity, now so equivocal, be settled at a medium and convenient term, and defined by the same invariable measures of length. 4th, That the more known terms in the two kinds of weights be retained, and reduced to one series, and that they be referred to a definite mass of some substance, the specific gravity of which never changes. And 5th, That the quantity of pure silver in the money unit be expressed in parts of the weights so defined.

In the whole of this no change is proposed, except an insensible one in the troy grain and pennyweight, and the very minute one in the money unit.

II. But if it be thought that, either now, or at any future time, the citizens of the United States may be induced to undertake a thorough reformation of their whole system of measures, weights and coins, reducing every branch to the same decimal ratio already established in their coins, and thus bringing the calculation of the principal affairs of life within the arithmetic of every man who can multiply and divide plain numbers, greater changes will be necessary.

The unit of measure is still that which must give law through the whole system; and from whatever unit we set out, the coincidences between the old and new ratios will be rare. All that can be done, will be to choose such a unit as will produce the most of these. In this respect the second rod has been found, on trial, to be far preferable to the second pendulum.

## MEASURES OF LENGTH.

Let the second rod, then, as before described, be the standard of measure; and let it be divided into five equal parts, each of which shall be called a foot; for, perhaps, it may be better generally to retain the name of the nearest present measure, where there is one tolerably near. It will be about one quarter of an inch shorter than the present foot.

Let the foot be divided into 10 inches;  
The inch into 10 lines;  
The line into 10 points;  
Let 10 feet make a decad;  
10 decads one rood;  
10 roods a furlong;  
10 furlongs a mile.

## SUPERFICIAL MEASURES.

Superficial measures have been estimated, and so may continue to be, in squares of the measures of length, except in the case of lands, which have been estimated by squares, called roods and acres. Let the rood be equal to a square, every side of which is 100 feet. This will be 6.483 English feet less than the English (7) rood every way, and 1311 square feet less in its whole contents; that is to say, about one-eighth; in which proportion, also, 4 roods will be less than the present acre.

## MEASURES OF CAPACITY.

Let the unit of capacity be the cubic foot, to be called a bushel. It will contain 1620.05506862 cubic inches, English; be about one-fourth less than that before proposed to be adopted as a medium; one-tenth less than the bushel made from 8 of the Guildhall gallons; and one-fourteenth less than the bushel made from 8 Irish gallons of 217.6 cubic inches.

Let the bushel be divided into 10 pottles;  
Each pottle into 10 demi-pints;  
Each demi-pint into 10 metres, which will be of a cubic inch each.  
Let 10 bushels be a quarter, and  
10 quarters a last, or double ton.

The measures for use being four sided, and the sides and bottoms rectangular, the bushel will be a foot cube.

The pottle 5 inches square and four inches deep;  
The demi-pint 2 inches square, and  $2\frac{1}{2}$  inches deep;  
The metre, an inch cube.

## WEIGHTS.

Let the weight of a cubic inch of rain water, or the thousandth part of a cubic foot, be called an ounce; and let the ounce be divided into 10 double scruples:

The double scruple into 10 carats;  
The carat into 10 minims or demi-grains;  
The minim into 10 mites.

Let 10 ounces make a pound;  
 10 pounds a stone;  
 16 stones a kental;  
 10 kentals a hoghead.

COINS.

Let the money unit, or dollar, contain eleven-twelfths of an ounce of pure silver. This will be 376 troy grains, (or more exactly, 375.989343 troy grains,) which will be about a third of a grain, (or more exactly, .349343 of a grain, more than the present unit. This, with the twelfth of alloy already established, will make the dollar or unit, of the weight of an ounce, or of a cubic inch of rain water, exactly. The series of mills, cents, dimes, dollars, and eagles, to remain as already established (8.)

The second rod, or the second pendulum, expressed in the measures of other countries, will give the proportion between their measures and those of the United States.

Measures, weights and coins, thus referred to standards unchangeable in their nature, (as is the length of a rod vibrating seconds, and the weight of a definite mass of rain water,) will themselves be unchangeable. These standards, too, are such as to be accessible to all persons, in all times and places. The measures and weights derived from them fall in so nearly with some of those now in use, as to facilitate their introduction; and, being arranged in decimal ratio, they are within the calculation of every one who possesses the first elements of arithmetic, and of easy comparison, both for foreigners and citizens, with the measures, weights, and coins of other countries.

A gradual introduction would lessen the inconveniences which might attend too sudden a substitution, even of an easier for a more difficult system. After a given term, for instance, it might begin in the custom-houses, where the merchants would become familiarised to it. After a further term, it might be introduced into all legal proceedings, and merchants and traders in foreign commodities might be required to use it in their dealings with one another. After a still further term, all other descriptions of people might receive it into common use. Too long a postponement, on the other hand, would increase the difficulties of its reception with the increase of our population.

THOMAS JEFFERSON, *Secretary of State.*

*Appendix, containing illustrations and developments of some passages of the preceding report.*

(1.) In the second pendulum with a spherical bob, call the distance between the centres of suspension and of the bob,  $2 \times 19.575$ , or  $2d$ , and the radius of the bob  $= r$ ; then  $2d : r :: r : \frac{\pi}{54}$  and  $\frac{\pi}{54}$  of this last proportional expresses the displacement of the centre of oscillation, to wit:  $\frac{2r}{5 \times 2d} = \frac{\pi}{54}$ . Two inches have been proposed as a proper diameter for such a bob. In that case  $r$  will be  $= 1$  inch, and  $\frac{\pi}{54} = \frac{1}{9787}$  inches.

In the cylindrical second rod, call the length of the rod,  $3 \times 19.575$ , or  $3d$ , and its radius  $= r$ . and  $\frac{\pi}{2 \times 3d} = \frac{\pi}{6d}$  will express the displacement of the centre of oscillation. If it is thought the rod will be sufficiently inflexible if it be  $\frac{1}{5}$  of an inch in diameter. Then  $r$  will be  $= .1$  inch, and  $\frac{\pi}{6d} = \frac{1}{11745}$  inches, which is but the 120th part of the displacement in the case of the pendulum with a spherical bob, and but the 689,710th part of the whole length of the rod. If the rod be even of half an inch diameter, the displacement will be but  $\frac{1}{1879}$  of an inch, or  $\frac{1}{110356}$  of the length of the rod.

(2.) Sir Isaac Newton computes the pendulum for  $45^\circ$  to be 36 pouces 8.428 lignes. Picard made the English foot 11 pouces 2.6 lignes, and Dr. Maskelyne 11 pouces 3.11 lignes. D'Alembert states it at 11 pouces 3 lignes, which has been used in these calculations as a middle term, and gives us 36 pouces 8.428 lignes  $= 39.1491$  inches. This length for the pendulum of  $45^\circ$  had been adopted in this report before the Bishop of Autun's proposition was known here. He relies on Mairan's ratio for the length of the pendulum in the latitude of Paris, to wit:  $504 : 257 :: 72$  pouces to a 4th proportional, which will be 36.71428 pouces  $= 39.1619$  inches, the length of the pendulum for latitude  $48^\circ 50'$ . The difference between this and the pendulum for  $45^\circ$  is .0113 of an inch: so that the pendulum for  $45^\circ$  would be estimated, according to Mairan, at  $39.1619 - .0113 = 39.1506$  inches, almost precisely the same with Newton's computation herein adopted.

(3.) Sir Isaac Newton's computations for the different degrees of latitude, from  $30^\circ$  to  $45^\circ$ , are as follows;

	Pieds.	Lignes.		Pieds.	Lignes.
30°	3	- 7.948		42°	3 - 8.327
35	3	- 8.099		43	3 - 8.361
40	3	- 8.261		44	3 - 8.394
41	3	- 8.294		45	3 - 8.428

(4.) Or, more exactly,  $144 : 175 :: 224 : 272.2$ .

(5.) Or, more exactly,  $62.5 : 1728 :: 77.7 : 2150.39$ .

(6.) The merchant's weight.

(7.) The English rood contains 10,890 square feet  $= 104.355$  feet square.

(8.) *The measures, weights, and coins of the decimal system, estimated in those of England, now used in the United States.*

I. MEASURES OF LENGTH.

	Feet.	Equivalent in English measure.
The point, -	.001	.011 inches.
The line, -	.01	.117
The inch, -	.1	1.174, about $\frac{1}{7}$ more than the English inch.
The foot, -	1.	11.744736 } .978728 feet, } about $\frac{1}{48}$ less than the English foot.
The decad, -	10.	9.787, about $\frac{1}{48}$ less than the 10 feet rod of the carpenters.
The rood, -	100.	97.872, about $\frac{1}{18}$ less than the side of an English square rood.
The furlong,	1000.	978.728, about $\frac{1}{3}$ more than the English furlong.
The mile, -	10000.	9787.28, about $1 \frac{5}{7}$ English mile, nearly the Scotch and Irish mile, and $\frac{1}{2}$ the German mile.

2. SUPERFICIAL MEASURE.

The hundredth,	-	Roods.	.01	95.79 square feet English.
The tenth,	-		.1	957.9
The rood,	-		1.	9579.085
The double acre,	-		10.	2.199, or say 2.2 acres English.
The square furlong,	-		100.	22.

3. MEASURE OF CAPACITY.

		Bushels.	Cub. Inches.	
The metre,	-	.001	1.62	
The demi-pint,	-	.01	16.2, about $\frac{1}{24}$ less than the English half-pint.	
The pottle,	-	.1	162.005, about $\frac{1}{5}$ more than the English pottle.	
The bushel,	-	1.	1620.05506862	} about $\frac{1}{4}$ less than the middle sized English bushel.
			.937531868414884352 cub. feet.	
The quarter,	-	10.	9.375, about $\frac{1}{5}$ less than the English quarter.	
The last,	-	100.	93.753, about $\frac{1}{2}$ more than the English last.	

4. WEIGHTS.

		Pounds.	Avoirdupois.	Troy.
The mite,	-	.00001	-	.041 grains, about $\frac{1}{5}$ less than the English mite.
The minim, or	}	.0001	-	.4101, about $\frac{1}{5}$ less than the half grain troy.
The demi-grain,				
The carat,	-	.001	-	4.101, about $\frac{1}{40}$ more than the carat troy.
The double scruple,	}	.01	-	41.017, about $\frac{1}{40}$ more than 2 scruples troy.
The ounce,				
		.1	.937531868414884352 oz.	{ 410.170192431 } about $\frac{1}{16}$ less than the ounce
				{ .85452 oz. } avoirdupois.
The pound,	-	1.	{ 9.375 } { .585957417759 lb. }	.712101 lb., about $\frac{1}{4}$ less than the pound troy.
The stone,	-	10.	{ 93.753 oz. } { 5.8595 lb. }	7.121 about $\frac{1}{4}$ less than the English stone of 8 lbs. avoirdupois.
The kental,	-	100.	{ 937.531 oz. } { 58.5957 lb. }	71.21 about $\frac{4}{10}$ less than the English kental of 100 lbs. avoirdupois.
The hoghead,	-	1000.	{ 9375.318 oz. } { 585.9574 lb. }	712.101

5. COINS.

	Dollars.				Troy grains.	
The mill,	.001		The dollar,	-	1.	{ 375.98934306 pure silver. 34.18084937 alloy.
The cent,	.01					
The dime,	.1					
			The eagle,	-	10.	410.17019243

[NOTE.—See Nos. 18, 21, and 28.]

DELETERIOUS EFFECTS OF DISTILLED SPIRITS ON THE HUMAN SYSTEM.

COMMUNICATED TO THE SENATE, DECEMBER 29, 1790.

To the Senate and House of Representatives of the United States in Congress assembled: the memorial of the College of Physicians of the city of Philadelphia respectfully sheweth:

That they have seen, with great pleasure, the operation of a National Government, which has established order in the United States.

They rejoice to find, amongst the powers which belong to this Government that of restraining, by certain duties, the consumption of distilled spirits in our country.

It belongs more peculiarly to men of other professions to enumerate the pernicious effects of these liquors upon morals and manners. Your memorialists will only remark that a great proportion of the most obstinate, painful, and mortal disorders which affect the human body are produced by distilled spirits; that they are not only destructive to health and life, but that they impair the faculties of the mind, and thereby tend equally to dishonor our character as a nation, and to degrade our species as intelligent beings.

Your memorialists have no doubt that the rumor of a plague or any other pestilential disorder, which might sweep away thousands of their fellow-citizens, would produce the most vigorous and effectual measures in our Government to prevent or subdue it.

Your memorialists can see no just cause why the more certain and extensive ravages of distilled spirits upon human life should not be guarded against with corresponding vigilance and exertions by the present rulers of the United States.

Your memorialists beg leave to add further, that the habitual use of distilled spirits, in any case whatever, is wholly unnecessary; that they neither fortify the body against the morbid effects of heat or cold, nor render labor more easy nor more productive; and that there are many articles of diet and drink, which are not only safe and perfectly salutary, but preferable to distilled spirits, for the above-mentioned purposes.

Your memorialists have beheld with regret the feeble influence of reason and religion in restraining the evils which they have enumerated. They centre their hopes, therefore, of an efficient remedy for them, in the wisdom and power of the Legislature of the United States; and in behalf of the interests of humanity, to which their profession is closely allied, they thus publicly entreat the Congress, by their obligations to protect the lives of their constituents, and by their regard to the character of our nation, and to the rank of our species in the scale of beings, to impose such heavy duties upon all distilled spirits as shall be effectual to restrain their intemperate use in our country.

Signed by order of the College: JOHN REDMAN, *President*.  
Attest: SAMUEL POWELL GRIFFITHS, *Secretary*.

PHILADELPHIA, *December 27, 1790.*

1st CONGRESS.]

No. 17.

[3d SESSION.

JUDICIARY SYSTEM.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 31, 1790.

SIR:

PHILADELPHIA, *December 27, 1790.*

The order of the House of Representatives, requiring me to report on the judiciary system of the United States, has prescribed a task of no common difficulty.

I doubt whether any one man could answer for the accuracy of such a work; and even for more than one, a greater portion of time would be necessary to insure precision, than the interval between the last and present session.

But these are not my only embarrassments. I am called upon to revise a plan approved by legislative wisdom; and, although I have examined it with a deference most respectful and sincere, yet have I been compelled to question the fitness of some of its leading features.

I submit, therefore, to the candor and indulgence of the House, the enclosed report. The first part contains an enumeration of what I conceive to be the principal defects. Those of the smaller kind would have been treated in the same form, but for the opportunity which a bill affords, to avoid too much minuteness of comment, and to express my ideas more definitely.

A bill is prepared, in the second part, in which a large share of the former matter is preserved. But the language and arrangement of the judicial law have not been implicitly pursued, it being almost impracticable to incorporate the proposed amendments by references to pages and lines. Where the changes or additions are essential, I have endeavored to justify them by explanatory remarks.

After all, however, I am persuaded that time and practice can alone mature the judicial system. If, in this attempt to put it into the train of improvement, I have maintained errors in doctrine, it is a consolation to me to reflect that my opinions have nothing of authority in them.

I have the honor, sir, to be, with the highest respect, your most obedient servant,

EDMUND RANDOLPH.

The SPEAKER of the *House of Representatives.*

The ATTORNEY GENERAL, to whom were referred, by the order of the House of Representatives, "such matters relative to the administration of justice under the authority of the United States, as may require to be remedied, and such provisions in the respective cases as he should deem advisable," in obedience thereto, makes the following report:

FIRST PART.

1. The first object of this duty is to suggest any defects existing in the judiciary system.

The courts of the United States demand an organization, of which we have no apposite example in the history of foreign jurisprudence, and our own scheme has not received the full light of experience. The following observations must, therefore, depend for their chief support on reasoning, unaccompanied by precedent.

1. From which of the judicial powers enumerated in the constitution the State courts may be rightfully excluded, is an inquiry, to which an early part of the judiciary law gives birth.

The aggregate of these powers relate—

1. To cases arising in law or equity under the constitution.
2. Under the laws of the United States.
3. Under treaties made, or to be made, by their authority.
4. To cases affecting ambassadors, other public ministers, and consuls.
5. To cases of admiralty and maritime jurisdiction.
6. To controversies to which the United States shall be a party.
7. To controversies between a State and citizens of another State.
8. To controversies between citizens of different States.
9. To controversies between citizens of the same State, claiming lands under grants of different States: and,
10. To controversies between a State or the citizens thereof, and foreign States, citizens, or subjects.

Of these ten classes of jurisdiction, some are vested in the federal, concurrently with the State tribunals; others in the federal, exclusively of the State tribunals.

It is not *expressly* forbidden to the States to assume the cognizance of any one or all of them. For the judicial power of the United States is only to *extend* to the recited cases: and to extend the authority of one court to a description of persons or things, which would of course be embraced by another, had no such extension been made, cannot, of itself, deprive that other of its pre-existing rights.

The *nature*, however, of some of these subjects, shuts out the jurisdiction of the State courts, as such, on the vital principles of the Union.

1. The first among these are cases of admiralty and maritime jurisdiction; terms, which, when thus applied, are nearly synonymous. They bear a technical meaning, well known throughout the United States, and uniform; being expressive of courts, copied from the same original. It belongs to them to decide all causes arising wholly on the sea, and not within the precincts of any county, and to condemn all lawful prizes in time of war.

(a) The open sea is a great highway to all mankind, who have not surrendered, by an acquiescence or a positive act, the privilege of navigating particular parts of it. In general, every nation ranks the cognizance of causes wholly arising there among the attributes of independence; and to none is it denied, where the litigants or the litigated property is within its territory. If, therefore, it were supposed that any one of the now United States had never entered into the Union, to it would this prerogative have appertained. But being a party to the federal compact, each State has resigned it to the Federal Government. It has been thus resigned:

1. Because that Government only, as possessing the rights of remonstrance, marque, reprisal, and war, can protect the citizens of the United States from hostilities, in their daily intercourse with rival adventurers on that element.

2. Because a concurrence of jurisdiction might either involve the confederacy in war, contrary to its will, or subject it to a grievous reparation of some injury.

3. Because the power given to Congress by the constitution to define and punish piracies and felonies on the high seas, and offences against the law of nations, comprehends the whole of criminal sea law, and warrants that body to assign to the federal courts alone an exclusive jurisdiction therein: and, lastly,

4. Because under the foregoing powers, and the power of Congress to regulate commerce, and to make rules concerning captures on water, the pure marine law, properly so called, can be dispensed by those courts only which derive an authority over it from the United States.

(b) For the same reason is the cognizance of prizes in time of war lodged in the federal courts exclusively. But it is not pretended, from hence, that the United States are absolved from the obligations of neutrality.

(c) Two other denominations of cases have been added to the admiralty and maritime courts, to wit: offences on water against the revenue laws; and claims for specific satisfaction on the body of a vessel, as for mariners' wages, &c. But neither of these is of necessity appropriated to the admiralty. It is true that a jurisdiction over the former must be deduced from Congress, and that they will doubtless deposit it in their own tribunals, and most probably in the admiralty. In the latter, the State Legislatures may establish a jurisdiction reaching the vessel itself.

2. If the United States, as far as they can be a party defendant, should happen to be so, their own courts can alone judge them. To drag a confederacy before the courts of one of its members, would reverse the plain dictates of order; hazard the most critical interests of the Union upon the pleasure of a single State; and enable every individual State, under the pretext of a forensic sentence, to arrogate the general sovereignty.

3. In like manner, as far as a particular State can be a party defendant, a sister State cannot be her judge. Were the States of America unconfederated, they would be as free from mutual control as other disjointed nations. Nor does the federal compact narrow this exemption, but confirms it, by establishing a common arbiter in the federal judiciary, whose constitutional authority may administer redress.

It deserves, however, to be remarked in this place, that these ideas are not inconsistent with the right of the States separately, or of the United States collectively, to resort to the State courts as *plaintiffs*; nor yet with the right of the States separately to open their own courts for suits against themselves.

4. In disputes arising upon the grants of land by different States, the contest must turn upon one of two questions: in which State the land lies; or whether lands confessedly within one State may not, by virtue of some act, be claimed by the grantee of another. It would be the extreme of presumption for a sister State to affect a jurisdiction in this case; and more especially ought the granting and claiming States to keep aloof from the decision; it being the cause of both.

5. If crimes and offences be punishable by that authority alone against which they are committed, those created by the constitution or by Congress result to the federal judiciary only. If, on the other hand, it were allowed that Congress might transfer the cognizance of these cases to the State courts, until that transfer it cannot be theirs.

6. Rights, too, created by Congress may have a special remedy given to them in the federal courts; and to them ought, therefore, to be restricted.

We are then led to conclude that the judiciary of the United States have exclusive jurisdiction in the following cases:

1. In those of strict admiralty and maritime jurisdiction.
2. Where the United States are a party defendant.
3. Where a particular State is a party defendant.
4. Where lands are claimed under grants of different States.
5. In treason, as described by the constitution, and other crimes and offences created by the laws of the United States, but not consigned to the State tribunals.
6. In rights created by a law of the United States, and having a special remedy given to them in the federal courts.

In all the other cases to which the judicial power of the United States *extends*, a concurrent jurisdiction is presumed; provided they be not mingled with others coming within any of the six foregoing descriptions. By this standard, which, if found, may, by its adoption, maintain the harmony of the federal and State judiciaries, the Attorney General has tried the jurisdictions marked out by law. But with a reluctance and distrust of his own judgment, which nothing less than a sense of duty could overcome, he begs leave to ask—

1st. How far the State courts ought to be prohibited, as they now are, from a jurisdiction in suits against consuls or vice-consuls, as such, or against a State sued with its own permission in its own courts, or in suits where a State is plaintiff? And,

2d. Whether the restrictions on the State courts ought not to be increased, so as to bind all the six cases above mentioned?

On a further prosecution of the cases acknowledged to be of concurrent jurisdiction, it appears that a writ of error may issue from the Supreme Court of the United States to a final judgment or decree rendered in any suit by the highest State court of law or equity in the nine following cases:

Where is drawn in question—

1. The validity of a treaty of the United States;



2. Or of a statute of the United States;
3. Or of an authority exercised under the United States: and the decision is against their validity.

Or where is drawn in question—

1. The validity of a statute of any State, on the ground of being repugnant to the constitution, treaties, or laws of the United States;
2. Or of an authority exercised under any State, upon like grounds: and the decision is in favor of such their validity.

Or where is drawn in question—

1. The construction of any clause of the constitution of the United States;
2. Or of a treaty of the United States;
3. Or of a statute of the United States;
4. Or of a commission held under the United States: and the decision is against the title, right, privilege, or exemption, specially set up or claimed by either party under such clause of the said constitution, treaty, statute, or commission.

That the avenue to the federal courts ought, in these instances, to be unobstructed, is manifest. But in what stage, and by what form, shall their interposition be prayed? There are, perhaps, but two modes: one of which is to convert the Supreme Court of the United States into an appellate tribunal over the Supreme Courts of the several States; the other to permit a removal by *certiorari* before trial.

The Attorney General will not decide how far the arguments of those who do not assent to the first merit attention. But he is constrained to lay them before the House.

It has been conceded that, when the constitution delegates to the Supreme Court "*appellate jurisdiction*," it uses a very broad expression, which, if understood in its literal latitude, tolerates the first expedient. But, on the other hand, it has been asserted—

1st. That this phrase must be pressed close to the matter of the third article of the constitution, which is the *judicial power of the United States*, without blending State courts.

2d. That this species of construction is not unfrequent; nay, in another part of the article it is drawn into action. For, without it the direction that all crimes, except in cases of impeachment, shall be tried by a jury, might intrude further into the police of a State than has been ever yet contended.

3d. That as the State courts did not rely for their concurrent jurisdiction upon any cession in the constitution, the special provision that the Supreme Court should have *original jurisdiction* in four cases was designed to prevent the inferior courts of the United States from having the sole original jurisdiction in those cases; and that *original* and *appellate* being correlative in their signification, the latter must also bespeak some relation between the supreme and inferior courts of the United States alone.

4th. That, in cases of admiralty and maritime jurisdiction, and some others, with which a State cannot intermeddle, the appellate jurisdiction must operate on the decrees of the inferior federal courts only; and that the interpretation of one passage in the article being thus far clear, furnishes a key by which to expound the others: and,

5th. That a concurrence of jurisdiction so strongly implies co-equality, that nothing ought to arraign it, except a very explicit declaration, or, at least, a violent necessity to the contrary.

But let these arguments be passed over without further notice.

Does justice entitle a plaintiff to the first mode? When he institutes his suit, he has the choice of the State and federal courts. He elects the former, and to that election he ought to adhere.

Does justice entitle a defendant to it? Certainly not. Should he be free to withdraw the cause by a *certiorari* at any time before trial from the State court? For if, with this privilege, he proceeds without a murmur through the whole length of the State courts, ought he to catch a new chance from the federal courts? Have not both plaintiff and defendant, thus acquiescing, virtually chosen their own judges?

Again: let supposition itself be tortured; let the highest State courts, although sworn to support the constitution, invalidate a treaty, a statute, or an authority of the United States.

1st. Such a decree could not invalidate them, nor impair the right of the lowest federal court to ratify them.

2d. It would not disturb the tranquillity of the United States. For if even aliens were the parties, the remonstrances of their prince might be repelled by showing that they favored the State jurisdiction, by waiving the privilege of going into the federal courts.

3d. Nor yet would the honor of the United States be sullied. For if it has not occurred, it may be conceived that courts, whose jurisdiction is straitened in value, but whose decrees up to that value are final, may be refractory against a law, without diminishing the real dignity of Government. Judicial uniformity is surely a public good, but its price may be too great if it can be purchased only by cherishing a power, which, to say no more, cannot be incontestably proved.

4th. At any rate, unless a party shall forsake the ordinary maxims of prudence, the hostility of the supreme State courts (if hostility be possible) will be displayed but once. For the remembrance of an adverse decision or an adverse temper in those courts will inevitably proclaim the federal courts as the asylum to federal interests.

From these considerations, the second mode, by *certiorari*, is, perhaps, eligible. But it may be said that even this process argues something more than a concurrence of jurisdiction in the federal courts; and that, if it be improper to tie a defendant to a State court against his will, it is equally so to force a plaintiff to a federal court against his will. To this let it be answered:

1st. That the judicial power of the United States was established to prevent suitors, in certain cases, from being obliged to submit entirely to the State courts; and that a material objection to the re-examination of a final decree is founded upon both parties voluntarily and cheerfully devoting themselves to the State courts; and

2d. That a concurrent jurisdiction would be a heavy oppression to a defendant, if he cannot depart from a State court, while the plaintiff may arrest him by a State or federal writ.

A third alteration, which the Attorney General cannot forbear to suggest, is, that the judges of the Supreme Court shall cease to be judges of the circuit courts.

It is obvious that the inferior courts ought to be distinct bodies from the supreme courts. But how far it may confound these two species of courts to suffer the judges of the supreme to hold seats on the circuit bench, he declines the discussion, and circumscribes his reflections within the pale of expediency only.

1. Those who pronounce the law of the land without appeal, ought to be pre-eminent in most endowments of the mind. Survey the functions of a judge of the Supreme Court. He must be a master of the common law in all its divisions, a chancellor, a civilian, a federal jurist, and skilled in the laws of each State. To expect that in future times this assemblage of talents will be ready, without further study, for the national service, is to confide too largely in the public fortune. Most vacancies on the bench will be supplied by professional men, who, perhaps, have been too much animated by the contentions of the bar deliberately to explore this extensive range of science.

In a great measure, then, the supreme judges will form themselves after their nomination. But what leisure remains from their itinerant dispensation of justice? Sum up all the fragments of their time, hold their fatigue at naught, and let them bid adieu to all domestic concerns, still the average term of a life, already advanced, will be too short for any important proficiency.

2. The detaching of the judges to different circuits defeats the benefit of an unprejudiced consultation. The delivery of a solemn opinion in court commits them; and should a judgment rendered by two be erroneous, will they meet their four brethren unbiassed? May not human nature, thus trammelled, struggle too long against conviction? And how few would erect a monument to their candor, at the expense of their reputation for firmness and discernment?

3. Jealousy among the members of a court is always an evil; and its malignity would be double, should it creep into the Supreme Court, obscure the discovery of right, and weaken that respect which the public welfare seeks for their decrees. But this cannot be affirmed to be beyond the compass of events to men agitated by the constant scanning of the judicial conduct of each other.

If this should not happen, there is fresh danger on the other side, lest they should be restrained by delicacy and mutual tenderness from probing, without scruple, what had been done in the circuit courts. A schism of sentiment before a decision, and after a free conference, is not esteemed harsh; but it is very painful to undertake to satisfy another that, in a public opinion already uttered, he has been in the wrong.

4. Situated as the United States are, many of the most weighty judiciary questions will be perfectly novel. These must be hurried off on the circuits, where necessary books are not to be had; or relinquished for argument before the next set of judges, who, on their part, may want books, and a calmer season for thought. So that a cause may be suspended until every judge shall have heard it.

5. To this separation of the supreme judges from the circuit service, some objections may be anticipated.

It may be urged:

1st. That it will tend to impress the citizens of the United States favorably towards the General Government, should the most distinguished judges visit every State: and

2d. That in one country, assizes are held with applause by the very men who afterwards sit collectively to review what may have been there transacted, and who are also consulted in the dernier resort.

1. The first objection is too vague. In its extent, it impugns all subordinate departments whatever; and ought, therefore, to be regarded no otherwise than as it may be unopposed by inconveniences. Let it then be inquired if none of the preceding do oppose.

Again: Will not the judges of the circuit courts be adequate to their stations?

The supreme judges themselves, who ride the circuits, will (if, indeed, such a circumstance can be of much avail) be soon graduated in the public mind, in relation to the circuits; will soon be considered as circuit judges; and will not be often appreciated as supreme judges. When a discomfited party looks up to the highest tribunal for redress, he is told, by the report of the world, that in it every quality is centred necessary to justice. But how would his sanguine hopes be frustrated, if, among six judges, two are most probably to repeat their former suffrages, or to vindicate them with strenuous ability; or, if to avoid this, the wisdom of a third of the number must be laid aside?

2. The assize scheme will not be confronted by any impeachment of its merit; on the contrary, its merit is admitted, although, perhaps, it cannot safely be the groundwork of our reasoning on the judiciary of the United States, until we are assured that we have penetrated all the arcana of its operations. But there is a court of final jurisdiction, which, by being ready to correct, incessantly admonishes all the subordinate courts to be circumspect. Equity itself, too, being in different hands from the common law, is watchful over every departure from what is right.

When the judges of assize assist with their counsels in the last resort, they are not authoritative. Such of them as are members of the body, are so small in number, as to be compelled to rely on the strength and solidity of their judgments only, instead of their influence. Besides, the judges are enrolled in distinct corps; and this alone would be a kind of hostage for exertions in behalf of truth.

Where, then, is the similitude to the Supreme Court of the United States?

Should the judges of the Supreme Court become stationary, they will be able to execute reports of their own decisions, and thus promote uniformity through the whole judiciary of the United States.

Reports may be traced up to a venerable antiquity. In England they were composed for centuries by protonotaries of the court, at the charges of the Crown. And ever since the patronage of Government has retired, their utility has been universally avowed. In our own country, too, labors like these have diffused a knowledge of the laws of particular States. And how valuable, in point of authenticity and instruction, must reports be from the Supreme Court.

But these are not the only advantages: they announce the talents of the judges.

If the judge, whose reputation has raised him to office, shall be in the habit of delivering feeble opinions, these reports will first excite surprise, and afterwards a suspicion, which will terminate in a vigilance over his actions.

In a word, when, by means of these reports, the sense of the Supreme Court shall be ascertained and followed in the inferior tribunals, much time and money will be saved to dissatisfied suitors who might otherwise appeal.

A diversity of opinion has prevailed on the forms and modes to be observed in causes of equity and of admiralty and maritime jurisdiction—whether they are to be according to the mere civil law, unqualified by the usages of any modern nation, or under limitations.

If the untempered severity of the Roman law is to predominate, the rights of property and of personal liberty are in jeopardy. Without exhibiting a tedious list of what are termed the substantial and accidental parts of a civil cause, let a few of the most obnoxious forms of the civil law be selected.

1. In scarcely any case, unless in that of a *ne exeat*, is an arrest upon citation or *subpena*, at the first institution of a chancery suit known in the United States. In the civil law it is otherwise.

2. One mode of executing a sentence is by putting the plaintiff into possession of all the defendant's estate, in order that he may pay himself; and the same may be the punishment of contumacy.

3. It is true that, by practice, a sequestration has grown into a chancery process in the last stage of contempt. But, by the civil law, the property in debate may be wrested from its possessor, when he has been guilty of no contempt, and may continue with the sequestrator, be the suit depending for any number of years whatsoever.

4. To what a height of insult and delay may not a dilatory exception to a judge be carried.

5. The oaths have not less singularity in them.

The suppletory oath is given by the judge to the plaintiff or defendant, upon half proof being already made, which, being joined with the half proof, supplies a sufficient quantum of proof.

The decisive oath is, where one of the litigants, not being able to prove his accusation, offers to stand or fall by the oath of his adversary; and the adversary is bound to accept it, or make the same proposal back again, under the penalty of condemnation.

The oath of calumny is, where the plaintiff or defendant is required to swear that he believes himself to be engaged in a just cause.

To these specimens, others might be added, equally exceptionable. But as they indicate the general spirit of the civil law, in its forms and modes, limitations of them ought to be searched for.

It cannot be denied that the nation, whose jurisprudence is the source of our own, presents the best limitations, and that they ought to be adopted until better shall be devised. And better may certainly be prepared under the auspices of Congress.

Congress evinced their anxiety that the administration of justice should be as convenient as possible to the citizens of the United States when they allotted alternate places for the sessions of the district and circuit courts. Although it may be doubted whether it would not be more agreeable to the public to be summoned to some central spot, yet, to reduce these places to one in each district, without cogent reasons, might awaken discontent. But such a risk may be encountered with safety, as it is defended by a fair prediction of the mischiefs which await the old plan.

1. Either the records, or copies of them, must travel with the courts. By the former step they would be always liable to loss or injury; by the latter, the expense to clients would be greatly increased. It will not be enough to make up a scanty *nisi prius* roll only; because the court which tries the cause will enter judgment, and must therefore have the documents entire.

2. Generally speaking, two sets of lawyers will be retained. The same practitioners will not desert the more profitable business of the State courts, to attend two federal courts, widely distant from each other, and very probably interfering with the terms of the State courts: and if they do not ride with the judges, the prospect is equal, that a cause, the original writ of which is returnable in one place, may be ultimately heard at the other.

3. The original writs of suits will most commonly be returnable to the place nearest to the residence of the witnesses. But if they are to go to the more remote place, costs will be multiplied, and themselves put to additional trouble.

4. If a culprit should not be tried at the first session, and the judges cannot hold a special intermediate session, he must be transported in irons to the next place of session, or languish in gaol, until the court shall meet at the place of his confinement. And it will be very rare that a special session can be held by the judges of the Supreme Court at least, as their duty will hasten them to some other circuit, and from thence to the seat of Government.

1. It is conjectured that the common law was omitted among the rules of decision, as having been already the law of the United States. Most probably this will be seldom, if ever, controverted. But in one aspect the existence of the common law, as the law of the United States, is equivocal. For if the doctrines of the common law can be introduced into the federal courts only by recurring to them for the explanation of the language used in the laws of the United States and of particular States, or by the connexion which the common law will have with most of the suits in the federal courts, as arising within some particular State, some parts of the common law which do not fall within either of these characters will be estranged from our system.

To cut off, then, such altercation, is not unworthy the care of Congress.

2. But the common law, not being totally without blemish, has been occasionally improved by statute. Is the wisdom of these improvements to be discarded? It is true, indeed, that there ought to be a repugnance to naturalize the statute book of a foreign nation, even for a moment. But the fact is, that the United States have not yet had sufficient leisure to disengage themselves from it, by enacting a code for themselves. The time will come (perhaps it has already come) when such a work will be indispensable. But until it shall be completed, it will be far less disgraceful to accept, under proper restrictions, some part of our law from an alien volume, with which every State is well acquainted, and to which the people have been accustomed from their infant settlements, than abruptly to unhinge ancient legal tenets. And here the Attorney General begs leave to conjecture, that if the two clauses, concerning the forfeiture of the penalty annexed to articles, &c., and concerning abatements, both of which have originated from statutes, should alone be inserted, every other part of the statutes would be excluded by construction, except where they are the laws of a particular State, and in cases belonging to that State.

These appear to be the capital desiderata. Other alterations will be proposed in the draught which is now offered, in obedience to the second part of the order; namely, that a report be made of such provisions as may seem advisable.

## SECOND PART.

This bill, although not formally divided into cardinal parts, is yet divisible into four. The first contains all that is peculiar to the organization of the district courts; the second, to that of the circuit courts; the third, to that of the Supreme Court; and the fourth, what is common to two or the whole of them.

The constitution, the common law, and equity, have shortened the detail. But in the progress of the draught, the alternative was always in view, either to make it immensely prolix, by re-enacting the necessary statutes, or to consider that those of a certain general nature would be specially adopted. For the Attorney General repeats, that the chasm will be found distressing in practice without such adoption. The latter, then, was preferred, as being incapable of any fatal error. In the former, too, much might have been omitted without longer premeditation; and the very changes of language might generate confusion.

He therefore requests, that whensoever, on the perusal, any thing seems to be too slightly touched, or unnoticed, it should be inquired in what manner the constitution of the United States, equity, the common and statute law, have provided for the case, and whether they have not provided sufficiently.

A bill for amending the several acts concerning the Judicial Courts of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States shall be, and they are hereby, divided into fifteen districts, to be limited and called as follows, to wit: One to consist of that part of the State of Massachusetts which lies easterly of the State of New Hampshire, and to be called Maine district; one to consist of the State of New Hampshire, and to be called New Hampshire district; one to consist of the remaining part of the State of Massachusetts, and to be called Massachusetts district; one to consist of the State of Rhode Island and Providence Plantations, and to be called the district of Rhode Island and Providence Plantations; one to consist of the State of Connecticut, and to be called Connecticut district; one to consist of the State of New York, and to be called New York district; one to consist

of the State of New Jersey, and to be called New Jersey district; one to consist of the State of Pennsylvania, and to be called Pennsylvania district; one to consist of the State of Delaware, and to be called Delaware district; one to consist of the State of Maryland, and to be called Maryland district; one to consist of the State of Virginia, except that part called the district of Kentucky, and to be called Virginia district; one to consist of the district of Kentucky, and to be called Kentucky district; one to consist of the State of North Carolina, and to be called North Carolina district; one to consist of the State of South Carolina, and to be called South Carolina district; and one to consist of the State of Georgia, and to be called Georgia district. [Note 1.]

*And be it further enacted,* That there be a court called a district court in each of the aforesaid districts; that it shall consist of one judge, who shall reside in the district for the court of which he is or shall be appointed, and shall be called a district judge; and that before he proceeds to execute the duties of his said office, he shall take the following oath or affirmation, to wit: "I, A. B. do solemnly swear, or affirm, that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge and perform all the duties incumbent on me as judge of the district of ———, according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States: So help me God." Which oath or affirmation shall be administered by any one of the Justices of the Supreme Court of the United States; any district judge of the United States; any judge or justice of the peace for the State forming the district, or the clerk of the district court; and a certificate thereof shall be recorded in the district court.

*And be it further enacted,* That each district court shall hold two stated sessions in every year, at the times and places, and for the terms following, that is to say: [Note 2.]

That each district court shall also hold special sessions for the purposes hereinafter mentioned, at such times as the judge thereof shall appoint, and at the places following, that is to say:

*Provided always,* That the said courts shall be holden in some public court-house, where the same can be obtained; and that it shall be lawful for the President of the United States, in vacation, or to the respective courts, if it shall be rendered necessary by any infectious disorder or other cause, to direct the sessions of the said courts, whether stated or special, to be holden at some more fit place within the said districts respectively, until the said cause shall be removed. [Note 3.]

*And be it further enacted,* That no State court shall take cognizance of, or exercise jurisdiction in, any of the following cases, to wit:

1. Cases of admiralty and maritime jurisdiction.
2. Controversies to which the United States shall be a party defendant.
3. Controversies to which a particular State shall be a party defendant, except where a State may have authorized a suit to be brought against itself in its own courts.
4. Controversies for lands claimed under grants of different States.
5. Treason against the United States, and crimes and offences created by Congress, unless the cognizance thereof shall be vested by law in the said State courts, or State magistrates: and,
6. Rights created by Congress, and having a special remedy given to them in the federal courts. [Note 4.]

*And be it further enacted,* That each district court shall, under the regulations and restrictions hereinafter mentioned, have original jurisdiction of all cases in law and equity arising—

1. Under the constitution of the United States.
2. The laws of the United States; and,
3. Treaties made, or which shall be made, under their authority.
4. Of all cases affecting ambassadors, and other public ministers, being plaintiffs; or consuls, or vice-consuls, being plaintiffs or defendants. [Note 5.]
5. Of all civil cases of admiralty and maritime jurisdiction.
6. Of piracies and felonies on the high seas.
7. Of crimes and offences created by Congress, arising within its proper district.
8. Of controversies upon rights created by Congress, and having a special remedy given thereto in the federal courts.
9. Of all controversies to which the United States shall be a party plaintiff.
10. Of all controversies between a State being plaintiff, and the citizens of another State.
11. Of all controversies between citizens of different States not claiming lands under the grants of different States.
12. And of all controversies between a State, being plaintiff, and foreign citizens or subjects; or between the citizens of a State, and foreign citizens or subjects.

*Provided always, and be it further enacted,* That the aforesaid jurisdiction of the district courts shall be under the regulations and restrictions following, that is to say:

1. No person shall sue out any original process, or commence any original suit, in a district court, for the trial of any matter or thing of less value than ——— dollars, on pain of having the same dismissed with costs; except in cases of admiralty and maritime jurisdiction, and in offences against the revenue laws. [Note 6.]

2. No suit shall be brought or sustained in equity, in the said district courts, except in cases of fraud, accident, trust, and unconscionable hardship; or where the mode of proof, or the mode of relief, at common law, be incompetent to the case of the complainant; or where persons not resident in the United States, and having any estate or debts in the hands of another, resident within the district for which such court is held, shall, together with that other person, be made defendant; and, in the last-mentioned case, the decree may subject such estate and debts to the demand of the complainant. [Note 7.]

3. The judge of a district court may issue writs of *ne exeat*, returnable to the said court, against any person who is about to depart from any district, and who may be liable to be sued in equity in the said district courts; the writs of *ne exeat* shall command the defendant to find sufficient security, in a sum to be expressed therein by the direction of the judge, that he will not depart the district without the leave of the court; and the plaintiff, or some responsible person in his behalf, shall, at the time of obtaining the writ, enter into bond, with sufficient security, in the clerk's office of the district court, to answer all damages which may accrue to the defendant from the said writ.

4. Writs of injunction in equity may be granted by the judge of a district court to judgments of the said court at common law; but the plaintiff, or some responsible person in his behalf, shall, at the time of obtaining the said writ, enter into bond, with sufficient security, in the clerk's office of the district court, to answer damages, at the rate of ten per centum, in case such injunction shall be dissolved; and no injunction in equity shall be granted by a district court to a judgment at law of a State court. [Note 8.]

5. The jurisdiction hereinbefore given to the district courts over cases arising under the constitution, the laws, and treaties of the United States, shall not be construed to comprehend such cases in which the United States, or a particular State, shall be defendant. [Note 9.]

6. In all crimes and offences tried by any district court, the punishment for which, if consisting of stripes, imprisonment, or a fine, is left to the discretion of a jury or the court, the stripes shall not exceed thirty, nor the imprisonment six calendar months, nor the fine one hundred dollars; and wheresoever, in any crime or offence cognizable under the authority of the United States, the punishment by stripes, imprisonment, or fine, be expressly defined by law, and be greater than the number, the time, and the sum aforesaid; or wheresoever the punishment shall affect life or limb, no district court shall exercise jurisdiction therein, unless the offender, being actually in prison, shall, by petition to the said court, request it; and thereupon, if it shall appear to the said court that due notice and sufficient time have been given to the officers of the United States concerned to prepare for the hearing, and that the circuit courts hereinafter mentioned have not already had possession of the case, and that it would tend to expedite its decision if the said district court should take cognizance of it, it shall be lawful for the said district court to hear and determine the same; but this restriction of the jurisdiction by this act given to the district courts shall not be construed to extend to the district courts in the districts of Kentucky or Maine. [Note 10.]

7. No civil suit, being of a transitory nature only, shall be brought against an inhabitant of the United States, in any district court other than that of the district to which he belongs, unless process for the same cause shall have been first returned in the said district court, that he was not found, or he shall be absconding from his said district, at the time of such suit being brought, or he shall be privy or a party in interest with a person resident within the district of the first-mentioned court; and all suits brought contrary hereto may be dismissed on motion.

8. No district court shall have cognizance of any suit, to recover the contents of any promissory note, or other chose in action, in favor of an assignee, unless a suit might have been prosecuted in such court to recover the said contents, if no assignment had been made, except in cases of foreign bills of exchange.

9. No person whatsoever shall, in any civil action or suit brought in a district court, be arrested or summoned in one district for trial in another, unless he be privy or a party in interest as aforesaid; in which case, he may be summoned. [Note 11.]

10. Local actions shall be brought in the court of the district in which they arise.

11. No special session of a district court shall be held, but for civil causes of admiralty and maritime jurisdiction, as aforesaid, and for seizures under the laws of impost, navigation, or trade of the United States; and no such cause shall be heard at any stated session of the said court. [Note 12.]

*And be it further enacted,* That the judges of the district courts shall be conservators of the peace of the United States throughout their respective districts. [Note 13.]

*And be it further enacted,* That each district court, or the judge, in vacation, shall have power to appoint the clerk thereof, who, before he enters upon the execution of his office, shall take the following oath, or affirmation, to be administered by the said judge: "I, A. B., being appointed clerk of the district of \_\_\_\_\_, do solemnly swear, or affirm, that I will truly and faithfully enter and record all the orders, decrees, judgments, and proceedings of the said court; and that I will faithfully and impartially discharge and perform all the duties of my said office, according to the best of my abilities and understanding: So help me God." But the words "So help me God," shall be omitted in all cases of affirmation. And the said clerk shall give bond to the United States, in a reasonable penalty, with one surety at least, to be approved by the said district judge, conditioned faithfully to discharge the duties of his office, and seasonably to record the decrees, judgments, and orders of the said court; which bond shall be recorded in the said district court, and shall not be void upon the first recovery, but may be put in suit, and prosecuted, from time to time, at the costs and charges of any party or parties injured, until the whole sum of the penalty expressed in such bond shall be recovered thereon.

*And be it further enacted,* That a marshal shall be appointed in and for each district for the term of four years, but shall be removable from office at pleasure. That, before he enters on the duties of his office, he shall become bound to the United States, before the judge of the said district, jointly and severally with two good and sufficient sureties, inhabitants and freeholders in the said district, to be approved by the said district judge, in the penal sum of twenty thousand dollars, conditioned for the faithful discharge of the said office by himself and his deputies hereinafter mentioned; and shall moreover take before the said judge the following oath, or affirmation, omitting, in the case of affirmation, the words "So help me God." "I, A. B., do solemnly swear, or affirm, that I will faithfully execute all lawful precepts directed to the marshal of the district of \_\_\_\_\_, under the authority of the United States, and true returns make, and in all things well and truly, and without malice or partiality, perform the duties of the marshal of the said district of \_\_\_\_\_, during my continuance in the said office, and take only my lawful fees: So help me God." That the said marshal shall be adjudged to be an officer of the court of the district for which he shall be so appointed; shall attend the same accordingly; shall execute, throughout the district, all writs, precepts, summonses, and process, issued under the authority of the United States, and directed to him; and shall have power to command all necessary assistance in the execution of his duty.

That it shall be also lawful for each marshal to appoint, as he shall see occasion, one or more deputies, who shall be removable from office by the district judge; and, before they enter on the duties of their office, shall take before the district judge the oath, or affirmation, aforesaid, prescribed to be taken by the marshal, changing the word "marshal," where it occurs in the second place in the said oath or affirmation, to the words "the marshal's deputy;" that in case of the death of any marshal, his deputy or deputies shall continue in office, unless specially removed as aforesaid, and shall execute the same in the name of the deceased, until another marshal shall be duly qualified; that the executor or administrator of any deceased marshal shall have like remedy for the faults and misfeasances in office of his deputy or deputies, which shall happen after the said marshal's death, as for those which may have happened in his lifetime.

That every marshal, and a deputy or deputies, when removed from office, or when the term for which the marshal was appointed shall expire, shall have power, notwithstanding, to execute all such writs, precepts, summonses, and process as may be in their hands, respectively, at the time of such removal or expiration of office, unless the judge of the district court shall otherwise direct. [Note 14.]

That the marshal, or, in case of his death, his estate, shall be answerable for the delivery to his successor of all prisoners who may be in his custody at the time of his death, or removal, or the expiration of the term of his appointment; and for that purpose the marshal, when living, or his deputies in case of his death, may retain such prisoners in custody until a successor shall be duly qualified, unless the judge of the district court shall otherwise direct. But nothing herein contained shall subject a marshal for any omission or misfeasance of the keepers of the State jails.

That in all cases wherein the marshal or his deputy shall be interested, or shall not be an indifferent person, the writs, precepts, summonses, and process shall be directed to such disinterested or indifferent person as the district judge may appoint; and the person so appointed is hereby authorized to execute and return the same.

That the bond so to be given as aforesaid by each marshal shall be forfeited not only by the defaults and misfeasances in office of himself, or his deputy or deputies, in his lifetime, but also for the defaults and misfeasances of

a deputy or deputies after his death, in the cases aforesaid; shall be recorded in the said district court; and shall not be void upon the first recovery, but may be put in suit, and prosecuted from time to time, by and at the costs and charges of any party or parties injured, until the whole sum of the penalty expressed in such bond shall be recovered thereon.

And that the said marshal shall be liable, on motion, after ten days' previous notice, to judgment in his district court, and execution, for moneys received by himself, or his deputies, by virtue of their offices, and not duly paid to the person entitled thereto, upon application for the same.

*And be it further enacted,* That until it shall be otherwise provided by law, the rates of fees (except the fees to judges,) and the allowances to witnesses, shall be the same in the district courts, as in similar cases in the Supreme Court in the last resort of the State of which the district consists; and for the services of the clerks and marshals in cases which are unlike to those in the said Supreme Court, a reasonable compensation shall be paid by the parties, to be determined by the district courts, according to equity and the nature of the case; that all the said fees and compensations not received in cash shall be collected by the marshal or his deputies, according to the laws of the State for collecting such fees, and shall be accounted for to the said district courts at every session; when an entry shall be made of the sums appearing to have accrued, a copy of which shall be transmitted by the judge to the circuit courts, for the purposes hereinafter mentioned.

*And be it further enacted,* That there shall be no discontinuance of any suit, process, matter or thing returnable to, or depending in, any district court, although a judge shall not have been appointed to a vacancy, or the judge shall fail to attend at the commencement, or any other day of a session; but the judge may, at the commencement of a session, by a written order, direct the marshal of the district to adjourn the court from day to day, for three days successively; and if he shall not attend on the fourth, or, having attended one day, shall fail to attend on a subsequent day of a session, the court shall stand adjourned to the court in course.

*And be it further enacted,* That such writs, summonses, and other process, shall be issued from the several district courts for the commencement and prosecution of any civil action, suit, or matter therein; and that the forms and modes of proceeding in conducting the same to a trial or hearing shall be such as the Supreme Court, according to the regulations hereinafter provided, shall direct. But until directions shall be so given by the Supreme Court, and in cases not herein otherwise provided for, the writs, summonses, process, forms, and modes aforesaid, shall be in cases at common law, as nearly as may be, according to the practice of the highest State court of common law in each district, having original and general jurisdiction; and in cases in equity, according to the practice of the highest State court of equity in each district, having original and general jurisdiction; and where no such court of equity exists in any State, the district court shall proceed in equity, according to the forms, modes, rules, and usages which belong to a court of equity, as contra-distinguished from a court of common law; and, in cases of admiralty, the district courts shall proceed according to the practice of the admiralty, properly so called; and every district judge shall moreover have the same power to issue writs of *habeas corpus*, returnable in vacation before himself, as in session returnable to the court.

*And be it further enacted,* That it shall be lawful for each district judge, for good cause shown, to direct appearance bail to be required, and for every district court, upon like cause, to require special bail; that a plaintiff, issuing a *capias*, may also obtain an endorsement thereon from the clerk requiring appearance bail, upon lodging with the said clerk an affidavit that the defendant, from whom bail is so required, is, as far as the plaintiff knows or believes, not a resident within the United States, or that a writ has been returned in the same case to the court of the district in which he resides, and that the defendant was not found there, and that the defendant is indebted to the plaintiff to the amount of ———, or detains personal property from him to a like amount; and shall moreover give, in the clerk's office, bond, with sufficient surety to the defendant, in a reasonable penalty, conditioned to answer all damages which may accrue to the defendant, if it should thereafter appear that bail has been thus required for the sake of vexation.

That the several district courts may appoint proper persons for taking special bail; who shall, without delay, transmit the recognizances of bail to the clerks of the said courts.

That the several marshals and their deputies shall take bail bonds for appearances, and shall transmit them without delay to the clerks of their respective courts.

That, if the sufficiency of bail be objected to, reasonable notice of such objection shall be given to the marshal or the deputy taking such bail, before a motion shall be made concerning it; that if, upon a motion before the court, the bail be adjudged insufficient, the marshal shall be answerable therefor: *Provided, always,* That it shall be a justification of the marshal if an affidavit shall have been made previous to the acceptance of the bail, verifying the sufficiency thereof; unless it can be proved that the said marshal, or the deputy who took the same, had good reason to suspect such sufficiency.

And that the special bail may surrender the principal, either before or after judgment, to the marshal or his deputies belonging to the court in which the suit shall be brought, and may thereby discharge himself; and, if the principal cannot give other special bail, he shall be committed. [Note 15.]

*And be it further enacted,* That the executions to be issued from the district courts of the United States shall be *elegit*, *capias ad satisfaciendum*, *feri facias*, and *levari facias*; that the return days thereof shall be appointed by the district courts, respectively; that there shall be the space of ——— between the date of the executions and the return days: *Provided, always,* That when judgment shall be entered in any district court in a civil action, it shall be lawful for the said court to stay the execution for forty-two days from the time of entering the judgment. [Note 16.]

*And be it further enacted,* That, from every final decree rendered by any district court, (except those of Kentucky and Maine,) in the exercise of its admiralty and maritime and equity jurisdiction, and in cases of seizure under the laws of impost, navigation, or trade of the United States, an appeal shall be allowed to the court of the circuit in which the district lies; and on all other final judgments rendered by the said district courts, a writ of error may be instituted in the said circuit court; and appeals and writs of error may, in like manner, be instituted in the Supreme Court of the United States on the final decrees or judgments of the district courts of Kentucky and Maine. But all such appeals and writs of error shall be subject to the rules and regulations hereinafter provided; and it shall be also the duty of the said district courts, in suits in equity, and of admiralty and maritime jurisdiction, to cause the facts on which they found their sentence or decree fully to appear upon the record, by inserting the depositions of the witnesses sworn in the cause, and the exhibits therein, at large. [Note 17.]

*And be it further enacted,* That the districts aforesaid, except those of Kentucky and Maine, shall be divided into three circuits, and shall be called the Eastern, the Middle, and the Southern circuits; that the Eastern circuit shall consist of the districts of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, and New York; that the Middle circuit shall consist of the districts of New Jersey, Pennsylvania, Delaware, Maryland, and Virginia; and that the Southern circuit shall consist of the districts of North Carolina, South Carolina, and Georgia.

*And be it further enacted,* That there shall be a court, called a circuit court, in each of the aforementioned circuits, which shall be holden in each district of the said circuits twice in every year, on the following days, to wit:

That the said circuit courts shall also have power to hold sessions for the trial of criminal causes at any other time, at their discretion, or the discretion of the Supreme Court; and that the terms during which the said circuit courts shall continue to sit, at their two stated sessions aforesaid, shall be — juridical days, unless the business ready for trial shall be sooner despatched; in which case, the court shall be adjourned to the court in course. [Note 18.]

*And be it further enacted,* That the places for holding the said circuit courts, in the districts of the several circuits aforesaid, shall be as follows:

*Provided, always,* That the said circuit courts shall be holden in some public court-house where the same can be obtained; and that it shall be lawful for the President of the United States, in vacation, or to the respective courts, if it shall be rendered necessary by any infectious disorder or other cause, to direct the sessions of the said courts to be holden at some more fit place within the said districts respectively, until the said cause shall be removed.

*And be it further enacted,* That the circuit courts aforesaid shall consist of the judges of the district courts comprehended within the said circuits respectively; that, before they proceed to execute the duties of this office, they shall take, as judges of the circuit courts, the oath or affirmation, *mutatis mutandis*, hereinbefore prescribed to them as district judges, to be administered by any justice of the Supreme Court of the United States, any district judge of the United States, within his proper district, or any judge or justice of the peace for the State belonging to the circuit; that a certificate thereof shall be recorded in the circuit court; and that any three of the district judges in the Eastern and Middle circuits, and any two of the district judges in the Southern circuit, shall constitute a quorum: *Provided,* That no district judge shall give a vote in any appeal or writ of error, brought to reverse his own decision; but he may assign the reasons of such decision. [Note 19.]

*And be it further enacted,* That the circuit courts aforesaid shall, under the regulations and restrictions herein-after mentioned, have original jurisdiction in all cases of law and equity arising—

1. Under the constitution of the United States.
2. The laws of the United States.
3. And treaties made, or which shall be made, under their authority.
4. Of all cases affecting ambassadors and other public ministers, being plaintiffs; or consuls or vice consuls being plaintiffs or defendants.
5. Of all controversies in which the United States shall be a party.
6. Of all controversies between a State, being plaintiff, and the citizens of another State. [Note 20.]
7. Of all controversies between citizens of different States.
8. Of all controversies between citizens of the same State, claiming lands under grants of different States.
9. Of all controversies between a State, being plaintiff, or the citizens thereof, and foreign states, citizens, or subjects.
10. Of piracies and felonies committed on the high seas.
11. Of crimes and offences created by Congress, arising within their respective circuits; and
12. Of controversies arising upon rights created by Congress, and having a special remedy given thereto in the federal courts.

That the said circuit courts shall also have appellate jurisdiction over the district courts, under the regulations and restrictions hereinafter provided, and may issue writs of prohibition to the circuit courts, when proceeding as courts of admiralty and maritime jurisdiction, as well as writs of consultation; writs of *mandamus*, in cases warranted by the principles and usages of law, and under the authority of the United States; and also writs of *certiorari* to the district or State courts, according to the rules hereinafter prescribed.

*Provided always, and be it further enacted,* That the aforesaid jurisdiction of the circuit courts shall be under the regulations and restrictions following, that is to say:

1. No person shall sue out any original process, or commence any original suit, in a circuit court, for the trial of any matter or thing of less value than — dollars, on pain of having the same dismissed, with costs.

2. No suit shall be brought or sustained in equity in the said circuit courts, except in cases of fraud, accident, trust, or unconscionable hardship; or where the mode of proof, or the mode of relief at common law, be incompetent to the case of the complainant; or where persons not resident in the United States, and having any estate or debts in the hands of another person resident within the district in which such circuit court is held, shall, together with that other person, be made defendant; and, in the last-mentioned case, the decree may subject such estate and debts to the demand of the complainant.

3. The several circuit courts, or any judge thereof, may issue writs of *ne exeat*, returnable to the said courts, against any person who is about to depart from the district, and who may be liable to be sued in equity in the said circuit courts, respectively. The writs of *ne exeat* shall command the defendant to give sufficient security, in a sum to be expressed therein by the direction of the court or judge, that he will not go out of the said district without leave of the said court; and the plaintiff, or some responsible person in his behalf, shall, at the time of obtaining the writ, enter into bond, with sufficient security, in the clerk's office of the circuit court, to answer all damages which may accrue to the defendant from the said writ.

4. Writs of injunction in equity may be granted by the several circuit courts, or any judge thereof, to judgments of the said courts, respectively, at common law, or to judgments at common law of any district court within their respective circuits; but the plaintiff, or some responsible person in his behalf, shall, at the time of obtaining the said writ, enter into bond, with sufficient security, in the clerk's office of the circuit court, to answer damages at the rate of ten per centum, in case such injunction shall be dissolved; and no injunction in equity shall be granted by a circuit court to a judgment at law of a State court.

5. The jurisdiction hereinbefore given to the circuit courts over cases arising under the constitution, the laws, and treaties of the United States, shall not be construed to comprehend such cases in which a particular State shall be defendant. [Note 20.]

6. No civil suit, being of a transitory nature only, shall be brought against an inhabitant of the United States in any circuit court other than that which shall be holden in the district to which he belongs, unless process for the same cause shall have been first returned in the said circuit court, so to be holden, that he was not found, or he shall be absconding from his said district at the time of such suit being brought, or he shall be privy or a party in interest with a person resident in a district within the circuit; and all suits brought contrary hereto may be dismissed on motion.

7. No circuit court shall have cognizance of any suit to recover the contents of any promissory note, or other chose in action in favor of an assignee, unless a suit might have been prosecuted in such court to recover the said



contents, if no assignment had been made, except in cases of foreign bills of exchange, and on a change of the venue hereinafter mentioned.

8. No person whatsoever shall, in any civil action or suit brought in a circuit court, be arrested or summoned in one district for trial in another, unless he be privy or party in interest as aforesaid, or the venue be changed, as is hereinafter mentioned; in which case he may be summoned.

9. Local actions shall be brought in the circuit court to be holden in the district in which they arise.

*And be it further enacted,* That the judges of the circuit courts shall be conservators of the peace of the United States, throughout their respective circuits.

*And be it further enacted,* That the clerks of the district courts shall be also clerks of the circuit courts appointed to be holden in their respective districts; that they shall take, as clerks of the circuit courts, an oath or affirmation of office similar to that prescribed to them as district clerks, which oath or affirmation shall be administered by any justice or judge of the United States, and a certificate of the taking of which shall be recorded in the circuit court; and that the bond and surety given by them as clerks of the district courts, respectively, shall stand and enure for their good conduct as clerks of the circuit courts.

*And be it further enacted,* That the marshals of the districts aforesaid shall be adjudged to be officers of the circuit courts appointed to be holden in their respective districts, and shall attend the same accordingly; that the said deputies shall be removable from office by the circuit courts, while sitting in the districts to which the deputy or deputies so removed belong; and that the said marshals and their deputies shall be bound to perform, throughout their respective districts, the same duties in relation to the business of the circuit courts sitting in their districts, as they ought, by virtue of this act, to perform in relation to the business of their district courts.

*And be it further enacted,* That, until it shall be otherwise provided by law, the fees and compensations to the clerks and marshals, and the allowances to witnesses, shall be the same in the circuit as in the district courts; that they shall be collected and accounted for to the circuit courts respectively, in the same manner as is prescribed in the case of the district courts; that the circuit courts shall, once in every year, determine upon some reasonable satisfaction to be made to the clerks and marshals within their circuits in consideration of their offices; that they shall thereupon enter upon record what sum, not exceeding \_\_\_\_\_ dollars to a clerk, nor \_\_\_\_\_ dollars to a marshal, in addition to the emoluments arising from the district and circuit business aforesaid they ought to receive; and the same shall be paid accordingly at the Treasury of the United States. [Note 21.]

*And be it further enacted,* That there shall be no discontinuance of any suit, process, matter, or thing returnable to or depending in any circuit court, although a quorum of judges shall fail to attend at the commencement or any other day of any session; but if a majority of them shall fail to attend at the commencement of any session, the marshal of the district may adjourn the court from day to day, for three days successively; and if a quorum shall not attend on the fourth, or, having attended one day, shall fail to attend on a subsequent day of a session, the court shall stand adjourned to the court in course.

*And be it further enacted,* That such writs, summonses, and other process, shall be issued from the several circuit courts for the commencement and prosecution of any civil action, suit, or matter therein; and that the forms and modes of proceeding in conducting the same to a trial or hearing shall be such as the Supreme Court, according to the regulations hereinafter provided, shall direct. But until directions shall be so given by the Supreme Court, the Attorney General shall be summoned where the United States are defendant; and in other cases not herein otherwise provided for, the writs, summonses, process, forms, and modes aforesaid shall be in cases at common law, as nearly as may be, according to the practice of the highest State court of common law in each district where the circuit courts shall sit, having original and general jurisdiction; and in cases in equity, according to the highest State court of equity in such district, having original and general jurisdiction; and where no court of equity exists in any State, the circuit court in such State shall proceed in equity, according to the forms, modes, rules, and usages which belong to a court of equity, as contra-distinguished from a court of common law; and in cases of admiralty, the district court shall proceed according to the practice of the admiralty, properly so called; and every circuit judge shall moreover have the same power to issue writs of *habeas corpus*, returnable in vacation before himself as a circuit judge, or before any other judge of his circuit, who shall happen to be within the district, as the circuit court has to issue such writs returnable to the court.

*And be it further enacted,* That the power of the circuit judges as to appearance bail, and of the circuit courts as to special bail, and the appointment of persons for taking the same, and the right of the plaintiff to require bail, and all other matters and things concerning bail, shall be the same, and shall be governed by the same rules as are hereinbefore prescribed concerning bail in the district courts.

*And be it further enacted,* That the executions to be issued from the circuit courts shall be the same as those to be issued from the district courts; that the return days shall be appointed by the circuit courts in like manner; and execution may be stayed for the same time as in the district courts. But it shall be lawful for a circuit court, for good cause, to direct executions to be issued on judgments obtained in a district court within its circuit to any other district within the same.

*And be it further enacted,* That, upon any final decree or judgment rendered by a circuit court, an appeal or writ of error may be brought in the Supreme Court of the United States as hereinafter is provided; and, that it shall be the duty of the circuit court, in causes of equity, to cause the facts on which they found their decree fully to appear upon the record, by inserting the depositions of the witnesses sworn in the cause, and the exhibits therein at large.

*And be it further enacted,* That the Supreme Court of the United States shall consist, as at present, of a chief justice and five associate justices, any four of whom shall be a quorum; that the associate justices shall have precedence according to the date of their commissions, or when the commissions of two or more of them bear date on the same day, according to their respective ages.

*And be it further enacted,* That the justices of the Supreme Court, before they proceed to execute the duties of their respective offices, shall take the following oath, or affirmation, to wit: "I, A. B., do solemnly swear, or affirm, that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as \_\_\_\_\_, according to the best of my abilities and understanding, agreeably to the constitution and laws of the United States: So help me God;" omitting, in the case of an affirmation, the words "So help me God;" which oath or affirmation shall be administered by any justice or judge of the United States, or any clerk of the district or circuit court; and a certificate of the taking of which shall be recorded in the Supreme Court.

*And be it further enacted,* That the Supreme Court shall sit at the seat of Government four times in every year, to wit, on the first Monday in the months of \_\_\_\_\_; that each term shall continue for the space of \_\_\_\_\_ juridical days, unless the business depending before the said court shall be sooner despatched; but the said court shall have power to prolong their session beyond the term for expediting the business depending before them, if they shall see cause.

*And be it further enacted,* That the Supreme Court shall have original jurisdiction—



- 1st. In all cases affecting ambassadors, other public ministers, and consuls: And,  
2d. In those in which a State shall be a party.

That, in the cases of which the circuit courts aforesaid, and the district courts of Kentucky and Maine, have cognizance, the Supreme Court shall have appellate jurisdiction, under the regulations of appeals and writs of error hereinafter mentioned; that the Supreme Court shall have power to issue writs of *mandamus* according to law, and writs of *certiorari* to the circuit and State courts, according to the rules hereinafter mentioned, to direct the writs, summonses, process, forms, and mode of proceeding to be issued, observed, and pursued by the said Supreme Court and the district and circuit courts, taking care that a letter missive, signed by the chief justice, shall be addressed, where a State is defendant, to the Executive thereof; and that the Attorney General of the United States, where the United States are defendant, shall be summoned, and for good cause shown to change the venue in any suit depending in a circuit court, so as to cause the same to be tried in any other circuit court in the same circuit. [Note 22.]

*And be it further enacted*, That the justices of the Supreme Court shall be conservators of the peace of the United States throughout the same.

*And be it further enacted*, That the justices of the Supreme Court shall, on the conclusion of any appeal or writ of error, state the whole merits of the case, the questions arising therefrom, the opinions of the court thereupon, and a summary of the reasons in support of those opinions; all which shall, at the end of each term, be entered in a book to be kept for that purpose, and copies shall be transmitted by the clerk to each district and circuit court; that it shall be the duty of each justice of the Supreme Court, present at the hearing of any appeal or writ of error, and differing from a majority of the court, to deliver his opinion, in writing, to be entered as aforesaid; and that each judge shall deliver his opinion in open court.

*And be it further enacted*, That as soon as the justices of the Supreme Court shall have established a system of practice as aforesaid, it shall be the duty of the Attorney General to prepare and report to Congress a table of fees and costs.

*And be it further enacted*, That the Supreme Court, or any four justices thereof, in vacation, shall have power to appoint a clerk for the said court, who shall, before he enters upon the execution of his office, give bond, with sufficient sureties, to be approved by the court, or the justices appointing him, to the United States, in the sum of two thousand dollars, conditioned faithfully to discharge the duties of his office, and seasonably to record the decrees, judgments, and orders of the said court; which bond shall be recorded in the said court, and shall not be void upon the first recovery, but may be put in suit and prosecuted from time to time, at the costs and charges of any party or parties injured, until the whole sum of the penalty expressed in such bond shall be recovered thereon. And the said clerk shall also take an oath or affirmation of office, similar to that prescribed in the case of a district clerk, *mutatis mutandis*; which oath or affirmation shall be administered by any judge of the Supreme Court, and a certificate of the taking of which shall be recorded in the said court. And for his services, the clerk of the Supreme Court shall receive such allowance as the said court shall adjudge, not exceeding — dollars per annum, to be paid at the Treasury of the United States.

*And be it further enacted*, That the marshal of the district in which the Supreme Court shall sit shall be adjudged to be an officer of the said court, and shall attend the same accordingly; that all the said marshals and their deputies shall be bound to perform, throughout their district, the same duties, in relation to the business of the Supreme Court, as they ought, by virtue of this act, to perform in relation to the business of their district courts; and the marshal attending the said court shall receive a reasonable allowance per day for such attendance, to be adjudged and certified by the said court.

*And be it further enacted*, That there shall be no discontinuance of any suit, process, matter or thing returnable to, or depending in, the Supreme Court, although a quorum of justices shall fail to attend at the commencement, or any other day of any session; but if a majority of them shall fail to attend at the commencement of any session, the marshal of the district may adjourn the court, from day to day, for three days successively; and if a quorum shall not attend on the fourth, or, having attended one day, shall fail to attend on a subsequent day of a session, the court shall stand adjourned to the court in course.

*And be it further enacted*, That no bail shall be required in any case depending before the Supreme Court, without the special order of the court. [Note 23.]

*And be it further enacted*, That the executions to be issued from the Supreme Court shall be the same as those to be issued from the circuit and district courts; that the return days shall be appointed by the Supreme Court in like manner; and that the Supreme Court may, for good cause, direct executions to be issued on judgments obtained in a district or circuit court, to any other district or circuit.

*And be it further enacted*, That it shall be lawful for either party, in any action or suit, in law or equity, depending in any district court, to petition a judge of the circuit court of the circuit in which such district lies, to remove the same to the said circuit court to be holden in the said district; and if it shall appear to the satisfaction of the said judge that there is good cause for a removal, and that the circuit court hath jurisdiction thereof, the said judge may direct the clerk to issue a *certiorari* for that purpose. But the said judge shall, if he see cause, require notice to be given of the said petition to the adverse party, his agent or attorney, before he decides thereon; and shall be first satisfied, where the plaintiff petitions for a removal, that the cause assigned for removal has arisen since the suit was brought, or was unknown to him at the time of bringing the same; and that said circuit court may at any time, for good cause, remand the said suit or controversy to the district court, by *procedendo*, that the justices of the Supreme Court shall have like power to direct a *certiorari* to the circuit court, and the Supreme Court to remand by *procedendo*, in all cases in which, by the constitution of the United States, the Supreme Court has original jurisdiction; that a *certiorari* may also issue from any circuit court of the United States, for the removal of any suit in law or equity depending in any State court within the circuit, to the circuit court, under the following regulations:

1. The said suit shall be cognizable by the circuit courts, with respect to value, and to the party or parties, or to the subject.

2. The defendant may, at any time before trial, obtain a *certiorari* from the clerk of the circuit court for the removal, upon filing with the clerk of the circuit court an affidavit that he believes the said suit to be of a nature cognizable in the said court.

3. The circuit court shall, at the commencement of every term, direct the suits thus removed to be first called, when the defendant shall justify such removal by satisfactory proofs, on the pain of having the cause remitted by *procedendo*.

4. If, on the trial, the court shall be of opinion that the cause alleged for the removal was groundless, the defendant shall pay the costs of the suit, let the event thereof be what it will.

5. To prevent removals merely for the sake of delay, it shall be the duty of the circuit courts to expedite the trial of a suit thus removed by the most effectual means consistent with a full defence.

6. The bail given in a State court shall stand bound in the circuit courts.

7. A plaintiff in a State court may, in like manner, and under a like penalty of costs, obtain a *certiorari* for the removal of a suit from the State court to the circuit court, upon filing with the clerk of the circuit court an affidavit, as is above directed in the case of a defendant; and also declaring in that affidavit that the cause alleged for the removal did not exist, or, having existed, was not known to him at any time before the commencement of the term of the circuit court next preceding the application of the *certiorari*.

*And be it further enacted*, That in appeals and writs of error, the following rules shall be observed:

1. No appeal shall be granted from the judgment or decree of any court of the United States to any other court of the United States, unless such judgment or decree be final, as aforesaid, and amount to the value hereinafter expressed for a writ of error.

2. Every appeal shall be prayed, at the time of rendering the judgment, sentence, or decree; but in cases of admiralty or equity, the circuit or Supreme court, or any judge thereof, may, upon cause shown, direct such appeal in six months thereafter.

3. The person appealing shall, by himself, or a responsible person in his behalf, in the office of the clerk of the court, from whose judgment, sentence, or decree, the appeal is prayed give bond and sufficient security, to be approved by the court, and within a time to be fixed by the court, to the appellee for the due prosecution of his appeal.

4. The penalty of the said bond shall be in a reasonable sum, in the discretion of the court.

5. It shall be the duty of the appellant to lodge an authenticated copy of the record, before the expiration of the second term after the appeal shall be entered in the clerk's office of the superior court; or else it shall stand dismissed, unless further time shall be granted by the court, before the end of such second term, for lodging the same.

6. The plaintiff in error shall assign errors upon matter of law only arising on the face of the proceedings. But nothing herein contained shall be construed to affect a writ of error brought upon the grounds of a writ of error *coram vobis*. [Note 24.]

7. If the judgment or decree be affirmed in the whole, the appellant shall pay to the appellee ten per centum on the sum due thereby, besides the costs on the original suit and appeal.

8. If the judgment or decree be reversed in the whole, the appellee shall pay to the appellant such costs as the court in their discretion shall award.

9. Where the judgment or decree shall be reversed in part, and affirmed in part, the costs of the original suit and appeal shall be apportioned between the appellant and appellee, in the discretion of the court.

10. The circuit and supreme courts shall, in case of a partial reversal, give such judgment or decree as the district or circuit courts, as the case may be, ought to have given.

11. On appeals of writs of error, it shall be lawful for the Supreme Court, or the circuit courts respectively, to issue execution, or remit the cause to the circuit or district courts, as the case may be, in order that execution may be there issued, or that other proceedings may be had thereupon.

12. Writs of error shall be issued *ex debito justitiae*; except in capital offences, provided that the judgment, exclusive of costs, shall amount to ——— dollars, in a district court, or ——— dollars, in a circuit court, or relate to a franchise or freehold of the value of ——— dollars, in a district court, or ——— dollars, in a circuit court; and no writ of error shall issue in a capital offence; nor shall a writ of error be a *supersedeas*, unless some judge of the circuit or supreme courts, as the case may be, after inspecting a copy of the record, and being of opinion that there is sufficient error therein for reversing the judgment in whole or in part, shall certify the same; in which case, the clerk issuing the said writ shall endorse on the said writ of error that it shall be a *supersedeas*, and it shall be obeyed as such accordingly.

13. And it shall be also necessary, before a writ of error shall operate as a *supersedeas*, that bond, with security, to be approved by the clerk of the court issuing the said writ, shall be given in the same manner, under a like penalty; and the plaintiff in error shall lodge an authenticated copy of the record, under the same regulations, and the parties in error shall be subject to the same judgment and mode of execution, as is already directed in the case of appeals.

14. A writ of error shall not be brought after the expiration of five years from the passing of the judgment complained of; but where a person thinking himself aggrieved by such judgment shall be an infant, *feme covert*, *non compos mentis*, or imprisoned, when the same was passed, the time of such disability shall be excluded from the computation of the said five years.

15. Whenever the court before which an appeal or writ of error is heard shall be divided in opinion on such hearing, the judgment, sentence, or decree shall be affirmed. [Note 25.]

*And be it further enacted*, That all the said courts of the United States shall have power to grant new trials, according to the principles of law; to impose and administer all necessary oaths or affirmations; to punish, by fine or imprisonment, all contempts of authority in any cause or examination before the same; to establish all necessary rules, (subject, in the case of the district and circuit courts, to the Supreme Court as aforesaid,) in conformity with the constitution and laws of the United States; and that the proceedings of every day, during a term, shall be drawn at full length by the clerks of the several courts against the next sitting thereof; and such corrections as may be necessary being first made therein, they shall be signed by the presiding justice, or, in the case of a district court, by the district judge of the district; that when any cause shall be finally determined, the clerks of the several courts shall make a complete record thereof; and that all writs, precepts, and summonses, issuing from any court, shall be under the seal, and signed by the clerk of the same, and shall bear test in the name of the chief justice for the time being.

*And be it further enacted*, That juries shall be sworn and impanelled in all cases prescribed by the constitution of the United States and the common law; that issues of fact, arising in any cause in chancery, may, under the direction of the court, be tried at the bar of the courts of the United States, by a jury there impanelled; that in other cases of equity, and in civil causes of admiralty and maritime jurisdiction, the court alone shall decide; that juries shall be summoned by writs of *venire facias*, to be directed to the marshal or his deputy, or any other person to be appointed by the court, in case neither the said marshal nor his deputies be indifferent persons, or they be interested in the event of the cause; that challenges shall be according to the course of the common law; that the qualifications of jurors shall be the same as those of jurors allowed to be sworn upon questions of freehold in the State wherein the court sits; that the district and circuit courts shall, at every term, direct the number of jurors to be summoned for the succeeding term; and the juries for each suit shall be determined by ballot; that when, from any cause, juries shall not be previously summoned, or, being previously summoned, shall fail to attend, bystanders may be summoned to complete the pannel, and the court may impose such fine on every delinquent who has been summoned, as the laws of the State impose in such cases: *Provided, always*, that, in criminal cases, juries of the vicinage shall be summoned, according to the course of the common law.

That twenty-four freeholders shall, in like manner, be summoned to each term of a district and circuit court, to compose a grand jury, on whom, or any of whom, failing to attend, the court may impose such fine as the laws of the State impose in such cases; and that if a sufficient number of those summoned do not meet, to compose a grand jury, at the time appointed; or if, having met, any of them should absent himself without permission, so as to leave the number too small for a grand jury, the court may direct an adequate number of bystanders to be summoned to supply the places of the absent.

That all jurors, grand or petit, attending any court of the United States, shall be allowed ——— for every day's attendance thereon, and ——— for every twenty miles of travelling, and their ferriages; that the allowances to the grand jurors shall be paid by the Treasury of the United States; that, in the bill of costs in every jury cause, ——— shall be taxed and accounted for to the said Treasury; and the allowances to the petit jurors shall also be paid by the said Treasury. And jurors coming to, attending on, or returning from, any court of the United States, shall be privileged from arrests in civil cases, one day being allowed for every twenty miles from their places of abode; and all arrests contrary hereto shall be void.

*And be it further enacted,* That in all the courts of the United States, the rules of evidence, so far as they relate to competency and credibility, shall be the same as at common law; that for good cause, the courts of the United States, or any judge, may grant commissions for the examination of witnesses; and that the clerks of the several courts, when any witness shall be about to depart from the district in which a suit is to be tried, or shall, by age, sickness, or otherwise, be unable to attend the court; or where the claim or defence of any party, or a material point thereof, shall depend on a single witness, may, upon affidavit thereof, issue a commission for taking the deposition of such witness *de bene esse*, to be read as evidence at the trial, in case the witness shall then be unable to attend; but the party obtaining such commission shall give reasonable notice to the other party of the time and place of taking the deposition. And all witnesses duly summoned to any court of the United States shall be privileged from arrests in civil cases, while coming to, attending on, or returning from, the same; one day being allowed for every twenty miles from their places of abode; and all arrests contrary hereto shall be void.

That summonses shall be issued by the respective courts for witnesses in any suits depending in the courts of the United States; that if any person summoned as a witness, and attending the court, or attending the commissioners appointed to take his deposition, shall refuse to give evidence, upon oath or affirmation, as the case may be, he shall be committed to prison, either by the court or the commissioners, there to remain until he shall give evidence; that any person summoned as a witness, and failing to attend accordingly, shall be liable to the action of the party injured by such failure; and that, in a bill of costs, the charge of more than three witnesses, for the proof of any particular fact, shall not be allowed.

*And be it further enacted,* That whosoever any person shall be duly charged before any judge or justice of the United States, or justice of peace of a State, upon oath or affirmation, with any crime or offence against the United States, the punishment whereof is fine, imprisonment, or corporal suffering, not extending to death, it shall be lawful for the said judge, justice, or justice of the peace, to issue his warrant, and demand bail of such person for his appearance at the next court, whether a district or circuit court, to be held at the district for the United States having jurisdiction in the case, or else he shall be committed; that, upon the giving of such bail, the recognizance shall be forthwith transmitted to the clerk of the said court; that the witnesses shall be bound by recognizance to appear and testify against the said offender, which shall be forthwith transmitted in like manner; that if, for the want or refusal of bail, the said offender shall be committed to close custody, and it shall appear that the offence is to be tried in another district, it shall be the duty of the judge of such district in which he is confined to issue a warrant to the marshal thereof, commanding him to remove the offender, at the expense of the United States, to the district where the trial is to be had; and that bail may be given in the cases aforesaid, even after commitment. That whosoever any person shall be so charged as aforesaid with any crime or offence against the United States, the punishment whereof is death, it shall be lawful for the said judge, justice, or justice of the peace, to issue his warrant for arresting him; that the said offender may, at any time before trial, be admitted to bail by some justice of the Supreme Court or judge of the district court of the United States, and by no other; but the judge or justice shall not admit to bail without having due regard to the nature and circumstances of the crime or offence, and of the evidence, and the usages of law; that the witnesses shall be bound by recognizance, as aforesaid, which recognizance, as well as that of bail, shall be transmitted as aforesaid. That, in all criminal cases not otherwise provided for by some statute of the United States, the process and modes of proceedings shall be the same in the district and circuit courts, respectively, with those observed in criminal cases in the State included within the district or circuit; but that no information shall be filed without the express approbation of the court, on good cause shown; and that every court, rendering judgment in any criminal case, may award execution thereupon.

*And be it further enacted,* That, until it shall be otherwise provided by law, the several courts of the United States shall be the judges of costs; and it shall be discretionary in the courts to divide costs between the parties, or, for good cause, to compel either party to pay the same, without respect to the event of the suit in which the said costs shall have arisen, except where it is hereinbefore otherwise directed.

*And whereas* the constitution of the United States, and the laws made in pursuance thereof, and all treaties made under the authority of the United States, are the supreme law of the land:

*Be it further enacted,* That the laws of the several States, so far as the claim of a plaintiff or the defence of a defendant may depend thereon, in respect to its merits, evidence, or limitation of time, shall, subject to the supreme law aforesaid, be rules of decision; that in all pleadings except in limitations of time, and in all trials except in matters of evidence and in the regulations of the executions aforesaid, such statutes as were made before the fourth day of July, in the year one thousand seven hundred and seventy-six, for the amendment of the law in those cases generally, shall also be rules of decision; and, moreover, that the common law, so far as the same be not altered by the supreme law, by the laws of particular States, or by statutes, shall also be a rule of decision.

[*Note 26.*]

*And be it further enacted,* That, in all the courts of the United States, the parties may plead and manage their own causes personally, or by the assistance of such counsel or attorneys-at-law as by the rules of said courts respectively shall be permitted to manage and conduct causes therein. And there shall be appointed in each district a meet person, learned in the law, to act as attorney for the United States in such district, who shall be sworn or affirmed to the faithful execution of his office, whose duty it shall be to prosecute in such district all delinquents for crimes and offences cognizable under the authority of the United States, and all civil actions in which the United States shall be concerned, except before the Supreme Court in the district in which that court shall be holden. And he shall receive, as a compensation for his services, such fees as shall be taxed therefor in the respective courts before which the suits or prosecutions shall be. And there shall also be appointed a meet person, learned in the law, to act as Attorney General for the United States, who shall be sworn or affirmed to a faithful execution of his office, whose duty it shall be to prosecute and conduct all suits in the Supreme Court in

which the United States shall be concerned, and to give his advice and opinion upon questions of law, when required by the President of the United States; or, when requested by the heads of any of the Departments, touching any matters that may concern their Departments; and shall receive such compensation for his services as shall by law be provided.

*And be it further enacted,* That all acts or parts of acts of the United States, coming within the purview of this act, shall be, and the same are, hereby repealed; saving and confirming, however, all things under the said acts or parts of acts already done, or which may be done before the commencement of this act.

*And be it further enacted,* That this act shall commence and be in force on the \_\_\_\_\_ day of \_\_\_\_\_.

### THIRD PART.

#### NOTES.

(1.) Had it been practicable, the laws respecting the judiciary of the United States would have been declared to operate in States hereafter admitted into the Union, without the formality of a special act. But it was not attempted, because it cannot be now foreseen at what time or place the district court of the new State ought to meet; to what circuit it shall be attached; at what time or place the circuit court shall be held within it; nor what salary will be commensurate with the labors of the judge.

(2.) The stated sessions are reduced from four to two, partly to accommodate the district judges, under the proposed augmentation of their trouble. It is probable that two of these sessions will exhaust the civil business for a long time, if not forever, especially when we combine the kindred jurisdiction of the circuit courts. With regard to offences cognizable in the district courts, most of them will be prosecuted without an arrest before judgment, (except on non-appearance after summons,) or will be bailable with cases. Hence would any possible procrastination be light in the scale.

To those who are acquainted with judicial proceedings, it is almost needless to observe, that it contributes to regularity, the convenience of suitors, and, perhaps, fairness to limit the continuance of sessions.

(3.) It may seem superfluous even to hint to courts, that public court-houses, where attainable, ought to be their forum. That every confidence may be safely reposed in the judges, is a fact undeniable at the present day. But in a judiciary system, which looks beyond the existence of those whose integrity is now justly revered, the eye of the world ought to be one of the sentinels of justice.

Emergencies, which may compel the removal of courts from fixed places of session, are familiar to our memory. A writ of adjournment is the instrument of removal in the country from which we borrow most of our jurisprudence. Here the power of adjourning is divided between the President and the courts; the President may order it in vacation, when the courts cannot assemble for the purpose; and the courts themselves may adjourn, when the exigency breaks forth during their session.

(4.) Some exclusions of the State courts are delineated in the original law. It is an honorable evidence of candor explicitly to announce the rights of the federal judiciary. Dissensions, if not crushed in the beginning, will be more quickly terminated by such a measure. For, by ascertaining the *ultimatum* of those exclusions, and of the federal jurisdiction, every contest of this kind may be brought to an immediate test.

(5.) According to the law of nations, the diplomatic representatives of sovereigns cannot be sued in the courts of a foreign potentate; but consuls, except when they are sheltered from their jurisdiction by actual convention, possess no such immunity.

(6.) How, it may be asked, can any debt, having a federal quality, but below a particular sum, be banished from the federal jurisdiction?—The following reply is offered:

1. The constitution has undertaken to describe only the kind of persons and things which should have access to the federal courts, not to estimate the value in debate.

2. The Supreme Court, though inherent in the constitution, was to receive the first motion from Congress; the inferior courts must have slept forever without the pleasure of Congress. Can the sphere of authority over value be more enlarged?

3. Without this construction, courts must be ordained for the recovery of every trifling sum, which the unavoidable expenses attending it might exceed tenfold. This, therefore, never could have been intended by the federal convention.

Further: without a clause against absent debtors, great injustice may be done to resident citizens. Under the name of absent debtors are included as well those who have never been inhabitants of the United States, as those who, having been inhabitants, expatriate themselves or abandon a State. An equal partition of the debtor's property among his creditors, being more equitable than that any one should seize the whole, a common attachment is not recommended. But Congress will perceive that this subject must remain mutilated, until they establish, if not uniform laws of bankruptcy throughout the United States, at least an act of insolvency.

(7.) It is the direct sense of the constitution that there should be a chancery. A proper plan, then, must be devised for it. That upon which most of the States have practised for years, and whose theory wants no explanation, challenges our acceptance. If it were ever liable to the imputation of having usurped on the common law, its effects are now very salutary, and itself a friendly auxiliary to the common law. Upon these ideas the federal jurisdiction in equity is moulded. Indeed, unless the lenient properties of equity were to be lodged by law somewhere, the courts of common law would be continually inventing subtleties or fictions by which to engross them.

(8.) This clause will debar the district court from interfering with the judgments at law in the State courts; for if the plaintiff and defendant rely upon the State courts, as far as the judgment, they ought to continue there as they have begun. It is enough to split the same suit into one at law, and another in equity, without adding a further separation, by throwing the common law side of the question into the State courts, and the equity side into the federal courts.

(9.) This restriction assumes, for its foundation, that cases arising under the constitution, laws, and treaties of the United States, between any persons or bodies whatsoever, not specially protected by the law of nations, are not without the reach of the judiciary power of the United States. For the subsequent descriptions of persons and bodies spread, instead of contracting the jurisdiction. But the dignity of the United States, and of a particular State, ought to exempt them from the cognizance of a single judge. But can the United States, or a particular State, be defendant? To be a party, as is the phrase of the constitution, is to be a plaintiff or defendant. Do the rights of sovereignty forbid the latter? They do not, where the sovereign becomes defendant with his own consent. The constitution is such an act of consent, done by the United States and the individual States, unless it be interpreted that the individual States may be a party now only as they were before, to wit, as sovereigns, and

that the United States should be on the same footing. To this may be opposed the facility with which the constitution might have suppressed any ambiguity, by using the word "plaintiff," instead of "party:"—the propriety of informing public bodies, that though they are political agents, they are not absolved from moral obligation; and the license which is sometimes given by a sovereign to scrutinize his pretensions before his own courts. But the stumblingblock is, that neither the United States nor the individual States can be compelled to be just, if inclined to be obstinate in injustice. Let it rather be believed, that a judgment passed against them by a constitutional tribunal, would be unreluctantly obeyed. If, in defiance of its duty, as a member of the Union, a State should refuse compliance, the General Government will doubtless add its earnest remonstrances. What remedy lies beyond these bounds is a serious intricacy. But, without an effectual one, the constitution would be unnerved, where it ought to be strong.

If, in legal analogy, an execution were to be sought, a *distringas* corresponds more aptly than any other. If, as a *distringas* would operate upon public property, in which every individual has an interest, it were better immediately to apply to individuals *pro rata*, the collection may be made in the usual form. It is the province of policy, however, to discern the delicate path; and, as such, it is left without other remarks to the House.

(10.) This clause supposes that the district courts will hold their stated sessions at the same place with the circuit courts; that a criminal may be tried by the first district court which sits, if he desires it, unless a bill shall have been found, or an arraignment made, or some similar step taken in the circuit court. The discretion with which the attorney of the district is indulged, is not more than is due to his office. He will naturally aim at the highest satisfaction for the violated laws of the United States which the testimony will, in his opinion, permit, and will therefore indict, when necessary, in the circuit court. And the cases themselves, thus undefined, will not often, if ever, be of a very atrocious cast.

(11.) The following are examples of the cases in Nos. 7, 8, and 9:

An action of assault and battery shall not be brought against an inhabitant of Pennsylvania, in any district court but that of Pennsylvania, unless, &c.

An action on a bond given by an inhabitant of Pennsylvania to another person, shall not be brought in the district court of Pennsylvania, although it may have been assigned to another inhabitant of Pennsylvania, except, &c.

A defendant shall not be arrested or summoned in Pennsylvania, in a suit to be tried in the district court of New Jersey, except in the next example.

An inhabitant of Pennsylvania connected in interest with an inhabitant of New Jersey may, with respect to that interest, be sued in Jersey.

(12.) A special session must generally be held for admiralty cases and seizures, because they spring up very irregularly, and will not suffer delay; they are also of considerable length, and would disturb the whole circle of business, unless interdicted to be tried then.

(13.) With this power, every justice of the peace is clothed as a guardian of the public quiet.

(14.) The misbehavior of the deputies may be so gross, as to stifle every tenderness for the character of the officer; and, therefore, the judge is armed with authority to stop his improper career.

(15.) The personal liberty of a citizen is a subject of precious moment; and as in Government unjustly to abridge it, would be denominated tyranny, so not to wrest from individuals an opportunity of cramping it, where a veto can be imposed by law, would be almost a traitorous neglect. With this view, bail has been thus regulated. If every plaintiff may exact bail, it will be exacted in all cases. If no plaintiff may, or if a judge is first to be petitioned, justice will be eluded in many. There is then no choice, but to vest the clerk with discretionary powers on this head, (which would be unusual, and perhaps unsafe,) or to prescribe some rules like the foregoing.

(16.) These four forms of execution are intimately known to every lawyer in the United States, being among the elements of his science, and having their essence settled by adjudications. Perhaps, at a day not far remote, it may be thought an accession to freedom and to commerce to emancipate the person of a debtor from the grasp of his creditor, and to substitute laws, under due caution against frauds and oppressions, for the payment of debts accruing after a certain time. The respite of execution is to afford an opportunity to obtain a writ of error, or, indeed, an appeal.

(17.) The requisition that the decree or judgment shall be final, will abolish a variety of appeals or writs of error on the same subject. For if every interlocutory matter would bear an appeal or writ of error, a suit would not be finished in an age. Besides, a mistake in one part of a cause is frequently rectified in another. Nay, the party whom the mistake has prejudiced may still be victorious at last. Nor will the discontented party be disabled from reaping the same advantages after final judgment as before.

Let it be here remarked, that appeals and writs of error have some different consequences; appeals arresting the judgment immediately, and writs of error after some delays and formalities. Appeals are allowed only in admiralty, and revenue, and equity causes. In them the merits are exhibited entire to the revisionary tribunal. But the real merits have most frequently been decided against the plaintiff in error. He flies to the higher court with the facts of the case found against him, and without a chance of having them re-examined, unless on the face of the proceedings a capital blunder appears. The appellant and plaintiff in error, therefore, stand not on the same line of favor.

The mode of giving testimony in equity is by depositions; it is also practised in the admiralty, to examine witnesses *viva voce*, and commit their evidence to writing. In our intercourse with foreign nations, an exposition of the conduct of our admiralty may be frequently decent and useful. Perhaps, therefore, the original law is exceptional in allowing the judge, whose opinion is to be canvassed, the privilege of placing the cause in any attitude which squares best with that opinion.

(18.) This power is granted in behalf of persons confined on suspicion of crimes. The circuit courts may, of their own motion, have a jail delivery earlier than the returns of the stated sessions; or the Supreme Court may command it, should they be urged by any imminent circumstance.

(19.) On the supposition that the increased compensation to the district judges would be a per diem allowance according to their attendance, the sum would not be an obstacle of consequence; and the admiralty business originating while they are from home may be so adjusted by their own regulations, as not to suffer by their absence.

(20.) The United States are permitted to be sued in a circuit court, while particular States are suable only in the Supreme Court. This difference is made, because the constitution demonstrates a peculiar care of suits against a State, by giving original jurisdiction in them to the Supreme Court. Consuls and vice consuls, being coupled with States in this particular, ought also to be confined to the Supreme Court, were it not for the inconvenience of such institution.

(21.) Clerks and marshals are indispensable and confidential officers. They ought to have talents and emoluments equal to a livelihood. Their posts now produce mere trifles. But being bound to be always in the way, and at call, they are precluded from any gainful employment at a distance abroad. The allowances which the circuit courts would make to them would be abundantly replaced by the public share of fines and forfeitures. But

this fund was not designated, because it rests the remuneration of public servants upon the delinquencies of its citizens. Additional duties may, from time to time, be thrown upon them, which will balance this stipend.

(22.) The jurisdiction of the Supreme Court is expressed nearly in the words of the constitution. It was wished, that where the United States were sued, the cause could be confined to the Supreme Court, as is the case with a particular State. But it is doubtful whether this, being one of the instances in which the Supreme Court is declared to have appellate jurisdiction, it can have original jurisdiction also, under the words of the constitution.

The formation of writs is a branch of judicial duty. Rules of practice belong to the authority of every court, and their other incidental powers add to that authority. The transition from these to the superintending of the whole course of proceedings will not, therefore, be considered as too great. But it is advisable, that every system of practice throughout the States should be consulted, in order that the general proceeding should be accommodated to the habits of the different States, as nearly as may be. The judges of the Supreme Court have already had some experience on this head, and can, therefore, better execute the work than any other persons. It would not be difficult for an individual to offer a scheme apparently good. But he would probably feel too great a bias to the practice to which he had been accustomed; and the House would also be under some perplexity how to reconcile the usages of the States.

(23.) Bail is not needful, except in cases of original jurisdiction. Of these, the number in the Supreme Court is small, and they will scarcely ever be of such vehemence, as that the postponement of a question of bail, until the court can be moved, should be injurious.

(24.) The plaintiff in error is limited to errors in law. This is agreeable to the practice which has so much influence on our judicial proceedings. For, after a jury have pronounced the facts in issue, and a new trial has either not been solicited, or has been rejected, on the principles of the common law, no court or jury ought to agitate the same facts, unless the judgment should be reversed by a superior court. On the other hand, in equity and admiralty cases every fact, as has been already observed, is before the superior court, in the same manner as it was before the inferior, and may therefore be submitted with propriety to the superior court.

New facts, and new proofs on appeals, are here discarded, on account of the numberless frauds which may be covered under the admission of them.

(25.) Upon an equal division of an appellate court, it is presumable that the inferior court was right. Without this rule, an appeal or writ of error may be hung up in the Supreme Court for many years.

(26.) The constitution, laws and treaties of the United States, are the supreme law; that is, they will control, on federal subjects, every other law.

They will particularly control the laws of the several States; whether consisting of their own original legislation, the common law, or the statute law, expressly or tacitly adopted.

Such is the extent of mere power. But it may be affirmed, that it will not be exercised, because it ought not, where the claim of a plaintiff, or the defence of a defendant, rests upon a valid law of a State.

This may happen—1. In personal rights; 2. Rights of property; 3. Torts; and 4. Sometimes even in offences, upon the merits, the evidence, or a limitation of time.

But, besides these, are three other points, not tinged by the particular cases, but governed only by the class of actions, to which the individual case belongs: pleadings, with the exception of limitation; trial, with the exception of evidence; and executions.

The common law is confessedly incompetent on these topics. The alternative, then, is between the State laws and the statutes.

The latter have the advantage in uniformity, which the judiciary of the United States ought to cultivate; and, without it, a citizen who is a debtor in one State, may, although a creditor to an equal amount in another, possibly be ruined.

But some cases will not be influenced by State laws; to wit, those of a foreign and transitory nature, as a bond executed in Europe. The supreme law may also be silent. The *lex loci* will then be admitted in its customary degree; and, where it ends, the common law and statutes aforesaid will enter into the question.

But the Attorney General considers these expedients as merely temporary; because he trusts that the necessity of a federal code is too striking to escape the attention of the House. That it must be a work of time and difficulty is an exhortation immediately to commence it.

Upon so grand an undertaking, the practice of nations has been variant; some having directed the materials of a code to be reported in the first instance, and others a complete digest. As too much leisure and reflection cannot be bestowed on such a composition, the former mode is preferable, especially since the freedom of correcting the matter may be fettered by the solemnity of a law, when connected with a great whole.

But arduous as this effort must be, it is not boundless. It would probably be pointed to the following leading objects: 1. The provisions which already exist by the constitution and the federal laws: 2. Such laws as may still be necessary for the further execution of the constitution, and the completion of federal policy: 3. The common law and statutes: and, 4. The laws of the several States, as involved in questions arising therein.

These preliminaries having obtained the sanction of Congress, the reducing of them into laws will become more easy and accurate.

1st CONGRESS.]

No. 18.

[3d Session.]

## COINAGE, WEIGHTS, AND MEASURES.

COMMUNICATED TO THE SENATE, JANUARY 18, 1791.

SIR:

PHILADELPHIA, *January 17, 1791.*

I have the honor to enclose you a postscript to the report on measures, weights, and coins, now before your House. This has been rendered necessary by a small arithmetical error detected in the estimate of the cubic foot proposed in that report. The head of superficial measures is also therein somewhat more developed.

Nothing is known, since the last session of Congress, of any further proceedings in Europe on this subject.

I have the honor to be, with sentiments of the most profound respect, sir,

Your most obedient and most humble servant,

TH: JEFFERSON.

The PRESIDENT of the Senate.

## POSTSCRIPT.

It is scarcely necessary to observe, that the measures, weights, and coins, proposed in the preceding report, will be derived altogether from mechanical operations, viz: a rod, vibrating seconds, divided into five equal parts; one of these subdivided, and multiplied, decimally, for every measure of length, surface and capacity, and these last filled with water, to determine the weights and coins. The arithmetical estimates in the report were intended only to give an idea of what the new measures, weights, and coins would be nearly, when compared with the old. The length of the standard or second rod, therefore, was assumed, from that of the pendulum; and as there have been small differences in the estimates of the pendulum by different persons, that of Sir Isaac Newton was taken, the highest authority the world has yet known. But if even he has erred, the measures, weights, and coins proposed will not be an atom the more or less. In cubing the new foot, which was estimated at .978728 of an English foot, or 11.744736 English inches, an arithmetical error of a unit happened in the fourth column of decimals, and was repeated in another line in the sixth column, so as to make the result one ten-thousandth, and one-millionth of a foot too much. The thousandth part of this error (about one ten millionth of a foot) consequently fell on the metre of measure, the ounce weight, and the unit of money. In the last it made a difference of about the twenty-fifth part of a grain troy, in weight, or the ninety-third of a cent in value. As it happened, this error was on the favorable side, so that the detection of it approximates our estimate of the new unit exactly that much nearer to the old, and reduces the difference between them to thirty-four instead of thirty-eight hundredths of a grain troy; that is to say, the money unit, instead of 375.64 troy grains of pure silver, as established heretofore, will now be 375.98934306 grains, as far as our knowledge of the length of the second pendulum enables us to judge; and the current of authorities since Sir Isaac Newton's time gives reason to believe that his estimate is more probably above than below the truth; consequently, future corrections of it will bring the estimate of the new unit still nearer to the old.

The numbers in which the arithmetical error before mentioned showed itself in the table, at the end of the report, have been rectified, and the table reprinted.

The head of superficial measures, in the last part of the report, is thought to be not sufficiently developed. It is proposed that the rood of land, being one hundred feet square (and nearly a quarter of the present acre,) shall be the unit of land measure. This will naturally be divided into tenths and hundredths, the latter of which will be a square decad. Its multiples will also, of course, be tens, which may be called double acres, and hundreds, which will be equal to a square furlong each. The surveyor's chain should be composed of one hundred links of one foot each.

THOMAS JEFFERSON, *Secretary of State.*

January 10, 1791.

[NOTE.—The original report (No. 16) has been corrected as above directed.]

1st CONGRESS.]

No. 19.

[3d SESSION.]

## MANNER OF AUTHENTICATING PRINTED EDITIONS OF THE LAWS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 7, 1791.

FEBRUARY 5, 1791.

THE SECRETARY OF STATE, to whom was referred the memorial of Andrew Brown, printer of Philadelphia, has had the same under his consideration, and thereupon makes the following report:

The memorialist states that he has in contemplation to publish a correct edition of the laws, treaties, and resolutions of the United States, and prays that such measures may be adopted for giving a public authentication to his work, as may ensure its reception throughout the United States.

The Secretary of State observes, that there exists, at present, but a single edition of the laws of the United States, to wit, the one printed by Childs and Swaine; that this edition is authentic, the proof sheets thereof having been carefully collated by sworn clerks with the original rolls in his office, and rendered literally conformable therewith; that the first volume of this edition can now rarely be found, the copies originally printed being mostly disposed of.

That it is desirable that copies of the laws should be so multiplied throughout the States, and in such cheap forms, as that every citizen of the United States may be able to procure them; that it is important, also, that such publications be rendered authentic, by a collation of the proof sheets with the original rolls by sworn clerks, when they are printed at the seat of Government, or in its neighborhood, and by a collation of the whole work, when printed at a distance, and a certified correction of its typographical errors annexed to each volume.

That this, however, if done at the public expense, would occasion an inconvenient augmentation of the number of clerks, as the act of collation requires the presence of three clerks, one to hold the roll, a second a printed copy already authenticated, and a third the proof sheet.

That it would be more reasonable that persons of confidence should be employed at the expense of the editor, to be named and sworn as clerks for the special occasion.

That, in this way, he is of opinion it will be advantageous to the public to permit that the laws to be printed by the memorialist be collated with and corrected by the original rolls, and that a certificate thereof by the Secretary of State be annexed to the edition.

TH: JEFFERSON, *Secretary of State.*



1st CONGRESS.]

No. 20.

[3d SESSION.

## ADMINISTRATION OF THE FINANCES UNDER THE LATE SUPERINTENDENT, ROBERT MORRIS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 16, 1791.

Mr. MADISON, from the committee appointed to inquire into the administration of the late Superintendent of Finance, (Robert Morris,) made the following report:

That it being evidently impossible for the committee to examine, in detail, the public accounts under the administration, and unnecessary, as the same have been examined and passed in the proper offices, they have thought their duty would be best discharged by obtaining from the register the statements of the receipts and expenditures, and other extracts from the public records herewith submitted, along with a more particular statement of the public accounts during the same period, made out, in the year 1784, in such a number of printed copies of both as will furnish to each member of Congress the best practical means of appreciating the services of the Superintendent, and the utility of his administration.

That, from these documents, it will be found that the receipts of public moneys in the Treasury of the United States, during the said administration, amounted to	-	-	-	-	\$8,177,431 72
And the expenditures, settled as above mentioned, to	-	-	-	-	8,155,445 00

Leaving, at the close of the administration, in the Treasury of the United States, a balance of	-				<u>\$21,986 72</u>
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The authorities under which the Superintendent acted, in the course of his administration, are referred to in the first mentioned document.

[NOTE.—The papers referred to in this report are not now to be found.]

1st CONGRESS.]

No. 21.

[3d SESSION.

## WEIGHTS AND MEASURES.

COMMUNICATED TO THE SENATE, MARCH 1, 1791.

Mr. IZARD, from the committee to whom was referred the report of the Secretary of State, on the subject of weights, measures, and coins, reported:

That, as a proposition has been made to the National Assembly of France for obtaining a standard of measure, which shall be invariable and communicable to all nations, and at all times; as a similar proposition has been submitted to the British Parliament, in their last session; as the avowed object of these is to introduce a uniformity in the measures and weights of the commercial nations as a coincidence of regulation, by the Government of the United States, on so interesting a subject would be desirable, your committee are of opinion that it would not be eligible, at present, to introduce any alteration in the measures and weights which are now used in the United States.

2d CONGRESS.]

No. 22.

[1st SESSION.

## FUGITIVES FROM JUSTICE.

COMMUNICATED TO CONGRESS, ON THE 27TH OF OCTOBER, 1791.

UNITED STATES, October 27, 1791.

Gentlemen of the Senate and of the House of Representatives:

I lay before you a copy of a letter and of sundry documents which I have received from the Governor of Pennsylvania, respecting certain persons who are said to have fled from justice out of the State of Pennsylvania into that of Virginia, together with a report of the Attorney General of the United States upon the same subject.

GEO. WASHINGTON.

SIR:

PHILADELPHIA, July 18, 1791.

I think it proper to lay before you copies of the various documents, respecting an application which I have recently made to the Governor of Virginia, requiring, agreeably to the provision contained in the second section of



the fourth article of the constitution of the United States, that he would take proper measures for apprehending Francis McGuire, Absalom Wells, and Baldwin Parsons, as fugitives from justice, in order that they might be delivered up to this State, having jurisdiction of their crime. The opinion which the Attorney General of Virginia has given upon this subject, as far as it respects the nature of the offence, is, I conceive, inaccurate; and could not have been given with a previous knowledge of the law of Pennsylvania on the subject; for, by an act of Assembly, passed on the 29th day of March, 1788, the offence charged in the several indictments is rendered highly criminal, and the perpetrators, on conviction in any court of quarter sessions, (a court of criminal jurisdiction exclusively,) are not only condemned to forfeit the sum of one hundred pounds, but are subject, likewise, to be confined at hard labor for any time not less than six months, nor more than twelve months. The fact charged, therefore, is a crime, made such by the laws of Pennsylvania; partaking of the nature of a felony, it is certainly included in the constitutional description of "treason, felony, or other crime;" and, although an action of trespass might be maintained in Virginia by the injured individual to recover damages for his personal wrongs, yet it is obvious that no indictment, no trial, no conviction, no punishment in the public name, could take place, according to the provisions of our Legislature, but under the authority of Pennsylvania, within her jurisdiction, and in the county where the offence was committed. It is equally certain that the laws of the State in which the act is committed must furnish the rule to determine its criminality, and not the laws of the State in which the fugitive from justice happens to be discovered.

I mean not, however, sir, to enter into any further controversy on this point; it is sufficient to explain it. But as the Attorney General of Virginia has suggested another difficulty with respect to the mode of arresting persons demanded as fugitives from justice, I have thought the present a proper occasion to bring the subject into your view, that, by the interposition of the Federal Legislature, (to whose consideration you may be pleased to submit it,) such regulations may be established as will, in future, obviate all doubt and embarrassment upon a constitutional question so delicate and important.

I have the honor to be, with perfect respect, sir, your most obedient, humble servant,

THOMAS MIFFLIN.

To GEORGE WASHINGTON, Esq., *President of the United States.*

No. 1.

To THOMAS MIFFLIN, *Governor of Pennsylvania: The memorial of the Pennsylvania Society for promoting the abolition of slavery, the relief of free negroes unlawfully held in bondage, and for improving the condition of the African race, respectfully sheweth:*

That John, a free negro man, residing at Washington, in the county of Washington, in this commonwealth, entitled to and enjoying the peace and protection of the laws of this State, was, on or about the 10th day of May, in the year 1788, with force, and arms, and a strong hand, assaulted, seized, imprisoned, bound, and carried without the jurisdiction of this commonwealth, by certain persons in disguise, and at that time unknown. And that, at a court of Oyer and Terminer and general jail delivery, held in and for the said county, before William Augustus Atlee and George Bryan, Esquires, justices of the same court, on the 10th day of November, in the year aforesaid, bills of indictment were presented, and found to be true, by the grand inquest for the body of the said county of Washington, against Francis McGuire, Baldwin Parsons, and Absalom Wells, for imprisoning, binding, and carrying the said free negro John out of this State, with intent to cause him to be sold as a slave, contrary to the act of the General Assembly in such case made and provided, and against the peace and dignity of the commonwealth; as by the records and proceedings of the said court, true copies whereof from the office of Edward Bird, Esq., prothonotary of the Supreme Court, and clerk of the court of Oyer and Terminer for the said county, herewith laid before the Governor, fully appears.

The memorialists further show that the said Francis McGuire, Baldwin Parsons, and Absalom Wells precipitately fled from justice, taking with them the negro John, and have taken shelter in the State of Virginia, or, perhaps, within that part thereof which has been lately erected into a new State, by the name of Kentucky; and the said negro John is said now to be held in a state of slavery by Nicholas Casey, near Romney, on the south branch of the Potomac, in Virginia.

That, by the second paragraph of the second section of the fourth article of the constitution of the United States, it is provided, that "a person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime."

The memorialists apprehend that a crime of deeper die is not to be found in the criminal code of this State, than that of taking off a freeman and carrying off with intent to sell him, and actually selling him as a slave; and inasmuch as the grand inquest for the body of the county of Washington have, upon their oaths or affirmations, found this crime to be truly charged against the persons above named, they respectfully request that the Governor will be pleased to demand from the Executive authority of Virginia or Kentucky, that the said Francis McGuire, Baldwin Parsons, and Absalom Wells be apprehended if to be found within their jurisdiction, and delivered to the Executive authority of this commonwealth, to be proceeded with according to law; and that the said negro John be also sent into this State, to the end that he may be restored to his freedom.

[SEAL.] Sealed with the common seal of the said society, at a special meeting held in the city of Philadelphia, the thirteenth day of the fifth month, called May, in the year of our Lord one thousand seven hundred and ninety-one; and signed by order of the meeting.

Attested by

WILLIAM ROGERS, *Vice President.*  
J. MCCREE, *Secretary.*

No. 2.

This is to certify, that at a Court of Oyer and Terminer and general jail delivery, held at Washington, for the county of Washington, on the tenth day of November, in the year of our Lord one thousand seven hundred and eighty-eight, before the Honorable William Augustus Atlee, Esq., and the Honorable George Bryan, Esq., Justices of the Supreme Court of the State of Pennsylvania, and of the said Court of Oyer and Terminer, Francis McGuire, late of the county aforesaid, yeoman, was duly and legally indicted, for that he, on the tenth day of May, in the year of our Lord one thousand seven hundred and eighty-eight, with force and arms, at the county of Washington, then and there by force did take and carry away from the county aforesaid, within the State afore-

said, a free negro man, named John, to other parts without the same State, with a design and intention of causing the said negro man to be sold and disposed of as a slave, contrary to the act of General Assembly in such case made and provided, and against the peace and dignity of the commonwealth of Pennsylvania.

Witness my hand, this twenty-fourth day of May, Anno Domini 1791.

GEORGE DAVIS, for

EDWARD BURD, *Prothonotary of the Supreme Court.*

No. 3.

This is to certify, that at a Court of Oyer and Terminer and general jail delivery, held at Washington, for the county of Washington, on the tenth day of November, in the year of our Lord one thousand seven hundred and eighty-eight, before the Honorable William Augustus Atlee, Esq., and the Honorable George Bryan, Esq., Justices of the Supreme Court of the State of Pennsylvania and the said Court of Oyer and Terminer, Absalom Wells, late of the county aforesaid, yeoman, was duly and legally indicted, for that he, on the tenth day of May, in the year of our Lord one thousand seven hundred and eighty-eight, with force and arms, at the county aforesaid, then and there, by force, did take and carry away from the county aforesaid, without the State aforesaid, a free negro man named John, to other parts without the same State, with a design and intention of causing the said negro man to be sold and disposed of as a slave, contrary to the act of General Assembly in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

Witness my hand, this twenty-fourth day of May, Anno Domini 1791.

GEORGE DAVIS, for

EDWARD BURD, *Prothonotary of the Supreme Court.*

No. 4.

This is to certify, that at a Court of Oyer and Terminer and general jail delivery, held at Washington, for the county of Washington, on the tenth day of November, in the year of our Lord one thousand seven hundred and eighty-eight, before the Honorable William Augustus Atlee, and the Honorable George Bryan, Esquires, justices of the Supreme Court of the State of Pennsylvania, and of the said Court of Oyer and Terminer, Baldwin Parsons, late of the aforesaid county, yeoman, was duly and legally indicted, for that he, on the tenth day of May, in the year aforesaid, with force and arms, at the county aforesaid, then and there, by force, did take and carry away from the county aforesaid, within the State aforesaid, a free negro man named John, to other parts without the same State, with a design and intention of selling and disposing of the said negro man as a slave, contrary to the act of General Assembly in such case made and provided, and against the peace and dignity of the commonwealth of Pennsylvania.

Witness my hand, this twenty-fourth day of May, Anno Domini 1791.

GEORGE DAVIS, for

EDWARD BURD, *Prothonotary of the Supreme Court.*

No. 5.

SIR:

PHILADELPHIA, *June 4, 1791.*

I am under the necessity of troubling your excellency with authenticated copies of a representation which has been made to me, by the incorporated society for the gradual abolition of slavery, &c. respecting the illegal and forcible seizure and carrying away from the county of Washington, in this commonwealth, a certain free negro man named John, with an intention to sell him as a slave in another State and of transcripts from the records of a Court of Oyer and Terminer, held in and for the said county of Washington, from which it appears that indictments have been duly found charging this violence to have been committed by Baldwin Parsons, Absalom Wells, and Francis McGuire, who fled from justice into the State of Virginia. Permit me, therefore, to request that your excellency will be pleased to take the proper measures to cause the said Baldwin Parsons, Absalom Wells, and Francis McGuire, to be delivered up to this State, having jurisdiction of their crime, agreeably to the provisions contained in the second section of the fourth article of the constitution of the United States. And I am persuaded that your excellency's regard for justice and humanity will prompt you to extend your interference on this occasion as far as it may be expedient to restore the negro to his freedom.

I am, sir, with great respect, your most obedient and most humble servant,

THOMAS MIFFLIN.

To His Excellency BEVERLY RANDOLPH, Esq.

*Governor of the State of Virginia.*

No. 6.

SIR:

COUNCIL CHAMBER, RICHMOND, *July 8, 1791.*

I now do myself the honor to enclose you a copy of the opinion of the Attorney General of this State upon the subject of your letter of the 4th ultimo, demanding the delivery of Baldwin Parsons, Francis McGuire, and Absalom Wells, charged with forcibly seizing and carrying from the county of Washington, in the commonwealth of Pennsylvania, a certain free negro man named John, with an intention of selling him. Your excellency will readily perceive that this opinion of the first law officer of the State must preclude the Executive from taking any measures for apprehending and delivering the persons demanded by you.

It is to be lamented that no means have been provided for carrying into effect so important an article of the constitution of the United States.

This case will, however, we hope, be the means of calling the attention of the Legislature to a subject of such consequence.

I am, sir, with great respect, your most obedient servant,

His Excellency the GOVERNOR OF PENNSYLVANIA.

The above letter was received from his excellency Beverly Randolph, Governor of Virginia, but, through some neglect, he omitted to sign it.

A. J. DALLAS, *Secretary.*

No. 7.

RICHMOND, June 20, 1791.

SIR:

The question you have stated for my advice seems to be confined to the manner of delivery and removal of persons charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State.

The constitution requires that there should be a person or persons charged with a *crime*; that that crime should be one comprised within the second section of the fourth article of the constitution of the United States; and that such offender or offenders should be within the limits of this commonwealth before a demand can be authorized. A charge, in the sense here used, must be such an accusation as of itself furnishes a sufficient evidence of guilt to put the accused upon his trial, or to justify his immediate punishment.

It cannot be an accusation founded on a mere suspicion; it must be founded on some judicial act. In this respect, the demand sent on by the Governor of Pennsylvania may be proper, if the crime stated in the bills of indictment are sufficient to fall within the provision of the General Government. It is not either treason or felony, (for the indictments state the taking away of the negro to have been done violently, and not feloniously,) and *other crimes* must be confined to such as the State making the demand possesses an exclusive jurisdiction over. For, if either the federal court, or the courts of the State into which the offenders may take refuge, are authorized to punish the offenders, there is no danger of an escape from justice, and no reason for a demand. The delivery and removal are only to be made for the sake of a proper jurisdiction; and therefore neither can be required from a jurisdiction that is proper. There must be a defect in the jurisdiction of which the demand is made, and an exclusive jurisdiction in the State making the demand.

The case stated in the indictments transmitted by Governor Mifflin would amount but to a trespass by our laws, as between the parties; as between the offenders and the commonwealth, but to a breach of the peace. In the first instance, the remedy follows the persons of the offenders into our State, and there is no defect of jurisdiction here. In the latter case, the offenders may appear by attorney to the indictment. If they should be acquitted, there can be no occasion for the demand. If found guilty, and their personal presence should be necessary for their punishment, it will be then time enough to make a demand of them. I presume, in these respects, the laws of Pennsylvania are assimilated to our own. If they are, then the offences stated do not appear to me to come within the description of crimes contained in the above-cited section of the federal constitution. As it is necessary that adequate proof to fix the residence of offenders against the laws of one State, to be within the limits of the State of which the demand is made, should precede such demand (for without that evidence no right to demand can exist,) so it becomes necessary that some proof of that fact ought to accompany the demand; otherwise, the State of which the demand is made will be forced to ascertain a fact after the demand, which should have been the precedent basis on which any demand could rightfully be made. In Governor Mifflin's letter, and its enclosures, no evidence is contained of this fact, and the demand might as well be made of Georgia as Virginia. Let it be conceded, however, that the constitution of the United States hath in all these requisites been satisfied. It is then required that the offenders should be delivered up to be removed to the State of Pennsylvania, possessing an exclusive jurisdiction over their crimes. In what manner are they to be arrested for delivery? How are they to be removed? Every free man in Virginia is entitled to the unmolested enjoyment of his liberty, unless it be taken away by the constitution or laws of the United States, or by the constitution or laws of Virginia. No molestation, seizure, or removal of his person, can take place, but under the authority of these or some of them.

The constitution and laws of the General Government, as well as those of this State, are silent on these important subjects. If the delivery and removal in question can be effected, it must be under authority only of the constitution of the United States. By that, the delivery is required, and the removal authorized. But the manner in which either shall be effected is not prescribed. There must be a legal control over the persons demanded, before they can be delivered or removed. That control ought not to be acquired by any force not specified and delegated by positive law. Neither the constitution of this, or of the United States, nor the laws made under them, direct the mode, or delegate an authority, by which the magistracy of this State can acquire such a control.

It therefore can only be acquired by force. And that such an exercise of undelegated power over the liberties of freemen would not be justifiable, I am sure I need not add.

It is therefore my opinion, that the directions of the General Government, under which the Governor of Pennsylvania has made a demand for the delivery and removal of the persons mentioned in his letter, cannot be complied with by the Government of this State without some additional provisions by law to enable it to do so.

I have the honor to be, very respectfully, sir, your most obedient servant,

JAMES INNIS.

SAMUEL COLMAN, A. C. C.

A true copy. Attest:  
His Excellency BEVERLY RANDOLPH, Governor of Virginia.

No. 8.

PHILADELPHIA, July 20, 1791.

SIR:

The Secretary of State yesterday submitted to me, by your instruction, copies of the letter from the Governor of Pennsylvania to you, and of his correspondence with the Governor of Virginia on the demand of Francis McGuire, Baldwin Parsons, and Absalom Wells, as fugitives from justice.

This demand is founded on that article of the federal constitution which directs that "A person charged in any State with treason, felony, or *other crime*, who shall *flee from justice*, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime."

He must be *charged*. This term is sufficiently technical to exclude any wanton or unauthorized accusation from becoming the basis of the demand. It would, in the language of mere legal entries, be applicable where a bill had been found by a grand jury. It must be interpreted under the constitution, as at least requiring some sanction to be given to the suspicion of guilt by a previous investigation. In the present instance, a grand jury convened before two of the justices of the Supreme Court of Pennsylvania, have made it, and thus have furnished a ground for bringing the foregoing persons to a formal trial. Should such a procedure as this be declared to be incompetent as a charge, the object of this article in the constitution must be either defeated or be truly oppressive. For, between an indictment and an actual trial there is no intermediate examination of the fact; and, to wait for the condemnation of an absent culprit before a demand, would compel a judgment to be rendered behind his back. Outlawry, indeed, may be practised sometimes, but it cannot be always pursued; and even where it is pursued, it stamps the offence with no higher appearance of truth than a true bill received from the grand jury.

The person charged must be also charged with a *crime*. That the supposed conduct of McGuire and others is a crime under the laws of Pennsylvania, the very respectable Attorney General of Virginia has not been informed. It is punishable by a fine and hard labor. The first process is a *capias*: outlawry is inadmissible on it, and the offender cannot appear by his attorney. Some doubt may, perhaps, be entertained, whether, according to a known rule of construction, the words "or other crime" being associated with treason and felony, ought not to be confined to crimes having some quality common to them, and treason, and felony. Such a common quality does not exist, unless it be that of felony itself. Why, then, are the words "or other crime" added, if felonies alone were contemplated? In the penal code of almost every State, the catalogue of felonies is undergoing a daily diminution. But it is not by the class of punishment that the malignity of an offence is always to be determined. Crimes, going deep into the public peace, may bear a milder name and consequence; and yet it would be singular to shelter those who were guilty of them, because they were not called and punished as felonies.

The person charged with a crime must also flee from justice. Some species of proof is indispensable; otherwise, the most innocent citizen may be carried in chains from his own to another State. It cannot be denied that every assertion of a Governor ought to produce assent. But, upon a judicial subject, testimony, according to the judicial course, is alone adequate; and the demand is the only thing which is referred to an Executive absolutely. The Governor of Virginia is responsible for the just use of his discretion; and if he should yield to informal evidence, he must yield at his peril. With every respectful deference, therefore, for the communications of the Governor of Pennsylvania, he ought to exact the return of a public officer on some process, or an affidavit, before he takes measures for apprehending McGuire and others. On this occasion, however, the Governor of Pennsylvania builds his demand on the documents transmitted to the Governor of Virginia, not one of which has the semblance of proof that they do flee from justice. Permit me, too, to observe, sir, that the Governor of Pennsylvania is perhaps not apprized of a fact, which the prothonotary of the Supreme Court of Pennsylvania has at this moment stated to me in writing, to wit: That, in the spring of 1790, he issued writs of *capias* against them; that it was returned that McGuire and Parsons were not found, and that Wells was taken and committed; and that nothing was done at the last session in these cases. Now this is no complete proof that even McGuire and Parsons have fled from justice; it manifests that Wells has not fled; and it evinces the necessity of caution in branding a man as a deserter of a fair trial.

The person charged with a crime must not only flee from justice, but he must be *found* in another State. At first it may seem unimportant whether he be so found or not; because if he be not there, he can sustain no injury from an arrest. I will not decide how far his character may suffer, if he be proclaimed throughout a State as a fugitive, when he may never have entered it; nor yet what other inconveniences he may undergo. But if the probability of these be striking, he ought not to be hunted for by public authority at random. The expense, although afterwards repaid, and the trouble, which cannot be avoided in the pursuit, ought not to be causelessly thrown on a sister State. Hence, is it made a pre-requisite to a demand, that the culprit shall be *found* in the State; that is, that some satisfaction be given that Government will not be put upon a frivolous search. In this case, no legal exhibit is shown to this effect; may, it is presumable, that Wells remains in the custody of Pennsylvania.

The person charged with a crime, fleeing from justice, and found in another State, is to be delivered up to be removed to the State *having jurisdiction*. In this place, I am compelled to differ from the Attorney General of Virginia in two points: he is pleased to affirm that, to support the demand, "there must be a defect in the jurisdiction of the State from which the demand is made, and an exclusive jurisdiction in the State making the demand; and that the Executive of Virginia cannot comply with such a demand, until some additional provisions by law shall enable them to deliver up the offenders."

It is notorious, that the crime is cognizable in Pennsylvania only; for crimes are peculiarly of a local nature. Therefore, his two conditions are here fulfilled, namely, a defect of jurisdiction in Virginia, and an exclusive jurisdiction in Pennsylvania. But if it were conceived, that Virginia might chastise offences against Pennsylvania, or, that an action might be maintained in Virginia for what is a crime in Pennsylvania, it would not follow that the latter could not demand a malefactor from the former; for the clause in the constitution was obviously dictated by a wish to prevent that distrust which one State would certainly harbor against another, in situations so capable of abuse. Besides, it corresponds with the words of the constitution, if the State demanding *has a jurisdiction*, although it might not be an exclusive one. And these observations would have equal weight if the federal courts in Virginia could animadvert on crimes arising within the limits of Pennsylvania. But the constitution directs that trials "shall be held in the State where crimes shall have been committed."

I differ further in not discovering the disability of Virginia to deliver up the offenders. It has been sometimes fancied that, by delivering up, is meant only that the State from which the demand is made should express an approbation that they may be apprehended within its territories. But as a State cannot be said to deliver up without being active, and it might disturb the tranquillity of one State if the officers of another were at liberty to seize a criminal within its limits, the natural and safe interpretation is, that the delivery must come from Virginia.

To this duty the Executive of that State offer no objection; but they contend that her own constitution and laws, and those of the United States, being silent as to the manner and particulars of arrest and delivery, they cannot, as yet, move in the affair.

To deliver up is an acknowledged federal duty; and the law couples with it the right of using all incidental means in order to discharge it. I will not inquire here how far these incidental means, if opposed to the constitution and laws of Virginia, ought, notwithstanding, to be exercised; because McGuire and his associates may be surrendered without calling upon any public officer of that State. Private persons may be employed, and clothed with a special authority. The Attorney General agrees that a law of the United States might so ordain; and wherein does a genuine distinction consist between a power deducible from the constitution, as incidental to a duty imposed by that constitution, and a power given by Congress as auxiliary to the execution of such a duty? Money, indeed, must be expended; and a State may suspend its exertions until the preliminary proofs are adduced. I cannot undertake to foresee whether the expending State will be reimbursed. If the constitution will uphold such a claim, it will, doubtless, be enforced. If it will not, it must be remembered that that instrument was adopted with perfect free will.

From these premises I must conclude that it would have been more precise in the Governor of Pennsylvania to transmit to the Governor of Virginia an authenticated copy of the law declaring the offence; that it was essential that he should transmit sufficient evidence of McGuire and others having fled from the justice of the former, and being found in the latter; that, without that evidence, the Executive of Virginia ought not to have delivered them up; that, with it, they ought not to refuse.

The Governor of Pennsylvania, however, appears to be anxious that this matter should be laid before Congress; and, perhaps, such a step might content all scruples.

But, at any rate, I can find no obligation or propriety which can warrant the interposition of the President at this stage of the business. A single letter has gone from the Governor of Pennsylvania to the Governor of Vir-

ginia. A compliance has been denied; and the denial has proceeded from a deficiency of proof in two instances, from a misapprehension of fact in another, and probably untenable reasoning in some others. This deficiency, then, ought to be supplied by the Governor of Pennsylvania; and the fact, which has been mistaken, placed on its true footing. As to any inaccuracy of reasoning, the President can do no more than show to the Governor of Virginia where it lies; he cannot be authoritative; nor would he, I presume, even if he had power, choose to exert it until every hope should be lost of convincing the judgment of the State. But this argumentative intercourse belongs to the Governor of Pennsylvania, and ought to be managed by him until the prospect of satisfaction shall disappear. At such a period it may, perhaps, be seasonable for you to interfere. But *now* to interfere would establish a precedent for assuming the agency in every embryo dispute between States; whereas your mediation would be better reserved until the interchange of their sentiments and pretensions shall fail in an accommodation.

I have the honor, sir, to be, with the highest respect, your most obedient servant,

EDMUND RANDOLPH.

The PRESIDENT OF THE UNITED STATES.

No. 9.

SIR:

PHILADELPHIA, August 2, 1791.

I find, on referring to the records of the Supreme Court of this commonwealth, in the case of McGuire, Parsons, and Wells, which I lately submitted to your consideration, that the last of these persons was apprehended. I have, therefore, in addition to the other documents, enclosed to you a transcript of the record, a copy of which I shall likewise transmit to the Governor of Virginia, together with the necessary evidence, as soon as it can be procured, to prove that McGuire and Parsons have actually fled from the justice of Pennsylvania into that State, agreeably to the form suggested in the opinion of the Attorney General, which you have been pleased to communicate.

I am, with perfect respect, sir, your most obedient and most humble servant,

THOMAS MIFFLIN.

To GEORGE WASHINGTON, Esq.  
*President of the United States.*

No. 10.

I certify, that at a court of Oyer and Terminer and general jail delivery, held at Washington, for the county of Washington, in the State of Pennsylvania, the tenth of November, in the year of our Lord one thousand seven hundred and eighty-eight, Francis McGuire, Absalom Wells, and Baldwin Parsons, late of the said county, yeomen, were severally indicted of having, on the tenth day of May, in the year of our Lord one thousand seven hundred and eighty-eight, at Washington county aforesaid, with force and arms, &c. taken and carried away from the county of Washington aforesaid a free negro man named John, to other parts without the said State, with a design and intention of selling and disposing of the said negro man as a slave, contrary to the act of Assembly in such case made and provided, and against the peace and dignity of the commonwealth of Pennsylvania. I further certify, that writs of *capias* were issued on the said indictments, bearing test the twenty-fifth day of May, in the year of our Lord one thousand seven hundred and ninety, and that the returns of David Williamson, Esq., late sheriff of the county, to the said court were, that he had taken the said Absalom Wells, and that he had the said Absalom Wells in his custody, ready to answer to the said indictment against him, as aforesaid, but that he could not find either the said Francis McGuire or the said Baldwin Parsons within his bailiwick.

Witness my hand, the twenty-fifth day of July, in the year of our Lord one thousand seven hundred and ninety-one.

EDWARD BURD, C. C.

Copy:

A. J. DALLAS, *Secretary of the Commonwealth of Pennsylvania.*

2d CONGRESS.]

No. 23.

[1st SESSION.]

CONTESTED ELECTION OF ANTHONY WAYNE, A REPRESENTATIVE FROM GEORGIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 18, 1791.

Mr. AMES, from the committee to whom was referred the petition of James Jackson, complaining of an undue election and return of Anthony Wayne, a member returned to serve in this House for the State of Georgia, reported the following resolutions:

*Resolved*, That the first Monday of February next be assigned for the trial of the articles alleged in the said petition, against the said return.

*Resolved*, That the evidence which may be offered, on the part of the petitioner, shall be confined to the proof of the articles of charge exhibited in the said petition against the validity of the return of the said election.

*Resolved*, That, on the trial, the deposition of a witness shall be received, which shall have been taken more than twenty-five days prior to the day assigned for the trial, before any justice or judge of the courts of the United States, or before any chancellor, justice, or judge of a supreme or superior court, mayor, or chief magistrate of a city, or judge of a county court, or court of common pleas of any of the United States, not being of counsel or attorney to either the said Anthony Wayne or the petitioner: *Provided*, That a notification from the magistrate, before whom the deposition is to be taken, to the adverse party, to be present at the taking the same, and to put interrogatories, if he think fit, shall have been first made out and served on the adverse party, or his attorney especially authorized for the purpose, as either may be nearest, if either is within one hundred miles of the place of

such caption, allowing time for their attendance, after notified, not less than at the rate of one day, Sundays exclusive, for every twenty miles travel. And every person deposing shall be carefully examined and cautioned, and sworn or affirmed to testify the whole truth, and shall subscribe the testimony by him or her given, after the same shall be reduced to writing, which shall be done only by the magistrate taking the deposition, or by the deponent in his presence. And the depositions so taken, together with a certificate of the notice, if any, given to the adverse party, or his attorney, shall be sealed up by the said magistrate, and directed to the Speaker: *Provided, nevertheless,* That no ex-parte deposition shall be used on the trial of the said petition, which shall have been taken at any time before the twenty-sixth day of December next: *Provided, also,* That evidence taken in any other manner than is herein before directed, and not objected to by the parties, may, with the approbation of the House, be produced on the trial."

[2d CONGRESS.]

No. 24.

[1st SESSION.]

## PLAN FOR CONVERTING SALT WATER INTO FRESH.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 22, 1791.

The SECRETARY OF STATE, to whom was referred, by the House of Representatives of the United States, the petition of Jacob Isaacks, of Newport, in Rhode Island, has examined into the truth and importance of the allegations therein set forth, and makes thereon the following report:

The petitioner sets forth that, by various experiments, with considerable labor and expense, he has discovered a method of converting salt water into fresh, in the proportion of eight pints out of ten, by a process so simple that it may be performed on board of vessels at sea by the common iron cabouse, with small alterations, by the same fire, and in the same time, which is used for cooking the ship's provisions; and offers to convey to the Government of the United States a faithful account of his art or secret, to be used by or within the United States, on their giving to him a reward suitable to the importance of the discovery, and, in the opinion of Government, adequate to his expenses and the time he has devoted to the bringing it into effect.

In order to ascertain the merit of the petitioner's discovery, it becomes necessary to examine the advances already made in the art of converting salt water into fresh.

Lord Bacon, to whom the world is indebted for the first germs of so many branches of science, had observed that, with a heat sufficient for distillation, salt will not rise in vapor, and that salt water distilled is fresh. And it would seem that all mankind might have observed that the earth is supplied with fresh water chiefly by exhalation from the sea, which is, in fact, an insensible distillation effected by the heat of the sun. Yet this, though the most obvious was not the first idea in the essays for converting salt water into fresh. Filtration was tried in vain; and congelation could be resorted to only in the coldest regions and seasons. In all the earlier trials by distillation, some mixture was thought necessary to aid the operation by a partial precipitation of the salt and other foreign matters contained in sea water. Of this kind were the methods of Sir Richard Hawkins, in the sixteenth century; of Glauber, Hauton, and Lister, in the seventeenth; and of Hales, Appleby, Butler, Chapman, Hoffman, and Dove, in the eighteenth; nor was there any thing in these methods worthy noting on the present occasion except the very simple still contrived extempore by Captain Chapman, and made from such materials as are to be found on board every ship, great or small. This was a common pot, with a wooden lid of the usual form, in the centre of which a hole was bored to receive perpendicularly a short wooden tube, made with an inch and a half auger; which perpendicular tube received at its top, and at an acute angle, another tube of wood also, which descended till it joined a third of pewter, made by rolling up a dish, and passing it obliquely through a cask of cold water. With this simple machine he obtained two quarts of fresh water an hour; and observed, that the expense of fuel would be very trifling if the still was contrived to stand on the fire along with the ship's boiler.

In 1762, Dr. Lind, proposing to make experiments of several different mixtures, first distilled rain water, which he supposed would be the purest, and then sea water without any mixture, which he expected would be the least pure, in order to arrange between these two supposed extremes the degree of merit of the several ingredients he meant to try. "To his great surprise," as he confesses, "the sea water distilled, without any mixture, was as pure as the rain water." He pursued the discovery, and established the fact, that a pure and potable fresh water may be obtained from salt water by simple distillation, without the aid of any mixture for fining or precipitating its foreign contents. In 1767, he proposed an extempore still, which, in fact, was Chapman's, only substituting a gun barrel instead of Chapman's pewter tube, and the hand pump of the ship to be cut in two, obliquely, and joined again at an acute angle, instead of Chapman's wooden tubes bored express; or, instead of the wooden lid and upright tube, he proposed a tea kettle (without its lid or handle) to be turned bottom upwards over the mouth of the pot, by way of still-head, and a wooden tube leading from the spout to a gun barrel passing through a cask of water; the whole luted with equal parts of chalk and meal, moistened with salt water.

With this apparatus of a pot, tea kettle, and gun barrel, the *Dolphin*, a 20 gun ship, in her voyage round the world in 1768, from 56 gallons of sea water, and with 9 pounds of wood, and 69 pounds of pit coal, made 42 gallons of good fresh water, at the rate of 8 gallons an hour. The *Dorsetshire*, in her passage from Gibraltar to Mahon, in 1769, made 19 quarts of pure water in four hours with 10 pounds of wood. And the *Slambal*, in 1773, between Bombay and Bengal, with a hand pump, gun barrel, and a pot, of 6 gallons of sea water made 10 quarts of fresh water in three hours.

In 1771, Dr. Irvin, putting together Lind's idea of distilling without a mixture, Chapman's still, and Dr. Franklin's method of cooling by evaporation, obtained a premium of £5000 from the British Parliament. He wetted his tube constantly with a mop instead of passing it through a cask of water; he enlarged its bore, also, in order to give a freer passage to the vapor, and thereby increased its quantity, by lessening the resistance or pressure on the evaporating surface. This last improvement was his own; it doubtless contributed to the success of its models; and we may suppose the enlargement of the tube to be useful to that point at which the central parts of the vapor passing through it would begin to escape condensation. Lord Mulgrave used his method in his voyage towards the

north pole in 1773, making from 34 to 40 gallons of fresh water a day, without any great addition of fuel, as he says.

M. de Bougainville, in his voyage round the world, used very successully a still which had been contrived in 1763, by Poyssonier, so as to guard against the water being thrown over from the boiler into the pipe by the agitation of the ship. In this one singularity was, that the furnace or fire-box was in the middle of the boiler, so that the water surrounded it in contact. This still, however, was expensive, and occupied much room.

Such were the advances already made in the art of obtaining fresh from salt water, when Mr. Isaacks, the petitioner, suggested his discovery.

As the merit of this could be ascertained by experiment only, the Secretary of State asked the favor of Mr. Rittenhouse, President of the American Philosophical Society; of Dr. Wistar, professor of chemistry in the college of Philadelphia; and Dr. Hutchinson, professor of chemistry in the university of Pennsylvania, to be present at the experiments. Mr. Isaacks fixed the pot of a small caboose, with a tin cap and straight tube of tin passing obliquely through a cask of cold water; he made use of a mixture, the composition of which he did not explain, and from twenty-four pints of sea water, taken up about three miles out of the capes of Delaware, at flood-tide, he distilled twenty-two pints of fresh water in four hours, with twenty pounds of seasoned pine, which was a little wetted by having lain in the rain.

In a second experiment of the twenty-first of March, performed in a furnace and five gallon still, at the college, from thirty-two pints of sea water he drew thirty-one pints of fresh water in seven hours and twenty-four minutes, with fifty-one pounds of hickory, which had been cut about six months. In order to decide whether Mr. Isaacks's mixture contributed in any and what degree to the success of the operation, it was thought proper to repeat his experiment under the same circumstances exactly, except the omission of the mixture. Accordingly, on the next day the same quantity of sea water was put into the same still, the same furnace was used, and fuel from the same parcel. It yielded, as his had done, thirty-one pints of fresh water in eleven minutes more of time, and with ten pounds less of wood.

On the twenty-fourth of March, Mr. Isaacks performed a third experiment. For this a common iron pot of three and a half gallons was fixed in brick work, and the flue from the hearth wound once around the pot spirally, and then passed off up a chimney. The cap was of tin, and a straight tin tube of about two inches diameter, passing obliquely through a barrel of water, served instead of a worm. From sixteen pints of sea water he drew off fifteen pints of fresh water in two hours fifty-five minutes, with three pounds of dry hickory and eight pounds of seasoned pine. This experiment was also repeated the next day, with the same apparatus and fuel from the same parcel, but without the mixture. Sixteen pints of sea water yielded in like manner fifteen pints of fresh, in one minute more of time and with half a pound less of wood. On the whole, it was evident Mr. Isaacks's mixture produced no advantage, either in the process or result of the distillation.

The distilled water in all these instances was found, on experiment, to be as pure as the best pump water of the city. Its taste, indeed, was not as agreeable, but it was not such as to produce any disgust. In fact, we drink in common life, in many places, and under many circumstances, and almost always at sea, a worse tasted, and probably a less wholesome water.

The obtaining fresh from salt water was for ages considered as an important desideratum for the use of navigators. The process for doing this by simple distillation is so efficacious, the erecting an extempore still with such utensils as are found on board of every ship is so practicable, as to authorize the assertion that this desideratum is satisfied to a very useful degree. But though this has been done for upwards of thirty years, though its reality has been established by the actual experience of several vessels which have had recourse to it, yet neither the fact nor the process is known to the mass of seamen, to whom it would be the most useful, and for whom it was principally wanted. The Secretary of State is therefore of opinion, that since the subject has now been brought under observation, it should be made the occasion of disseminating its knowledge generally and effectually among the seafaring citizens of the United States. The following is one of the many methods which might be proposed for doing this: Let the clearance for every vessel sailing from the ports of the United States be printed on a paper, on the back whereof shall be a printed account of the assays which have been made for obtaining fresh from salt water, mentioning shortly those which have been unsuccessful, and more fully those which have succeeded, describing the methods which have been found to answer for constructing extempore stills of such implements as are generally on board of every vessel, with a recommendation, in all cases where they shall have occasion to resort to this expedient for obtaining water, to publish the result of their trial in some gazette on their return to the United States, or to communicate it for publication to the office of the Secretary of State, in order that others may, by their success, be encouraged to make similar trials, and be benefited by any improvements or new ideas which may occur to them in practice.

TH: JEFFERSON.

PHILADELPHIA, November 21, 1791.

2d CONGRESS.]

No. 25.

[1st SESSION.]

ATTORNEY GENERAL AND DISTRICT ATTORNEYS.

COMMUNICATED TO CONGRESS, DECEMBER 28, 1791.

UNITED STATES, December 28, 1791.

Gentlemen of the Senate and of the House of Representatives:

I lay before you, for your consideration, the copy of a letter which I have received from the Attorney General of the United States.

GEO. WASHINGTON.

SIR:

PHILADELPHIA, *December 26, 1791.*

The office, which I have the honor of holding under the United States has presented, in the course of its execution, some defects which, I trust, will not be deemed unworthy of a remedy. If, however, they were only personally inconvenient, I should certainly forbear to trouble you with a recital of them; but while I consider them as injurious to the public service, I cannot satisfy myself of the propriety of withholding them from you.

Many instances have occurred in which the heads of the Departments have requested that suits should be prosecuted in different States under my direction. It has been always my inclination to conform to their wishes; but the want of a fixed relation between the attorneys of the districts and the Attorney General, has rendered it impossible for me to take charge of matters on which I was not authorized to give instructions.

From the same source it may frequently arise that the United States may be deeply affected by various proceedings in the inferior courts, which no appeal can rectify. The peculiar duty of the Attorney General calls upon him to watch over these cases; and being, in the eye of the world, responsible for the final issue, to offer his advice at the earliest stage of any business; and indeed, until repeated adjudications shall have settled a clear line of partition between the federal and State courts, his best exertions cannot be too often repeated, to oppose the danger of a schism. For this purpose the attorneys of the districts ought, I conceive, to be under an obligation to transmit to him a state of every case in which the harmony of the two judiciaries may be hazarded, and to communicate to him those topics on which the subjects of foreign nations may complain in the administration of justice.

Perhaps, too, in the review which the President takes of the affairs of the Union at the opening of each session of Congress, the judicial department will be comprehended. But the Attorney General, who ought to be able to represent the true situation of it, must be forever incompetent to the task, until he may officially, and with the right of expecting an answer, propound his inquiries to the district attorneys.

I might extend this enumeration much further; but I will only add, that the opinions which the Attorney General gives are many in number, and often lengthy. From this consideration, united with the foregoing, the reasonableness of allowing him a transcribing clerk will, I hope, be obvious.

Permit me, sir, to request you to forward to Congress the subject of this letter, in the manner most agreeable to yourself. I have taken the liberty of addressing it to you, not with an idea of thus obtaining your sanction, but from an impression that the application of an executive officer for the reform of his office ought not, of his own accord, to be laid before the Legislature.

I have the honor, sir, to be, with the most respectful attachment, your most obedient servant,

EDMUND RANDOLPH.

The PRESIDENT OF THE UNITED STATES.

2d CONGRESS.]

No. 26.

[1st SESSION.]

## ATTORNEY GENERAL AND DISTRICT ATTORNEYS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1792.

Mr. LAWRENCE, from the committee to whom was referred the written message from the President of the United States, covering the copy of a letter to him from the Attorney General, made the following report:

That it would be proper to make it the duty of the attorneys in the several districts to pursue the instructions which, from time to time, shall be given them, respectively, by the Attorney General of the United States, in all matters touching their respective offices, and to correspond with him on any matter relative to the judicial business which shall arise within their respective districts, and upon which he shall request information from them; and that it would be proper to make it the duty of the Attorney General to give his advice to the attorneys of the several districts, upon any matter relative to judicial business which shall arise within their respective districts, and upon which they shall request such advice, or he shall think it proper for him to interfere; and to make it lawful for the Attorney General, in any suit in which the United States shall be a party, or shall be interested, and in any court whatsoever, to advocate the United States, although such suit shall not have been originally instituted by him, or under his direction; and that, for the purpose of assisting him in the execution, as well of the duties herein assigned him, as of those heretofore assigned him by law, he may appoint a clerk, who, for his services, shall be allowed at the rate of \_\_\_\_\_ dollars by the year.

[NOTE.—See No. 25.]

2d CONGRESS.]

No. 27.

[1st SESSION.]

## ALTERATIONS IN THE TREASURY AND WAR DEPARTMENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 29, 1792.

Mr. SMITH, of South Carolina, from the committee appointed to examine whether any, and what, alterations are necessary to be made in the acts establishing the Treasury and War Departments, made the following report:

The committee submit to the House the following resolutions:

1st. In relation to the War Department. That there be an accountant to the Department of War, who shall be charged with the settlement of all accounts relative to the pay of the army, the subsistence of officers, bounties



to soldiers, the expenses of the recruiting service, the incidental and contingent expenses of the Department; and who shall report, from time to time, all such settlements as have been made by him for the inspection and revision of the accounting officers of the Treasury.

The compensation of the said accountant shall be a yearly salary of \_\_\_\_\_ dollars.

2d. That there be a commissary to the Department of War, whose duty it shall be to receive and safely keep all quartermaster's and military stores, clothing, Indian goods, and all such other articles for the use of the Department as shall be committed to him by the Secretary thereof, and the same to issue according to the orders of the said Secretary; and further, to call to account all persons to whom any of the said stores, clothing, goods, or articles whatsoever shall have been issued, touching the [due apportionments of the same to the purposes for which they shall be issued. That the said commissary shall keep regular and exact accounts of all articles which shall have been received and issued by him, and of the application thereof, and once in every three months shall make a report thereof to the Secretary of War, showing, among other things, the articles which remain unexpended, the persons in whose custody they are, and the places where they are deposited. That the compensation to the said commissary shall be \_\_\_\_\_ dollars per annum.

3d. That the Treasurer of the United States shall perform the duty of paymaster general to the Department of War, and in that capacity shall disburse all such moneys as shall have been previously advanced for the use of that Department upon warrants from the Treasury, which disbursements shall be made pursuant to warrants from the Secretary of War, countersigned by the accountant. That, in consideration of this additional service, the said Treasurer be allowed, besides his present salary, the yearly sum of \_\_\_\_\_ dollars; and that the salary of his head clerk be increased to the sum of \_\_\_\_\_ dollars.

4th. That all purchases and contracts for supplying the army with provisions, clothing, supplies in the quartermaster's department, military stores, Indian goods, and all other supplies or articles for the use of the Department of War, be made by or under the direction of the Treasury Department.

5th. In relation to the Treasury Department. That it shall be the duty of the Comptroller of the Treasury to superintend, under the head of the Department, the collection of the duties on imports and tonnage.

6th. That the present office of assistant to the Secretary of the Treasury be abolished, and that instead thereof there be an officer in the Department of the Treasury to be denominated Commissioner of the Revenue, who shall be charged with superintending, under the direction of the head of the Department, the collection of the other revenues of the United States; and shall execute such other services, being conformable to the constitution of the Department, as shall be directed by the Secretary of the Treasury. That the compensation of the said commissioner shall be a salary of \_\_\_\_\_ dollars per annum.

7th. That in every case of a claim against the United States not finally adjusted, upon which the present Comptroller of the Treasury, as Auditor, may have decided, and in which his decision is not controverted by the claimant, the said Comptroller be empowered and directed finally to adjust the same; and that in every such case in which the decision of the said Comptroller, as Auditor, is controverted, it shall be lawful for the Secretary of the Treasury, on behalf of the United States, to submit the points in controversy to referees, who shall be three in number; one of whom to be appointed by the Secretary of the Treasury, one by the claimant, and the third to be agreed upon between the Secretary and the claimant; or, in case of disagreement, to be chosen by the two referees who shall have been appointed as aforesaid; and the decision of the said referees, or a majority of them, shall have the like force and effect with an award of arbitrators between individuals. But if any claimant shall refuse to join in a reference, then it shall be lawful for the Comptroller of the Treasury to proceed to an adjustment of the claim as in other cases. That each of the said referees be allowed \_\_\_\_\_ dollars per day while actually employed in the reference.

8th. That in case of the death, absence from the seat of Government, or sickness of the Secretary of the Treasury, whereby he cannot perform the duties of his office, the Comptroller of the Treasury may perform the said duties until a successor be appointed, or until such absence or inability by sickness shall cease; and all warrants which shall be signed by the said Comptroller in place of the said Secretary shall be countersigned by the Commissioner of the Revenue.

9th. That in case of the death, absence from the seat of Government, or sickness of the Comptroller of the Treasury, whereby he cannot perform the duties of his office, the Commissioner of the Revenue may perform the said duties until a successor be appointed, or until such absence or inability by sickness shall cease.

10th. That in case of the death, absence from the seat of Government, or sickness of the Auditor of the Treasury, whereby he cannot perform the duties of his office, the first clerk of the said Auditor may perform the said duties until a successor be appointed, or until such absence or inability by sickness shall cease.

11th. That in case of the death, absence from the seat of Government, or sickness of the Register of the Treasury, whereby he cannot perform the duties of his office, the first clerk of the said Register may perform the said duties until a successor be appointed, or until such absence or inability by sickness shall cease.

12th. That the forms of keeping and rendering all public accounts whatsoever shall be prescribed by the Department of the Treasury.

13th. That, in addition to the compensations allowed to the Comptroller, Auditor, and Register of the Treasury, by the act "for establishing the salaries of the executive officers of Government, their assistants and clerks," the said officers, respectively, shall be allowed the following yearly sums, viz: the Comptroller \_\_\_\_\_ dollars; the Auditor \_\_\_\_\_ dollars; the Register \_\_\_\_\_ dollars.

14th. That the Secretary of the Treasury be authorized to have two principal clerks, each of whom to have a salary of \_\_\_\_\_ dollars per annum.

15th. That the restriction on the clerks of the Department of the Treasury, so far as respects the carrying on of any trade or business, be abolished.

2d CONGRESS.]

No. 28.

[1st Session.]

## WEIGHTS AND MEASURES.

COMMUNICATED TO THE SENATE, APRIL 4, 1792.

Mr. IZARD, from the committee to whom the subject of weights and measures was referred, made the following report: That it is their opinion—

1. That the standard for the measures and weights of the United States be a uniform cylindrical rod of iron, of such length as, in latitude  $45^{\circ}$  in the level of the ocean, and in a cellar of uniform natural temperature, shall perform its vibrations in small and equal arcs, in one second of mean time.

2. That the President of the United States be requested to have such a standard rod provided; that it be prepared with all the accuracy which the importance of the object merits, and circumstances admit; that this be done either by actual experiments, under the parallel of  $45^{\circ}$  of latitude complete, or by actual experiments, rectified by due allowances under any other parallel, where a superiority of means for accurate experiment may promise, on the whole, greater truth in the result.

3. That the expenses of the measures he shall adopt for this purpose, not exceeding ——— dollars, be defrayed by the public.

4. That the standard rod so to be provided shall be divided into five equal parts, one of which, to be called a foot, shall be the unit of measures of length for the United States.

That the foot shall be divided into ten inches;

The inch into ten lines;

The line into ten points;

And that ten feet make a decad;

Ten decads a rood;

Ten roods a furlong;

And ten furlongs a mile.

5. That measures of surface in the United States be made by squares of the measures of length; and that in the case of lands the unit shall be a square, whereof every side shall be one hundred feet, to be called a rood:

That each rood be divided into tenths and hundredths;

That ten roods make a double acre;

And ten double acres a square furlong.

6. That the unit of measures of capacity in the United States be a cubic foot, to be called a bushel;

That each bushel be divided into ten pottles;

Each pottle into ten demi-pints;

Each demi-pint into ten metres;

That ten bushels be a quarter;

And ten quarters a last, or double ton.

7. That the unit of weights of the United States be a cubic inch of rain water, to be called an ounce, and to be measured and weighed in a cellar of uniform natural temperature:

That the ounce be divided into ten double scruples;

The double scruple into ten carats;

The carat into ten minims or demi-grains;

The minim into ten mites;

That ten ounces make a pound;

Ten pounds a stone;

Ten stones a kental;

Ten kentals a hogshead.

2d CONGRESS.]

No. 29.

[1st Session.]

PRESIDENT WASHINGTON'S OBJECTIONS TO THE BILL "FOR AN APPORTIONMENT OF REPRESENTATIVES AMONG THE SEVERAL STATES, ACCORDING TO THE FIRST ENUMERATION."

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 5, 1792.

UNITED STATES, April 5, 1792.

*Gentlemen of the House of Representatives:*

I have maturely considered the act passed by the two Houses, entitled "An act for an apportionment of Representatives among the several States, according to the first enumeration;" and I return it to your House, wherein it originated, with the following objections:

*First.* The constitution has prescribed that Representatives shall be apportioned among the several States according to their respective numbers; and there is no one proportion or divisor which, applied to the respective numbers of the States, will yield the number and allotment of Representatives proposed by the bill.

*Second.* The constitution has also provided that the number of Representatives shall not exceed one for every thirty thousand; which restriction is, by the context, and by fair and obvious construction, to be applied to the separate and respective numbers of the States: and the bill has allotted to eight of the States more than one for every thirty thousand.

GEO. WASHINGTON.

“AN ACT for an apportionment of Representatives among the several States, according to the first enumeration.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, from and after the third day of March, in the year one thousand seven hundred and ninety-three, the House of Representatives shall be composed of one hundred and twenty members, elected within the several States according to the following apportionment; that is to say: Within the State of New Hampshire, five; within the State of Massachusetts, sixteen; within the State of Vermont, three; within the State of Rhode Island, two; within the State of Connecticut, eight; within the State of New York, eleven; within the State of New Jersey, six; within the State of Pennsylvania, fourteen; within the State of Delaware, two; within the State of Maryland, nine; within the State of Virginia, twenty-one; within the State of Kentucky, two; within the State of North Carolina, twelve; within the State of South Carolina, seven; and within the State of Georgia, two.

JONATHAN TRUMBULL, *Speaker of the House of Representatives.*  
JOHN ADAMS, *Vice President of the U. S. and Pres. of the Senate.*

2d CONGRESS.]

No. 30.

[1st SESSION.]

OPINION OF THE CIRCUIT JUDGES FOR THE NEW YORK DISTRICT, RELATIVE TO  
CERTAIN DUTIES ASSIGNED TO THEM BY ACT OF CONGRESS.

COMMUNICATED TO CONGRESS, APRIL 16, 1792.

UNITED STATES, April 16, 1792.

*Gentlemen of the Senate and of the House of Representatives:*

I lay before you a copy of a letter from the judges of the circuit court of the United States, held for the New York district, and of their opinion and agreement respecting the “Act to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions.”

GEO. WASHINGTON.

SIR:

NEW YORK, April 10, 1792.

As we could not, in our opinion, convey the enclosed extracts from the minutes of the circuit court now sitting here to the Congress of the United States in so respectful and proper a manner as through the President, we take the liberty to transmit them to you, and to request the favor of you to communicate them to that honorable body.

We have the honor to be, with perfect respect, sir, your most obedient servants,

JOHN JAY,  
WM. CUSHING,  
JAS. DUANE.

The PRESIDENT OF THE UNITED STATES.

*At a stated circuit court of the United States held for the district of New York, at the city of New York, on Thursday, the fifth day of April, one thousand seven hundred and ninety-two, at ten of the clock, ante meridian.*

Present: The Honorable JOHN JAY, Esq., Chief Justice of the United States; the Honorable William Cushing, Esq., one of the associate justices of the Supreme Court of the United States; the Honorable James Duane, Esq., judge of the district of New York.

The court proceeded to take into consideration the following act of the Congress of the United States, viz:

AN ACT to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the operation of the resolutions of the late Congress of the United States, passed on the second day of November, one thousand seven hundred and eighty-five, and the twenty-third day of July, one thousand seven hundred and eighty-seven, so far as they have barred, or may be construed to bar, the claims of the widow or orphans of any officer of the late army to the seven years' half-pay of such officer, shall, from and after the passing of this act, be suspended for and during the term of two years.

SEC. 2. *And be it further enacted,* That any commissioned officer, not having received the commutation on half-pay, and any non-commissioned officer, soldier, or seaman, disabled in the actual service of the United States, during the late war, by wounds or other known cause, who did not desert from the said service, shall be entitled to be placed on the pension list of the United States, during life, or the continuance of such disability; and shall also be allowed such further sum for the arrears of pension, from the time of such disability, not exceeding the rate of the annual allowance in consequence of his disability, as the circuit court of the district in which they respectively reside may think just: *Provided,* That in every such case, the rules and regulations following shall be complied with, that is to say, First, Every applicant shall attend the court in person, except where it shall be certified by two magistrates that he is unable to do so, and shall produce to the circuit court the following proofs, to wit: A certificate from the commanding officer of the ship, regiment, corps, or company in which he served, setting forth his disability, and that he was thus disabled while in the service of the United States; or the affidavits of two credible witnesses to the same effect. The affidavits of three reputable freeholders of the city, town, or county in which

he resides, ascertaining, of their own knowledge, the mode of life, employment, labor, or means of support of such applicant for the last twelve months. Secondly, The circuit court, upon receipt of the proofs aforesaid, shall forthwith proceed to examine into the nature of the wound, or other cause of disability of such applicant, and, having ascertained the degree thereof, shall certify the same, and transmit the result of their inquiry, in case, in their opinion, the applicant should be put on the pension list, to the Secretary of War, together with their opinion, in writing, what proportion of the monthly pay of such applicant will be equivalent to the degree of disability ascertained in manner aforesaid.

SEC. 3. *And be it further enacted*, That the clerk of the district court in each district shall publish this act in such manner as the judge of the district court shall think effectual to give general information thereof to the people of the district, and shall give like information of the times and places of holding the circuit courts in such district. And in districts wherein a circuit court is not directed by law to be holden, the judge of the district court shall be, and he hereby is, authorized to exercise all the powers given by this act to the respective circuit courts. And it shall be the duty of the judges of the circuit courts, respectively, during the term of two years from the passing of this act, to remain at the places where the said courts shall be holden, five days, at the least, from the time of opening the sessions thereof, that persons disabled as aforesaid may have full opportunity to make their application for the relief proposed by this act.

SEC. 4. *And be it further enacted*, That the Secretary of War, upon receipt of the proofs, certificate, and opinion aforesaid, shall cause the same to be duly filed in his office, and place the name of such applicant on the pension list of the United States in conformity thereto: *Provided, always*, That in any case where the said Secretary shall have cause to suspect imposition or mistake, he shall have power to withhold the name of such applicant from the pension list, and make report of the same to Congress at their next session.

SEC. 5. *And be it further enacted*, That all non-commissioned officers, soldiers, and seamen, disabled in the actual service of the United States during the late war, whose disability and rate of allowance have been ascertained, pursuant to the regulations prescribed by the late Congress, and have not applied to be placed on the pension list until after the time limited by the act of Congress for that purpose was expired, shall now be placed on the pension list, and be entitled to demand and receive their respective pensions, according to the allowances ascertained as aforesaid, any thing in this act, or any act of the late Congress, to the contrary notwithstanding.

SEC. 6. *And be it further enacted*, That from and after the passing of this act, no sale, transfer, or mortgage of the whole, or any part, of the pension, or arrearages of pension, payable to any non-commissioned officer, soldier, or seaman, before the same shall become due shall be valid. And every person claiming such pension, or arrears of pension, or any part thereof, under power of attorney or substitution, shall, before the same is paid, make oath, or affirmation, before some justice of the peace of the place where the same is payable, that *such power or substitution is not given by reason of any transfer of such pension, or arrears of pension*; and any person who shall swear or affirm falsely in the premises, and be thereof convicted, shall suffer as for wilful and corrupt perjury.

The court were thereupon unanimously of opinion, and agreed—

That, by the constitution of the United States, the Government thereof is divided into *three* distinct and independent branches; and that it is the duty of each to abstain from and to oppose encroachments on either.

That neither the *legislative* nor the *executive* branch can constitutionally assign to the *judicial* any duties but such as are properly judicial, and to be performed in a judicial manner.

That the duties assigned to the circuit courts by this act are not of that description, and that the act itself does not appear to contemplate them as such, inasmuch as it subjects the decisions of these courts made pursuant to those duties, first to the consideration and suspension of the Secretary of War, and then to the revision of the Legislature; whereas, by the constitution, neither the Secretary of War, nor any other executive officer, nor even the Legislature, are authorized to sit as a court of errors on the judicial acts or opinions of this court.

As, therefore, the business assigned to this court by the act is not judicial, nor directed to be performed judicially, the act can only be considered as appointing commissioners for the purposes mentioned in it by *official* instead of *personal* descriptions.

That the judges of this court regard themselves as being the commissioners designated by this act, and therefore as being at liberty to accept or to decline that office.

That as the objects of this act are exceedingly benevolent, and do real honor to the humanity and justice of Congress; and as the judges desire to manifest, on all proper occasions, and in every proper manner, their high respect for the National Legislature, they will execute this act in the capacity of commissioners.

That as the Legislature have a right to extend the session of this court for any term which they may think proper by law to assign, the term of five days, as directed by this act, ought to be punctually observed.

That the judges of this court will, as usual, during the session thereof, adjourn the court from day to day, or other short periods, as circumstances may render proper; and that they will regularly between the adjournments proceed as commissioners to execute the business of this act, in the same court room or chamber.

A true extract from the minutes:

ROBERT TROUP, *Clerk.*

2d CONGRESS.]

No. 31.

[1st SESSION.]

OPINION OF THE CIRCUIT JUDGES FOR THE PENNSYLVANIA DISTRICT, RELATIVE TO CERTAIN DUTIES ASSIGNED TO THEM BY ACT OF CONGRESS.

COMMUNICATED TO CONGRESS, APRIL 21, 1792.

UNITED STATES, April 21, 1792.

Gentlemen of the Senate and of the House of Representatives:

I lay before you the copy of a letter which I have received from the judges of the circuit court of the United States held for the Pennsylvania district, relative to the "act to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions."

GEO. WASHINGTON.

SIR:

PHILADELPHIA, April 18, 1792.

To you it officially belongs to "take care that the laws" of the United States "be faithfully executed." Before you, therefore, we think it our duty to lay the sentiments which, on a late painful occasion, governed us with regard to an act passed by the Legislature of the Union.

The people of the United States have vested in Congress all *legislative* powers "granted in the constitution." They have vested in one Supreme Court, and in such other inferior courts as the Congress shall establish, "the *judicial* power of the United States."

It is worthy of remark, that, in Congress, the *whole* legislative power of the United States is not vested. An important part of that power was exercised by the people themselves when they "ordained and established the constitution."

"This constitution" is "the supreme law of the land."

This supreme law "all judicial officers of the United States are bound by oath, or affirmation, to support."

It is a principle important to freedom, that, in Government, the *judicial* should be distinct from and independent of the *legislative* department.

To this important principle the people of the United States, in forming their constitution, have manifested the highest regard.

They have placed their *judicial* power not in Congress, but in "courts." They have ordained that the "judges" of those courts "shall hold their offices during good behavior," and that "during their continuance in office, their salaries shall not be diminished."

Congress have lately passed an act "to regulate," among other things, "the claims to invalid pensions."

Upon due consideration, we have been unanimously of opinion, that under this act the circuit court held for Pennsylvania district could not proceed.

1. Because the business directed by this act is not of a judicial nature. It forms no part of the power vested by the constitution in the courts of the United States. The circuit court must, consequently, have proceeded *without* constitutional authority.

2. Because, if upon that business the court had proceeded, its *judgments* (for its *opinions* are its *judgments*) might, under the same act, have been revised and controlled by the Legislature and by an officer in the executive department. Such revision and control we deemed radically inconsistent with the independence of that judicial power which is vested in the courts, and, consequently, with that important principle which is so strictly observed by the constitution of the United States.

These, sir, are the reasons of our conduct. Be assured, that, though it became necessary, it was far from being pleasant. To be obliged to act contrary either to the obvious directions of Congress, or to a constitutional principle, in our judgment equally obvious, excited feelings in us which we hope never to experience again.

We have the honor to be, with the most perfect consideration and respect, sir,

Your most obedient and very humble servants,

JAMES WILSON,  
JOHN BLAIR,  
RICHARD PETERS.

The PRESIDENT OF THE UNITED STATES.

2d CONGRESS.]

No. 32.

[2d SESSION.]

RE-ORGANIZATION OF THE SUPREME COURT, AND THE OPINION OF THE CIRCUIT JUDGES FOR THE NORTH CAROLINA DISTRICT, RELATIVE TO CERTAIN DUTIES ASSIGNED TO THEM BY ACT OF CONGRESS.

COMMUNICATED TO CONGRESS, NOVEMBER 7, 1792.

UNITED STATES, November 7, 1792.

Gentlemen of the Senate and of the House of Representatives:

I lay before you a copy of a letter and representation from the chief justice and associate judges of the Supreme Court of the United States, stating the difficulties and inconveniences which attend the discharge of their duties according to the present judiciary system;

A copy of a letter from the judges attending the circuit court of the United States for the North Carolina district, in June last, containing their observations on an act passed during the last session of Congress, entitled "An act to provide for the settlement of the claims of widows and orphans, barred by the limitations heretofore established, and to regulate the claims to invalid pensions."

GEO. WASHINGTON.

SIR:

PHILADELPHIA, August 9, 1792.

Your official connexion with the Legislature, and the consideration that applications from us to them cannot be made in any manner so respectful to Government as through the President, induce us to request your attention to the enclosed representation, and that you will be pleased to lay it before the Congress.

We really, sir, find the burdens laid upon us so excessive that we cannot forbear representing them in strong and explicit terms.

On extraordinary occasions we shall always be ready, as good citizens, to make extraordinary exertions; but while our country enjoys prosperity, and nothing occurs to require or justify such severities, we cannot reconcile ourselves

to the idea of existing in exile from our families, and of being subjected to a kind of life on which we cannot reflect without experiencing sensations and emotions more easy to conceive than proper for us to express.

With the most perfect respect, esteem, and attachment,

We have the honor to be, sir, your most obedient and most humble servants,

JOHN JAY,  
WILLIAM CUSHING,  
JAMES WILSON,  
JOHN BLAIR,  
JAMES IREDELL,  
THOMAS JOHNSON.

The PRESIDENT OF THE UNITED STATES.

*The Chief Justice and the Associate Judges of the Supreme Court respectfully represent to the Congress of the United States:*

That when the present judicial arrangements took place, it appeared to be a general and well-founded opinion, that the act then passed was to be considered rather as introducing a temporary expedient than a permanent system, and that it would be revised as soon as a period of greater leisure should arrive.

The subject was new, and was rendered intricate and embarrassing by local as well as other difficulties; and there was reason to presume that others, not at that time apparent, would be discovered by experience.

The ensuing sessions of Congress were so occupied by other affairs of great and pressing importance, that the judges thought it improper to interrupt the attention of Congress by any application on the subject.

That, as it would not become them to suggest what alterations or system ought in their opinion to be formed and adopted, they omit making any remarks on that head; but they feel most sensibly the necessity which presses them to represent—

That the task of holding twenty-seven circuit courts a year, in the different States, from New Hampshire to Georgia, besides two sessions of the Supreme Court at Philadelphia, in the two most severe seasons of the year, is a task which, considering the extent of the United States, and the small number of judges, is too burdensome.

That to require of the judges to pass the greater part of their days on the road, and at inns, and at a distance from their families, is a requisition which, in their opinion, should not be made unless in cases of necessity.

That some of the present judges do not enjoy health and strength of body sufficient to enable them to undergo the toilsome journeys through different climates and seasons, which they are called upon to undertake; nor is it probable that any set of judges, however robust, would be able to support, and punctually execute, such severe duties for any length of time.

That the distinction made between the Supreme Court and its judges, and appointing the same men finally to correct in one capacity the errors which they themselves may have committed in another, is a distinction unfriendly to impartial justice, and to that confidence in the Supreme Court which it is so essential to the public interest should be reposed in it.

The judges decline minute details, and purposely omit many considerations, which they are persuaded will occur whenever the subject is attentively discussed and considered.

They most earnestly request that it may meet with early attention, and that the system may be so modified as that they may be relieved from their present painful and improper situation.

JOHN JAY,  
WILLIAM CUSHING,  
JAMES WILSON,  
JOHN BLAIR,  
JAMES IREDELL,  
THOMAS JOHNSON.

SIR:

NEWBERN, NORTH CAROLINA, June 8, 1792.

We, the judges now attending at the circuit court of the United States for the district of North Carolina, conceive it our duty to lay before you some important observations which have occurred to us in the consideration of an act of Congress lately passed, entitled "An act to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions."

We beg leave to premise, that it is as much an inclination as it is our duty to receive with all possible respect every act of the Legislature, and that we never can find ourselves in a more painful situation than to be obliged to object to the execution of any, more especially to the execution of one founded on the purest principles of humanity and justice, which the act in question undoubtedly is. But, however lamentable a difference in opinion really may be, or with whatever difficulty we may have formed an opinion, we are under the indispensable necessity of acting according to the best dictates of our own judgment, after duly weighing every consideration that can occur to us, which we have done on the present occasion.

The extreme importance of the case, and our desire of being explicit beyond the danger of being misunderstood, will, we hope, justify us in stating our observations in a systematic manner.

We therefore, sir, submit to you the following:

1. That the legislative, executive, and judicial departments are each formed in a separate and independent manner, and that the ultimate basis of each is the constitution only, within the limits of which each department can alone justify any act of authority.

2. That the Legislature, among other important powers, unquestionably possess that of establishing courts in such a manner as to their wisdom shall appear best, limited by the terms of the constitution only; and to whatever extent that power may be exercised, or however severe the duty they may think proper to require, the judges, when appointed in virtue of any such establishment, owe implicit and unreserved obedience to it.

3. That, at the same time, such courts cannot be warranted, as we conceive, by virtue of that part of the constitution delegating *judicial power* for the exercise of which any act of the Legislature is provided, in exercising (even under the authority of another act) any power not in its nature *judicial*, or, if *judicial*, not provided for upon the terms the constitution requires.

4. That whatever doubt may be suggested, whether the power in question is properly of a judicial nature, yet inasmuch as the decision of the court is not made final, but may be at least suspended in its operation by the Secretary of War, if he shall have cause to suspect imposition or mistake, this subjects the decision of the court to a mode of revision which we consider to be unwarranted by the constitution; for though Congress may certainly establish, in instances not yet provided for, courts of appellate jurisdiction, yet such courts must consist of judges appointed in the manner the constitution requires, and holding their offices by no other tenure than that of their good behavior, by which tenure the office of Secretary of War is not held: and we beg leave to add, with all due deference, that no decision of any court of the United States can, under any circumstances, in our opinion, agreeable to the constitution, be liable to a reversion, or even suspension, by the Legislature itself, in whom no judicial power of any kind appears to be vested but the important one relative to impeachments.

These, sir, are our reasons for being of opinion, as we are at present, that this circuit court cannot be justified in the execution of that part of the act which requires it to examine, and report an opinion on the unfortunate cases of officers and soldiers disabled in the service of the United States. The part of the act requiring the court to sit five days for the purpose of receiving applications from such persons, we shall deem it our duty to comply with; for whether in our opinion such purpose can or cannot be answered, it is, as we conceive, our indispensable duty to keep open any court of which we have the honor to be judges, as long as Congress shall direct.

The high respect we entertain for the Legislature, our feelings as men for persons whose situation requires the earliest as well as the most effectual relief, and our sincere desire to promote, whether officially or otherwise, the just and benevolent views of Congress so conspicuous on the present as well as on many other occasions, have induced us to reflect whether we could be justified in acting under this act personally in the character of commissioners during the session of a court; and could we be satisfied that we had authority to do so, we would cheerfully devote such part of our time as might be necessary for the performance of the service. But we confess we have great doubts on this head. The power appears to be given to the court only, and not to the judges of it; and as the Secretary of War has not a discretion in all instances, but only in those where he has cause to suspect imposition or mistake, to withhold a person recommended by the court from being named on the pension list, it would be necessary for us to be well persuaded we possessed such an authority before we exercised a power which might be a means of drawing money out of the public treasury, as effectually as an express appropriation by law. We do not mean, however, to preclude ourselves from a very deliberate consideration whether we can be warranted in executing the purposes of the act in that manner, in case an application should be made.

No application has yet been made to the court, or to ourselves individually, and therefore we have had some doubts as to the propriety of giving an opinion in a case which has not yet come regularly and judicially before us. None can be more sensible than we are of the necessity of judges being, in general, extremely cautious in not intimating an opinion in any case extra-judicially, because we well know how liable the best minds are, notwithstanding their utmost care, to a bias which may arise from a preconceived opinion, even unguardedly, much more deliberately given. But in the present instance, as many unfortunate and meritorious individuals, whom Congress have justly thought proper objects of immediate relief, may suffer very great distress even by a short delay, and may be utterly ruined by a long one, we determined at all events to make our sentiments known as early as possible, considering this as a case which must be deemed an exception to the general rule upon every principle of humanity and justice; resolving, however, that so far as we are concerned individually, in case an application should be made, we will most attentively hear it; and if we can be convinced this opinion is a wrong one, we shall not hesitate to act accordingly, being as far from the weakness of supposing that there is any reproach in having committed an error, to which the greatest and best men are sometimes liable, as we should be from so low a sense of duty as to think it would not be the highest and most deserved reproach that could be bestowed on any men (much more on judges) that they were capable, from any motive, of persevering against conviction in apparently maintaining an opinion which they really thought to be erroneous.

We take the liberty to request, sir, that you will be pleased to lay this letter before the Legislature of the United States at their next session, and have the honor to be,

With the highest respect, sir, your most obedient and most faithful servants,

JAS. IREDELL,

*One of the Associate Justices of the Supreme Court of the United States.*

JNO. SITGREAVES;

*Judge of the United States for the North Carolina district.*

THE PRESIDENT OF THE UNITED STATES.

[NOTE.—See No. 46.]

## BOUNDARY BETWEEN VIRGINIA AND THE TERRITORY SOUTH OF THE OHIO.

COMMUNICATED TO CONGRESS, NOVEMBER 9, 1792.

UNITED STATES, November 9, 1792.

*Gentlemen of the Senate and of the House of Representatives:*

I now lay before you a letter from the Secretary of State, covering the copy of one from the Governor of Virginia, with the several papers therein referred to, on the subject of the boundary between that State and the territory of the United States south of the Ohio. It will remain with the Legislature to take such measures as it shall think best for settling the said boundary with that State, and, at the same time, if it thinks proper, for extending the settlement to the State of Kentucky, between which and the same territory the boundary is as yet undetermined.

GEO. WASHINGTON.

SIR: PHILADELPHIA, *November 2, 1792.*

I have the honor to enclose you copies of a letter I have received from the Governor of Virginia, and of sundry papers which it covered, on the subject of that part of the boundary between that State and the territory of the United States south of the Ohio, which has never yet been authoritatively settled, and to observe that an extension of the same line will form the boundary between the same territory and the State of Kentucky. There being then three parties interested in the establishment of this line, it will rest with the wisdom of the Legislature to take such measures as they shall think best for establishing it by common consent or otherwise for instituting judiciary proceedings for its establishment, according to the provision made in the constitution. As the papers herewith transmitted will fully explain the case in question, I need not recapitulate their contents.

I have the honor to be, with sentiments of the most perfect respect and attachment,  
Sir, your most obedient and most humble servant,

TH: JEFFERSON.

The PRESIDENT OF THE UNITED STATES.

SIR: RICHMOND, *October 24, 1792.*

For many sessions past has the General Assembly of this Commonwealth turned their attention towards the establishment of the boundary line between North Carolina and this State.

In the course of last year the Executive received from the Governor of North Carolina the enclosed proceedings of the Legislature of that State, and communicated the same to the General Assembly.

In consequence whereof an act was passed, entitled "An act concerning the southern boundary of this State," and duly promulgated, a copy of which I herewith forward.

This Commonwealth was governed, on this occasion, solely by a proper solicitude to prevent the possibility of subsequent difficulties which might arise from the want of an acknowledged boundary between the two States.

The acquisition in territory or people was too small an object to engage the attention of a community whose conduct, as a member of the American confederacy, has been signally marked by her gifts and her cessions.

We could never conceive, on the present occasion, opposition from any quarter to the complete execution of a law deemed essential to the peace and quiet of two States.

But the copy of Governor Blount's letter, herewith transmitted, shows that he considers himself bound, by his duty as an officer of the United States, to disregard the law establishing Walker's line as the southern boundary of this Commonwealth.

Thus, sir, not only is the object of the General Assembly defeated, but the citizens living between the real line and the pretended line are subjected to unmerited sufferings, of which they justly complain.

You will find among the papers a copy of a letter from Mr. Martin, whose information on this subject I believe to be worthy of full credit, and which goes to do away the ground of the opinion entertained by Governor Blount.

I would enter more particularly into the explanation of this business, but really I conceive it by no means necessary, as the transaction speaks for itself, and the accompanying papers declare the sense of Virginia and North Carolina on the subject, and manifest the opposition made to the law of this Commonwealth, as well as the reasons for such opposition.

Let me entreat you to lay the same before the President of the United States, and to favor me with the President's decision as soon as may be convenient.

I have the honor to be, sir, with sentiments of the highest respect, your obedient, humble servant,

HENRY LEE.

The SECRETARY OF STATE, *Philadelphia.*

SIR: Agreeably to your request I have made every inquiry respecting the lines called Walker's and Henderson's, which are the subject of dispute between this State and North Carolina, lest my own knowledge of that country might not be sufficient to lead to accurate information; but I can find no person that can render me any assistance. As far as my own knowledge serves, I can inform you that from the steep rock to Cumberland mountain, where Henderson stopped, is one hundred miles. Walker proceeded as far as the Mississippi. The width between the two lines, as far as Henderson proceeded, is between two and three miles. I think there are about one hundred families living between the lines, the greater part of whom are desirous of continuing in Virginia. About one-fourth are content to remain *in statu quo*, as thereby they are exempt from paying tax.

The lower station, in Powell's Valley, is between the two lines; they consider themselves under the protection of Virginia. The Virginia law is adhered to there; and all titles to lands are from the Government of Virginia.

You will find that when the cession was made from North Carolina to Congress, reference was had to General Smith, without mentioning who General Smith was. At the time the line was run, he was esteemed the best mathematician, and therefore appointed to assist in the extension of the line. At the passage of the bill in North Carolina for the cession he was a member of Assembly, and called on for information. I was also a member at that time. The decision respecting the lines, as I understood the matter, being one of the committee, took place at the passage, or rising of the Assembly.

The cession to Congress was on certain stipulations, which could not take place before the pleasure of Congress was known, which was some months after.

I have business in Powell's Valley, which will call me there in February next. If necessary, after that time I can give you a full account of the families, their names, militia, &c.

I have the honor to be, your excellency's obedient servant,

JOSEPH MARTIN.

His Excellency HENRY LEE, Esq., *Governor of Virginia.*

DEAR SIR:

AUGUST 8, 1792.

I have received a few lines from you, wherein you request a copy of Governor \_\_\_\_\_'s orders to me, respecting the jurisdiction and claims we have to the lands and people between the lines.

Some time ago I wrote to you, in full, my sentiments on the subject, agreeable to the cession act; at which time I had no special order respecting the people between the lines, and I wrote to the Governor to know how I should act. He sent me orders in these words: "That I was to pay no respect to the claims or to the jurisdiction that Virginia had to the land between the lines, but to punish offenders against our laws, so residing, as elsewhere."

From your friend,

GILBERT CHRISTIAN.

To Colonel ARTHUR CAMPBELL.



August 4, 1792.

Received of Charles Wolf four shillings cost for serving one warrant on said Wolf for a fine laid on him for not attending at a general muster at the court-house of Sullivan county, in the Southwestern territory, south of the river Ohio, and said Wolf lives between the lines. I say received by me.

EDWARD DEVISE,  
Constable for said county of Sullivan.

SULLIVAN COUNTY,  
Territory United States of }  
America, south of river Ohio, } To any sworn officer to execute and return:

Whereas it has appeared to the court-martial the 16th June, 1792, that Can Baily, Charles Wolf, James Anderson, and James Campbell, of Captain Boshers's company, failed to appear at the last general muster held for this county, the said court-martial ordered they be fined. You are hereby to consider this my warrant to you to cause the above-mentioned persons to appear before me, or some justice of this county, to show cause why they failed, and why they do not pay the fine of twenty shillings each.

Given under my hand, this 18th day of June, 1792.

GILBERT CHRISTIAN.

COMMONWEALTH OF VIRGINIA, }  
Washington county, ss. } Charles Wolf's deposition.

The deposition of Charles Wolf, living on Reedy creek, between the boundary line, commonly called Walker's line, and the line known by the name of Henderson's line, saith:

That, some time after the 15th day of June last past, there was a warrant, signed Gilbert Christian, a justice of the peace for Sullivan county, and territory south of the river Ohio, served on him, the said deponent, for his not attending a general muster held for the said county of Sullivan on the aforementioned 15th day of June; and that, some short time after, an execution issued against him, the said deponent, for four shillings, which the deponent paid, being the costs of the suit, (for the fine could not be lawfully levied of the deponent as he had not got legal notification,) and took a receipt for the same from Edward Devise, constable for the said county of Sullivan, which receipt is dated the 4th day of August, 1792, and signed "Edward Devise, constable for said county of Sullivan."

CHARLES WOLF.

Sworn to and subscribed before me, a justice appointed to keep the peace in the county of Washington aforesaid, this 6th day of September, 1792.

ROBERT PRESTON.

COMMONWEALTH OF VIRGINIA, }  
Washington county, ss. } Jame Campbell's deposition.

The deposition of James Campbell, living between what is called Walker's boundary line and what is called Henderson's boundary line, and on Reedy Creek, saith:

That, some time after the 15th day of June last past, there was a warrant from Colonel Gilbert Christian, a justice of the peace for Sullivan county, and territory of the United States, south of the river Ohio, served on him, the said deponent, for his not attending a general muster held for the said county of Sullivan on the aforementioned 15th day of June; and that, some short time after, there was an execution issued against him, the deponent, for twenty shillings and costs, which execution was levied on the said deponent's goods; and that he, the said deponent, paid twenty-four shillings, and took a particular receipt for the same, signed Edward Devise, constable, which receipt he delivered to Colonel Arthur Campbell, of Washington county, and is dated the 18th day of July last past.

JAMES CAMPBELL.

Sworn to and subscribed before me, a justice appointed to keep the peace in the county of Washington aforesaid, this 6th day of September, 1792.

ROBERT PRESTON.

*Extract of a letter from Governor Blount to the Governor of Virginia, dated*

SEPTEMBER 2, 1792.

I have also to acknowledge the receipt of your letter on the subject of the boundary line between the Commonwealth of Virginia and this territory, enclosing an act concerning the same, and your proclamation for the promulgation thereof.

Whether Henderson's line is right in preference to Walker's, or the contrary, or whether either is right, I conceive is yet to be determined; but North Carolina having exercised jurisdiction to Henderson's line from the time it was run, without any objection on the part of the State of Virginia, to the time the State of North Carolina passed the act of cession, and after, to the dissolution of the Government of North Carolina, as to the part ceded, and the organization of the territorial Government thereon, (a term of more than ten years,) I conceived it my duty as Governor also to extend the jurisdiction of the territorial Government to Henderson's line; and still believing it to be my duty, the law of Virginia and your proclamation notwithstanding, I shall continue to exercise jurisdiction to that line until I shall receive instructions to the contrary from the federal Government.

It is observable that the act of Virginia, declaring Walker's line to be the southern boundary, is founded upon a resolution of the Legislature of North Carolina, establishing that line as the boundary between Virginia and that State, and not upon the principle that that line is precisely where it ought to be; and no doubt that resolution and your act effectually fix that as the line between North Carolina and Virginia; but it is equally clear that, on no resolution or act of North Carolina, passed after Congress had accepted the cession of that State, which is unquestionably the case with the resolution on which your act is founded, can be so construed as to bind the United States to consider that line as the boundary between Virginia and this territory.

I have stated the circumstances respecting the boundary between Virginia and this territory in the clearest terms I am capable of to the Secretary of State. I have my hopes that some measures will shortly be taken to terminate the dispute, and I assure you that I heartily lament that any cause of controversy should have arisen which may disturb the harmony which I ardently wish ever to exist between the Commonwealth of Virginia and this territory, and that

I have the honor to be, with very great respect, your obedient, humble servant,

WM. BLOUNT.

His Excellency HENRY LEE, *Governor of the Commonwealth of Virginia.*

Mr. PERSON, from the committee to whom was referred the letter from his excellency the Governor of Virginia on the subject of establishing the boundaries between this State and Virginia, reported:

That it is proposed, on the part of Virginia, that the line, commonly called Walker's line, be established as the boundary between us. Should this proposal be not acceptable to this State, they will then appoint commissioners to meet any persons who may be appointed on the part of North Carolina, empowered to confer on the propriety of establishing Walker's or Henderson's line, and to report to the Legislatures of their respective States their proceedings.

On examining the manner in which those lines were run by the commissioners in the year 1780, they find that the commissioners began and extended the line together about forty miles, when some difference took place, and the commissioners on the part of this State run a parallel line two miles north of the other line, for about half the distance, and extended the line no further. Mr. Walker, and the other commissioners from Virginia, extended the line to Tennessee river, and marked its termination on the Mississippi by observations, leaving the line from Tennessee to that place unsurveyed.

As the difference between the said lines would only be two miles, running most of the distance through a mountainous, barren country, and as they have great reason to believe, from the information of General Smith, that the line commonly called Walker's line is the true line, your committee are of opinion that the object is not worth the expense of sending commissioners to confer on the propriety of establishing Henderson's line in preference to that of any other, and do recommend that a law be passed confirming and establishing the line usually called Walker's line, as the boundary between this State and the State of Virginia, with a reservation in favor of the oldest grants for either State in deciding the rights of individual claimants in the tract between the two lines commonly called Walker's and Henderson's lines.

All which is submitted:

THOMAS PERSON, *Chairman.*

NORTH CAROLINA:

IN THE HOUSE OF COMMONS, *December 11, 1790.*

The committee, to whom the letter from the Governor of Virginia on the boundary line between this and the State of Virginia was referred, report:

That it is the opinion of your committee that the boundary line between the State of North Carolina and Virginia be confirmed, agreeably to a report of a committee concurred with by both Houses last session of Assembly; and that a law be passed confirming the line commonly called Walker's line as the boundary between the States of North Carolina and Virginia, reserving the rights of the oldest patents, grants, or entries made in either of the States.

All which is submitted.

THOMAS PERSON, *Chairman.*

In the House of Commons, 11th December, 1790: read and concurred with.

S. CABARRUS, *C. H. C.*

In Senate, 11th December, 1790: read and concurred with.

WM. LENOIR, *Sp'r S.*

A copy from the journal of the House of Commons:

J. HUNT, *Clerk.*

Copies of original papers filed in the office of the Clerk of the House of Delegates of Virginia, duly authenticated under the seal of the State of North Carolina.

Attest:

SAM. COLEMAN, *A. C. C.*

AN ACT concerning the southern boundary of this State, passed December 7, 1791.

*Whereas* official information hath been received by the General Assembly that the Legislature of the State of North Carolina have resolved to establish the line commonly called Walker's line as the boundary between North Carolina and this Commonwealth, and it is judged expedient to confirm and establish the said line on the part of this State:

*Be it therefore enacted by the General Assembly,* That the line commonly called and known by the name of Walker's line shall be, and the same is hereby declared to be, the boundary line of this State.

SEC. 2. *And be it further enacted,* That, in all courts of law and equity within this Commonwealth, the claims for lands lying between the line commonly called Walker's line and the line commonly called Henderson's line, shall be decided in favor of the oldest title, whether derived from this Commonwealth or from the State of North Carolina.

2d CONGRESS.]

No. 34.

[2d SESSION.

## LIST OF CIVIL OFFICERS OF THE UNITED STATES, EXCEPT JUDGES, WITH THEIR EMOLUMENTS, FOR THE YEAR ENDING OCTOBER 1, 1792.

COMMUNICATED TO THE SENATE, FEBRUARY 27, 1793.

FEBRUARY 26, 1793.

The Secretary of the Treasury, in obedience to the order of the Senate, of the 7th May last, respectfully transmits herewith statements of the salaries, fees, and emoluments, for one year, ending the 1st of October, 1792, of the persons holding civil offices or employments under the United States, (except the judges,) as far as returns have been rendered; together with the disbursements\* and expenses in the discharge of their respective offices and employments for the same period.

All which is humbly submitted:

ALEXANDER HAMILTON, *Secretary of the Treasury.*

\* The disbursements and expenses herein alluded to, being simply contingent or incidental expenses of offices, were not deemed essential in this publication.

## PRESIDENT OF THE UNITED STATES.

George Washington, - - - - - \$25,000 per annum.

## VICE-PRESIDENT OF THE UNITED STATES.

John Adams, - - - - - \$5,000 per annum.

## DEPARTMENT OF STATE.

## FOREIGN BRANCH.

Gouverneur Morris, minister plenipotentiary at Paris, salary, - - - - -	\$9,000	William Short, resident at the Hague, salary, Outfit, - - - - -	\$4,500
Outfit, - - - - -	9,000	William Carmichael, chargé des affaires at Madrid, - - - - -	4,500
Thomas Pinckney, minister plenipotentiary at London, salary, - - - - -	9,000	— Dumas, agent at the Hague, - - - - -	1,300
Outfit, - - - - -	9,000	Contingent expenses, - - - - -	2,547 82
David Humphreys, resident at Lisbon, salary, - - - - -	4,500		

## DOMESTIC BRANCH.

Thomas Jefferson, Secretary of State, per annum, - - - - -	\$3,500	Contingent expenses, - - - - -	\$1,364 62
Henry Remsen, Jr., chief clerk, six months, at do. - - - - -	800	Fees received under act for safe-keeping of acts, &c., approved 15th September, 1789, - - - - -	7 82
George Taylor, Jr., clerk, six months, at do. - - - - -	500	Fees received under "Act to promote the progress of the useful arts," approved April 10, 1790, and granted by the Board to the chief clerk for his extra duty attending to same, at \$4 50 each patent, - - - - -	40 50
George Taylor, Jr., chief clerk, six months, at do. - - - - -	800		
Jacob Blackwell, clerk, - - - - -	500		
William Lambert, clerk, - - - - -	500		
George Pfeiffer, clerk, - - - - -	500		
Philip Freneau, clerk for foreign languages, do. - - - - -	250		
Sampson Crosby, office-keeper, &c. do. - - - - -	250		

## TREASURY DEPARTMENT.

## OFFICE OF THE SECRETARY OF THE TREASURY.

Alexander Hamilton, secretary, per annum, - - - - -	\$3,500	Aaron S. Laurance, clerk, - - - - -	per annum, \$400
*Tench Coxe, assistant secretary, part at do. - - - - -	1,900	Matthew Watson, clerk, - - - - -	do. 400
Tench Coxe, do. and part at do. - - - - -	1,500	Charles Tomkins, clerk, - - - - -	part do. 400
John Meyer, clerk, - - - - -	800	William Alricks, clerk, - - - - -	part do. 400
Henry Kuhl, clerk, - - - - -	600	Abraham Forst, clerk, - - - - -	part do. 400
Edward Jones, clerk, - - - - -	800	James Paxton, clerk, - - - - -	part do. 400
Andrew G. Fraunas, clerk, - - - - -	550	George Walker, clerk, - - - - -	part do. 500
Leighton Wood, clerk, - - - - -	600	Jo. C. Cornwall, clerk, - - - - -	part do. 400
Henry Stuber, clerk, - - - - -	500	Sylvanus Bourne, clerk, - - - - -	part do. 500
Daniel Brent, clerk, - - - - -	500	George F. Bauman, messenger, part at - - - - -	250
William Banks, clerk, - - - - -	part do. 500	Contingent expenses, - - - - -	790

\*Appointed Commissioner of the Revenue, 30th June, at which time the office of "Assistant Secretary" was abolished.

## COMPTROLLER'S OFFICE.

Oliver Wolcott, Jun., comptroller, per annum, part at \$2,000 and - - - - -	\$2,400	Charles Jarvis, clerk, - - - - -	per annum, \$500
Henry Kuhl, principal clerk, part year at per ann. - - - - -	800	Gervas Hall, clerk, - - - - -	do. 500
William Brodie, clerk, at do. - - - - -	500	John Woodside, clerk, - - - - -	part of year, 500
William M. Biddle, clerk, - - - - -	500	John R. Ross, messenger and office-keeper, do. - - - - -	200
James Shoemaker, clerk, - - - - -	500	Frederick Bauman, do. do. - - - - -	200
William Irvine, clerk, - - - - -	500	John C. Claypole, do. do. - - - - -	200
James Graham, clerk, - - - - -	500	John Borrowes, do. do. - - - - -	200
Alexander Brodie, clerk, - - - - -	500	Contingent expenses, - - - - -	656

## OFFICE OF THE COMMISSIONER OF THE REVENUE.

[Established 9th of May, 1792.]

Tench Coxe, commissioner,	at per annum,	\$1,900	Rensselaer Williams, Jun., clerk,	at per annum,	\$300
William Barton, principal clerk,	do.	800	Michael Gitts, messenger,	do.	200
Ezekiel Forman, clerk,	do.	400	Contingent expenses,	-	300

## AUDITOR'S OFFICE.

Richard Harrison, auditor,	at per annum,	\$1,900	William Blackburn, clerk,	at per annum,	\$450
William Simmons, principal clerk,	do.	800	William Pike, clerk,	do.	450
Clement C. Brown, clerk,	do.	640	Richard Reddy, clerk,	do.	450
Doyle Sweeny, clerk,	do.	640	William Aldrick, clerk,	do.	420
James Burnside, clerk,	do.	600	John Gibson, clerk,	do.	420
George Nixon, clerk,	do.	540	John Stapleton, clerk,	do.	420
Robert Underwood, clerk,	do.	540	Morgan Sweeny, clerk,	do.	350
Ezekiel Freeman, clerk,	do.	500	William Hewitt, clerk,	do.	300
John Crosby, clerk,	do.	500	Michael Forrest, clerk,	do.	350
James Bogert, Jun., clerk,	do.	500	Joseph Bowman, messenger,	do.	250
Edward Lynch, clerk, from 27th Feb.	do.	500	Contingent expenses,	-	1,059 75
John White, clerk,	do.	500			

## REGISTER'S OFFICE.

Joseph Nourse, register,	at per annum,	\$1,500	John Little, clerk,	per annum,	\$500
Joshua Dawson, principal clerk,	do.	700	John Hindman, clerk,	do.	500
William James, clerk,	do.	400	George Sibbald, clerk,	do.	400
William Banks, clerk,	part year,	600	Gabriel Nourse, clerk,	do.	500
John Woodward, clerk,	do.	500	John Woodside, clerk,	part year,	730
Edward O'Hara, clerk,	do.	400	Simeon Reynolds, clerk,	do.	400
Joseph Stretch, clerk,	do.	700	Samuel Clendenon, clerk,	part year,	300
Samuel M. Frauncis, clerk,	do.	350	Elias B. Woodward, clerk,	do.	480
John Matthews, clerk,	do.	380	Archibald Woodside, clerk,	do.	350
Charles Wilson, clerk,	do.	380	James Stewart, clerk,	do.	300
Miles F. Chossy, clerk,	do.	780	Harmon Stout, clerk,	do.	320
Stewart Cummins, clerk,	do.	450	Robert Burchan, clerk,	part year,	300
Michael Kennedy, clerk,	part year,	400	John Burchan, clerk,	do.	500
David Rittenhouse, clerk,	do.	200	Armit Brown, clerk,	do.	525
Jacob S. Howell, clerk,	do.	650	William Lawrence, clerk,	part year,	500
Charles Tompkins, clerk,	do.	600	Benjamin Workman, clerk,	do.	500
Matthew Walker, clerk,	do.	560	William P. Gardner,	do.	540
William Story, Jun., clerk,	do.	500	Benjamin Cochran, clerk,	do.	500
John Finley, clerk,	do.	550	John Cowan, messenger and office-keeper,		
William Shepperd, clerk,	do.	390	part year, at	-	175
George Mitchell, clerk,	part year,	266 64	Leonard Hitely,	do.	175
Thomas O'Hara, clerk,	do.	600	Contingent expenses,	-	4,161 66

## TREASURER'S OFFICE.

Samuel Meredith, treasurer, three-quarters at \$1,559 34, one quarter at \$600,	-	\$2,159 34	Samuel Brook, clerk,	part year at	\$300
Andrew Graydon, chief clerk,	per annum,	800	Messenger and contingent expenses,	-	338 48
John Thompson, clerk,	do.	500	Contingent expenses of Henly and Sherman's office,	-	162 70

## WAR DEPARTMENT.

## SECRETARY'S OFFICE.

The Secretary of War,	per annum,	\$3,000	Philip Audibert, clerk,	per annum,	\$500
John Stagg, Jun., chief clerk,	do.	800	Nathan Jones, clerk,	do.	400
R. J. Vanden Brock, clerk,	do.	600	Jas. B. Smith, clerk,	do.	400
Caleb Swan, clerk,	do.	500	C. L. Cummings, messenger,	do.	150
Constant Freeman, clerk,	do.	500	Frederick Sprigg, messenger,	do.	250
Benjamin Bankson, clerk,	do.	500	Contingent expenses,	-	1,551

## PAY OFFICE.

Joseph Howell, acting paymaster general, per ann.	\$1,200	Abraham Kintzing, clerk,	do.	\$500
Lynde Catlin, clerk,	do.	J. Parker, clerk,	do.	500
Benjamin Mifflin, clerk, extra hours,	do.	B. Harbeson, clerk,	do.	500
B. Betterson, clerk,	do.	Contingent expenses,	-	259
Jonathan Lawrence, clerk,	do.			

## ORDNANCE DEPARTMENT.

John Bryant, storekeeper, Springfield, Mass. per annum,	\$480	Daniel Ball, storekeeper, Manchester, Va., per annum,	\$50
Jeremiah Olney, storekeeper, Providence, R. I., per annum,	96	A. A. Muller, storekeeper, Charleston, S. C., per annum,	100
Bernhard Hudson, storekeeper, Fort Rensselaer, &c. N. Y., per annum,	172	Samuel Henly, assistant storekeeper, Springfield, Mass., per annum,	180
George Flemming, storekeeper, West Point, N. Y., per annum,	480	David Mason, assistant storekeeper, West Point, N. Y., per annum,	180
Samuel Hogdon, storekeeper, Philadelphia, Pa., per annum,	500	William Knox, assistant storekeeper, Philadelphia, Pa., per annum,	480
Edward Hand, storekeeper, Carlisle, Pa., per annum,	60		
Isaac Craig, storekeeper, Fort Pitt, Pa., per annum,	360	<i>Rents of Arsenals.</i>	
Thomas Holt, storekeeper, New London, Va., per annum,	430	At Philadelphia,	666 66
		At New London,	350
		At Manchester,	66 66

## OFFICE FOR SETTLING ACCOUNTS BETWEEN THE UNITED STATES AND THE INDIVIDUAL STATES.

William Irvine, commissioner,	per annum,	\$2,250	Daniel Parker, clerk,	part year,	\$149
John Kean, commissioner,	do.	2,250	William Davidson, clerk,	do.	51
Woodbury Langdon, commissioner,	do.	2,250	James Blake, clerk,	do.	340
Patrick Ferrall, clerk,	do.	738	Charles Patton, clerk,	do.	340
John Crawford, clerk,	do.	500	Abraham Forst, clerk,	do.	107
Griffith Evans, clerk,	do.	500	Alexander Benstead, clerk,	do.	229
Jonathan Smith, clerk,	do.	500	Philip Phetwood, clerk,	do.	204
John Knapp, clerk,	do.	500	Samuel Potts, clerk,	do.	155
John Lockwood, clerk,	part year,	312	George Faber, messenger,	do.	98
Anthony Ernest, clerk,	do.	233	Francis McDonald, messenger,	do.	138
Benjamin Mifflin, clerk,	do.	250	Contingent expenses,	-	652

## GENERAL POST OFFICE.

Timothy Pickering, Postmaster General. (No return.)

## DEPARTMENT OF THE MINT.

David Rittenhouse, director,	per annum,	\$2,000	Henry Voigt, coiner,	per annum,	\$1,500
Tristram Dalton, treasurer,	do.	1,200	Isaac Hugh, clerk for building, &c.	do.	312

## OFFICE OF SECRETARY OF THE SENATE U. S.

Samuel A. Otis, secretary,	per annum,	\$1,896	Doorkeeper to Senate,	per annum,	\$794
First clerk,	do.	1,095	Assistant doorkeeper to Senate,	do.	552
Second clerk,	do.	500	Contingent expenses of the Senate,	-	4,093
Extra clerk pay,	do.	320			

## OFFICE OF CLERK OF THE HOUSE OF REPRESENTATIVES.

John Beckley, clerk,	per annum,	\$1,896	Joseph Wheaton, sergeant-at-arms,	per annum,	\$792
Bernard Webb, principal clerk,	do.	1,104	Gifford Dalley, doorkeeper,	do.	827
Reuben Burnley, engrossing clerk,	do.	396	Thomas Claxton, assistant doorkeeper,	do.	574
William Claiborne, engrossing clerk,	do.	502	Contingent expenses of the House of Representatives,	-	4,004
Reverend ——— Blair, chaplain,	do.	272			

## NORTHWESTERN TERRITORY.

Arthur St. Clair, Governor and Superintendent of Indian Affairs,	per annum,	-	-	-	\$2,000
Winthrop Sargent, Secretary of Northwest Territory,	-	-	-	-	(No return.)

## TERRITORY SOUTH OF THE OHIO.

William Blount, Governor. (No return.) | Daniel Smith, Secretary. (No return.)

## OFFICE OF ATTORNEY GENERAL OF THE UNITED STATES.

Edmund Randolph, Attorney General, per annum,	-	-	-	-	\$1,900
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## DISTRICT ATTORNEYS OF THE UNITED STATES.

Names.	States.	Gross emoluments.	Nett compensation.
Samuel Sherburne,	New Hampshire,	No return.	
William Lithgow, Jun.	Maine,	do.	
Christopher Gore,	Massachusetts,	\$71 75	\$55 25
William Channing,	Rhode Island,	19 51	23 40 (ex-
Pierpont Edwards,	Connecticut,	No return.	penses.)
Stephen Jacobs,	Vermont,	do.	
Richard Harrison,	New York,	76 53	
Abraham Ogden,	New Jersey,	No return.	
William Rawle,	Pennsylvania,	71 92	
George Read,	Delaware,	27 00	27 00
Richard Potts,	Maryland,	No return.	
Alexander Campbell,	Virginia,	450 00	450 00
William Hill,	North Carolina,	245 83	121 08
John Julius Pringle,	South Carolina,	No return.	
Matthew McAllister,	Georgia,	38 57	
William Murray,	Kentucky,	No return.	

## MARSHALS OF THE SEVERAL DISTRICTS OF THE UNITED STATES.

Nathaniel Rogers,	New Hampshire,	\$103 44	\$120 04
Henry Dearborn,	Maine,	160 57 (ex-	100 97
		penses.)	
John Brooks,	Massachusetts,	119 23	289 00
William Peck,	Rhode Island,	223 17	363 42
Philip P. Bradley,	Connecticut,	138 60	216 10
L. R. Morris,	Vermont,	229 85	229 85

## MARSHALS—Continued.

Names.	States.	Gross emoluments.	Nett compensation.
Aquila Giles, - -	New York, - -	\$20 83	\$48 63
Clement Biddle, - -	Pennsylvania, - -	579 44	579 44
Allen McLane, - -	Delaware, - -	26 34	86 34
Nat. Ramsey, - -	Maryland, - -	101 00	253 72
D. M. Randolph, - -	Virginia, - -	199 90	489 68
John Skinner, - -	North Carolina, - -	159 93	606 47
J. Huger, - -	South Carolina, - -	No return.	
Samuel McDowell, Jun. - -	Kentucky, - -	162 57	173 57
Robert Forsyth, - -	Georgia, - -	No return.	
Thomas Lowry, - -	New Jersey, - -	do.	

## CLERK OF THE SUPREME COURT OF THE UNITED STATES.

— Bayard, - - - - - (No return.)

## CLERKS OF THE DISTRICT COURTS OF THE UNITED STATES.

Jonathan Steele, - -	New Hampshire, - -	\$52 10	\$69 80
Henry Sewall, - -	Maine, - -	104 (expen.)	83 90
N. Goodall, - -	Massachusetts, - -	171 85	286 85
Simeon Baldwin, - -	Connecticut, - -	207 50	239 75
Edmund T. Ellery, - -	Rhode Island, - -	253 77	310 17
Frederick Hill, - -	Vermont, - -	137 70	137 70
Robert Troup, - -	New York, - -	181 36	196 28
Robert Boggs, - -	New Jersey, - -	98 26	126 83
Samuel Caldwell, - -	Pennsylvania, - -	569 33	1,081 25
Matthew Pearce, - -	Delaware, - -	119 96	152 68
Joshua Barney, - -	Maryland, - -	No return.	
William Marshall, - -	Virginia, - -	1,827 38	1,542 14
Abner Neale, - -	North Carolina, - -	384 47	169 52
Thomas Hall, - -	South Carolina, - -	286 12	286 12
James Jones, - -	Georgia, - -	248 50	248 50
Thomas Todd, - -	Kentucky, - -	85 17	85 17

## COMMISSIONERS OF LOANS OF THE UNITED STATES.

William Gardner, - -	New Hampshire, - -	\$ 730 00	\$ 605 00
Nathaniel Appleton, - -	Massachusetts, - -	1,719 90	1,494 90
Jabez Bowen, - -	Rhode Island, - -	656 00	656 00
Clerks, - -	- -	935 82	
William Imlay, - -	Connecticut, - -	1,147 54	982 25
John Cochran, - -	New York, - -	1,805 54	1,805 54
Clerks, - -	- -	6,475 94	
James Ewing, - -	New Jersey, - -	700 00	643 00
Clerks, - -	- -	573 50	
Thomas Smith, - -	Pennsylvania, - -	1,709 91	1,709 91
Clerks, - -	- -	2,275 51	
James Tilton, - -	Delaware, - -	637 09	637 09
Clerk, - -	- -	200 00	
Thomas Harwood, - -	Maryland, - -	1,000 00	880 00
Clerks, - -	- -	980 00	
John Hopkins, - -	Virginia, - -	1,638 12	1,471 02
Clerks, - -	- -	2,795 80	
William Skinner, - -	North Carolina, - -	1,000 00	933 01
Clerks, - -	- -	1,105 89	
John Neufville, - -	South Carolina, - -	1,000 00	826 00
Clerks, - -	- -	1,375 00	
Richard Wyly, - -	Georgia, - -	713 69	713 69
Clerk, - -	- -	266 66	

## COLLECTORS OF THE CUSTOMS.

Names.	Ports.	Gross emoluments.	Nett compensation.
Joseph Whipple, - -	Portsmouth, - -	\$820 39	\$546 88
Edward Wigglesworth, - -	Newburyport, - -	358 77	159 75
Epes Sarjeant, - -	Gloucester, - -	509 47	469 22
Joseph Hiller, - -	Salem, - -	1,442 06	1,007 88
Samuel R. Gerry, - -	Marblehead, - -	510 29	330 94
Benjamin Lincoln, - -	Boston, - -	5,584 55	4,223 72
William Watson, - -	Plymouth, - -	280 91	229 91
Joseph Otis, - -	Barnstable, - -	220 87	145 87
Stephen Hussey, - -	Nantucket, - -	249 38	221 38
John Pease, - -	Edgartown, - -	No return,	(Salary \$50.)

## COLLECTORS OF THE CUSTOMS—Continued.

Names.	Ports.	Gross emoluments.	Nett compensation.
Edward Pope,	New Bedford,	\$367 92	\$292 92
Hodijah Baylies,	Dighton,	267 68	93 68
Richard Trevett,	York,	120 12	99 07
Jeremiah Hill,	Biddeford,	No return,	(Salary \$50.)
Nathaniel F. Fosdick,	Portland,	753 44	545 94
William Webb,	Bath,	441 73	378 03
Francis Cook,	Wiscasset,	535 80	349 80
John Lee,	Penobscot,	192 45	88 55
Melatiah Jordon,	Frenchman's Bay,	100 95	52 45
Stephen Smith,	Machias,	231 90	165 60
Lewis F. Delesdernier,	Passamaquoddy,	160 68	156 36
William Ellery,	Newport,	841 87	274 82
Jeremiah Olney,	Providence,	1,095 54	517 58
Stephen Keyes,	South Hero,	6 25	6 25
Jedediah Huntington,	New London,	2,038 85	1,924 85
Jonathan Fitch,	New Haven,	682 22	511 47
Samuel Smedley,	Fairfield,	315 22	199 22
Henry P. Dewing,	Sag Harbor,	160 97	123 42
John Lamb,	New York,	8,423 95	4,609 04
John Holsted,	Perth Amboy,	232 56	199 56
John Ross,	Burlington,	102 50	32 36
Eli Elmer,	Bridgetown,	79 33	60 33
Daniel Benezet, Jun.	Great Egg Harbor,	No return,	(Salary \$50.)
Sharp Delany,	Philadelphia,	8,103 98	4,397 72
George Bush,	Wilmington,	683 05	564 00
Otho H. Williams,	Baltimore,	4,373 37	2,935 08
Jeremiah Nichols,	Chester,	116 73	116 73
Jeremiah Banning,	Oxford,	233 22	171 06
John Muir,	Vienna,	208 91	12 71
John Gunby,	Snowhill,	304 89	206 78
John Davidson,	Annapolis,	188 49	188 49
George Biscoe,	Nottingham,	221 08	61 08
John Coats Jones,	Cedar Point,	No return,	(Salary \$150.)
James M. Lingan,	Georgetown,	497 85	161 35
George Wray,	Hampton,	118 80	118 80
William Lindsay,	Norfolk,	3,431 90	2,462 90
William Heth,	Bermuda Hundred,	2,767 55	1,920 74
Abraham Archer,	Yorktown,	297 43	129 43
Hudson Muse,	Tappahannock,	823 77	347 35
Vincent Redman,	Yeocomico,	No return,	(Salary \$100.)
Richard M. Scott,	Dumfries,	242 02	125 22
Charles Lee,	Alexandria,	1,447 13	979 54
William Gibb,	Folly Landing,	143 92	143 92
Nathaniel Wilkins,	Cherrystone,	No return,	(Salary \$100.)
Thomas Bowne,	South Quay,	122 01	65 01
James Read,	Wilmington,	869 26	461 55
John Davis,	Newbern,	798 48	392 53
Nathan Keais,	Washington,	464 98	232 98
Thomas Benbury,	Edenton,	783 79	249 51
Isaac Gregory,	Plankbridge,	159 54	136 54
Charles Brown,	Georgetown,	235 59	160 74
Isaac Holmes,	Charleston,	3,788 48	2,159 58
Andrew Agnew,	Beaufort,	No return,	(Salary \$100.)
John Habersham,	Savannah,	No return,	
John Lawson the younger,	Sunbury,	No return,	(Salary \$60.)
Christopher Hillary,	Brunswick,	121 73	114 64
James Seagrove,	St. Mary's,	176 97	70 97

## NAVAL OFFICERS.

Eleazer Russell,	Portsmouth,	\$418 73	\$365 97
Jonathan Pitcomb,	Newburyport,	478 15	423 16
William Pickman,	Salem,	618 88	465 30
James Lowell,	Boston,	2,065 32	1,915 11
Robert Crook,	Newport,	455 99	420 30
Ebenezer Thompson,	Providence,	432 60	384 27
Benjamin Walker,	New York,	3,342 90	1,958 10
Frederick Phile,	Philadelphia,	2,845 06	1,901 31
Robert Purviance,	Baltimore,	1,546 33	934 49
Philemon Gatewood,	Norfolk,	1,319 59	1,229 80
John Walker,	Wilmington,	448 94	253 37
Isaac Motte,	Charleston,	1,628 90	1,204 82
Lachlan McIntosh,	Savannah,	No return,	(Salary \$50.)

## SURVEYORS OF THE CUSTOMS.

Names.	Ports.	Gross emoluments.	Nett compensation.
Thomas Martin, - - -	Portsmouth, - - -	\$373 29	\$373 29
Michael Hodge, - - -	Newburyport, - - -	475 37	469 37
Samuel Whittemore, - - -	Gloucester, - - -	227 57	197 52
Bartholomew Putnam, - - -	Salem, - - -	471 86	383 09
Josiah Batchelor, - - -	Beverly, - - -	82 29	39 79
Jeremiah Stamford, - - -	Ipswich, - - -	18 94	3 54
Thomas Melville, - - -	Boston, - - -	2,032 57	1,784 65
James Lunt, - - -	Portland, - - -	324 84	319 84
Daniel Lyman, - - -	Newport, - - -	328 12	298 12
Daniel E. Updike, - - -	North Kingston, - - -	25 24	2 74
Thomas Arnold, - - -	East Greenwich, - - -	73 62	58 87
Nathaniel Phillips, - - -	Warren, - - -	52 11	36 81
Samuel Bosworth, - - -	Bristol, - - -	58 05	45 40
George Stillman, - - -	Pawcatuck River, - - -	23 10	22 56
William Barton, - - -	Providence, - - -	378 68	221 02
Zachariah Rhodes, - - -	Pawtucket, - - -	21 47	7 77
Nathaniel Richards, - - -	New London, - - -	593 85	467 93
Jonathan Palmer, Jun. - - -	Stonington, - - -	94 35	35 70
Comfort Sage, - - -	Middletown, - - -	175 27	100 83
Hezekiah Rogers, - - -	New Haven, - - -	211 71	177 91
John Lasher, - - -	New York, - - -	2,514 73	1,781 81
John C. Tenbrook, - - -	Hudson, - - -	50 00	27 69
Henry I. Bogert, - - -	Albany, - - -	75 00	73 50
Ebenezer Tucker, - - -	Little Egg Harbor, - - -	101 20	72 80
William McPherson, - - -	Philadelphia, - - -	1,973 58	1,271 92
Robert Ballard, - - -	Baltimore, - - -	1,282 21	1,072 47
Charles Chilton, - - -	Town Creek, - - -	86 35	60 35
Robert Chesley, - - -	St. Mary's, - - -	11 70	11 70
Jeremiah Jordan, - - -	Llewellynburg, - - -	No return,	(Salary \$80.)
Daniel Bedinger, - - -	Norfolk, - - -	1,390 43	1,153 77
Lemuel Reddish, - - -	Suffolk, - - -	92 10	88 85
Copland Parker, - - -	Smithfield, - - -	38 95	28 95
Christopher Roan, - - -	Bermuda Hundred, - - -	558 94	375 62
James Gibbon, - - -	Petersburg, - - -	194 75	82 33
Zachariah Rowland, - - -	Richmond, - - -	No return,	(Salary \$130.)
Alexander Moore, - - -	West Point, - - -	90 64	23 39
Peter Kemp, - - -	Urbana, - - -	156 63	110 88
George Catlett, - - -	Port Royal, - - -	105 50	67 50
William Lewis, - - -	Fredericksburg, - - -	103 75	99 75
Samuel Hanson, - - -	Alexandria, - - -	506 48	497 48
Thomas Callander, - - -	Wilmington, - - -	500 47	497 97
John McCullough, - - -	Swansborough, - - -	69 25	66 63
Josiah Murdaugh, - - -	Hartford, - - -	No return,	(Salary \$80.)
William Winne, - - -	Winton, - - -	No return,	(Salary 80.)
John Baker, - - -	Bennet's Creek, - - -	No return,	(Salary 80.)
Thomas D. Freeman, - - -	Plymouth, - - -	No return,	(Salary 80.)
William Benson, - - -	Windsor, - - -	No return,	(Salary 80.)
Henry Hunter, - - -	Skewarky, - - -	80 00	80 00
Hardy Murfree, - - -	Murfreesborough, - - -	No return,	(Salary \$80.)
Hugh Knox, - - -	Nixenton, - - -	47 80	15 55
Thomas Williams, - - -	Indiantown, - - -	26 00	25 75
Samuel Jasper, - - -	Currituck Inlet, - - -	35 87	17 30
Edmund Sawyer, - - -	Pasquetank River B. - - -	26 00	26 00
Elias Albertson, - - -	Newbiggen Creek, - - -	35 25	16 25
Edward Weyman, - - -	Charleston, - - -	1,108 32	638 53
John Berrien, - - -	Savannah, - - -	642 56	570 06
John Bray, - - -	New Brunswick, - - -	49 45	26 00

## OFFICERS OF THE REVENUE CUTTERS.

Names and rank.	States.	Gross emoluments.	Nett compensation.
Hopley Yeaton, master of the Scammel, - - -	New Hampshire,	\$492 40	\$490 25
John Parrott, 2d mate, - - -	Do.	} 198 16	} 198 16
John Adams, 2d mate, promoted in 2d quarter, - - -	Do.		
John Adams, 3d mate, - - -	Do.		
Samuel Hobart, 3d mate in 2d quarter, - - -	Do.	210 60	210 60
John Foster Williams, master of the Massachusetts, - - -	Massachusetts,	491 76	491 76
Hezekiah Welch, 1st mate, - - -	Do.	327 84	327 84
Nathaniel Nichols, 2d mate, - - -	Do.	279 84	279 84
Sylvanus Coleman, 3d mate, - - -	Do.	255 84	255 84
Jonathan Maltbie, master of the Argus, - - -	Connecticut,	435 46	431 46
George House, 1st mate, - - -	Do.	283 47	283 47
Jeremiah Greenman, 2d mate, - - -	Do.	208 13	208 13
Edward Perkins, 3d mate, - - -	Do.	17 30	17 30
Patrick Dennis, master of the Vigilant, - - -	New York,	No return.	
James Montgomery, master of the General Greene, - - -	Pennsylvania,	492 48	492 48
Isaac Roach, 1st mate, - - -	Do.	328 32	328 32
Charles Nuttle, 2d mate, - - -	Do.	280 32	280 32
William Dunton, 3d mate, - - -	Do.	64 08	64 08



## OFFICERS OF THE REVENUE CUTTERS—Continued.

Names and rank.	States.	Gross emoluments.	Nett compensation.
David Porter, appointed master of the Active, August 5, 1792, vice Simon Goss, - - -	Maryland,	No return.	
Richard Taylor, master of the Virginia, - - -	Virginia,	\$445 32	\$295 32
John Lusly, 1st mate, - - -	Do.	282 66	282 66
William Ham, 2d mate, - - -	Do.	234 66	234 66
Bathurst Dangerfield, 3d mate, - - -	Do.	25 14	25 14
William Cooke, master of the Diligence, - - -	North Carolina,	491 76	476 76
Joseph Wallace, 1st mate, - - -	Do.	327 84	327 84
Robert Cochran, master, (cutter not completed,) - - -	South Carolina,	502 35	502 35
Hugh George Campbell, 1st mate, - - -	Do.		
John Howell, master - - -	Georgia,	519 21	519 21
Hendrick Fisher, 1st mate, - - -	Do.	346 14	346 14
John Wood, 2d mate, - - -	Do.	298 14	298 14

## INSPECTORS, GAUGERS, WEIGHERS, MEASURERS, AND BOATMEN, EMPLOYED BY THE COLLECTORS OF THE CUSTOMS.

Names.	Office.	Ports.	Gross emoluments.	Nett compensation.
Thomas Chadbourne, - - -	Inspector, - - -	Portsmouth, - - -	\$389 31	\$351 26
Timothy Mountford, - - -	Do - - -	Do - - -	168 65	168 65
John Furnald, - - -	Do - - -	Do - - -	127 76	127 76
George E. Frost, - - -	Do - - -	Do - - -	345 88	345 88
William Hart, - - -	Gauger, - - -	Do - - -	170 45	170 45
Edmund Coffin, - - -	Measurer, - - -	Do - - -	165 22	165 22
Stephen Cross, Jun. - - -	Inspector, - - -	Newburyport, - - -	359 25	359 25
William Titcomb, - - -	Do - - -	Do - - -	371 55	371 55
William Stickney, - - -	Do - - -	Do - - -	283 22	280 97
Joseph Whittemore, - - -	Weigher and gauger, - - -	Do - - -	632 46	600 96
Ralph Cross, - - -	Do - - -	Do - - -	607 46	582 11
Samuel Woodman, - - -	Gauger, - - -	Do - - -	232 08	232 08
John Tracy, - - -	Weigher, - - -	Do - - -	156 86	140 26
William Morland, - - -	Measurer, - - -	Do - - -	117 52	115 79
Abraham Sawyer, Jun. - - -	Inspector, - - -	Gloucester, - - -	60 05	59 91
Thomas Foster, - - -	Do - - -	Do - - -	227 12	226 32
James Sawyer, - - -	Do - - -	Do - - -	103 17	103 92
William Kinsman, - - -	Do - - -	Do - - -	294 41	293 61
Joseph Allen, - - -	Gauger and weigher, - - -	Do - - -	497 36	433 31
Joseph Pitman, - - -	Inspector, - - -	Salem and Beverly, - - -	160 78	160 78
Charles Cleveland, - - -	Do - - -	Do - - -	22 09	22 09
Osman Cox, - - -	Do - - -	Do - - -	37 24	37 24
Stephen Webb, - - -	Do - - -	Do - - -	234 06	234 06
Caleb D. Bachelder, - - -	Do - - -	Do - - -	42 18	42 18
Daniel Bray, - - -	Do - - -	Do - - -	41 87	41 87
Andrew Preston, - - -	Do - - -	Do - - -	299 74	299 74
John Webb, - - -	Do - - -	Do - - -	11 87	11 87
Samuel Bishop, - - -	Do - - -	Do - - -	22 50	22 50
George Southward, - - -	Do - - -	Do - - -	198 04	198 04
David Ropes, - - -	Do - - -	Do - - -	219 51	219 51
John Berry, - - -	Do - - -	Do - - -	631 68	631 68
Thomas Dean, - - -	Do - - -	Do - - -	107 50	107 50
Samuel Ropes, - - -	Weigher and gauger, - - -	Do - - -	407 62	381 97
John Page, - - -	Do - - -	Do - - -	428 32	408 26
John Ashton, - - -	Do - - -	Do - - -	439 85	433 85
Thomas Hartshorn, - - -	Do - - -	Do - - -	392 94	385 78
Gabriel Halman, - - -	Do - - -	Do - - -	440 40	404 23
Bisby and Bishop, - - -	Boatmen, - - -	Do - - -	396 60	396 60
John Holmes, - - -	Inspector, - - -	Ipswich, - - -	39 37	39 37
John Stanwood, - - -	Gauger and weigher, - - -	Do - - -	86 83	86 83
John Popkins, - - -	Inspector, - - -	Marblehead.		
Jonas C. Minot, - - -	Do - - -	Boston & Charlest'n,	431 25	431 25
Robert Duncan, - - -	Do - - -	Do - - -	431 25	431 25
Peter Dolliver, - - -	Do - - -	Do - - -	427 50	427 50
John F. Barber, - - -	Do - - -	Do - - -	332 50	332 50
Thomas Kettle, - - -	Do - - -	Do - - -	411 50	411 50
John Langdon, - - -	Do - - -	Do - - -	334 25	334 25
Benjamin Eaton, - - -	Do - - -	Do - - -	450 00	450 00
John Popkins, - - -	Measurer, - - -	Do - - -	392 50	392 50
Jonas C. Minot, - - -	Do - - -	Do - - -	204 57	204 57
Robert Duncan, - - -	Do - - -	Do - - -	204 57	204 57
Peter Dolliver, - - -	Do - - -	Do - - -	204 57	204 57
Thomas Kettle, - - -	Do - - -	Do - - -	176 85	176 85
William Shattuck, - - -	Weigher and gauger, - - -	Do - - -	44 13	44 13
Joshua Pico, - - -	Do - - -	Do - - -		
Jos. Spear, - - -	Do - - -	Do - - -		
Samuel Wheelwright, - - -	Do - - -	Do - - -		
Thomas Matthews, - - -	Inspector, - - -	Plymouth, - - -	39 68	39 68
Benjamin Erandon, - - -	Do - - -	Do - - -	10 23	10 23
Benjamin Warren, - - -	Do - - -	Do - - -	1 00	1 00

## INSPECTORS, &amp;c.—Continued.

Names.	Office.	Ports.	Gross emoluments.	Nett compensation.
Stephen Churchill,	Measurer,	Plymouth,	\$21 05	\$21 05
Ephraim Spooner,	Gauger and weigher,	Do	} 128 73	128 73
Thomas Lathson,	Do	Do		
(No names specified,)	Inspectors,	Barnstable,	46 82	46 82
Joseph Nichols,	Inspector,	Nant'ket & Sherburne	71 83	71 83
Nathaniel Russell,	Gauger,	Do	9 04	9 04
William Nichols,	Weigher and measurer,	Do	15 00	15 00
William Tobey,	Inspector,	Edgartown.		
Lemuel Williams,	Do	New Bedford,	149 90	149 90
Robert Earle,	Do	Do	70 35	70 35
Sylvester Richmond, 2d,	Do	Do	37 59	37 59
William Read,	Do	Dighton,	74 70	74 70
James Luther, Jun.	Do	Do	8 10	8 10
John P. Hellen,	Do	Do	16 02	16 02
James Lincoln,	Do	Do	12 54	12 54
John Trevett,	Gauger,	Do	7 79	7 79
	Inspector,	York,	70 40	69 75
		Biddeford.		
John Veazie,	Inspector,	Portland,	121 25	120 92
William Hobby,	Do	Do	161 25	161 25
Thomas Fosdick,	Do	Do	333 32	333 32
Abner Bagley,	Weigher and gauger,	Do	148 38	146 52
Stephen Waite,	Do	Do	225 59	222 84
Joshua Shaw,	Inspector,	Bath,	108 40	107 20
William Butler,	Do	Do	20 50	20 00
Stephen Combes,	Do	Do	62 73	61 73
Robert Reed,	Do	Wiscasset,	13 75	13 75
Frank Blyth,	Inspector, weigher, &c.	Do	102 60	102 60
Robert Randall,	Do	Do	26 50	26 50
Rufus B. Copeland,	Do	Do	37 84	37 84
David Payson,	Do	Do	293 58	293 58
William Barker,	Do	Do	144 93	144 93
Batley M. Powers,	Inspector,	Penobscot,	51 95	41 65
William Preston,	Do	Do	20 66	16 56
		Frenchman's Bay.		
Josiah Phinney,	Inspector,	Machias,	39 75	39 75
Joseph Wallace, Jun.	Do	Do	3 75	3 75
William Albee,	Do	Do	17 50	17 50
Samuel Smith,	Do	Do	7 50	7 50
Daniel Merrit,	Do	Do	5 62	5 62
George Stillman,	Do	Do	1 25	1 25
William Chaloner,	Gauger and weigher,	Do	10 08	10 08
		Passamaquoddy.		
John Yeomans,	Inspector,	Newport,	230 00	230 00
Edward Coddington,	Do	Do	237 50	237 50
John G. Wanton,	Do	Do	208 75	208 75
B. Coggeshall,	Gauger,	Do	212 75	212 75
William Lyon,	Weigher,	Do	251 27	235 27
John Newton,	Measurer,	Do	69 31	69 31
Edward Josborne,	Boatman,	Do	288 00	288 00
Robert Eldred,	Inspector,	North Kingston.		
Andrew Boyd,	Do	East Greenwich,	25 05	25 05
Stephen Mumford,	Gauger,	Do	80	80
Allen Cole,	Inspector,	Warren & Barrington	108 14	108 14
Joseph Smith,	Gauger, &c.	Do	32 37	32 37
Josiah Phinney,	Gauger,	Bristol,	93 27	93 27
William Munro, 2d,	Measurer & Inspector,	Do	119 18	119 18
Benjamin West, Jun.	Inspector,	Providence,	228 30	215 03
Joseph Arnold, 3d,	Do	Do	261 91	237 16
William Barton, Jun.	Inspector,	Do	126 87	126 87
Samuel Warner,	Do	Do	271 41	252 58
John Burrough,	Do	Do	273 09	250 16
Jonathan Jenkins,	Gauger,	Do	112 66	79 11
Samuel Weeden,	Do	Do	111 82	79 90
E. Eddy,	Do	Do	98 88	77 51
Robert S. Burrough,	Weigher and measurer,	Do	248 58	213 37
Jesse Cooke,	Do	Do	213 51	185 02
Rennington Sheldan,	Inspector,	Pawtucket,	115 00	100 10
Peter B. Harris,	Do	New London,	197 50	174 50
Nathaniel Saltonstall,	Do	Do	210 00	184 00
Daniel W. Richards,	Do	Do	203 75	181 75
Ebenezer Goddard,	Do	Do	220 00	193 00
Isaac Williams,	Do	Do	208 75	193 75
Jonathan Trott,	Do	Do	206 25	193 25
Henry Jepson,	Do	Do	86 25	74 25
Timothy Starr,	Do	Do	220 00	199 00
Archibald Robertson,	Do	Do	142 50	131 75
Prentice Breed,	Inspector and weigher,	Do	47 61	44 41
Archibald Robertson,	Gauger and weigher,	Do	214 82	201 60
William Adams,	Gauger, &c.	Do	23 91	23 91
Ebenezer Douglass,	Do	Do	260 85	246 94
Benajah Lefingwell,	Do	Do	61 87	54 87
Sylvanus Lindsley,	Do	Do	42 80	41 20
Lamberton Cooper,	Do	Do	237 96	190 23
Joseph Gale,	Measurer and weigher,	Do	124 62	114 52

## INSPECTORS, &amp;c.—Continued.

Names.	Office.	Posts.	Gross emoluments.	Nett compensation.
Thomas Coit, -	Measurer and weigher, -	New London, -	\$20 00	\$19 70
Samuel Burrall, -	Inspector, &c. -	Norwalk, -	104 40	97 75
Elihu Lyman, -	Inspector, -	New Haven, -	180 00	171 95
William Munson, -	Do. -	Do. -	178 75	156 58
David Phipps, -	Do. -	Do. -	41 25	34 90
William Powell, -	Weigher and measurer, -	Do. -	161 16	131 70
Stephen Alling, -	Gauger, -	Do. -	87 57	70 79
Ebenezer Parmele, -	Do. -	Do. -	103 84	94 84
Walter Heyer, -	Inspector & measurer, -	New York, -	293 84	293 84
Henry Bicker, -	Inspector, -	Do. -	387 00	380 00
John Banks, -	Do. -	Do. -	420 75	414 00
Charles Harrison, -	Do. -	Do. -	195 00	195 00
Peter Kinnan, -	Do. -	Do. -	190 00	190 00
John King, -	Do. -	Do. -	201 25	201 25
Samuel Scudder, -	Do. -	Do. -	457 50	457 50
John Tar Ge, -	Do. -	Do. -	430 00	421 75
William Hurting, -	Do. -	Do. -	438 75	426 75
William Lasher, -	Do. -	Do. -	450 00	435 02
William Leaycraft, -	Do. -	Do. -	221 25	215 75
William Strachan, -	Do. -	Do. -	439 95	431 95
John Stephens, -	Do. -	Do. -	452 50	451 50
Ralph Hodge, -	Do. -	Do. -	216 25	206 00
James W. Paine, -	Do. -	Do. -	446 25	431 00
Jedediah Waterman, -	Do. -	Do. -	426 25	414 25
William Dodge, -	Measurer, -	Do. -	156 57	154 20
William A. Forbes, -	Do. -	Do. -	128 38	127 38
Garret Sickels, -	Do. -	Do. -	161 90	161 90
Stephen Steele, -	Do. -	Do. -	237 04	235 04
Richard Norwood, -	Do. -	Do. -	167 79	164 79
Jeremiah Stone, -	Do. -	Do. -	184 45	184 45
William Gilbert, -	Do. -	Do. -	74 00	74 00
Herman Skaats, -	Do. -	Do. -	153 89	152 72
John Bancker, -	Weigher, -	Do. -	792 74	517 08
James Cebra, -	Do. -	Do. -	458 46	327 05
Charles Dunjee, -	Do. -	Do. -	326 27	210 66
James Bingham, -	Gauger, -	Do. -	558 29	558 29
James Craven, -	Do. -	Do. -	550 80	511 55
John Hertell, -	Do. -	Do. -	533 32	494 57
John Evans, -	Do. -	Do. -	526 95	526 95
Thomas Glentworth, -	Boatman, -	Do. -	180 00	180 00
Robert Hamilton, -	Do. -	Do. -	180 00	180 00
John Fine, -	Do. -	Do. -	180 00	180 00
John Carmar, -	Do. -	Do. -	180 00	180 00
Edward John Balls, -	Inspector, &c. -	Perth Amboy, -	29 11	29 11
David Rose, -	Inspector, -	Philadelphia, -	431 25	410 90
Alexander Boyd, -	Do. -	Do. -	418 75	405 75
George Hofner, -	Do. -	Do. -	427 50	415 75
Peter Ozeas, -	Do. -	Do. -	415 00	403 25
J. Simonds, -	Do. -	Do. -	428 75	424 75
John Sharp, -	Do. -	Do. -	423 75	409 00
George Ralston, -	Do. -	Do. -	426 25	413 50
William Gray, -	Do. -	Do. -	435 00	431 00
Andrew Burkhardts, -	Do. -	Do. -	418 75	408 00
William Tilton, -	Do. -	Do. -	432 50	421 00
Jacob Bunner, -	Do. -	Do. -	423 75	419 75
B. W. Ball, -	Do. -	Do. -	322 50	311 50
John Graff, -	} Weighers, -	-	2,870 73	2,018 59
Charles Syng, -				
Lewis Bitting, -	} Measurers, -	-	760 43	755 43
John Gill, -				
William Milnor, -				
William King, -	} Gaugers, -	-	1,351 73	1,242 73
Adam Jamison, -				
M. H. Irwine, -	Inspector, -	Baltimore, -	457 50	450 50
Clement Skerret, -	Do. -	Do. -	457 50	453 00
T. Anderson, -	Do. -	Do. -	457 50	457 50
Frederick Eyen, -	Do. -	Do. -	457 50	456 50
Joseph Smith, -	Do. -	Do. -	457 50	442 50
John Hamilton, -	Do. -	Do. -	455 00	455 00
Alexander McCaskey, -	Do. -	Do. -	457 50	457 50
John Woodward, -	Do. -	Do. -	128 75	128 75
John Lynch, -	Do. -	Do. -	7 50	7 50
M. Eichelberger, -	Measurer, -	Do. -	733 68	733 68
T. Donnellan, -	Weigher, -	Do. -	1,017 31	1,013 31
Benjamin Abell, -	Gauger, -	Do. -	766 24	766 24
John Gordon, -	Inspector, -	Town Creek, -	23 83	23 83
M. B. Carroll, -	Do. -	Annapolis, -	26 00	26 00
Thomas Young, -	Do. -	Nottingham, -	32 50	32 50
George G. McDaniel, -	Do. -	Do. -	36 25	36 25
Richard Johns, -	Gauger and weigher, -	Do. -	4 67	4 67
Walter Smith, -	Inspector, -	Georgetown, -	120 00	120 00
Solomon Bedinger, -	Gauger and weigher, -	Do. -	31 35	31 35
William Calvert, -	Inspector, -	Norfolk, -	315 00	315 00
John George, -	Do. -	Do. -	231 25	194 25
	Do. -	Do. -	233 75	217 50
	Do. -	Do. -	133 75	131 25

## INSPECTORS, &amp;c.—Continued.

Names.	Office.	Ports.	Gross emoluments.	Nett compensation.
Hillary Manley,	Inspector,	Norfolk,	\$290 75	\$239 50
John Archer,	Do.	Do.	206 00	161 00
Martin Murphy,	Do.	Do.	320 00	274 00
Henry Henley,	Do.	Do.	315 00	267 00
James Banks,	Do.	Do.	206 50	158 50
Adam Gordon,	Do.	Do.	262 50	227 50
Davis Davis,	Inspector & measurer,	Do.	336 01	310 01
E. Archer,	Gauger and weigher,	Do.	601 72	401 72
James Harper,	Do.	Do.	106 71	106 71
Samuel Eddens,	Inspector and gauger,	Yorktown,	72 21	72 21
Thomas Gibbons,	Weigher and measurer,	Do.	8 77	8 77
Benjamin Blake,	Inspector,	Tappahannock,	125 00	111 00
Laurence Muse,	Do.	Do.	31 25	31 25
Thomas Kemp,	Do.	Do.	11 25	11 25
Oswald Kemp,	Do.	Do.	77 50	70 44
Richard Kenney,	Weigher and measurer,	Do.	81 07	81 07
Thomas Smart,	Do.	Do.	4 89	4 89
W. A. Buckner,	Measurer,	Do.	49 59	49 59
Henry Dunn,	Do.	Do.	2 10	2 10
James Dix,	Gauger,	Do.	18 56	18 56
John B. Luckett,	Inspector,	Dumfries,	51 39	51 39
Joseph Greenway,	Do.	Alexandria,	282 13	282 13
William Young,	Do.	Do.	291 64	291 64
Charles Page,	Do.	Do.	243 16	243 16
Archibald McCliesh,	Gauger,	Do.	122 15	122 15
Edward Harper,	Weigher and measurer,	Do.	351 90	351 90
John Sherlock,	Inspector,	Folly Landing,	15 41	15 41
Andrew Ure,	Inspector & measurer,	Wilmington,	249 44	249 44
Benjamin Blaney,	Do.	Do.	336 14	336 14
Henry Cumming,	Do.	Do.	330 23	330 23
William E. Atkins,	Do.	Do.	340 81	340 81
Thomas Callender,	Weigher and gauger,	Do.	142 56	132 46
John Craddock,	Inspector,	Newbern,	168 75	167 70
John Craddock,	Measurer,	Do.	60 53	59 83
Henry Macken,	Gauger,	Do.	55 62	54 72
Henry Macken,	Weigher,	Do.	27 44	26 84
Benjamin Cheney,	Inspector,	Beaufort,	46 17	46 17
Hall Jones,	Do.	Swansborough,	26 91	26 91
Green Parker,	Do.	Washington,	100 62	89 82
George Clarke,	Do.	Do.	81 00	72 20
John L. Keais,	Gauger, weigher, and measurer,	Do.	82 78	82 38
Isaac Gregory, Jun.	Inspector,	Plankbridge,	66 26	66 26
Robert McMorine,	Do.	Nixonton,	43 32	43 32
Frederick B. Sawyer,	Do.	Newbiggen creek,	16 14	16 14
Robert Shand,	Do.	Charleston,	267 50	267 50
William Wood,	Do.	Do.	150 00	150 00
Morton Smith,	Do.	Do.	269 00	269 00
Greenburgh Hughes,	Do.	Do.	214 75	214 75
James Thompson,	Do.	Do.	210 50	210 50
James Morell,	Do.	Do.	325 00	325 00
Daniel Poyas,	Do.	Do.	252 50	252 50
Anthony McHugo,	Do.	Do.	13 75	13 75
John Snelling,	Do.	Do.	101 25	101 25
Hugh Fraser,	Do.	Do.	18 50	18 50
James Wallace,	Do.	Do.	456 50	456 50
Nichol Primerose,	Do.	Do.	285 00	285 00
Henry Chance,	Do.	Do.	252 50	252 50
Owen McMahan,	Do.	Do.	198 00	198 00
John McArthur,	Do.	Do.	18 75	18 75
Samuel Pitsburg,	Do.	Do.	457 25	457 25
John Milligan,	Do.	Do.	248 75	248 75
John Kershaw,	Do.	Do.	231 25	231 25
Arthur McNeal,	Do.	Do.	215 00	215 00
Charles Broeske,	Do.	Do.	255 00	255 00
Edward Morgan,	Do.	Do.	81 25	81 25
Edward Weyman, Jun.	Do.	Do.	391 25	391 25
Jacob Milligan,	Weigher and measurer,	Do.	126 72	126 72
Ichabod Atwell,	Measurer,	Do.	219 40	219 40
William Blamyier,	Do.	Do.	176 66	176 66
Theophilus Elsworth,	Gauger,	Do.	459 20	459 20
John Salts,				
Malcomb McGregor,	Boatmen,	Do.	1,152 00	1,152 00
Richard Hall,				
Edward Crow,				

## SUPERVISORS OF THE REVENUE.

Names.	States.	Gross emoluments.	Nett compensation.
Joshua Wentworth, - -	New Hampshire, - -	\$543 99	\$470 79
Nathaniel Gorham, - -	Massachusetts, - -	2,209 10	1,209 10
John S. Dexter, - -	Rhode Island, - -	1,047 18	1,047 18
John Chester, - -	Connecticut, - -	656 69	306 69
Noah Smith, - -	Vermont, - -	402 74	402 74
William S. Smith, - -	New York, (part of the year) -	596 28	} 102 54
Richard Morris, - -	N. York, (balance of the year)	767 50	
Aaron Dunham, - -	New Jersey, - -	450 98	450 98
George Clymer, - -	Pennsylvania, - -	1,302 65	1,002 65
Henry Latimore, resigned, -	} Delaware, - -	436 64	436 64
Andrew Barratt, appointed,			
George Gale, - -	Maryland, - -	876 54	256 19
Edward Carrington, - -	Virginia, - -	1,350 04	1,016 71
William Polk, - -	North Carolina, - -	803 51	606 84
Daniel Stephens, - -	South Carolina, - -	903 58	517 72
John Mathews, - -	Georgia, - -	506 71	506 71

## INSPECTORS OF THE REVENUE.

Names.	No. of survey.	States.	Gross emoluments.	Nett compensation.
Nathaniel Gorham, - -	1	Massachusetts.*		
Jonathan Jackson, - -	2	Do. - -	\$795 63	\$661 55
Leonard Jarvis, - -	3	Do. - -	1,044 89	649 89
George Clymer, - -	1	Pennsylvania.*		
James Collins, - -	2	Do. - -	502 57	422 57
Edward Hand, - -	3	Do. - -	550 00	550 00
John Nevil, - -	4	Do. - -	450 00	
George Gale, - -	1	Maryland.*		
Philip Thomas, - -	2	Do. - -	525 78	525 78
Drury Ragsdale, - -	1	Virginia, - -	501 62	501 62
Edward Stevens, - -	2	Do. - -	521 17	521 17
Mayo Carrington, - -	3	Do. - -	509 29	509 29
Thomas Newton, (resigned,) -	} 4	Do. - -	497 99	497 99
James Gibbon, (appointed,)				
Edward Smith, - -	5	Do. - -	527 55	527 55
James Brackenridge, - -	6	Do. - -	486 10	486 10
Thomas Marshall, - -	7	Do. - -	480 00	480 00
James Read, (resigned,) - -	1	North Carolina, - -	(no return.)	
John Davis, - -	2	Do. - -	9 07	\$44 06 expenses.
Thomas Benbury, (dead,) - -	3	Do. - -	(no return.)	
John Whitaker, - -	4	Do. - -	450 00	450 00
Joseph McDowel, (resigned,) -	5	Do. - -	250 00	250 00
Daniel Stephens, - -	1	South Carolina.*		
Benjamin Cudworth, - -	2	Do. - -	356 54	306 54
Sylvanus Walker, - -	3	Do. - -	450 00	450 00

\* No compensation, being also supervisors.

## SUPERINTENDENTS OF LIGHT-HOUSES, BEACONS, BUOYS, PUBLIC PIERS, AND STEAKAGE.

Names.	Where stationed.	Gross emoluments.	Nett compensation.
Joseph Whipple, - -	Portsmouth, mouth of Piscataqua river, -	\$3 17	\$3 17
Benjamin Lincoln, - -	Boston, Portland Head, Plumb Island, Thatcher's Island, Boston harbor, Plymouth and Nantucket, -	54 00	54 00
William Ellery, - -	Newport, Rhode Island; Conanicut Island, -	5 80	5 80
Jedediah Huntington, - -	New London, mouth of river Thames, -	4 40	3 40
Thomas Randall, - -	New York, Sandy Hook, - -	400 00	400 00
William Allibone, - -	Philadelphia, Cape Henlopen and Delaware, -	500 00	400 00
William Lindsay, - -	Norfolk, Cape Henry, Virginia. -		
Nathan Keais, - -	Washington, North Carolina; steakage in Pamlico and Albemarle Sounds, -	3 86	3 86
James Read, - -	Wilmington, N. C.; steakage in Cape Fear river, -	84 00	84 00
Edward Blake, - -	Charleston, S. C., Light-house Island, -	260 00	195 79
John Habersham, - -	Savannah, Georgia, Tybee Island, -	5 44	5 44

## KEEPERS OF LIGHT-HOUSES.

Names.	Where stationed.	Gross emoluments.	Nett compensation.
Titus Salter, -	Portsmouth, New Hampshire, - -	\$317 20	\$159 20
Joseph Greenleaf, -	Portland Head, Massachusetts, - -	100 00	100 00
Abner Lowell, -	Two light-houses, Plumb Island, Mass. -	200 00	200 00
Joseph Seward, -	Two light-houses, Thatcher's Island, do, -	400 00	400 00
Thomas Knox, -	Boston Bay, Massachusetts, - -	400 00	400 00
John Thomas, -	Plymouth, do, - -	266 66	266 66
Paul Pinkham, -	Nantucket, do, - -	250 00	250 00
William Martin, -	Connanicut Island, - -	140 00	140 00
Daniel Harris, -	New London, - -	80 00	80 00
Matthew Ely, -	Sandy Hook, - -	230 00	230 00
Abraham Hargis, -	Cape Henlopen, - -	266 66	266 66
Lemuel Cornick, -	Cape Henry, - -	266 66	266 66
Thomas Hollingsby, -	Light-house Island, - -	257 14	257 14
	Tybee Island, (no return.)		

2d CONGRESS.]

No. 35.

[2d SESSION.

## ERRORS IN PRINTING CONGRESSIONAL DOCUMENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1793.

SIR:

TREASURY DEPARTMENT, *February 25, 1793.*

I beg leave, through you, to observe to the House of Representatives, that the statements communicated by my first and second letters in answer to their resolutions of the 23d of January last, which were printed by order of the House, have been printed in an incorrect and very confused manner.

In page 4 of my last letter, a sum of \$605,883 08 is expressed in \$605,83 08.

The mercantile form of debtor and creditor sides, which was observed in the accounts transmitted, and which is material to perspicuity, has been dropped; and a statement in succession of the opposite sides of the account substituted. In addition to this, headings have been introduced which are not in the original, and these headings have been, in one important case, inverted.

In statement A, transmitted with my first letter, receipts have been put for expenditures, and expenditures for receipts. Other inaccuracies less material might be noticed.

The effect of relinquishing the mercantile form of an account current will be perceived at once upon an inspection of either of the statements, but it will be particularly striking in statement No. 2 of my second letter, (page 19,) showing half-yearly the application of the fund for reducing the public debt constituted by the act of the 8th of May last.

It was the practice till the present session, to send to the Treasury proof sheets of the reports from the Department, which were printed by direction of the House, in order to their being examined and corrected before they were finally struck off. This useful practice, however, has been discontinued during the present session.

The House will be at no loss to perceive that their own satisfaction on any point of inquiry, the due information of the public, and the reputation of the Department from which any report or statement proceeds, are alike concerned in the accuracy of the form under which it is presented.

With a particular eye to the last consideration, I take the liberty to express a wish to the House that some regulations may be adopted to enable the head of this Department to secure the fidelity and correctness of the printed copies of the reports which shall hereafter be made to the House, and shall be committed to the press by their order.

With perfect respect, I have the honor to be, sir, your most obedient and humble servant,

ALEXANDER HAMILTON, *Secretary of the Treasury.*

The Hon. the SPEAKER of the *House of Representatives.*

2d CONGRESS.]

No. 36.

[2d SESSION.

## ERRORS IN PRINTING CONGRESSIONAL DOCUMENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 2, 1793.

Mr. FITZSIMONS, from the committee to whom was referred the letter from the Secretary of the Treasury, stating certain inaccuracies in printing certain statements made by him on the subject of foreign loans, and expressing a wish that some regulation may be adopted to enable the head of the Treasury Department to secure the fidelity and correctness of the printed copies of the reports which shall hereafter be made to the House, and shall be committed to the press by their order, made the following report:

That they have examined into the circumstances stated in the letter, and find—

That the standing order of the clerk of this House to the printer is, to send the proof sheets of all reports and statements to the Department from whence they were made, and that this practice has been generally followed.

That it has been discontinued during the present session (so far as respects the Secretary of the Treasury) from an opinion of the printer, that the delay, which the examination would occasion, might interfere with the intention of the House of having the business speedily accomplished.

It did not appear to the committee that any unnecessary delay had taken place at the office of the Comptroller, by reason of the examination of the proof sheets, nor in the printer in the transaction of his business.

The committee are of opinion, that it is not necessary for them to recommend any new regulation for the future execution of this business; but, in order to rectify the errors which have taken place in the printed reports and statements, the committee recommend the following resolution:

*Resolved*, That there be printed, under the direction of the Secretary of the Treasury, three hundred copies of the reports and statements made by him during the present session; and that the same be delivered to the clerk of this House.

3d CONGRESS.]

No. 37.

[1st SESSION.

## BALANCES DUE TO AND FROM THE SEVERAL STATES.

COMMUNICATED TO CONGRESS, DECEMBER 5, 1793.

OFFICE OF THE COMMISSIONERS OF ACCOUNTS,  
PHILADELPHIA, *June 29, 1793.*

The commissioners appointed to execute the several acts of Congress, to provide more effectually for the settlement of the accounts between the United States and the individual States, report:

That they have maturely considered the claims of the several States against the United States, and the charges of the United States against the individual States.

That they have gone through the process prescribed in the 5th section of the act of Congress, passed the 5th day of August, 1790, (the particulars whereof will be found in Book A, lodged with the papers of this office in the Treasury Department,) and find that there is due, including interest, to the 31st day of December, 1789, to the State of

New Hampshire,	-	-	-	-	\$ 75,055
Massachusetts,	-	-	-	-	1,248,801
Rhode Island,	-	-	-	-	299,611
Connecticut,	-	-	-	-	619,121
New Jersey,	-	-	-	-	49,030
South Carolina,	-	-	-	-	1,205,978
Georgia,	-	-	-	-	19,988

And that there is due, including interest, to the 31st day of December, 1789, from the State of

New York,	-	-	-	-	\$ 2,074,846
Pennsylvania,	-	-	-	-	76,709
Delaware,	-	-	-	-	612,428
Maryland,	-	-	-	-	151,640
Virginia,	-	-	-	-	100,879
North Carolina,	-	-	-	-	501,082

Which several sums they, by virtue of the authority to them delegated, declare to be the final and conclusive balances due to and from the several States.

WM. IRVINE,  
JOHN KEAN,  
WOODBURY LANGDON.

I certify the above to be a true copy from the original.

BW. DANDRIDGE,  
*Secretary to the President of the United States.*

[NOTE.—For report of committee, see Finances, vol. 1, page 479, No. 104.]

3d CONGRESS.]

No. 38.

[1st SESSION.]

## CONTESTED ELECTION OF JOHN E. VAN ALLEN, A REPRESENTATIVE FROM NEW YORK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 9, 1793.

Mr. WILLIAM SMITH, from the standing Committee of Elections, to whom was referred the petition of Henry K. Van Rensselaer, of the State of New York, complaining of an undue election and return of John E. Van Allen to serve as a member of this House for the said State, made the following report:

That it appears from the said petition, that the election of the said John E. Van Allen is impeached by the petitioner on the following grounds, viz:

1st. That in Stepentown, which is comprehended within the election district from which the said John E. Van Allen is returned, there were more votes actually given for the petitioner than appear, from the return of the committee who were appointed by law to canvass and estimate the votes, to have been canvassed and counted.

2dly. That in the town of Hoosack, also included in the said district, the ballot-box was not locked agreeably to law, but was only tied with tape.

3dly. That, at the time of the election, the said John E. Van Allen, who was not an inspector of the election, had in his possession the ballot box of the town of Rensselaerwick, which is also comprehended in the said district.

That the facts above set forth being contested by the said John E. Van Allen, the sitting member, your committee request the direction of the House with respect to the mode of investigating the same.

3d CONGRESS.]

No. 39.

[1st SESSION.]

## OFFICIAL CONDUCT OF ALEXANDER HAMILTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1793.

SIR: TREASURY DEPARTMENT, *December 16, 1793.*

It is known that in the last session certain questions were raised respecting my conduct in office, which, though decided in a manner the most satisfactory to me, were, nevertheless, unavoidably, from the lateness of the period when they were set on foot, so accelerated in their issue as to have given occasion to a suggestion that there was not time for due examination. Unwilling to leave the matter upon such a footing, I have concluded to request of the House of Representatives, as I now do, that a new inquiry may be without delay instituted, in some mode most effectual for an accurate and thorough investigation. And I will add, that the more comprehensive it is, the more agreeable it will be to me.

I cannot but take the liberty of observing to the House, that a like plan to that which was pursued in the last session can never answer the purpose of a full and complete inquiry; while it would lay on me a burden with which neither the proper discharge of the current duties of my office, nor the present state of my health, is compatible. The unfavorable effect upon the business of the Department of the very considerable portion of my time which was engrossed by the inquiry of last session, has not yet entirely ceased.

With perfect respect, I have the honor to be, sir, your most obedient and most humble servant,

ALEXANDER HAMILTON, *Secretary of the Treasury.*

The Hon. the SPEAKER of the *House of Representatives.*

3d CONGRESS.]

No. 40.

[1st SESSION.]

## RELIEF TO GENERAL LA FAYETTE WHILE A PRISONER AT THE CASTLE OF OLMUTZ.

COMMUNICATED TO CONGRESS, DECEMBER 31, 1793.

UNITED STATES, *December 30, 1793.*

*Gentlemen of the Senate and of the House of Representatives:*

I lay before you, for your consideration, a letter from the Secretary of State relative to certain advances of money which have been made on public accounts. Should you think proper to sanction what has been done, or be of opinion that any thing more shall be done in the same way, you will judge whether there are not circumstances which would render secrecy expedient.

GEO. WASHINGTON.



SIR:

PHILADELPHIA, December 30, 1793.

Certain proceedings of the ministers of the United States abroad, on behalf of M. de la Fayette, rendering it necessary that I should do myself the honor of addressing you on that subject, in order that the proper sanction may be obtained for what is done, I shall be justified by the interest which yourself and our fellow-citizens generally feel in the fortunes and sufferings of that gentleman, in suggesting something more for his future aid.

Soon after his captivity and imprisonment, and before the ministers had received our instructions to endeavor to obtain his liberation, they were apprized that his personal restraint, and the peculiar situation of his fortune, disabled him from drawing resources from that, and would leave him liable to suffer for subsistence and the common necessities of life. After a consultation by letter, therefore, between our ministers at Paris, London, and the Hague, they concurred in opinion that they ought not, in such a case, to wait for instructions from hence, but that his necessities should be provided for until they could receive such instructions. Different sums have been therefore either placed at his disposal or answered on his draughts, amounting, as far as we hitherto know, to about twelve or thirteen hundred guineas. This has been taken from a fund not applicable by law to this purpose, nor able to spare it; and the question is, whether and how it is to be made good? To do this, nothing more is requisite than that the United States should not avail themselves of the liberalities of M. de la Fayette, yielded at a moment when neither he nor we could foresee the time when they would become his only resource for subsistence. It appears by a statement from the War Office, hereto annexed, that his pay and commutation as a major general in the service of the United States, to the 3d of November, 1783, amounted to \$24,100 13, exclusive of ten years' interest elapsed since that time, to the payment of which the following obstacle has occurred at the foot of the original engagement by Mr. Deane, a copy of which is hereto annexed, that a certain roll of officers there named, and of which M. de la Fayette was one, should be taken into the American service in the grades there specified; M. de la Fayette alone has subjoined for himself a declaration that he would serve without any *particular allowance or pension*. It may be doubted whether the words in the original French do strictly include the general allowance of pay and commutation; and, if they do, there is no evidence of any act of acceptance by Congress. Yet, under all the circumstances of the case, it is thought that the Legislature alone is competent to decide it. If they decline availing the United States of the declaration of M. de la Fayette, it leaves a fund which not only covers the advances which have been made, but will enable you to take measures for his future relief. It does it, too, in a way which can give offence to nobody, since none have a right to complain of the payment of a debt, that being a moral duty from which we cannot be discharged by any relation in which the creditor may be placed as to them. I therefore take the liberty of proposing that this matter may be submitted to the consideration of the Legislature, who will determine, in their wisdom, whether the supplies already furnished, or any others in future, shall be sanctioned by them, and made good in the way here suggested, or in any other which they shall deem more proper.

I have the honor to be, with the most perfect respect and attachment, sir,

Your most obedient and most humble servant,

TH: JEFFERSON.

The PRESIDENT OF THE UNITED STATES.

*List of officers of infantry and light troops destined to serve in the armies of the States General of North America, viz:*

Monsieur le Marquis de la Fayette, major general, from the	-	-	7th of December, 1776.
Monsieur le Baron de Kalb, major general,	-	-	7th of November, 1776.
Monsieur Delessor, colonel,	-	-	1st of December, 1776.
Monsieur de Valfort, colonel,	-	-	1st of December, 1776.
Monsieur de Fayals, lieutenant colonel,	-	-	20th of November, 1776.
Monsieur de Franval, lieutenant colonel,	-	-	1st of December, 1776.
Monsieur de Boismartin, major,	-	-	7th of November, 1776.
Monsieur de Guinat, major,	-	-	1st of December, 1776.
Monsieur de Vrigny, captain,	-	-	1st of December, 1776.
Monsieur Bedaulx, captain,	-	-	1st of December, 1776.
Monsieur de la Calombe, lieutenant,	-	-	1st of December, 1776.
Monsieur Candon, lieutenant,	-	-	7th of November, 1776.

The mentioned ranks, and the pay which the most honorable Congress shall affix to them, to commence at the periods marked in the present list, have been agreed to by us the undersigned. Silas Deane, in quality of deputy of the American States General, on the one part, the Marquis de la Fayette and the Baron de Kalb on the other part.

Signed double, at Paris, this 7th day of December, 1776.

DE KALB,  
LE MARQUIS DE LA FAYETTE,  
SILAS DEANE.

Le désir que Monsieur le Marquis de la Fayette marque de servir dans les troupes des Etats Unis de l'Amérique Septentrionale, et l'intérêt qu'il prend à la justice de leur cause, lui faisant souhaiter des occasions de se distinguer à la guerre, et de s'y rendre utile autant qu'il sera en lui, mais ne pouvant se flatter d'obtenir l'agrément de sa famille pour servir en pays étranger, et passer les mers, qu'autant qu'il y iroit comme officier général, j'ai cru ne pouvoir mieux servir mon pays et mes commettants qu'en lui accordant, au nom du très honorable Congrès, le grade de major général, que je supplie les Etats de lui confirmer, ratifier, et en faire expedier la commission, pour tenir et prendre rang, à compter de ce jour, avec les officiers généraux du même grade. Sa haute naissance, ses alliances, les grandes dignités que sa famille possède à cette cour, ses biens considérables en ce royaume, son mérite personnel, sa réputation, son désintéressement, et surtout son zèle pour la liberté de nos provinces, m'ont seul pu engager à lui faire la promesse du grade de major général, au nom des Etats Unis. En foi de quoi j'ai signé le présent. Fait à Paris, ce sept Decembre, mil sept cent soixante-seize.

SILAS DEANE,  
*Agent pour les Etats Unis de l'Amérique Septentrionale.*

Aux conditions ci-dessus, je m'offre et promets de partir quand et comme Monsieur Deane le jugera à propos pour servir les Etats avec tout le zèle possible, sans aucune pension ni traitement particulier; me réservant seulement la liberté de revenir en Europe, lorsque ma famille ou mon Roi me rappelleront.

Fait à Paris, ce 7 Decembre, 1776.

LE MARQUIS DE LA FAYETTE.

[TRANSLATION.]

The desire which M. the Marquis de la Fayette shows of serving among the troops of the United States of North America, and the interest which he takes in the justice of their cause, making him wish to distinguish himself in this war, and to render himself as useful as he possibly can; but not thinking that he can obtain leave of his family to pass the seas, and serve in a foreign country till he can go as a general officer, I have thought I could not better serve my country, and those who have intrusted me, than by granting to him, in the name of the very honorable Congress, the rank of major general, which I beg the States to confirm to him, to ratify and deliver to him the commission to hold and take rank, to count from this day, with the general officers of the same degree. His high birth, his alliances, the great dignities which his family hold at this court, his considerable estates in this realm, his personal merit, his reputation, his disinterestedness, and, above all, his zeal for the liberty of our provinces, have only been able to engage me to promise him the rank of major general in the name of the United States.

In witness of which, I have signed the present, 7th of December, 1776.

SILAS DEANE,

*Agent for the United States of North America.*

On the conditions here explained, I offer myself and promise to depart when and how Mr. Deane shall judge proper, to serve the United States with all possible zeal, without any pension or particular allowance, reserving to myself the liberty of returning to Europe when my family or my King shall recall me.

Done at Paris, this 7th of December, 1776.

LE MARQUIS DE LA FAYETTE.

TREASURY DEPARTMENT, REGISTER'S OFFICE, *February 18, 1794.*

Upon an examination of the Treasury books of the United States, it does not appear that the Marquis de la Fayette received any moneys from the United States on his own personal account, either for pay, compensation, or otherwise; he is charged with four hundred dollars, continental money, paid upon his order the 3d February, 1778, to Lieutenant Colonel Duplessis, and which appears to have been for an army service; the Marquis is debited in a suspense account for six thousand eight hundred and eighty-eight dollars and eighty cents in specie on the 28th May, 1782, for moneys advanced to the marquis by sundry gentlemen in Baltimore, on his bond given them. This bond the United States have discharged; and the marquis was considered accountable no further than the rendering an account of the distribution of the same to the staff officers of the army with him on his expedition to Virginia in 1781.

JOSEPH NOURSE.

WAR DEPARTMENT, ACCOUNTANT'S OFFICE, *December 24, 1793.*

MARQUIS DE LA FAYETTE.

Received of Mr. Trumbull, the 31st March, 1778, on his private account	-	-	\$1,700 00
He paid in May, 1778, to Captain Celeron	-	-	80 00
			<u>1,620 00</u>
Leaving this sum to be accounted for, to be reduced at five for one, will equal specie	-	-	324 00
			<u>6,811 48</u>
His pay as major general, from the 31st July, 1777, to the 31st December, 1780, 41 months and 1 day, at \$166 per month	-	-	6,811 48
Deduct as above stated	-	-	324 00
			<u>6,487 48</u>
Balance on interest from 1st January, 1781	-	-	-
His pay for the year 1781, on interest 1st January, 1782	-	-	1,992 00
His pay for the year 1782, interest 1st January, 1783	-	-	1,992 00
			<u>1,676 54</u>
His pay from the 1st January to the 3d November, 1783	-	-	1,676 54
Commutation of five years' full pay in lieu of half-pay during life	-	-	9,960 00
			<u>\$11,636 54</u>

SUMMARY.

Balance to the 1st January, 1781	-	-	\$6,487 48
Pay of the year 1781	-	-	1,992 00
Pay of the year 1782	-	-	1,992 00
Pay of the year 1783, and commutation	-	-	11,636 54
To extra pay while on separate command, suppose one year, the precise time to be ascertained at a future period	-	-	1,992 00
			<u>\$24,100 12</u>

JOSEPH HOWELL, *Accountant.*

The SECRETARY OF WAR.

3d CONGRESS.]

No. 41.

[1st SESSION.]

## CONTESTED ELECTION OF ALBERT GALLATIN, A SENATOR FROM PENNSYLVANIA.

COMMUNICATED TO THE SENATE, DECEMBER 31, 1793.

Mr. RUTHERFORD, from the committee to whom was referred the petition of Conrad Laub and others, stating that the Hon. Albert Gallatin, at the time he was elected a Senator of the United States, had not been nine years a citizen of the said United States, as required by the constitution, reported:

That the committee have conferred with Mr. Michael Schmyser, agent for the petitioners, and with Mr. Gallatin; that Mr. Schmyser has declared that the petitioners are ready to adduce proofs in support of the petition, at such time as the Senate may think proper to appoint; that Mr. Gallatin states no objection to the trial's commencing at an early day.

The committee, therefore, recommend that the Senate agree to the following resolution:

*Resolved*, That ——— next be assigned for hearing the petition of Conrad Laub and others, respecting Mr. Gallatin's right to a seat in the Senate; and that Messrs. Gallatin and Schmyser be furnished with a copy of this resolution.

2d CONGRESS.]

No. 42.

[1st SESSION.]

## CONTESTED ELECTION OF ALBERT GALLATIN, A SENATOR FROM PENNSYLVANIA.

COMMUNICATED TO THE SENATE, FEBRUARY 10, 1794.

Mr. BRADLEY made the following report:

The Committee of Elections, to whom was referred the petition of Conrad Laub and others against the election of the Hon. Albert Gallatin as a Senator of the United States for the State of Pennsylvania, report:

That they have had the same under consideration, and, having given due notice, as well the petitioners, by their agent, Michael Schmyser, as the said Mr. Gallatin, appeared before them, and on the part of the petitioners the following evidence was produced, viz:

Robert Morris, Esq., being duly sworn, deposes, that, during the late war, two of his sons went to Geneva for their education, and at that place they became acquainted with some of the friends of Mr. Albert Gallatin, who had gone for America, and they, being solicitous to hear of his safety, desired Mr. Morris's sons to write to their father, to make inquiry, and give the information he should obtain; that frequently afterwards he received letters from Mr. Gallatin from Europe, which he always supposed to come from the friends of Mr. Gallatin in Geneva. He supplied Mr. Gallatin with money for a bill upon London, and there supposed the funds to pay the same were remitted from Geneva. Mr. Morris paid Mr. Gallatin about one thousand guineas, by order of Messrs. ——— & Co., bankers in Paris, believing always that they were reimbursed from Geneva. Mr. Morris does not recollect dates, not having for a long while seen any of the letters that passed on the subject. He does not know the place of Mr. Gallatin's nativity, but, from the general course of the circumstances which came under his observation, he always did suppose he was born in Geneva.

Sworn to and subscribed, January 22, 1794.

Nathaniel Cabot Higginson, Esq., being duly sworn, deposes, that he does not know directly any thing of Mr. Gallatin's being a foreigner or native; that he recollects knowing him by reputation and sight, at Boston, in one of the years 1781, '82, or '83, and that he was generally reputed to be a foreigner. This deponent believes that Mr. Gallatin then taught the French language, and did not speak the English with facility; and further recollects that Mr. Gallatin was resident there or thereabouts a considerable time. This deponent further says that he never had any conversation with Mr. Gallatin, but founds his belief with respect to Mr. Gallatin's not speaking the English with facility on the information received from others.

Sworn to and subscribed, January 22, 1794.

Mr. John Breakbill, being duly sworn, testifies, that, last winter, being a member of the Legislature of Pennsylvania, previous to the election of Senator for the State of Pennsylvania, I heard Mr. Gallatin say his want of citizenship would not admit his being a Senator. What were his reasons for making the declaration I cannot say. I took it he did not wish to be elected. This declaration by Mr. Gallatin was made at a meeting of a number of members of the Pennsylvania Legislature, held for the purpose of agreeing who should be set up as a candidate. The deponent further says he does not recollect Mr. Gallatin's assigning any other reason for his backwardness to serve as Senator than the want of citizenship.

Sworn to and subscribed, January 22, 1794.

Henry Kammerer, Esq., being duly sworn, testifies, that, last winter, being a member of the Legislature of Pennsylvania, and previous to the election of Senator for the said State, at a meeting of a number of the members of the State Legislature to agree upon a candidate to fill said office, I heard Mr. Gallatin say, when his name was proposed, "As for my name, it is out of the question; I have not been a citizen long enough to entitle me to serve in that station." That, at a second meeting for the same purpose, Mr. Gallatin was again proposed as a proper person for a candidate, and then the deponent understood, (not from Mr. Gallatin, but from some of the members of Assembly then present,) that the doubt about his citizenship was then put to rights, and then it was almost unanimously agreed to put up Mr. Gallatin's name; that, on the morning succeeding Mr. Gallatin's election, the deponent heard it observed that, notwithstanding Mr. Gallatin's election, he could not take his seat, in consequence of his declaration that he had not been long enough a citizen; that he, the same day, mentioned this to Mr. Gallatin,

who said that he had made this declaration under a mistaken idea that it was necessary for him to have been nine years a citizen of Pennsylvania; but, upon examining the constitution, he had found that to have been nine years a citizen of the United States was sufficient, and that he had been above nine years a citizen of the United States, or words to that effect.

Sworn to and subscribed, January 22, 1794.

Pelatah Webster, being duly qualified, testifies, that, eleven years ago last summer, I let my house in Philadelphia to Mary Lynn, who proposed to take lodgers. I reserved apartments for myself, and boarded with her. Soon after, Mr. Savery and Mr. Gallatin took lodgings of her, and continued a number of months there. Mr. Savery spoke no English. Mr. Gallatin spoke good English, and served as interpreter for him. They appeared to be well-bred gentlemen, and their conduct was agreeable and conciliating, and they soon gained the esteem and respect of the family. I do not know that they ever declared their country, but we all supposed they were French, and, of course, the people, customs, and country of France often made the topic of fireside chat. In one of these transient conversations, Mr. Gallatin took occasion to say that his knowledge of French affairs was not very perfect, for he was not a native of France, nor had ever resided long in that country, but was from Geneva. No one interesting circumstance made any further inquiry necessary; nor do I recollect that he made any more explication of the subject.

N. B. Mr. Gallatin once said that his original name was not Gallatin, but I think he said it was Sydney; but this conversation was in drollery, and not in earnest, as I conceived at the time of speaking, from the manner and air of his speaking thereon.

Sworn to and subscribed, January 28, 1794.

Mr. John Smiley, member of the House of Representatives of the United States, being sworn, saith, that, at a meeting of sundry members of the Legislature of Pennsylvania, previous to Mr. Gallatin's election as a Senator of the United States, that gentleman was mentioned as a proper person to fill the said office; at which time Mr. Gallatin started some doubt respecting his being qualified, but in what words the deponent does not recollect; that the deponent did not understand upon what the doubt was founded, though he thinks, from something said by Mr. Gallatin, that it related to Mr. Gallatin's citizenship; for, as the deponent conceived the conversation proceeded from that kind of modesty which gentlemen usually feel upon having their names proposed upon such occasions, he did not pay much attention to it; and that his reason for forming this opinion was his having frequently observed gentlemen to make excuses in similar situations, and from his knowledge of Mr. Gallatin's modesty of disposition. Upon being asked whether he ever heard Mr. Gallatin say that he had not been a citizen of the United States nine years previous to his election, the deponent replies he never did. Upon being asked by Mr. Lewis, counsel for the petitioners, what he had ever heard Mr. Gallatin say touching his citizenship, the deponent replies, that a considerable time subsequent to Mr. Gallatin's election, Mr. Gallatin, in conversation with the deponent, expressed an opinion that he was qualified with respect to citizenship. What else did you ever hear Mr. Gallatin say with respect to his citizenship? The deponent answers that he recollects having heard him say something with respect to the laws of Massachusetts not requiring an oath of allegiance at the time of his giving his opinion as aforesaid. Did you ever hear Mr. Gallatin say he was born in Europe? The deponent replies that he does not recollect Mr. Gallatin's saying that he was born in Europe, but that he has heard Mr. Gallatin speak of himself as a Genevan, mention his family in Geneva, and, in conversations with him, has always understood him to be of Geneva. Did you ever hear Mr. Gallatin mention the time of his coming into America? He replies, that he thinks Mr. Gallatin, about a year past, mentioned that he had been then thirteen years in this country, and that he was nineteen years old when he came. Did you ever hear Mr. Gallatin say when or where he took the oath of allegiance? He replies, he heard Mr. Gallatin say that he took the oath of allegiance in Virginia, but as to the time the deponent cannot be precise; but he thinks, if he can recollect, that Mr. Gallatin did mention to him, though he cannot be certain, that it was not nine years before he was elected. That the deponent thinks Mr. Gallatin's doubts respecting his citizenship were founded on this ground, (the witness referring, in this part of his testimony, to the meeting before mentioned when these doubts were expressed;) but he cannot specify the time of Mr. Gallatin's having mentioned to him the circumstance of his having taken the oath of allegiance.

Sworn to and subscribed, January 28, 1794.

Mr. Thomas Stokely, being sworn, deposes and saith, that, some few days before a Senator was chosen for the State of Pennsylvania, a meeting was had to fix on a proper person to represent the State in that office; sundry persons were stated as candidates, among whom was Mr. Gallatin, who, upon his being named, observed that there were many other persons more proper to fill that office; and also observed that there might be doubts as to his citizenship, though the deponent, from the length of time, and not expecting to have been called upon, retains too slight an impression of what then passed to be able to recollect the words with precision; that, at a subsequent meeting for the same purpose, Mr. Gallatin was finally agreed to be nominated, and the deponent heard no objection started thereto, either by Mr. Gallatin (who was present) or any other person.

Sworn to and subscribed, February 1, 1794.

The before-recited evidence being introduced and closed on the part of the petitioners, Mr. Gallatin was asked whether he had any testimony to produce on his part; to which he gave the following answer, in writing, to wit:

The committee to whom the petition of Conrad Laub, &c. was referred having informed me that the petitioners had closed their evidence, and asked me whether I had any testimony to produce on my side, I answer, that it appears to me that there is not sufficient matter charged in the petition, and proved by the testimony, to vacate my seat; that, by the resolution appointing the committee, the petition is referred to them "to state the facts," without prejudice as to *any questions* "which may, upon the hearing, be raised by the sitting member as to the sufficiency of the parties, and the matter charged in the petition;" that, upon the hearing, and in the present stage of the same, the question as to the sufficiency of matter, as above stated, is raised by me; that I conceive, from the evident construction of the resolution, I have a right to have that question decided by the Senate; that, until the same shall have been decided, I do not wish to be at the trouble and expense of collecting evidence at a great distance; and, therefore, that, at present, I do not mean to produce any testimony; reserving, however, to myself the right, which I conceive I have, to produce any testimony in my favor, after the said question shall have been decided by the Senate, in case it is decided against me.

ALBERT GALLATIN.

Which being duly read and considered, the committee came to the following resolution, to wit:

Whereas, the evidence on the part of the petitioners having been closed, and it appearing that Mr. Gallatin was an alien in the year 1780, and his answer, in writing, assigning reasons why he should not adduce evidence on his part in the present stage of the inquiry, not being, in the opinion of the committee, sufficient:

*Resolved*, That, in the opinion of the committee, it is now incumbent on Mr. Gallatin to show that he has become a citizen of the United States, and when.

Which resolution being read to Mr. Gallatin, he informed the committee he should rely on the answer he had before given.

All which is respectfully submitted to the honorable Senate by the committee.

*The following statement of facts agreed to by Mr. Gallatin and the counsel for the petitioners, was communicated to the Senate on the 20th February, 1794 by Mr. Gallatin,*

ALBERT GALLATIN was born at Geneva, on the 29th day of January, 1761. He left that place for the United States in April or May, 1780; arrived in Boston (Massachusetts,) on the 14th or 15th July of the same year, and has ever since resided within the United States. In October, 1780, he removed from Boston to Machias, in the province of Maine, in which place and its neighborhood he resided one year, and commenced a settlement on a tract of vacant land. During that time he furnished, out of his own funds, supplies (amounting in value to more than sixty pounds Massachusetts currency,) to Colonel John Allan, (who was the commanding officer stationed there, and also Superintendent of Indian Affairs for the eastern department,) for the use of the American troops; and on several occasions acted as a volunteer under the same officer's command. For the said supplies he received, one year after, a warrant on the Treasury of the State of Massachusetts, which he sold at a considerable depreciation. In October, 1781, he returned to Boston; and in the spring of 1782 was, by a vote of the corporation of the university of Cambridge, (otherwise called Harvard College,) chosen instructor of the French language of the said university. By the same vote he was allowed a room in the college, the privilege of the commons at the tutors' table, the use of the library, and also the right of having his pay (which depended on the voluntary subscription and attendance of the students) collected by the steward of the institution, together with the other charges against the students for board and education. Those terms he accepted, and remained in that station for the term of one year. In July, 1783, he removed to Pennsylvania, and in November of the same year proceeded to Virginia, in which State he had purchased more than one thousand acres of land, (and amounting to more than one hundred pounds Virginia currency in value,) some time between July and November 1783. Between this last-mentioned period and the month of October, 1785, he purchased other lands in the said State to a very large amount, and in the said last-mentioned month he took an oath of allegiance to the said State. In December, 1785, he purchased the plantation in Fayette county, Pennsylvania, on which he has lived ever since. In October, 1789, he was elected member of the convention to amend the constitution of Pennsylvania, and in October, 1790, 1791, and 1792, he was elected member of the Legislature of the same State. On the 28th February 1793, he was chosen Senator, to represent the said State in the Senate of the United States, and took his seat in December following.

3d CONGRESS.]

No. 43.

[1st SESSION.]

### CONTESTED ELECTION OF JOHN PATTEN, A REPRESENTATIVE FROM DELAWARE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 10, 1794.

Mr. WILLIAM SMITH, from the standing Committee of Elections, to whom was referred the petition of Henry Latimer, of the State of Delaware, complaining of an undue election and return of John Patten, to serve as a member of this House for the said State, made the following report:

That the said Henry Latimer complains of the illegality of the said election, on the following grounds, to wit: That the Legislature of the State of Delaware, in pursuance of the constitution of the United States, passed an act on the 26th October, 1790, directing the election of a representative for the said State in the Congress of the United States, by which it is enacted, that every person coming to vote for a representative, agreeable to the directions of the said act, shall deliver, in writing, on one ticket or piece of paper, the names of two persons, inhabitants of the State, one of whom at least shall not be an inhabitant of the same county with himself, to be voted for as representative.

That at the said election, in Newcastle county, a number of votes or tickets containing the names of the said Henry Latimer and Solomon Maxwell, both inhabitants of the same county, were, by the judges of the said election, deemed illegal and rejected.

That at the said election in Kent county, from votes or tickets, containing names of the said Henry Latimer and George Truit, both inhabitants of Newcastle county, were, by the judges of the election, rejected as illegal.

That at the said election in Sussex county, a number of votes or tickets, not less than fifty, containing the name of John Patten only, as the representative of the said State, were received by the judges of the election, polled, counted, and included in the return of the said election.

That in consequence of the rejection of the said votes in Kent county, and the reception of the votes before mentioned, in Sussex county, the said John Patten was returned as exceeding the said Henry Latimer thirty in number of votes.

The committee find that the law of the State of Delaware for regulating the election of a member to this House, contains the regulation stated in the petition; and that the said John Patten was returned to the President of the State of Delaware as having 2,273 votes, and the said Henry Latimer as having 2,243 votes.

On examining the evidence taken in this case, the committee find the following facts in relation to the election in Newcastle county, to wit:

That a considerable number of votes or tickets containing the names of Henry Latimer and Solomon Maxwell were rejected as illegal, as being both inhabitants of Newcastle county. The precise number of the said votes is

not ascertained. One witness, Robert Hamilton, who acted as an inspector or judge of the election, declaring that he kept a list of such rejected votes till he was fatigued; that, when he discontinued, they amounted to upwards of seventy. Another witness, James Eves, who likewise acted as an inspector at the said election, declaring that he first began to keep such list of rejected votes, and counted upwards of thirty, when he changed seats with Hamilton, who continued to keep the said list, as above mentioned; and that he was informed by Hamilton, some hours before the reading of the votes was concluded, that the number of the said rejected votes then amounted to upwards of fifty.

It appears, by a reference to official documents, that the amount of votes polled and counted at the election in the said county, for Governor of the State, was 1,202, and the number polled and counted for a member of this House was only 1,138, constituting a difference of sixty-four votes.

The committee find the following facts in relation to Kent county: That from votes or tickets having the names of Henry Latimer and George Truit, both inhabitants of Newcastle county, were on that account rejected as illegal; and that twenty-two votes or tickets containing the names of John Patten and some other inhabitants of Kent county, were likewise rejected as illegal.

The following facts appear in relation to Sussex county:

That at the commencement of the election in the said county, a question arose respecting the legality of votes or tickets containing only one name; and that, after some contest, it was resolved by the managers of the election to receive all such votes, and to leave the determination of the legality to the House of Representatives of the United States. It further appears by the evidence, that on a late examination of the votes or tickets which had been polled and counted at the said election, there were sixty-eight single votes received and counted for John Patten, and nine single votes for Henry Latimer.

From the above state of facts, the following conclusion appears to the committee to result:

That John Patten was returned, as duly elected, by a majority of thirty votes.

That agreeably to the election law of Delaware, the four votes in Kent county, containing the names of Henry Latimer and George Truit, which were rejected, ought to have been received and counted for the said Henry Latimer; and the sixty-eight single votes in Sussex county, which were received and counted for the said John Patten, ought to have been rejected; that if the aforesaid four votes in Kent county had been received, and the aforesaid sixty-eight votes in Sussex county had been rejected, as was required by law, the said Henry Latimer would have had, after deducting the nine single votes received and counted for him in Sussex county, a majority of thirty-three votes.

The committee are therefore of the opinion, that John Patten is not entitled to a seat in this House. They are also of opinion that Henry Latimer is entitled to a seat in this House, as the representative of the State of Delaware.

<i>Statement.</i>		
Votes for John Patten,	-	2,273
Deduct single votes in Sussex county,	-	68
		2,205
		2,205
Votes for Henry Latimer,	-	2,243
Add rejected votes in Kent county,	-	4
		2,247
Deduct bad votes in Sussex county,	-	9
		2,238
		2,238
Majority for Henry Latimer,	-	33
		33

## SLAVE TRADE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1794.

Mr. TRUMBULL, from the committee to whom were referred the memorials of the people called Quakers, at their yearly meeting, held in Rhode Island, in the year 1793; of the delegates of the several Societies for promoting the Abolition of Slavery, in convention assembled at Philadelphia on the 1st day of January last; and of the Providence Society for abolishing the Slave Trade, made the following report:

That the petitioners, who have met your committee on this occasion, have, for themselves, in very explicit terms, disclaimed any request or desire of legislative interference for the purpose of a general emancipation of the slaves already in the United States; and they have declared to your committee that they believe this to be the general sense of their societies. They further profess that the only object of their petitions is to obtain an act of Congress prohibiting the trade carried on by citizens of the United States, for the purpose of supplying slaves to foreign nations, and to prevent foreigners from fitting out vessels for the slave trade in the ports of the United States.

The petitioners suggest to the committee that practices of the kind which they now seek to prevent, have, in many instances, been attempted and carried on from some of the States, and they have good reason to apprehend are still contemplated in future. Your committee having duly attended to their several petitions and suggestions, do submit the following resolution:

*Resolved,* That a committee be appointed to prepare and bring in a bill or bills to prohibit the fitting out any ship or vessel in any port of the United States, either by citizens of the United States or foreigners, for the purpose of procuring from any kingdom or country the inhabitants of such kingdom or country, to be transported to any foreign parts or places of the world, to be sold or disposed of as slaves.

3d CONGRESS.]

No. 45.

[1st SESSION.

## INSURANCE AGAINST LOSS BY FIRE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1794.

Mr. GILES, from the committee to whom was referred the petition of William Frederick Ast, made the following report:

That the petitioner has presented to the committee a general plan of insurance against accidents by fire, upon the following principles:

That offices of insurance against accidents by fire be opened in every State in the Union, under the authority of the Government of the United States, in which all persons may insure all their houses, with the furniture and wearing apparel contained therein, their barns with the straw, grain, and hay contained therein.

That all persons insuring pay a premium to the Government proportioned to the value of the property insured; and that Government guaranty a reimbursement of all losses of the insured which may accidentally be occasioned by fire.

The suggested advantages from this plan are:

That it will afford an opportunity to all persons insuring their most valuable and necessary property, at a rate of insurance lower than is offered in any existing insurance company; and that this rate will decrease in proportion to the increase of the quantum and value of property insured.

That all losses accidentally occasioned by fire will thus be transferred through the whole of the insured, instead of concentrating in the individual who may happen to be the owner of the destroyed property.

That the premiums proposed to be demanded of the insured will not only indemnify the Government for the reimbursement of losses which may be sustained by any individual, but might produce a considerable revenue.

That this revenue might at all times be applied to governmental purposes, and the inconvenience of drawing out of employment that portion of capital which would be necessary for reimbursing accidental losses, upon any other principle than the guarantee of Government, would be avoided.

That all the specie sent abroad for insurances, in the present state of that business, would, by the proposed plan, remain in the United States.

That an additional tie or attachment would thereby be created from every individual whose property may be insured, to the Government.

For particular information respecting the details of the plan, and the expenses of effectuating the same, the committee refer to several papers presented to them by the petitioner, and which accompany this report.

The committee are of opinion that it would not be advisable for Congress at this time to adopt the proposed plan of insurance.

[NOTE.—The papers referred to are not to be found.]

3d CONGRESS.]

No. 46.

[1st SESSION.

## DEFECTS IN THE JUDICIARY SYSTEM.

COMMUNICATED TO CONGRESS, FEBRUARY 19, 1794.

UNITED STATES, February 19, 1794.

Gentlemen of the Senate and of the House of Representatives:

I lay before you the copy of a letter which I have received from the chief justice and associate justices of the Supreme Court of the United States; and, at their desire, the representation mentioned in the said letter, pointing out certain defects in the judiciary system.

GEO. WASHINGTON.

SIR:

PHILADELPHIA, February 18, 1794.

Impressed with an opinion that the most proper method of conveying the enclosed representation to Congress is through the President of the United States, we take the liberty of transmitting it to you, and to request that you will be pleased to lay it before them.

We have the honor to be, with perfect respect, sir, your most obedient and most humble servants,

JOHN JAY,  
WM. CUSHING,  
JAMES WILSON,  
JOHN BLAIR,  
WM. PATERSON.

The PRESIDENT OF THE UNITED STATES.

*The chief justice and the associate justices of the Supreme Court of the United States respectfully represent to the Congress of the United States—*

That their representation, communicated last year through the President to both Houses of Congress, and to which they refer, comprehended few other remarks than such as were suggested by the personal difficulties to which the judges were subjected.

They acknowledge, with sensibility and gratitude, that the act which thereupon passed, and whereby the attendance of one judge only was made indispensable to the holding of a circuit court, afforded them great relief, and enabled them to pass more time at home and in studies made necessary by their official duties.

They think it incumbent on them to submit to the consideration of Congress, whether the sessions of the several courts, comprehended in any of the three circuits, ought to depend entirely on the health of the judge to whom either of them may be assigned; for in case, by accident or illness, his attendance should be prevented, the inconveniences and useless expenses to all the parties would certainly be great as well as obvious.

It has already happened, in more than one instance, that different judges, sitting at different times in the same court, but in similar causes, have decided in direct opposition to each other, and that in cases in which the parties could not, as the law now stands, have the benefit of writs of error. They therefore also submit to the consideration of Congress, whether this evil, naturally tending to render the law unsettled and uncertain, and thereby to create apprehension and diffidence in the public mind, does not require the interposition of Congress.

They fear it would not become them to take a minute view of the whole system, and to suggest the alterations which to them appear requisite; and their hesitation is increased by the reflection that some of those alterations would, from the nature of them, be capable of being ascribed to personal considerations.

JOHN JAY,  
WM. CUSHING,  
JAMES WILSON,  
JOHN BLAIR,  
WM. PATERSON.

3d CONGRESS.]

No. 47.

[1st SESSION.]

DECISION OF THE SUPREME COURT ON THE VALIDITY OF CERTAIN CLAIMS FOR  
INVALID PENSIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 21, 1794.

WAR DEPARTMENT, *February 21, 1794.*

The SECRETARY OF WAR respectfully reports to the Senate and House of Representatives of the United States,

That, by the act passed the last session of Congress, entitled "An act to regulate the claims to invalid pensions," it was made the duty of the Secretary of War, in conjunction with the Attorney General, "to take such measures as might be necessary, to obtain an adjudication of the Supreme Court of the United States on the validity of the rights claimed by invalids under the act entitled An act to provide for the settlement of the claims of widows and orphans, barred by the limitations heretofore established, and to regulate the claims to invalid pensions by the determination of certain persons styling themselves commissioners."

That, in obedience to the said act, an unsuccessful attempt was made in August last, to obtain an adjudication of the Supreme Court upon the claims of the said invalids, as will appear by the report of the Attorney General, herewith submitted, No. 1.

That such adjudication has been recently obtained, and that the determinations of the commissioners were held to convey no legal rights to the invalids claiming under them, as will appear by the report of the Attorney General hereunto annexed, No. 2.

All which is humbly submitted to the Senate and House of Representatives of the United States.

H. KNOX, *Secretary of War.*

*Copy of a letter from the Attorney General of the United States to the Secretary of War, dated*

SIR:

PHILADELPHIA, *August 9, 1793.*

In consequence of our arrangement I moved the Supreme Court of the United States on Tuesday last for a *mandamus* to be directed to you, as Secretary of War, commanding you to put on the pension list one of those who had been approved by the judges acting in the character of commissioners. The decision of one case would have involved every other. But two of the judges having expressed their disinclination to hear a motion in behalf of a man who had not employed me for that purpose, and I being unwilling to embarrass a great question with little intrusions, it seemed best to waive the motion until some of the invalids themselves should speak to counsel. To this end I beg leave to suggest the propriety of a letter from your office to such of the invalids as have been certified to be proper for pensions, and perhaps it may be well to intimate the turn which the affair has taken and I have just mentioned. It was very unlucky that, although one of the invalids was in court when I made the motion, and heard the difficulty, he omitted to notify himself to me until the court had risen and it was too late.

I have the honor to be, &c.

EDM. RANDOLPH.

*Report of the Attorney General of the United States to the Secretary of War, dated*

SIR:

PHILADELPHIA, *February 17, 1794.*

I have to report, that, in consequence of measures taken "to obtain a decision of the Supreme Court of the United States upon the validity of the adjudications of certain persons styling themselves commissioners under the act of the 23d of March 1792," that court has this day determined (in the case of Yale Todd) that such adjudications are not valid.

I have the honor to be, with great regard, sir, your most obedient servant,

WM. BRADFORD.

The SECRETARY OF WAR.



3d CONGRESS.]

No. 48.

[1st SESSION.]

## REMONSTRANCE OF THE LEGISLATURE OF NEW HAMPSHIRE AGAINST CERTAIN POWERS EXERCISED BY THE JUDICIARY OF THE UNITED STATES.\*

COMMUNICATED TO THE SENATE, MARCH 10, 1794.

SIR:

STATE OF NEW HAMPSHIRE, EXETER, *February 21, 1794.*

Agreeably to the directions of the Legislature of this State, I have the honor to enclose and transmit an authenticated copy of a memorial or remonstrance of the Legislature to Congress, together with other papers that will serve to authenticate and elucidate the matter complained of. And I have to request that they may be laid before Congress as soon as conveniently may be for their consideration.

And am, with great respect and esteem, sir, your most obedient and very humble servant,

JOSIAH BARTLETT.

To the PRESIDENT of the Senate of the United States.

STATE OF NEW HAMPSHIRE:

To the Senate and House of Representatives of the United States in Congress assembled: The remonstrance of the Legislature of the State of New Hampshire, sheweth:

That the citizens of the State of New Hampshire adopted the federal constitution of the United States under the full conviction that more extensive general powers were necessary to be vested in Congress than they ever possessed or pretended that they possessed, when they were entirely dependent on the good-will or the resolves of the several States. But by this adoption they did not then intend, nor does their Legislature now choose to admit, that the confederation was in force prior to March, 1781, or that the federal constitution existed with respect to New Hampshire before June, 1788.

That a question respecting the powers of Congress, and the powers of the several States previous to the constitution or the confederation, has been determined in the circuit court for the district of New Hampshire, held at Exeter, on the 24th day of October, 1793, in which the foundation of the action was, whether this State, prior to an express grant to Congress, had a right to pass a law final in every way concerning the capture of vessels by this State or citizens thereof from the British, the enemy we were then engaged with in war. That the determination of this circuit court was, that the State of New Hampshire had no such power; but that Congress, or a court commissioned by them, could nullify the laws of any particular State; could control their several courts; and that, in fact, the constitution of 1789 was unnecessary to be adopted, as it contained no new grant of powers, but only a confirmation of old ones.

The memorial of the citizens of this State immediately interested to the Legislature of New Hampshire, a copy of which is herewith exhibited, the laws of this State which have been so declared to be of no force, the determination of the circuit court, and the pleas on which it was founded, copies of which are also herewith transmitted, will inform the Senate and House of Representatives of the United States of the grievances of which this State and individual citizens thereof complain against the exercise of the judicial authority of the United States; notwithstanding, many other documents may be produced with other and more cogent arguments, should the nature of the case hereafter require any further representation.

Were two independent states, like England and Scotland, to connect themselves in Government, the single Legislature or their courts might have the power to make every act void transacted in the separate Governments. But this would be a mere act of power, unacknowledged by any good constitution, and certainly reprobated by almost every constitution of the several States. The States are forbidden by the federal constitution to make any retrospective laws. The Legislature conceived that Congress were under the same obligations; and that their courts could not rejudge causes that were finally adjudged by courts existing prior to its adoption. In fact, the Legislature conceive, and feel no inclination to relinquish the idea, that Congress, in its origin, was merely an advisory body, chosen by the several States to consult upon measures for the general good of the whole; that the adoption of measures recommended by them was entirely in the breast of the several States or their Legislatures; that no measure could be carried into effect in any State without its agreement thereto; that the subsequent powers of Congress entirely depended upon the express grants of the State Legislatures; that the Legislature of this State, so far from agreeing to the exercise of the power by Congress or its courts, now determined by the circuit court to have belonged to them, on request from Congress, did not grant, but denied it; that the declaration of independence received effect from its being acceded to by the Legislatures of the several States; and that the confederation was the first act binding upon the States which was not expressly agreed to by them individually; that a declaration by any body whatever contrary thereto is subversive of the principles of the revolution; unsettling all the proceedings of the State Governments prior to the existence of the constitution; and will inevitably involve the States, and this State in particular, in confusion, and will weaken, if not perhaps destroy, the National Government; the true principles of which the State of New Hampshire has, and will always endeavor to maintain.

The Legislature of New Hampshire, therefore, again protest and remonstrate against the exercise of any such powers by Congress, or any court or body of men appointed by them, and request that measures may be taken to prevent and annihilate such illegal acts of power.

STATE OF NEW HAMPSHIRE:

IN THE HOUSE OF REPRESENTATIVES, *February 20, 1794.*

The foregoing remonstrance having been fully considered and agreed to, voted, that his excellency the Governor be requested to forward the same, together with the copies to which it alludes, to the Legislature of the United States.

Sent up for concurrence:

NATH. PEABODY, *Speaker.*

In Senate the same day read and concurred:

ABIEL FOSTER, *President of the Senate.*  
JOSEPH PEARSON, *Secretary.*

A true copy. Attest:

[NOTE.—The papers referred to in the foregoing memorial are not to be found.]

\* See Nos. 51 and 65.

3d CONGRESS.]

No. 49.

[1st SESSION.]

## ILLEGALITY OF THE APPOINTMENT OF KENSEY JOHNS, A SENATOR FROM DELAWARE.

COMMUNICATED TO THE SENATE, MARCH 26, 1794.

Mr. BRADLEY, from the Committee of Elections, to whom were referred the credentials of an appointment by the Governor of the State of Delaware of Kensey Johns, as a Senator of the United States, having had the same under consideration made the following report:

That George Read, a Senator for the State of Delaware, resigned his seat upon the 18th day of September, 1793, and during the recess of the Legislature of said State.

That the Legislature of the said State met in January, and adjourned in February, 1794.

That, upon the 19th day of March, and subsequent to the adjournment of the said Legislature, Kensey Johns was appointed by the Governor of said State to fill the vacancy occasioned by the resignation aforesaid.

Whereupon, the committee submit the following resolution:

*Resolved*, That Kensey Johns, appointed by the Governor of the State of Delaware as a Senator of the United States for said State, is not entitled to a seat in the Senate of the United States; a session of the Legislature of the said State having intervened between the resignation of the said George Read and the appointment of the said Kensey Johns.

*A statement of facts.*

George Read, Esquire, a Senator of the United States for the State of Delaware, resigned during the recess of the Legislature of the said State, on the 18th day of September last.

The first meeting of the Legislature of the said State thereafter happened on the — day of January last.

The Senate and House of Representatives of the said State met on the 14th day of January last, for the purpose of choosing a Senator to supply the said vacancy, and George Mitchell, Kensey Johns, and Alexander Porter, inhabitants of the said State, were nominated to be voted for; whereupon, the members then present, that is to say, eight Senators and twenty members of the House of Representatives, proceeded by ballot to vote for a Senator of the United States; and fourteen of the said electors voted for George Mitchell and fourteen for Kensey Johns. The Speaker of the Senate, apprehending that he had the right of giving an additional casting vote, expressed his preference for Kensey Johns; and said that, as he had voted for Mr. Johns, he should be consistent with himself and vote for Mr. Johns; at which time he was interrupted by a motion made by Mr. Perry, seconded by Mr. McKennan, that the Senate and House of Representatives should separate for the present; which motion passing in the affirmative, the Senate and House of Representatives then separated.

On the 15th of January last, certain resolutions passed the House of Representatives of the said State, of the tenor and effect following, to wit: 1st. That elections for Senators of the United States should be held in the Senate chamber; that the members of the Senate and House of Representatives should vote by ballot, jointly; that the Speaker of the Senate should preside; and if two or more persons should be equal and highest in vote, that the Speaker of the Senate, in *that case*, and *no other*, should give his vote. 2d. That the election of a Senator to supply the place of George Read, Esquire, should be held in the Senate chamber on the — day next, and conducted in the manner directed by the foregoing resolutions. 3d. That the person to fill the vacancy occasioned by the resignation aforesaid be chosen out of the persons put in nomination in the Senate chamber at the meeting of the Legislature before mentioned; which resolutions on the same day were disagreed to by the Senate.

On the 31st day of January last certain other resolutions passed the Senate of the said State, of the tenor and effect following, to wit: That elections for Senators of the United States should be held in the Senate chamber; that the Speaker of the Senate should preside, and that the members of the Senate and House of Representatives should vote by ballot, jointly; and if two or more persons should be equal and highest in vote, in such case that the Speaker of the Senate should have an *additional* casting vote; 2d. That the Senate and House of Representatives should meet on Saturday then next ensuing, to nominate persons to supply the vacancy aforesaid; which resolutions were read in the House of Representatives on the same day, and deferred for consideration until Tuesday then next ensuing, and a verbal message delivered to the Senate that the same were postponed as aforesaid; and that the House of Representatives disagreed to that part of the said resolutions which proposed a meeting of the two Houses on Saturday.

On the 4th day of February last, the House of Representatives took into consideration the last-mentioned resolutions, and passed the same with four amendments, one of which was to alter the mode of voting by the Speaker of the Senate in such a manner that he should have no vote except in the case of an equal division; which said resolutions and the proposed amendments were sent to the Senate for concurrence, and on the 6th day of the same month the said amendments were disagreed to by the Senate.

On the 7th day of February last the Senate of the said State adjourned to the first Tuesday in January next; and on the 8th day of February last the House of Representatives of the said State adjourned without day.

On the 19th of March instant, during the recess of the Legislature of the said State, Kensey Johns, a citizen of the said State, having the qualifications prescribed by the constitution of the United States, was appointed, by the Executive of the State of Delaware, a Senator of the United States to supply the vacancy occasioned by the resignation aforesaid of George Read, and the non-appointment of the Legislature.

KENSEY JOHNS.

MARCH 26, 1794.

3d CONGRESS.]No. 50.[1st SESSION.

## LAWS PUBLISHED IN THE GERMAN LANGUAGE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 1, 1794.

Mr. PRESTON, from the committee to whom was referred the petition of a number of Germans residing in the State of Virginia, made the following report:

That the Secretary of State be authorized to have such proportion of the laws of the United States printed in the German language as he may think proper and necessary to accommodate the German citizens of the United States.

3d CONGRESS.]No. 51.[1st SESSION.

## REMONSTRANCE OF THE LEGISLATURE OF NEW HAMPSHIRE AGAINST CERTAIN POWERS EXERCISED BY THE JUDICIARY OF THE UNITED STATES.

COMMUNICATED TO THE SENATE, MAY 5, 1794.

Mr. LIVERMORE, from the committee to whom was referred the remonstrance of the Legislature of New Hampshire, respecting a decree of the circuit court of the United States in a cause there pending between David Stodard Greenough, and others, libellants, and John Penhallow and others, respondents, made the following report:

That the State of New Hampshire being a free, sovereign, and independent State, long before the confederation of the United States, made a law for the purpose of privateering against the common enemy, and to establish courts for the legal trial and condemnation of prizes. That, in pursuance of said law, the said brig Susanna, mentioned in said remonstrance, was captured, tried, and condemned according to law, and distributed by order of the court among the captors and owners of the privateer. The committee further report, that the said brig and her cargo were insured in London against all risk and dangers of the sea and all American privateers; and that after the capture and condemnation aforesaid, the owners of said brig Susanna and cargo were paid for the loss by the underwriters. And further, that the said State of New Hampshire never gave an appellate jurisdiction in this cause to any foreign court or power whatsoever; and that all interference therein by any other than the courts of New Hampshire is, in the opinion of this committee, a violation of the freedom, sovereignty, and independence of said State.

All which is humbly submitted.

[NOTE.—See Nos. 48 and 65.]

3d CONGRESS.]No. 52.[1st SESSION.

## RESERVATIONS IN THE CESSIONS OF LAND FOR LIGHT-HOUSES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 23, 1794.

Mr. FITZSIMONS, from the committee to whom were referred the motion of the 12th instant, for the acceptance of a cession from the State of New York of a piece of land at Montock Point for the site of a light-house, also the exemplification of an act of the Legislature of the said State, transmitted by a written message from the President of the United States, of the 27th of February, 1793, made the following report:

That the cession of the State of New York of the land for the site of a light-house, above referred to, has the following reservation, "Provided, nevertheless, that such jurisdiction, so ceded, as aforesaid, shall not extend, or be construed to extend, so as to impede or prevent, the execution of any process at law under the authority of this State, except so far forth as such process may affect any the real or personal property of the United States within the said tract."

The committee are informed that other States have made like reservations; and being of opinion that cessions, under such limitations, will be fully sufficient for the purpose for which said cessions are required, recommend the following resolution:

That a committee be appointed to bring in a bill to authorize the President of the United States to receive cessions of land from any State to the United States, for the purpose of erecting light-houses or beacons, notwithstanding the jurisdiction of the State may be reserved, except so far as respects the real or personal property of the United States.

3d CONGRESS.]

No. 53.

[1st SESSION.]

## LAW S OF THE NORTH WESTERN TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 24, 1794.

Mr. FINDLAY, from the committee to whom were referred laws of the Territory of the United States northwest of the river Ohio, of the following titles, viz:

"An act for granting licenses to merchants, traders, and tavern keepers;"

"An act creating the offices of Treasurer General of the Territory, and Treasurers for the counties;"

"An act directing the manner in which money shall be raised and levied to defray the charges which may arise within the several counties in the territory;"

"An act for opening and regulating highways;"

"An act directing the building and establishment of a court-house, county jail, pillory, whipping post, and stocks, in every county."

"An act for the better regulating of prisons;"

"An act for the disposition of strays;"

"An act to repeal certain parts of An act, entitled An act creating the office of clerk of the Legislature;"

"An act supplementary to a law entitled A law regulating marriages;"

"An act to regulate the admission of attorneys;"

"An act empowering the judge of probate to appoint guardians to minors and others;"

"An act prescribing forms of writs in civil cases, and directing the mode of proceeding therein;"

"An act establishing and regulating the fees of the several officers, and other persons therein mentioned;"

All passed at Cincinnati, in the county of Hamilton, on the 1st day of August, 1792, by Winthrop Sargent, Secretary, then vested with powers of Governor, and John Cleeves Symmes, and Rufus Putnam, Judges of the said Territory, made the following report:

That on examination of the said laws, they find many of the provisions contained in them are objectionable, but the committee conceive that it would be immaterial for them to detail the particular objections which have occurred to them, as there is one applying to the whole of the said laws, and which, in the opinion of the committee, affords a sufficient reason for disapproving the whole of them. All the legislative power which the committee find vested in the Governor and judges of the Territory, is given in the ordinance of Congress, passed on the thirteenth day of July, 1787, by which it is declared, "That the Governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time; which laws shall be in force in the district unless disapproved of by Congress." These laws appear to have been passed by the Secretary and judges on the idea that they were possessed generally of legislative power, and have not, either in whole or in part, been adopted from laws of the original States.

The committee therefore submit the following resolve: *Resolved*, That all the laws passed by the Secretary and judges of the Territory of the United States northwest of the river Ohio, on the 1st day of August, 1792, be disapproved, excepting a law entitled "An act creating the office of clerk of the Legislature."

3d CONGRESS.]

No. 54.

[1st SESSION.]

## FEES OF COURTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 27, 1794.

Mr. BOUDINOT, from the committee to whom was referred the letter from the Attorney General of the 21st instant, accompanying a table of costs and fees, for the courts of the United States, \* made the following report:

That in order to equalize the fees to be received in the courts of the United States, and to form a bill as perfect as possible, the committee are of opinion that it is necessary to obtain complete tables of the fees at present taxable in the supreme and superior courts in the several States in the Union. That it appears that the Attorney General could not obtain the same for want of a law authorizing him to call upon the different officers for that purpose, and that the table of fees reported by him has been formed without that aid which a comparison of the fees in the different States would have furnished. The committee, therefore, recommend the following resolutions to be adopted by the House:

*Resolved*, That a committee be appointed to bring in a bill to continue the act to ascertain the fees in admiralty proceedings, in the courts of the United States and for other purposes, until the end of the next session of Congress.

*Resolved*, That a clause be inserted in the said bill, making it the duty of the clerks of the several districts of the United States, severally to return true copies of the tables of fees payable by law or custom in the supreme or superior courts of the State in which such clerk resides to the Attorney General of the United States, on or before the 1st day of December next.

*Resolved*, That the table of fees reported by the Attorney General be referred back to him with directions that he do report to, this House, during the next session of Congress, such table of fees and regulations relative to the same, as, on a comparative view of fees taxable in the several States, shall, in his opinion, be proper to be established for the courts of the United States.

\* The letter and table here referred to are not to be found.

3d CONGRESS.]

No. 55.

[2d SESSION.

## ELECTION OF THE DELEGATE FROM THE SOUTHWESTERN TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 14, 1794.

Mr. BALDWIN, from the committee to whom was referred the letter from James White, enclosing the credentials of his appointment as a Representative of the Territory of the United States south of the river Ohio, made the following report:

That, by the ordinance for the government of the Territory northwest of the river Ohio, section 9, it is provided that, "so soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the Governor, they shall receive authority to elect representatives to represent them in a General Assembly." And, by the 12th section of the ordinance, "so soon as a Legislature shall be formed in the district, the Council and House, assembled in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress with a right of debating, but not of voting, during this temporary Government."

Full effect is given to this ordinance by act of Congress, August 7, 1789, that, by deed of cession of the territory south of the river Ohio to the United States, in the fourth article it is also provided, "that the inhabitants of the said Territory shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress for the government of the Western Territory; that is to say, the Congress shall assume the Government of the said Territory, which they shall execute in a manner similar to that which they support in the Territory west of the Ohio, and shall never bar nor deprive them of any privilege which the people in the Territory west of the Ohio enjoy."

The cession, on these conditions, was accepted by act of Congress, on the 2d of April, 1790.

By an act passed the 26th May, 1790, for the government of the Territory of the United States south of the river Ohio, it is enacted, that the inhabitants shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress, for the government of the Territory of the United States northwest of the river Ohio. And the government of the said Territory south of the Ohio shall be similar to that which is now exercised in the Territory northwest of the river Ohio, except so far as is otherwise provided in the conditions expressed in an act of Congress of the present session, entitled "An act to accept a cession of the claim of the State of North Carolina to a certain district of Western Territory."

The committee are of opinion that James White has been duly elected as delegate from the Territory of the United States south of the Ohio, on the terms of the foregoing acts; they, therefore, submit the following resolution:

*Resolved*, That James White be admitted to a seat in this House as a delegate from the Territory of the United States south of the river Ohio, with a right of debating, but not of voting.

3d CONGRESS.]

No. 56.

[2d SESSION.

## OPPOSITION TO THE EXCISE LAW IN PENNSYLVANIA.

COMMUNICATED TO CONGRESS BY THE PRESIDENT OF THE UNITED STATES, NOVEMBER 20, 1794.

And referred to in his speech to the two Houses on the 19th, of which the following is an extract:

*Fellow-citizens of the Senate and of the House of Representatives:*

When we call to mind the gracious indulgence of Heaven, by which the American people became a nation; when we survey the general prosperity of our country, and look forward to the riches, power, and happiness, to which it seems destined; with the deepest regret do I announce to you that, during your recess, some of the citizens of the United States have been found capable of an insurrection. It is due, however, to the character of our Government, and to its stability, which cannot be shaken by the enemies of order, freely to unfold the course of this event.

During the session of the year one thousand seven hundred and ninety, it was expedient to exercise the legislative power, granted by the constitution of the United States "to lay and collect excises." In a majority of the States, scarcely an objection was heard to this mode of taxation. In some, indeed, alarms were at first conceived, until they were banished by reason and patriotism. In the four western counties of Pennsylvania, a prejudice, fostered and imbibed by the artifice of men, who labored for an ascendancy over the will of others, by the guidance of their passions, produced symptoms of riot and violence. It is well known that Congress did not hesitate to examine the complaints which were presented; and to relieve them, as far as justice dictated, or general convenience would permit. But the impression which this moderation made on the discontented did not correspond with what it deserved. The arts of delusion were no longer confined to the efforts of designing individuals. The very forbearance to press prosecutions was misinterpreted into a fear of urging the execution of the laws, and associations of men began to denounce threats against the officers employed. From a belief that, by a more formal concert, their operation might be defeated, certain self-created societies assumed the tone of condemnation. Hence, while the greater part of Pennsylvania itself were conforming themselves to the acts of excise, a few counties were resolved to frustrate them. It was now perceived, that every expectation from the tenderness which had been hitherto pursued was unavailing, and that further delay could only create an opinion of impotency or irresolution in the Government. Legal process was therefore delivered to the marshal against the rioters and delinquent distillers.

No sooner was he understood to be engaged in this duty, than the vengeance of armed men was aimed at his person, and the person and property of the inspector of the revenue. They fired upon the marshal, arrested him,

and detained him, for some time, as a prisoner. He was obliged, by the jeopardy of his life, to renounce the service of other process, on the west side of the Allegany mountain; and a deputation was afterwards sent to him to demand a surrender of that which he *had* served. A numerous body repeatedly attacked the house of the inspector, seized his papers of office, and finally destroyed by fire his buildings and whatsoever they contained. Both of these officers, from a just regard to their safety, fled to the seat of Government—it being avowed, that the motives to such outrages were to compel the resignation of the inspectors; to withstand by force of arms the authority of the United States; and thereby to extort a repeal of the laws of excise, and an alteration in the conduct of Government.

Upon the testimony of these facts, an associate justice of the Supreme Court of the United States notified to me that, “in the counties of Washington and Allegany, in Pennsylvania, laws of the United States were opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district.” On this call, momentous in the extreme, I sought and weighed what might best subdue the crisis. On the one hand, the judiciary was pronounced to be stripped of its capacity to enforce the laws; crimes, which reached the very existence of social order, were perpetrated without control; the friends of Government were insulted, abused, and overawed into silence, or an apparent acquiescence; and, to yield to the treasonable fury of so small a portion of the United States, would be to violate the fundamental principle of our constitution, which enjoins that the will of the majority shall prevail. On the other, to array citizen against citizen, to publish the dishonor of such excesses, to encounter the expense, and other embarrassments, of so distant an expedition, were steps too delicate, too closely interwoven with many affecting considerations, to be lightly adopted. I postponed, therefore, the summoning of the militia immediately into the field; but I required them to be held in readiness, that, if my anxious endeavors to reclaim the deluded, and to convince the malignant of their danger, should be fruitless, military force might be prepared to act before the season should be too far advanced.

My proclamation of the 7th of August last was accordingly issued, and accompanied by the appointment of commissioners, who were charged to repair to the scene of insurrection. They were authorized to confer with any bodies of men or individuals. They were instructed to be candid and explicit in stating the sensations which had been excited in the Executive, and his earnest wish to avoid a resort to coercion; to represent, however, that, without submission, coercion *must* be the resort; but to invite them, at the same time, to return to the demeanor of faithful citizens, by such accommodations as lay within the sphere of Executive power. Pardon, too, was tendered to them by the Government of the United States, and that of Pennsylvania, upon no other condition than a satisfactory assurance of obedience to the laws.

Although the report of the commissioners marks their firmness and abilities, and must unite all virtuous men, by showing that the means of conciliation have been exhausted, all of those who had committed or abetted the tumults did not subscribe the mild form which was proposed as the atonement; and the indications of a peaceable temper were neither sufficiently general nor conclusive to recommend or warrant the further suspension of the march of the militia.

Thus, the painful alternative could not be discarded. I ordered the militia to march, after once more admonishing the insurgents, in my proclamation of the 25th of September last.

It was a task too difficult to ascertain, with precision, the lowest degree of force competent to the quelling of the insurrection. From a respect, indeed, to economy, and the ease of my fellow-citizens belonging to the militia, it would have gratified me to accomplish such an estimate. My very reluctance to ascribe too much importance to the opposition, had its extent been accurately seen, would have been a decided inducement to the smallest efficient numbers. In this uncertainty, therefore, I put in motion fifteen thousand men, as being an army which, according to all human calculation, would be prompt and adequate in every view, and might, perhaps, by rendering resistance desperate, prevent the effusion of blood. Quotas had been assigned to the States of New Jersey, Pennsylvania, Maryland, and Virginia; the Governor of Pennsylvania having declared, on this occasion, an opinion which justified a requisition to the other States.

As commander-in-chief of the militia, when called into the actual service of the United States, I have visited the places of general rendezvous, to obtain more exact information, and to direct a plan for ulterior movements. Had there been room for persuasion that the laws were secure from obstruction; that the civil magistrate was able to bring to justice such of the most culpable as have not embraced the proffered terms of amnesty, and may be deemed fit objects of example; that the friends to peace and good government were not in need of that aid and countenance which they ought always to receive, and, I trust, ever will receive, against the vicious and turbulent; I should have caught with avidity the opportunity of restoring the militia to their families and home. But, succeeding intelligence has tended to manifest the necessity of what has been done; it being now confessed by those who were not inclined to exaggerate the ill conduct of the insurgents, that their malevolence was not pointed merely to a particular law, but that a spirit, inimical to all order, has actuated many of the offenders. If the state of things had afforded reason for the continuance of my presence with the army, it would not have been withheld. But every appearance assuring such an issue as will redound to the reputation and strength of the United States, I have judged it most proper to resume my duties at the seat of Government, leaving the chief command with the Governor of Virginia.

Still, however, as it is probable that, in a commotion like the present, whatsoever may be the pretence, the purposes of mischiefs and revenge may not be laid aside, the stationing of a small force, for a certain period, in the four western counties of Pennsylvania, will be indispensable, whether we contemplate the situation of those who are connected with the execution of the laws, or of others, who may have exposed themselves by an honorable attachment to them. Thirty days from the commencement of this session being the legal limitation of the employment of the militia, Congress cannot be too early occupied with this subject.

Among the discussions which may arise from this aspect of our affairs, and from the documents which will be submitted to Congress, it will not escape their observation, that not only the inspector of the revenue, but other officers of the United States, in Pennsylvania, have, from their fidelity in the discharge of their functions, sustained material injuries to their property. The obligation and policy of indemnifying them are strong and obvious. It may also merit attention, whether policy will not enlarge this provision to the retribution of other citizens, who, though not under the ties of office, may have suffered damage by their generous exertions for upholding the constitution and the laws. The amount, even if all the injured were included, would not be great; and, on future emergencies, the Government would be amply repaid by the influence of an example, that he, who incurs a loss in its defence, shall find a recompense in its liberality.

While there is cause to lament that occurrences of this nature should have disgraced the name or interrupted the tranquillity of any part of our community, or should have diverted, to a new application, any portion of the public resources, there are not wanting real and substantial consolations for the misfortune. It has demonstrated that our prosperity rests on solid foundations, by furnishing an additional proof that my fellow-citizens understand

the true principles of Government and liberty; that they feel their inseparable union; that, notwithstanding all the devices which have been used to sway them from their interest and duty, they are now as ready to maintain the authority of the laws against licentious invasions, as they were to defend their rights against usurpation. It has been a spectacle, displaying to the highest advantage the value of republican Government, to behold the most and the least wealthy of our citizens standing in the same ranks as private soldiers, pre-eminently distinguished by being the army of the constitution; undeterred by a march of three hundred miles over rugged mountains, by the approach of an inclement season, or by any other discouragement. Nor ought I to omit to acknowledge the efficacious and patriotic co-operation which I have experienced from the Chief Magistrates of the States to which my requisitions have been addressed.

To every description, indeed, of citizens let praise be given. But let them persevere in their affectionate vigilance over that precious depository of American happiness, the constitution of the United States. Let them cherish it, too, for the sake of those who, from every clime, are daily seeking a dwelling in our land. And when, in the calm moments of reflection, they shall have retraced the origin and progress of the insurrection, let them determine whether it has not been fomented by combinations of men, who, careless of consequences, and disregarding the unerring truth, that those who rouse cannot always appease a civil convulsion, have disseminated, from an ignorance or perversion of facts, suspicions, jealousies, and accusations, of the whole Government.

SIR:

PHILADELPHIA, August 4, 1794.

From evidence which has been laid before me, I hereby notify to you that, in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district.

I have the honor to be, with the highest consideration and respect, sir,

Your most obedient and very humble servant,

JAMES WILSON.

The PRESIDENT OF THE UNITED STATES.

*By the President of the United States of America.*

## A PROCLAMATION.

*Whereas*, combinations to defeat the execution of the laws laying duties upon spirits distilled within the United States, and upon stills, have, from the time of the commencement of those laws, existed in some of the western parts of Pennsylvania: And whereas, the said combinations, proceeding in a manner subversive equally of the just authority of Government, and of the rights of individuals, have hitherto effected their dangerous and criminal purpose, by the influence of certain irregular meetings, whose proceedings have tended to encourage and uphold the spirit of opposition, by misrepresentations of the laws, calculated to render them odious by endeavors to deter those who might be so disposed from accepting offices under them, through fear of public resentment, and of injury to person and property, and to compel those who had accepted such offices, by actual violence to surrender or forbear the execution of them; by circulating vindictive menaces against all those who should otherwise directly or indirectly aid in the execution of the said laws, or who, yielding to the dictates of conscience and to a sense of obligation, should themselves comply therewith, by actually injuring and destroying the property of persons who were understood to have so complied; by inflicting cruel and humiliating punishments upon private citizens, for no other cause than that of appearing to be the friends of the laws; by intercepting the public officers on the highways, abusing, assaulting, and otherwise ill-treating them; by going to their houses in the night, gaining admittance by force, taking away their papers, and committing other outrages; employing, for these unwarrantable purposes, the agency of armed banditti, disguised in such manner as for the most part to escape discovery: And whereas, the endeavors of the Legislature to obviate objections to the said laws, by lowering the duties and by other alterations conducive to the convenience of those whom they immediately affect, (though they have given satisfaction in other quarters,) and the endeavors of the executive officers to conciliate a compliance with the laws, by explanations, by forbearance, and even by particular accommodations, founded on the suggestion of local considerations, have been disappointed of their effect by the machinations of persons, whose industry to excite resistance has increased with every appearance of a disposition among the people to relax in their opposition, and to acquiesce in the laws, insomuch that many persons in the said western parts of Pennsylvania have at length been hardy enough to perpetrate acts which I am advised amount to treason, being overt acts of levying war against the United States; the said persons having, on the 16th and 17th of July last past, proceeded in arms (on the second day amounting to several hundreds) to the house of John Neville, inspector of the revenue for the fourth survey of the district of Pennsylvania, having repeatedly attacked the said house, with the persons therein, wounding some of them; having seized David Lenox, marshal of the district of Pennsylvania, who previous thereto had been fired upon while in the execution of his duty by a party of armed men, detaining him for some time prisoner, till, for the preservation of his life, and the obtaining of his liberty, he found it necessary to enter into stipulations to forbear the execution of certain official duties touching processes issuing out of a court of the United States; and having finally obliged the said inspector of the said revenue and the said marshal, from considerations of personal safety, to fly from that part of the country, in order, by a circuitous route, to proceed to the seat of Government; avowing, as the motives of these outrageous proceedings, an intention to prevent by force of arms the execution of the said laws; to oblige the said inspector of the revenue to renounce his said office; to withstand, by open violence, the lawful authority of the Government of the United States; and to compel thereby an alteration in the measures of the Legislature, and a repeal of the laws aforesaid: And whereas, by a law of the United States, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," it is enacted, "that, whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by that act, the same being notified by an associate justice or the district judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations, and to cause the laws to be duly executed. And if the militia of a State where such combinations may happen shall refuse, or be insufficient, to suppress the same, it shall be lawful for the President, if the Legislature of the United States shall not be in session, to call forth and employ such numbers of the militia of any other State or States

most convenient thereto, as may be necessary; and the use of the militia, so to be called forth, may be continued, if necessary, until the expiration of thirty days after the commencement of the ensuing session: *Provided, always, That, whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, and previous thereto, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes within a limited time:*" And whereas, James Wilson, an associate justice, on the 4th instant, by writing under his hand, did, from evidence which had been laid before him, notify to me that, "in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district:" And whereas, it is in my judgment necessary, under the circumstances of the case, to take measures for calling forth the militia in order to suppress the combinations aforesaid, and to cause the laws to be duly executed, and I have accordingly determined so to do, feeling the deepest regret for the occasion, but withal the most solemn conviction that the essential interests of the Union demand it, that the very existence of Government and the fundamental principles of social order are materially involved in the issue, and that the patriotism and firmness of all good citizens are seriously called upon, as occasions may require, to aid in the effectual suppression of so fatal a spirit:

Wherefore, and in pursuance of the proviso above recited, I, George Washington, President of the United States, do hereby command all persons, being insurgents as aforesaid, and all others whom it may concern, on or before the 1st day of September next, to disperse and retire peaceably to their respective abodes. And I do moreover warn all persons whomsoever, against aiding, abetting, or comforting the perpetrators of the aforesaid treasonable acts; and do require all officers and other citizens, according to their respective duties, and the laws of the land, to exert their utmost endeavors to prevent and suppress such dangerous proceedings.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the city of Philadelphia, the seventh day of August, one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

GEO. WASHINGTON.

EDMUND RANDOLPH.

By the President:

GENTLEMEN:

AUGUST 5, 1794.

The recent events in the neighborhood of Pittsburg have called the attention of the President to the formation of some plan by which the insurrection may be suppressed.

The intelligence which has been transmitted having been laid before Judge Wilson, he has granted a certificate, declaring that the opposition to the laws of the United States, in the counties of Washington and Allegany, cannot be suppressed by the ordinary course of judicial proceedings, or the power of the marshal. (A copy of that certificate is enclosed, No 1.)

You, or any one or more of you, are, therefore, authorized and appointed forthwith to proceed to the scene of the insurrection, and to confer with any bodies of men or individuals with whom you shall think proper to confer, in order to quiet and extinguish it. There is reason to believe that a collection of discontented individuals will be found at Mingo creek on the fourteenth instant, and, as the object of their assembling is undoubtedly to concert measures relative to this very subject, it is indispensably necessary that you should press thither with the utmost expedition. It is uncertain whether they will remain together for a long or short time; therefore, the being on the ground on the day first named for their meeting is necessary to prevent a miscarriage.

These are the outlines of your communication:

1st. To state the serious impressions which their conduct has excited in the mind of the Executive, and to dilate upon the dangers attending every Government where laws are obstructed in their execution.

2d. To inform them that the evidence of the late transactions has been submitted to a judge of the Supreme Court, and that he has granted the above-mentioned certificate, whence a power has arisen to the President to call out the militia to suppress the insurrection. (See the act of May 2, 1792.)

3d. To represent to them how painful an idea it is to exercise such a power, and that it is the earnest wish of the President to render it unnecessary by those endeavors which humanity, a love of peace and tranquillity, and the happiness of his fellow-citizens dictate.

4th. You will then explain your appointment as Commissioners, in a language and with sentiments most conciliatory, but reconcileable to the self-respect which this Government ought to observe.

5th. Whether you are to proceed further, and in what manner, must depend upon your judgment and discretion at the moment, after an estimate of the characters with whom you are conversing, their views, their influence, &c.

6th. Whensoever you shall come to the point at which it may be necessary to be explicit, you are to declare that, with respect to the excise law, the President is bound to consider it as much among the laws which he is to see executed as any other. That, as to the repeal of it, he cannot undertake to make any stipulation, that being a subject consigned by the constitution to the Legislature, from whom alone a change of legislative measures can be obtained. That he is willing to grant an amnesty and perpetual oblivion for every thing which has past; and cannot doubt, that any penalty to which the late transactions may have given birth, under the laws and within the jurisdiction of Pennsylvania, may be also wiped away—but upon the following conditions:

That satisfactory assurances be given that the laws be no longer obstructed in their execution by any combinations, directly or indirectly; and that the offenders against whom process shall issue for a violation of or an opposition to the laws, shall not be protected from the free operation of the law. Nothing will be enforced concerning the duties of former years if they will fairly comply for the present year.

7th. If they speak of the hardship of being drawn to the federal courts at a distance, to that no other reply can be made than this: that the inconvenience, whatsoever it may be, was the act of their own representatives, and is continued as being still their sense; that, however, on all occasions which will permit the State courts to be used without inconvenience to the United States, or danger of their being frustrated in the object of the suits and prosecutions, the State courts will be resorted to; but the choice of jurisdictions must always depend upon the discretion of the United States, and therefore nothing more specific can be said at present.

8th. Whensoever you shall choose to speak of the ulterior measures of the Government, you will say that orders have already issued for the proper militia to hold themselves in readiness, and that every thing is prepared for their movement, (as will be seen by the proclamation No. 3.) and is known to yourselves from the communications of the Government; but that these movements will be suspended until your return.



9th. These are said to be the *outlines*; you will fill them up, and modify them so as most effectually to prevent, if possible, the last dreadful necessity which the President so much deprecates; and you may, in particular, assure any individuals of pardon who will expiate their offence by a compliance with the law.

10th. You will keep the Executive minutely and constantly informed of all your proceedings, and will use expresses whensoever you think proper, at the public expense.

11th. You will be allowed eight dollars per day and your expenses, and may employ a proper person to act as your clerk, who shall be paid whatsoever you may certify him to deserve. The sum of one thousand dollars is advanced to you on account.

12th. William Bradford is empowered to add the name of Thomas Smith, or any other proper person, if either J. Ross or J. Yeates shall refuse or be unable to attend.

EDMUND RANDOLPH, *Secretary of State.*

TO JAMES ROSS, JASPER YEATES, WILLIAM BRADFORD.

GENTLEMEN:

DEPARTMENT OF STATE, *August 8, 1794.*

In pursuance of instructions from the President of the United States, you, or any one or more of you are hereby authorized and empowered forthwith to repair to the counties on the western side of the Allegany mountain, in the State of Pennsylvania, there to confer with such bodies or individuals as you may approve concerning the commotions, which are referred to in the proclamation of the President of the United States, bearing date the 7th day of August instant; and whatsoever promise or engagement you shall make in behalf of the Executive of the United States, the same will be ratified in the most ample manner.

[L. s.] Given under my hand, and the seal of office of the Department of State, the eighth day of August, one thousand seven hundred and ninety-four.

EDMUND RANDOLPH, *Secretary of State.*

TO JAMES ROSS, JASPER YEATES, WILLIAM BRADFORD.

PHILADELPHIA, *September 24, 1794.*

The commissioners, appointed to confer with the citizens in the western counties of Pennsylvania, in order to induce them to submit peaceably to the laws, and to prevent the necessity of using coercion to enforce their execution, respectfully report to the President of the United States:

That, in pursuance of their instructions, they repaired to the western counties; and, on their arrival there, found that the spirit of disaffection had pervaded other parts of the fourth survey of Pennsylvania, besides those counties declared to be in a state of insurrection; that all the offices of inspection established therein had lately been violently suppressed; and that a meeting of persons, chosen by most of the townships, was assembled at Parkinson's ferry, for the purpose of taking into consideration the situation of the western country. This assembly, composed of citizens coming from every part of the fourth survey, would have furnished a favorable opportunity for a conference and mutual explanation; but as they met in the open fields, and were exposed to the impressions of a number of rash and violent men (some of them armed) who surrounded them, an immediate communication with the whole body would have been inconvenient and hazardous. The meeting was probably of that opinion also; for, soon after the appointment of commissioners was announced to them, they resolved that a committee, to consist of three persons from each county, should be appointed to meet any commissioners that might have been or might be appointed by the Government; and that they should report the result of their conference to the standing committee, which was to be composed of one person from each township. As soon as this committee of conference were nominated, they agreed to meet at Pittsburg, on the 20th of the same month.

The underwritten accordingly repaired to that place, and were soon after joined by the Honorable Thomas McKean and William Irvine, Esquires, who had been appointed commissioners on the part of the Executive of Pennsylvania. A full and free communication was immediately had with those gentlemen, as to the powers delegated, and the measures proper to be pursued at the expected conference.

On the day appointed a sub-committee of the conferees waited on the commissioners, and arranged with them the time, place, and manner of conference. It was agreed that it should be had the next morning at the house of John McMasters, in Pittsburg, and should be private.

On the 21st, all the commissioners met the conferees at the place appointed. Of the latter there were present John Kirkpatrick, George Smith, and John Powers, from Westmoreland county; David Bradford, James Marshall, and James Edgar, from Washington county; Edward Cook, Albert Gallatin, and James Lang, from Fayette county; Thomas Morton, John Lucas, H. H. Brackenridge, from Allegany county; together with William McKimley, William Sutherland, and Robert Stevenson, who were inhabitants of Ohio county, in Virginia.

The conference was begun by the underwritten, who expressed the concern they felt at the events which had occasioned that meeting, but declared their intention to avoid any unnecessary observations upon them, since it was their business to endeavor to compose the disturbances which prevailed, and to restore the authority of the laws by measures wholly of a conciliatory nature.

It was then stated, that the formal resistance which had lately been given to the laws of the United States violated the great principle on which republican Government is founded; that every such Government must, at all hazards, enforce obedience to the general will; and that, so long as they admitted themselves to be a part of the nation, it was manifestly absurd to oppose the national authority.

The underwritten then proceeded to state the obligations which lay on the President of the United States to cause the laws to be executed; the measures he had taken for that purpose; his desire to avoid the necessity of coercion; and the general nature of the powers he had vested in them; and, finally, requested to know whether the conferees could give any assurances of a disposition in the people to submit to the laws, or would recommend such submission to them.

The commissioners, on the part of the State of Pennsylvania, then addressed the conferees on the subject of the late disturbances in that country; forcibly represented the mischievous consequences of such conduct; explained the nature of their mission; and declared they were ready to promise, in behalf of the Executive authority of the State, a full pardon and indemnity for all that was past, on condition of an entire submission to the laws.

On the part of the conferees a narrative was given of those causes of discontent and uneasiness which very generally prevailed in the minds of the people in the western counties, and which had discovered themselves in the late transactions. Many of these, they said, had long existed, and some of them from the settlement of that country. Among other causes of discontent, they complained of the decisions of the State courts, which discounte-

nanced improvement titles, and gave the preference to paper titles; of the war which had so long vexed the frontiers; and of the manner in which that war had been conducted. They complained that they had been continually harassed by militia duty, in being called out by the State Government to repel incursions, &c.; that the General Government had been inattentive to the execution of the treaty of peace respecting the western posts, and remiss in asserting the claim to the navigation of the Mississippi; that the acts for raising a revenue on distilled spirits were unequal and oppressive, in consequence of their local circumstances; that Congress had neglected their remonstrances and petitions; and that there was great hardship in being summoned to answer for penalties in the courts of the United States at a distance from the vicinage. They also mentioned the suspension of the settlement at Presqu'isle, the engrossing of large quantities of land in the State by individuals, the killing of certain persons at General Neville's house, and the sending of soldiers from the garrison at Pittsburg to defend his house, as causes of irritation among the people. To these they added the appointment of General Neville as inspector of the survey, whose former popularity had made his acceptance of that office particularly offensive.

They said they were persuaded that the persons who were the actors in the late disturbances had not originally intended to have gone so far as they had gone, but were led to it from the obstinacy of those who refused to do what was demanded of them; that the forcible opposition which had been made to the law was owing to the pressure of the grievance; but, if there was any prospect of redress, no people would be more willing to show themselves good citizens.

The commissioners expressed their surprise at the extent of these complaints, and intimated that if all these matters were really causes of uneasiness and disaffection in the minds of the people, it would be impossible for any Government to satisfy them. But as some of these complaints were of a nature more serious than others, though they could not speak officially, they stated what was generally understood as to the conduct, measures, and expectations of Government respecting the Mississippi navigation; the treaty of peace; the suspension of the settlement at Presqu'isle, &c.; that, as to the acts of Congress which had been forcibly opposed, if it were proper they should be repealed, Congress alone could do it; but that while they *were* laws, they must be carried into execution; that the petitions of the western counties had not been neglected, nor their interests overlooked; that, in fact, the local interests of those counties were better represented than those of any other part of the State; they having no less than three gentlemen in the House of Representatives, when it appeared by the census that their numbers would not entitle them to two; that the acts in question had been often under the consideration of Congress; that they had always been supported by a considerable majority, in which they would find the names of several gentlemen, considered, in those counties, as the firmest friends of their country; that, although the general interests of the Union did not admit of a repeal, modifications had been made in the law, and some favorable alterations, in consequence of their representations; and, that at the last session, the State courts had been vested with a jurisdiction over offences against those acts, which would enable the President to remove one of their principal complaints; that the convenience of the people had been, and would always be, consulted by the Government; and the conferees were desired to say if there was any thing in the power of the Executive that yet remained to be done to make the execution of the acts convenient and agreeable to the people.

One of the conferees then inquired whether the President could not suspend the execution of the excise acts until the meeting of Congress; but he was interrupted by others, who declared that they considered such a measure as impracticable. The commissioners expressed the same opinion; and the conversation then became more particular, respecting the powers the commissioners possessed; the propriety and necessity of the conferees expressing their sense upon the proposals to be made, and of their calling the standing committee together before the 1st of September. But as it was agreed that the propositions and answers should be reduced to writing, the result is contained in the documents annexed, and it appears unnecessary to detail the conference further.

The underwritten accordingly presented to the conferees a letter, (of which a copy, marked No. 1, is annexed;) and the following day they received an answer from them, in which they declare that they are satisfied that the Executive had, in its proposals, gone as far as could be expected; that, in their opinion, it was the interest of the country to accede to the law; and that they would endeavor to conciliate not only the committee to whom they were to report, but the public mind in general, to their sense of the subject. (A copy of this letter also is annexed, No. 2.)

The underwritten then proceeded to state, in writing, what assurances of submission would be deemed full and satisfactory, and to detail more particularly the engagements they had power to make. This detail was submitted to the inspection of a sub-committee of the conferees, who candidly suggested such alterations as appeared to them necessary to render the proposals acceptable. From a desire to accommodate, most of the alterations suggested by those gentlemen were adopted; and though some of them were rejected, the reasons given appeared to be satisfactory, and no further objections remained. (A copy of this detail is marked No. 3.)

The conferees, on the following day, explicitly approved of the detail thus settled, engaged to recommend the proposals to the people, and added, that however it might be received, they were persuaded nothing more could be done by the commissioners, or them, to bring the business to an accommodation. (No. 4 is a copy of their letter.)

So far as this letter respects the gentlemen from Ohio county, in Virginia, a reply was made, and some arrangements entered into with them, the nature and extent of which appear by the correspondence. (Copies of which are annexed, numbered 5, 6, 7, and 8.)

The hopes excited by the favorable issue of this conference were not realized by a correspondent conduct in the citizens who composed what was called "the standing committee." They assembled at Brownsville (Redstone Old Fort) on the 28th August, and broke up on the 29th, and, on the following day, a letter was received from Edward Cook, their chairman, announcing, that difficulties had arisen, and that a new committee of conference was appointed; and although the resolve which is annexed was passed, it did not appear that the assurances of submission which had been demanded had been given. (Copies of this letter and resolve are marked Nos. 9 and 10.)

The underwritten were informed by several of the members of that meeting, as well as other citizens who were present at it, that the report of the committee of conference, and the proposals of the commissioners, were unfavorably received; that rebellion and hostile resistance against the United States were publicly recommended by some of the members; and that so excessive a spirit prevailed, that it was not thought prudent or safe to urge a compliance with the terms and preliminaries prescribed by the underwritten, or the commissioners from the Governor of Pennsylvania. All that could be obtained was the resolve already mentioned, the question upon it being decided by *ballot*; by which means each member had an opportunity of concealing his opinion and of sheltering himself from the resentment of those from whom violence was apprehended. But notwithstanding this caution, the opinion was so far from being unanimous, that out of fifty-seven votes, there were twenty-three nays, leaving a majority of only eleven: and the underwritten have been repeatedly assured, by different members of that meeting, that if the question had been publicly put, it would have been carried in the negative by a considerable majority.

With a view of counteracting the arts and influence of the violent, the underwritten, on the 27th August, addressed a letter to the late conferees, authorizing them to assure the friends of order, who might be disposed to exert themselves to restore the authority of the laws, that they might rely on the protection of Government, and that measures would be taken to suppress and punish the violence of those individuals who might dissent from the general sentiment. This letter (a copy of which is marked No. 11) was delivered to one of the conferees going to Brownsville; but he afterwards informed the underwritten that the gentlemen to whom it was addressed did not "think it prudent to make any use of it, as the temper which prevailed was such that it would probably have done more harm than good."

The conduct of the meeting at Brownsville, notwithstanding the thin veil thrown over it by the resolve already mentioned, was said to be considered by many, and especially by the violent party, as a rejection of the terms. It was certainly a partial rejection of those proposed by the underwritten, and a total one of the preliminaries prescribed by the State commissioners, who had required assurances from the members of that meeting only, and not from the people themselves.

Having, therefore, no longer any hopes of a universal, or even general submission, it was deemed necessary, by a solemn appeal to the people, to ascertain as clearly as possible the determination of every individual; to encourage and oblige the friends of order to declare themselves; to recall as many of the disaffected as possible to their duty, by assurances of pardon dependent on their individual conduct; and to learn with certainty what opposition Government might expect if military coercion should be finally unavoidable.

To secure these advantages, the underwritten were of opinion that the assurances of submission required of the people ought not only to be publicly given, but ought also to be reduced to writing; and that the state of each county should be certified by those who were to superintend the meetings at which the disposition of the people was to be ascertained.

On the 1st instant, nine of the gentlemen appointed by the meeting at Brownsville assembled at Pittsburg, and in the afternoon requested a conference with the commissioners, which was agreed to. They produced the resolves by which they were appointed, and entered into some explanation of the nature of their visit; but being desired to communicate it in writing, they withdrew, and soon after sent a letter addressed to the commissioners of the United States and of the State of Pennsylvania; to which an answer was immediately written. (Copies of these letters are annexed, Nos. 12 and 13.)

As no part of their letter, although addressed to the commissioners from Pennsylvania, related to the preliminaries prescribed by them, they made no answer in writing; but in a conference held the next morning with those nine gentlemen, they verbally declared to them their entire concurrence in the sentiments contained in the letter from the underwritten; and they expressed, at some length, their surprise and regret at the conduct of the meeting at Brownsville. The conferees declared themselves satisfied with the answer they had received; avowed an entire conviction of the necessity and propriety of an early submission in the manner proposed, and offered immediately to enter into the detail for settling the time, place, and manner of taking the sense of the people. (A copy of their letter, which also expresses these sentiments, is annexed, No. 14.)

It was accordingly agreed between the commissioners on the one part, and these gentlemen on the other, that the people should assemble for the purpose of expressing their determination, and giving the assurances required, on the 11th instant; and the mode of ascertaining the public sentiments of the citizens resident in the fourth survey of Pennsylvania was clearly and definitely prescribed by the unanimous consent of all who were present at the conference. It was evident that circumstances might arise to prevent the real disposition of the citizens from being fully ascertained at these meetings, and that even arts might be used to procure such an expression of the public mind, that, while it held up an appearance of submission, might be in reality a false and delusive representation of it. It was therefore necessary that persons of character from every township or district (who might be able, from their own knowledge or the comparison of all circumstances, justly to appreciate the public opinion) should assemble and jointly certify their opinion whether there was such a general submission in their respective counties, or not, that the laws could be peaceably carried into execution. For the same purpose it was agreed to be proper that the number of those who openly refused, as well as of those who promised to submit, in their respective townships or districts, should be reported to the commissioners. (A copy of this agreement, marked No. 15, is annexed.)

It appears that meetings were held in the several counties in pursuance of this agreement; but the underwritten, with extreme regret, find themselves obliged to report, that in the returns made to them no opinions are certified that there is so general a submission in any one of the counties that an office of inspection can be immediately and safely established therein; on the contrary, the report of those who superintended the meeting in Westmoreland, states their opinion to be that such a measure would not be safe.

From Alleghany county no report whatever has been received; and although it is understood that a very great majority of those assembled in the Pittsburg district actually subscribed the declarations required, yet there is no reason to believe that there was a favorable issue in any other district. Information has been received that great violence prevailed in one of them, and that in another the majority declared their determination not to submit to the laws of the United States.

From Washington county a general return was duly transmitted to one of the commissioners at Uniontown, signed by twenty-eight of the superintendents of the meeting; they do not, however, state the number of the yeas and nays on the question for submission; they decline giving any opinion whether there is such a general submission that an office of inspection may be established therein, but certify their opinion and belief "that a large majority of the inhabitants will acquiesce and submit to the said law, under a hope and firm belief that the Congress of the United States will repeal the law."

The report from the superintendents in Westmoreland county, is equally defective, in not stating the numbers as required; but it certifies their opinion that as ill disposed lawless persons could suddenly assemble and offer violence, it would not be safe immediately to establish an office of inspection in that county.

The county of Fayette rejected the mode of ascertaining the sense of the people, which had been settled between the underwritten and the last committee of conference at Pittsburg. The standing committee of that county directed those qualified by the laws of the State for voting at elections, to assemble in their election districts, and vote by ballot whether they would accede to the proposals made by the commissioners of the United States, on the 22d of August, or not. The superintendents of these election districts report, that five hundred and sixty of the people thus convened had voted for submission, and that one hundred and sixty-one had voted against it; that no judge or member of their committee had attended from the fourth district of the county, to report the state of the votes there, and that they are of opinion that a great majority of the citizens who did not attend are disposed to behave peaceably and with due submission to the laws. But it is proper to mention, that credible and certain information has been received, that in the fourth district of that county (composed of the townships of Tyrone and Bullskin,) of which the standing committee have given no account, six-sevenths of those who voted were for resistance. (Copies of the reports stated are annexed, and numbered 16, 17, 18.)

From that part of Bedford county which is comprehended within the fourth survey of Pennsylvania, no report or returns have been sent forward, nor has any information been received that the citizens assembled there for the purpose of declaring their opinions upon questions proposed.

The written assurances of submission which have been received by the commissioners are not numerous, nor were they given by all those who expressed a willingness to obey the laws. In Fayette county, a different plan being pursued, no written assurances were given in the manner required. In the three other counties, which, from the census taken under the laws of the State, appear to contain above eleven thousand taxable inhabitants (in which none under the age of twenty-one are included) the names subscribed to the papers received barely exceed two thousand seven hundred, and of these a very considerable part have not been subscribed in the mode agreed on; being either signed at a different day, unattested by any person, or wilfully varied from the settled form.

From credible information received, it appears to the underwritten, that in some townships, the majority, and, in one of them, the whole of the persons assembled, publicly declared themselves for resistance; in some, although the sense of the majority was not known, yet the party for resistance was sufficiently strong to prevent any declarations of submission being openly made; and in others, the majority were intimidated or opposed by a violent minority. But notwithstanding these circumstances, the underwritten firmly believe that there is a considerable majority of the inhabitants of the fourth survey who are now disposed to submit to the execution of the laws; at the same time, they conceive it their duty explicitly to declare their opinion that such is the state of things in that survey, that there is no probability that the act for raising a revenue on distilled spirits and stills can at present be enforced by the usual course of civil authority; and that some more competent force is necessary to cause the laws to be duly executed, and to ensure to the officers and well-disposed citizens that protection which it is the duty of Government to afford.

This opinion is founded on the facts already stated; and it is confirmed by that which is entertained by many intelligent and influential persons, officers of justice and others, resident in the western counties, who have lately informed one of the commissioners, that whatever assurances might be given, it was, in their judgment, absolutely necessary that the civil authority should be aided by a military force, in order to secure a due execution of the laws.

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

[The documents referred to in the foregoing report.]

No. 1.

*From the commissioners on the part of the Union to the Committee of Conference, assembled at Pittsburg.*

GENTLEMEN:

PITTSBURG, August 21, 1794.

Having had a conference with you on the important subject that calls us into this part of Pennsylvania, we shall now state to you in writing, agreeably to your request, the nature and object of our mission hither. Considering this as a crisis infinitely interesting to our fellow-citizens who have authorized you to confer with us, we shall explain ourselves to you with that frankness and sincerity which the solemnity of the occasion demands.

You well know that the President of the United States is charged with the execution of the laws. Obedience to the national will being indispensable in a republican Government, the people of the United States have strictly enjoined it as his duty "to see that the laws are faithfully executed;" and when the ordinary authorities of the Government are incompetent for that end, he is bound to exert those high powers with which the nation has invested him for so extraordinary an occasion.

It is but too evident that the insurrections which have lately prevailed in some of these western counties have suppressed the usual exercise of the civil authority; and it has been formally notified to the President, by one of the associate judges, in the manner the law prescribes, "that in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or the powers vested in the marshal of that district." He therefore perceives, with the deepest regret, the necessity to which he may be reduced, of calling forth the national force in order to support the national authority, and to cause the laws to be executed; but he has determined, previously, to address himself to the patriotism and reason of the people of the western counties, and to try the moderation of Government, in hopes that he may not be compelled to resort to its strength. But we must not conceal from you that it is also his fixed determination, if these hopes should be disappointed, to employ the force and, if it be necessary, the whole force of the Union, to secure the execution of the laws. He has, therefore, authorized us to repair hither, and by free conferences and the powers vested in us, to endeavor to put an end to the present disturbances, and to the opposition to the execution of the laws, in a manner that may be finally satisfactory to all our fellow-citizens.

We hope that this moderation in the Government will not be misconstrued by the citizens to whom we are sent. The President, who feels a paternal solicitude for their welfare, wishes to prevent the calamities that are impending over them; to state to them clearly the inevitable consequences of further resistance; to recall them to their duty; and to prove to the whole world, that if military coercion must be employed, it is *their* choice and not *his*.

The powers vested in us will enable us so to arrange the execution of the acts for raising a revenue on distilled spirits and stills, that little inconvenience will arise therefrom to the people; to prevent, as far as is consistent with the public interests, the commencing prosecutions under those acts at a distance from the places where the delinquents reside; to suspend prosecutions for the late offences against the United States; and even to engage for a general pardon and oblivion of them.

But, gentlemen, we explicitly declare to you, that the exercise of these powers must be preceded by full and satisfactory assurances of a sincere determination in the people to obey the laws of the United States, and their eventual operation must depend upon a correspondent acquiescence in the execution of the acts which have been opposed. We have not, and, coming from the Executive, you well know that we cannot have, any authority to suspend the laws, or to offer the most distant hopes that the acts, the execution of which has been obstructed, will be repealed. On the contrary, we are free to declare to you our private opinions, that the national councils, while they consult the general interests of the republic, and endeavor to conciliate every part by local accommodations to citizens who respect the laws, will sternly refuse every indulgence to men who accompany their requests with threats, and resist by force the public authority.

Upon these principles we are ready to enter with you into the detail necessary for the exercise of our powers; to learn what local accommodations are yet wanting to render the execution of the laws convenient to the people;

to concert with you measures for restoring harmony and order, and for burying the past in oblivion; and to unite our endeavors with yours to secure the peace and happiness of our common country.

It is necessary, however, to apprise you thus early that, at present, we do not consider ourselves as authorized to enter into any conferences on this subject [after the 1st of September ensuing. We therefore hope the business will be so conducted that some definitive answer may be given to us before that day.

We cannot believe that, in so great a crisis, any attempts to temporize and procrastinate will be made by those who sincerely love their country, and wish to secure its tranquillity.

We also declare to you, that no indulgence will be given to any future offence against the United States, and that they who shall hereafter directly or indirectly oppose the execution of the laws must abide the consequences of their conduct.

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

No. 2.

*The following is the answer of the committee.*

GENTLEMEN:

PITTSBURG, August 22, 1794.

Having, in our conference, at considerable length stated to you the grounds of that discontent which exists in the minds of the people of this country, and which has lately shown itself in acts of opposition to the excise law, you will consider us as waiving any question with regard to the nature of those acts, whether reasonable, or amounting only to riot and breach of the peace; of course, as waiving the question of the constitutional power of the President to call upon the force of the Union to suppress them. It is our object, as it is yours, to compose the disturbance.

We are satisfied that, in substance, you have gone as far as we could expect the Executive to go. It only remains to ascertain your propositions more in detail, and to say what arrangements it may be in your power to make with regard to convenience in collecting the revenue under the excise laws; how far it may be consistent with the public interest to prevent commencing prosecutions under those laws at a distance from the places where the delinquents reside; on what condition or circumstance prosecutions for the late violations of the laws shall be suspended; that is to say, whether on the individual keeping the peace, or on its being kept by the country in general; and also with regard to the general amnesty, whether the claiming the benefit of it by an individual shall depend on his own future conduct or that of the whole community.

We have already stated to you, in conference, that we are empowered to give you no definitive answer with regard to the sense of the people on the great question of acceding to the law, but that, in our opinion, it is the interest of the country to accede; and that we shall make this report to the committee to whom we are to report, and state to them the reasons of our opinion, that so far as they may appear to have weight they may be regarded by them. It will be our endeavor to conciliate not only them, but the public mind in general, to our sense on this subject; for this purpose, we hope to be assisted by you in giving all that extent and precision, clearness and certainty to your propositions, as may satisfy the understandings and engage the acquiescence of the people.

It is to be understood that, in acceding to the law, no inference is to be drawn, or construction made, that we will relinquish a constitutional opposition; but that we will invariably, undeviatingly, and constantly pursue every legal means and measure of obtaining a repeal of the law in question.

As we are disposed with you to have the sense of the people taken on the subject of our conference as speedily as may be, with that view we have resolved to call the committee to whom our report is to be made at an earlier day than had been appointed, to wit, to meet on Thursday, the 28th instant, but have not thought ourselves justifiable in changing the place, to wit, at Redstone, (Old Fort,) on the Monongahela.

By order of the committee:

EDWARD COOK, *Chairman.*

*To the Commissioners on the part of the Union.*

No. 3.

The commissioners appointed by the President of the United States, to confer with the citizens in the western parts of Pennsylvania, having been assured by the committee of conference of their determination to approve the proposals made, and to recommend to the general committee, appointed by the meeting at Parkinson's ferry, a submission to the acts of Congress, do now proceed to declare what assurances of submission will be deemed full and satisfactory, and to detail the engagements which they have power to make.

1st. It is expected and required by the said commissioners, that the citizens composing the said general committee do, on or before the 1st day of September, explicitly declare their determination to submit to the laws of the United States; and that they will not, directly or indirectly, oppose the execution of the acts for raising a revenue on distilled spirits and stills.

2d. That they do explicitly recommend a perfect and entire acquiescence under the execution of the said acts.

3d. That they do, in like manner, recommend that no violence, injuries, or threats be offered to the person or against the property of any officer of the United States, or citizens complying with the laws, and do declare their determination to support (as far as the laws require) the civil authority, in affording the protection due to all officers and citizens.

4th. That measures be taken to ascertain, by meetings in election districts or otherwise, the determination of the citizens in the fourth survey of Pennsylvania to submit to the said laws; and that satisfactory assurances be given to the said commissioners that the people have so determined to submit, on or before the 14th of September next.

The said commissioners, if a full and perfect compliance with the above requisitions shall take place, have power to promise and engage in manner following, to wit:

1st. No prosecution for any treason or other indictable offence against the United States, committed in the fourth survey of Pennsylvania before this day, shall be commenced or proceeded on until the 10th of July next.

2d. If there shall be a general and sincere acquiescence in the execution of the said laws until the said 10th day of July next, a general pardon and oblivion of all such offences shall be granted; excepting therefrom, nevertheless, every person who shall in the mean time wilfully obstruct, or attempt to obstruct, the execution of any of the laws of the United States, or be in anywise aiding or abetting therein.

3d. Congress having, by an act passed on the 5th day of June last, authorized the State courts to take cognizance of offences against the said acts for raising a revenue upon distilled spirits and stills, the President has deter-

mined that he will direct suits against such delinquents to be prosecuted therein, if, upon experiment, it be found that local prejudices or other causes do not obstruct the faithful administration of justice; but it is to be understood that of this he must be the judge, and that he does not mean by this determination to impair any power vested in the Executive of the United States.

4th. Certain beneficial arrangements for adjusting delinquencies and prosecutions for penalties now depending shall be made, and communicated by the officers appointed to carry the said acts into execution.

Given under our hands, at Pittsburg, this 22d day of August, 1794.

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

*To the Committee of Conference.*

No. 4.

GENTLEMEN:

PITTSBURG, August 23, 1794.

We presume it has been understood by you that the conference on our part consists of members not only from the counties of Pennsylvania west of the Allegany mountains, but also from Ohio county, in Virginia, and your propositions made in general by your first letter being addressed to this conference, the Ohio county was considered as included; yet in your propositions, made in detail your by last, you confine them to the survey within Pennsylvania. We would request an explanation on this particular.

We have only further to say, we shall make a faithful report of your propositions, which we approve of, and will recommend to the people; and however they may be received, we are persuaded nothing more could have been done by you or us to bring this business to an accommodation.

Signed by order of the committee:

EDWARD COOK, *Chairman.*

*To the Commissioners on the part of the Union.*

No. 5.

*To which the following answer was returned.*

GENTLEMEN:

PITTSBURG, August 23, 1794.

Having received assurances of your approbation of the propositions made by us, and of your determination to recommend them to the people, we have nothing further to add, except to reply to that part of your letter which relates to the gentlemen from Ohio county.

The whole tenor of our letter of the 21st instant shows that we had come among you in consequence of the disturbances which had prevailed in the western parts of Pennsylvania, to prevent the actual employment of military coercion there, as contemplated in the President's proclamation, and that the late offences referred to were the insurrections which had prevailed in some of the western counties. We therefore cannot extend our propositions.

In addition to this, we are well assured that the people of Ohio county have not generally authorized these gentlemen to represent them, and we cannot at present undertake to make any definite arrangement with them.

We are, however, willing to converse with these gentlemen on this subject, and we have no doubt that, on satisfactory proofs of their determination to support the laws of their country, and of an entire submission to them by those from whom they come being given, the President will, upon our recommendation, extend a similar pardon to any late offences committed against the United States, if such there be committed. We are willing, on receiving such assurances from them, to recommend such application accordingly.

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

*To the Committee of Conference.*

No. 6.

*The following communication was made to the commissioners by the persons said to have been sent from Ohio county, in Virginia.*

GENTLEMEN:

PITTSBURG, August 23, 1794.

We have seen, by your letter of this day, that you have been well assured that the people of Ohio county did not generally authorise us to represent them. All we have to say on that subject is, that we were authorised fully and generally by such persons as met on that occasion. Whether any of the inhabitants were dissatisfied with our being appointed for that purpose, or whether there were any who did not wish an appointment to take place at all, we know not; but we pretend to have no other disine than that of representing such of the citizens of Ohio county as sent us here.

Waving, however, the near personal subject, we think it a duty we owe our fellow-citizens, to wish (and we know it to have been the opinion of the whole committee of conference) that no distinction should be made between offences committed upon the same occasion, arising from the same source, and perpetrated at the same time, whether they happened in Pennsylvania or in Virginia; and we therefore hope you will conceive it, upon full examination, to be part of your present pacific mission to satisfy the minds of the people of Virginia as well as those of Pennsylvania; and that you will give assurances that the same proofs which you require from the people of Pennsylvania of their determination to submit to the laws shall be deemed sufficient, when given by the people of Ohio county, to induce you to recommend to the President to extend a similar pardon to any offences committed there against the United States; and that, whatever objects you may have to consider us in the same point of view with the other members of the committee of conference, you will not require different conditions from, or propose different terms to, the citizens of the two States, &c.\*

We have the honor to be, with respect, gentlemen, your most obedient and very humble servants,

ROBT. STEPHENSON,  
WILLIAM SUTHERLAND,  
WILLIAM MCKINLEY.

*To the Commissioners for the United States.*

\* The spelling in the foregoing is agreeably to the original.

## No. 7.

GENTLEMEN:

Having conversed with you on the subject of your letter of this date, we declare to you that, if the same declarations and assurances are made by you, which it is required should be made by the citizens to be assembled at Redstone, and if satisfactory assurances are also given to us of a sincere determination of those individuals in Ohio county, who sent you hither, to submit to the laws for raising a revenue on distilled spirits and stills, on or before the 14th September next, in such case we will recommend to the President of the United States your petition, requesting that a pardon may be granted for any indictable offence against the United States, committed in Ohio county since the 15th day of July last, and before the present day, on the same terms offered to the inhabitants of the fourth survey of Pennsylvania. But, as certain bonds have been lately taken by force from Zaccheus Biggs, the collector of the said revenue in Ohio county, it is to be clearly understood that said pardon shall not extend to prevent any civil remedy against those who have destroyed the said bonds, or are parties to them.

Given under our hands, August 23, 1794.

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

To Messrs. ROBERT STEPHENSON, WILLIAM SUTHERLAND, and WILLIAM MCKINLEY.

*To which the following reply was made.*

## No. 8.

GENTL:

PITTSBURG, August 23, 1794.

Having Conceder your Letter of this Deate since the Departur of the speache Comatie delegated from Westmorland Washington Featt & Alegunie countis in Pensilvenea & Conidering our Selves a Justifyabel repentation of those inhabents of Ohio County by Whowe we were Deligated & a part of that speachell Comitee to whom your proposals wear mead and Accepted yesterday & the day posding, and relying on the faith alrdy pledged by you and Accepted by the Speachell Comatee we dclen entering any further on this Bussens untell we Consult our Constaituents & the Comete of Safety.

We are, Gentl. with Esteem, Your most Obed. Humble Servt.\*

ROBERT STEPHENSON,  
WILLIAM SUTHERLAND,  
WM. M'KINLY.

## No. 9.

GENTLEMEN:

BROWNSVILLE, August 29, 1794.

Difficulties having arisen with us, we have thought it necessary to appoint a committee to confer with you, in order to procure, if possible, some further time, in order that the people may have *leisure* to reflect on their true situation.

I am, gentlemen, your most obedient humble servant,

EDWARD COOK.

P. S. Enclosed you have a copy of the resolution on that subject.

*The honorable the Commissioners of the United States.*

## No. 10.

*At a meeting of the standing committee of the western counties, held at Brownsville, (Redstone Old Fort) on the 28th and 29th August, 1794—*

The report of the committee appointed to confer with the commissioners of Government being taken into consideration, the following resolutions were adopted, to wit:

1. *Resolved*, That in the opinion of this committee, it is the interest of the people of this country to accede to the proposals made by the commissioners on the part of the United States.
2. *Resolved*, That a copy of the foregoing resolution be transmitted to the said commissioners.

A true copy:

EDW. COOK, *Chairman.*  
ALBERT GALLATIN.

## No. 11.

*The following letter was delivered to Hugh H. Brackenridge, just before his departure to Redstone (Old Fort) directed "To Messrs. Kirkpatrick, Smith, Powers, D. Bradford, Marshal, Edgar, Cook, Gallatin, Lang, Morton, Lucas and Brackenridge, late conferees."*

GENTLEMEN:

PITTSBURG, August 27, 1794.

Since your departure from Pittsburg, we have transmitted information of our proceedings to the Secretary of State; and it being evident from them, that the satisfactory proofs of a sincere submission to the laws cannot be obtained before the 1st September, we may undertake to assure you that the movement of the militia will be suspended until further information is received from us.

We also authorize you to assure the friends of order, who may be disposed to exert themselves to restore the authority of the laws, that they may rely upon all the protection the Government can give; and that every measure necessary to suppress and punish the violence of ill-disposed individuals who may dissent from the general sentiment (if there should be any such) will be promptly taken in the manner the laws direct.

We are, gentlemen, your most humble servants,

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

\* The spelling in this reply is agreeably to the original.



## No. 12.

GENTLEMEN:

PITTSBURG, September 1, 1794.

The committee appointed by the Committee of Safety, at Redstone, the 28th August last, to confer with the commissioners of the United States and State of Pennsylvania, and agreeable to the resolution of said committee, do request:

1st. That the said commissioners give an assurance, on the part of the General Government, to an indemnity to all persons as to the arrearage of excise that have not entered their stills to this date.

2d. Will the commissioners aforesaid give to the eleventh day of October next, to take the sense of the people at large of the four counties west of Pennsylvania, and that part of Bedford west of the Allegany mountains, and the Ohio county in Virginia, whether they will accede to the resolution of the said commissioners as stated at large in the conference with the Committee of Conference met at Pittsburg the 21st day of August last?

By order of the committee:

JOHN M'CLELLAND.

*The hon. the Commissioners on the part of the U. S. and of the State of Pennsylvania.*

## No. 13.

GENTLEMEN:

PITTSBURG, September 1, 1794.

We have received your letter of this date, and, as time presses, have determined to give it an immediate answer, although we shall be prevented thereby from making so full and correct a reply as the importance of the subject requires.

In our correspondence with the late Committee of Conference, we detailed those assurances of submission to the laws, which would have been deemed full and satisfactory, and which were necessary to the exercise of the powers vested in us. This detail was minutely settled in a conference with a sub-committee of that body. From a desire on our part to accommodate and to render the proposals as unexceptionable as possible, they were altered and modified at their request, till, being superior to all exception, they received the unanimous approbation of those gentlemen.

The detail, thus settled, required from the standing committee assurances of their explicit determination to submit to the laws of the United States; that they would not, directly or indirectly, oppose the execution of the acts for raising a revenue upon distilled spirits and upon stills; and that they would support, as far as the laws require, the civil authority, in affording the protection due to all officers and other citizens. These assurances have not been given. On the contrary, we learn, with emotions difficult to be repressed, that in the meeting of the committee at Redstone, resistance to the laws and open rebellion against the United States were publicly advocated; and that two-fifths of that body, representing twenty-three townships, totally disapprove the proposals, and preferred the convulsions of a civil contest to the indulgence offered them by their country. Even the members composing the majority, although by a *secret and undistinguishing* vote, they expressed an opinion that it was the *interest* of the people to accede to the proposals, did not themselves accede to them, nor give the assurances, nor make the recommendations explicitly required of them. They have adjourned without day, and the terms are broken on their part.

We had reason for requiring these declarations and recommendations from that body. They were a representation (*in fact*) of the different townships of the western counties; they were a body in whom the people had chosen to place confidence; there were among them men, whose advice and example have had influence in misleading the people, and it was proper they should be instrumental in recalling them to their duty; and an avowed determination to support the civil authority, in protecting the officers, would have assisted in repressing the violence of turbulent individuals.

Our expectations have been unfortunately disappointed; the terms required have not been acceded to. You have been sent hither to demand new terms; and it is now necessary for us to decide, whether we will return home or enter into other arrangements.

Upon reflection, we are satisfied that the President of the United States, while he demands satisfactory proofs that there will be in future a perfect submission to the laws, does not wish the great body of the people should be finally concluded by the conduct or proceedings of that committee; and if the people *themselves* will make the declarations required of the standing committee, and give satisfactory proofs of a general and sincere determination to obey the laws, the benefits offered may still be obtained by those individuals who shall explicitly avow their submission, as hereinafter mentioned.

It is difficult to decide in what manner the said declarations and determinations of the people to submit peaceably should be taken and ascertained. We have thought much on this subject, and are fully satisfied that a decision by ballot will be wholly unsatisfactory, and that it will be easy to produce by these means an apparent but delusive unanimity. It is, therefore, necessary that the determination of every individual be publicly announced. In a crisis, and on a question like this, it is dishonorable to temporize. Every man ought to declare himself openly, and give his assurances of submission in a manner that cannot be questioned hereafter. If a civil contest must finally take place, the Government ought to know not only the numbers, but the names of the faithful citizens, who may otherwise be in danger of being confounded with the guilty. It therefore remains with you to say, whether you will *recommend* such a mode of procedure, and will immediately arrange with us the manner in which the sense of the people may be publicly taken, and written assurances of submission obtained, within the time already limited. We desire an explicit and speedy answer in writing.

You request us to "give assurances, on the part of the United States, that an indemnity shall be granted as to the arrears of excise, to all persons that have not entered their stills to this date." If it were proper to remit all arrears of duty, we cannot conceive why those who have entered their stills should not receive a similar indulgence with those who have refused to do so; nor why you demand peculiar favors for the opposers of the acts, while you abandon those who have complied to the strictness of the laws. We have gone on that subject as far as we think advisable. The clause was introduced at the request of the late Committee of Conference; and even the style of expressing it was settled with them. We, therefore, have nothing more to add to that subject.

You require also that time be given until the 11th day of October, in order to ascertain the sense of the people. That is wholly inadmissible. On the day of the conference, the time allowed was deemed sufficiently long; and we are sorry to perceive that delay only tends to produce an indisposition to decide. There are strong reasons, obvious to a reflecting mind, against prolonging the time a single hour. Nothing is required but a declaration of that duty which every man owes to his country, and every man before this day must have made up his mind on the subject. Six weeks have already elapsed since the ordinary exercise of civil authority has been forcibly suppressed, the officers of Government expelled, and the persons and property of well-disposed citizens exposed to the outrages of popular violence. The protection which is due to peaceable citizens; the respect which every



Government owes itself, and the great interests of the United States, demand that the authority of the laws be quickly restored. To this we may add, that the militia (which, by late orders from the President, have been increased to 15,000 men, including 1,500 riflemen from Virginia, under the command of Major General Morgan,) have received orders to assemble; and we cannot undertake to promise that their march will be long suspended. All possible means to inform, to conciliate, and to recall our fellow-citizens to their duty have been used. That their infatuation still continues, we regret, but are persuaded that further moderation and forbearance will but increase it.

If the whole country shall declare its determination peaceably to submit, the hopes of the Executive will be fulfilled; but if a part of the inhabitants of the survey shall persist in their unjustifiable resistance to the lawful authority of the United States, it is not the intention of the Government to confound the innocent with the guilty; you may, therefore, assure the friends of order and the laws that they may rely upon promptly receiving all the protection the Government can give, and that effectual measures will be taken to suppress and punish the violence of those individuals who may endeavor to obstruct the execution of the laws, and to involve their country in a scene of calamity, the extent and seriousness of which it is impossible to calculate.

It is easy to perceive, from the whole scope of this letter, that no part of it is addressed to the gentlemen of Ohio county, in Virginia.

JAMES ROSS,  
J. YEATES,  
WM. BRADFORD.

To ROBERT DICKEY, JOHN PROBST, JOHN NESBITT, JOHN MARSHEL,  
DAVID PHILIPS, JOHN McCLELLAND, GEORGE WALLACE, and SAMUEL WILSON.

No. 14.

GENTLEMEN:

PITTSBURG, *September 2, 1794.*

We have received your letter of yesterday, and, after having duly considered its contents, we are all of opinion that it is the interest and duty of the people in the western counties of Pennsylvania to submit to the execution of the laws of the United States and of the State of Pennsylvania, upon the principles and terms stated by the commissioners; and we will heartily recommend this measure to them. We are also ready to enter into the detail with you of fixing and ascertaining the time, place, and manner of collecting the sense of the people upon this very momentous subject.

Signed by the unanimous order of the committee:

JOHN McCLELLAND.

*To the Commissioners of the United States and of the State of Pennsylvania.*

No. 15.

At a conference between the commissioners from the United States and the State of Pennsylvania, on the one part, and Messrs. Probst, Dickey, Nesbit, Marshel, Philips, McClelland, Wallace, and Wilson, conferees appointed by the standing committee at Brownsville, (Redstone Old Fort,) on the 28th and 29th days of August, 1794, it was agreed that the assurances required from the citizens in the fourth survey of Pennsylvania should be given in writing, and their sense ascertained in the following manner:

That the citizens of the said survey, (Allegany county excepted,) of the age of eighteen years and upwards, be required to assemble, on Thursday, the 11th instant, in their respective townships, at the usual place for holding township meetings; and that between the hours of twelve and seven in the afternoon of the same day, any two or more members of the meeting who assembled at Parkinson's ferry on the 14th ultimo, resident in the township, or a justice of the peace of said township, do openly propose to the people assembled the following questions: "Do you now engage to submit to the laws of the United States, and that you will not hereafter, directly or indirectly, oppose the execution of the acts for raising a revenue upon distilled spirits and stills? And do you also undertake to support, as far as the laws require, the civil authority, in affording the protection due to all officers and other citizens?" Yea or Nay.

That the said citizens, resident in Allegany county, shall meet in their respective election districts on the said day, and proceed in the same manner as if they were assembled in townships.

That a minute of the number of the yeas and nays be made immediately after ascertaining the same.

That a written or printed declaration of such engagements be signed by all those who vote in the affirmative, of the following tenor, to wit:

"I do solemnly promise henceforth\* to submit to the laws of the United States; that I will not directly nor indirectly oppose the execution of the acts for raising a revenue on distilled spirits and stills; and that I will support, as far as the law requires, the civil authority in affording the protection due to all officers and other citizens."

This shall be signed in the presence of the said members or justices, attested by him or them, and lodged in his or their hands.

That the said persons, so proposing the question stated as aforesaid, do assemble at the respective county court-houses on the 13th instant, and do ascertain and make report of the number of those who voted in the affirmative in the respective townships or districts, and of the number of those who voted in the negative; together with their opinion whether there be such a general submission of the people in their respective counties, that an office of inspection may be immediately and safely established therein.

That the said report, opinion, and written or printed declarations be transmitted to the commissioners, or any one of them, at Uniontown, on or before the 16th instant.

If the said assurances shall be *bona fide* given in the manner prescribed, the commissioners on the part of the United States do promise and engage in manner following, to wit:

1. No prosecution for any treason or other indictable offence against the United States, committed within the fourth survey of Pennsylvania, before the 22d day of August last, shall be commenced or prosecuted before the 10th day of July next, against any person who shall, within the time limited, subscribe such assurance and engagement as aforesaid, and perform the same.

2. On the said 10th day of July next there shall be granted a general pardon and oblivion of all the said offences, excluding therefrom, nevertheless, every person who shall refuse or neglect to subscribe such assurance and en-

\* Objections having been made to the words "solemnly" and "henceforth," the commissioners, by a publication in the Pittsburg Gazette, declared their consent to their being struck out.

agement in manner aforesaid, or shall, after such subscription, violate the same, or wilfully obstruct, or attempt to obstruct, the execution of the said acts, or be aiding or abetting therein.

3. Congress having, by an act passed on the 5th day of June last, authorized the State courts to take cognizance of offences against the said acts for raising a revenue upon distilled spirits and stills, the President has determined that he will direct suits against such delinquents to be prosecuted therein, if, upon experiment, it be found that local prejudices or other causes do not obstruct the faithful administration of justice; but it is to be understood that of this he must be the judge, and that he does not mean by this determination to impair any power vested in the Executive of the United States.

4. Certain beneficial arrangements for adjusting delinquencies and prosecutions for penalties now depending shall be made and communicated by the officers appointed to carry the said acts into execution.

JAMES ROSS,  
J. YEATES,  
WILLIAM BRADFORD.

Signed, in behalf of the committee representing the fourth survey of Pennsylvania, unanimously by the members present.

JOHN PROBST,  
ROBERT DICKEY,  
JOHN NESBITT,  
DAVID PHILIPS,  
JOHN MARSHEL,  
SAMUEL WILSON,  
GEORGE WALLACE,  
JOHN M'CLELLAND.

PITTSBURG, *September 2, 1794.*

We, the underwritten, do also promise, in behalf of the State of Pennsylvania, that in case the assurances now proposed shall be *bona fide* given and performed, until the 10th day of July next, an act of free and general pardon and oblivion of all treasons, insurrections, arsons, riots, and other offences inferior to riots, committed, counselled, or suffered, by any person or persons within the four western counties of Pennsylvania, since the 14th day of July last past, so far as the same concerns the said State, or the Government thereof, shall be then granted; excluding therefrom every person who shall refuse or neglect to subscribe such assurance, or who shall, after such subscription, wilfully violate or obstruct the laws of the State or of the United States.

THOMAS M'KEAN,  
WILLIAM IRVINE.

No. 16.

We, the subscribers, members of the committee who met at Parkinson's ferry on the 14th August last, and justices of the peace of the different townships in Washington county, met this 13th day of September, 1794, do find ourselves under great embarrassment to express our sentiments and opinions whether there be such a general submission of the people as that an office of inspection may be immediately and safely established in this county; yet we are free to declare that no opposition shall arise from us, the undersigned, to the excise law, or to any officer appointed under it; and we believe and are of opinion that a large majority of the inhabitants of the respective townships in this county will acquiesce and submit to the said law, under a hope and firm belief that the Congress of the United States will repeal said law.

Given under our hands, at Washington court-house, the 13th of September, 1794.

DAVID BRADFORD, and 27 others.

No. 17.

We, the subscribers, judges of a general election, held in the several townships of the county of Westmoreland, for the purpose of ascertaining certain assurances required of the citizens by the commissioners on the part of the Government, and agreed to on the part of the delegates, having met this day, and taken into consideration the returns from said townships, (true copies of which have been returned to one of the commissioners,) and finding that some gave only general assurances of their submission and disposition for peace, without individually signing the same, and others, in number according to the returns by them respectively made, do certify, that, in our opinion, as ill-disposed lawless persons could suddenly assemble and offer violence, it would not be safe in immediately establishing an office of inspection therein.

Given under our hands, at the court-house in Greensburg, this 13th day of September, 1794.

JAMES M'LEAN,	JAMES CALDWELL,
EBENEZER BRADY,	JAMES IRWIN,
CLEMENTS BURLEIGH,	JAMES BRADY,
HUGH MARTIN,	JOHN ANDERSON,
JOHN DENNISTON,	JOHN FINDLEY,
CHRISTOPHER FINLEY,	JEREMIAH MURRAY,
JOHN KIRKPATRICK,	GEORGE AMENT.
JOHN YOUNG,	

No. 18.

UNIONTOWN, *September 16, 1794.*

We, the subscribers, having, according to resolutions of the committee of townships for the county of Fayette, acted as judges, on the 11th instant, at the meetings of the people of the said county, respectively convened at the places, in the first, second, and third election districts, where the general elections are usually held, (no judge or member of the committee attending from the fourth and last district, which consists of the townships of Tyrone and Bullskin,) do hereby certify that five hundred and sixty of the people, thus convened on the day aforesaid, did then and there declare their determination to submit to the laws of the United States in the manner expressed by the commissioners on the part of the Union, in their letter dated the 22d day of August last; the total number of those who attended on that occasion being only seven hundred and twenty-one, that is to say, something less than one-

third of the number of citizens of the said three districts. And we do further certify, that, from our previous knowledge of the disposition of the general body of the people, and from the anxiety since discovered by many, (who, either from not having had notice, or from not having understood the importance of the question, did not attend,) to give similar assurances of submission, we are of opinion that the great majority of those citizens who did not attend are disposed to behave peaceably and with due submission to the laws.

ALBERT GALLATIN,  
WILLIAM ROBERTS,  
GEORGE DIEUTH,  
JAMES WHITE,  
JOHN JACKSON,  
ANDREW RABB,  
THOMAS PATTERSON.

*By the President of the United States of America.*

A PROCLAMATION.

Whereas, from a hope that the combinations against the constitution and laws of the United States, in certain of the western counties of Pennsylvania, would yield to time and reflection, I thought it sufficient, in the first instance, rather to *take measures* for calling forth the militia than immediately to *embody* them; but the moment is now come when the overtures of forgiveness, with no other condition than a submission to law, have been only partially accepted; when every form of conciliation, not inconsistent with the being of Government, has been adopted without effect; when the well-disposed in those counties are unable by their influence and example to reclaim the wicked from their fury, and are compelled to associate in their own defence; when the proffered lenity has been perversely misinterpreted into an apprehension that the citizens will march with reluctance; when the opportunity of examining the serious consequences of a treasonable opposition has been employed in propagating principles of anarchy, endeavoring, through emissaries, to alienate the friends of order from its support, and inviting its enemies to perpetrate similar acts of insurrection; when it is manifest that violence would continue to be exercised upon every attempt to enforce the laws; when, therefore, Government is set at defiance, the contest being whether a small portion of the United States shall dictate to the whole Union, and, at the expense of those who desire peace, indulge a desperate ambition: Now, therefore, I, George Washington, President of the United States, in obedience to that high and irresistible duty consigned to me by the constitution, "to take care that the laws be faithfully executed," deploring that the American name should be sullied by the outrages of citizens on their own Government; commiserating such as remain obstinate from delusion; but resolved, in perfect reliance on that gracious Providence which so signally displays its goodness towards this country, to reduce the refractory to a due subordination to the law, do hereby declare and make known that, with a satisfaction which can be equalled only by the merits of the militia summoned into service from the States of New Jersey, Pennsylvania, Maryland, and Virginia, I have received intelligence of their patriotic alacrity in obeying the call of the present, though painful, yet commanding necessity; that a force, which according to every reasonable expectation is adequate to the exigency, is already in motion to the scene of disaffection; that those who have confided, or shall confide, in the protection of Government shall meet full succor under the standard and from the arms of the United States; that those who, having offended against the law, have since entitled themselves to indemnity, will be treated with the most liberal good faith, if they shall not have forfeited their claim by any subsequent conduct, and that instructions are given accordingly. And I do moreover exhort all individuals, officers, and bodies of men, to contemplate with abhorrence the measures leading directly or indirectly to those crimes which produce this resort to military coercion; to check, in their respective spheres, the efforts of misguided or designing men to substitute their misrepresentations in the place of truth, and their discontents in the place of stable Government; and to call to mind, that, as the people of the United States have been permitted, under the Divine favor, in perfect freedom, after solemn deliberation, and in an enlightened age, to elect their own Government, so will their gratitude for this inestimable blessing be best distinguished by firm exertions to maintain the constitution and the laws. And, lastly, I again warn all persons whomsoever and wheresoever not to abet, aid, or comfort the insurgents aforesaid, as they will answer the contrary at their peril; and I do also require all officers and other citizens, according to their several duties, as far as may be in their power, to bring under the cognizance of the law all offenders in the premises.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the city of Philadelphia, the twenty-fifth day of September, one thousand seven hundred and ninety-four, and of the independence of the United States of America the nineteenth.

By the President:

G. WASHINGTON.  
EDM. RANDOLPH.

SIR:

PHILADELPHIA, August 5, 1794.

The important subject which led to our conference on Saturday last, and the interesting discussion that then took place, having since engaged my whole attention, I am prepared, in compliance with your request, to state with candor the measures which, in my opinion, ought to be pursued by the commonwealth of Pennsylvania. The circumstances of the case evidently require a firm and energetic conduct on our part, as well as on the part of the General Government; but as they do not preclude the exercise of a prudent and humane policy, I enjoy a sincere gratification in recollecting the sentiment of regret with which you contemplated the possible necessity of an appeal to arms; for I confess that in manifesting a zealous disposition to secure obedience to the constitution and laws of our country, I too shall ever prefer the instruments of conciliation to those of coercion, and never, but in the last resort, countenance a dereliction of judiciary authority for the exertion of military force.

Under the influence of this general sentiment, I shall proceed, sir, to deliver my opinion relatively to the recent riots in the county of Allegany, recapitulating, in the first place, the actual state of the information which I have received. It appears, then, that the marshal of the district having, without molestation, served certain process that issued from a federal court on various citizens who reside in the county of Fayette, thought it proper to prosecute a similar duty in the county of Allegany, with the assistance and in the company of General Neville, the inspector of the excise for the western district of Pennsylvania; that, while thus accompanied, he suffered some insults and

encountered some opposition: that considerable bodies of armed men, having at several times demanded the surrender of General Neville's commission and papers, attacked and ultimately destroyed his house: that these rioters, (of whom a few were killed and many wounded) having taken the marshal and others prisoners, released that officer in consideration of a promise that he would serve no more process on the western side of the Allegany mountain: that, under the apprehension of violence, General Neville, before his house was destroyed, applied to the judges of Allegany county for the protection of his property; but the judges, on the 17th day of July, the day on which his house was destroyed, declared that they could not, in the present circumstances, afford the protection that was requested, though they offered to institute prosecutions against the offenders: and that General Neville and the marshal, menaced with further outrage by the rioters, had been under the necessity of withdrawing from the county. To this outline of the actual information respecting the riots, the stoppage of the mail may be added as matter of aggravation, and the proposed convention of the inhabitants of the neighboring counties of Pennsylvania and Virginia as matter of alarm.

Whatever construction may be given, on the part of the United States, to the facts that have been recited, I cannot hesitate to declare, on the part of Pennsylvania, that the incompetency of the judiciary department of her Government to vindicate the violated laws has not at this period been made sufficiently apparent; and that the military power of the Government ought not to be employed until its judiciary authority, after a fair experiment, has proved incompetent to enforce obedience or to punish infractions of the law.

The law having established a tribunal, and prescribed the mode for investigating every charge, has likewise attached to every offence its proper punishment. If an opponent of the excise system refuses or omits to perform the duty which that system prescribes to him in common with his fellow-citizens, his refusal or omission exposes him to the penalty of the law; but the payment of the penalty expiates the legal offence. If a riot is committed in the course of a resistance to the execution of any law, the rioters expose themselves to prosecution and punishment; but the sufferance of their sentence extinguishes their crime. In either instance, however, if the strength and audacity of a lawless combination shall baffle and destroy the efforts of the judiciary authority to recover a penalty or to inflict a punishment, that authority may constitutionally claim the auxiliary intervention of a military power; but still the intervention cannot commence till the impotency of the judicial authority has been proved by experiment, nor continue a moment longer than the occasion for which it was expressly required. That the laws of the Union are the laws of the State, is a constitutional axiom that will never be controverted. That the authority of the State ought to be exerted in maintaining the authority of the Union, is a patriotic position which I have uniformly inculcated; but in executing the laws, or maintaining the authority of the Union, the Government of Pennsylvania can only employ the same means by which the more peculiarly municipal laws and authority of the State are executed and maintained. Till the riot was committed, no offence had occurred which required the aid of the State Government. When it was committed, it became the duty of the State Government to prosecute the offenders as for a breach of the public peace and the laws of the commonwealth; and if the measures shall be precisely what would have been pursued had the riot been unconnected with the system of federal policy, all, I presume, will be done which good faith and justice can require. Had the riot been unconnected with the system of federal policy, the vindication of our laws would be left to the ordinary course of justice; and only in the last resort, at the requisition, and as an auxiliary of the civil authority, would the military force of the State be called forth.

Experience furnishes the strongest inducements to my mind for persevering in this lenient course. Riots have heretofore been committed in opposition to the laws of Pennsylvania; but the rioters have invariably been punished by our courts of justice. In opposition to the laws of the United States, in opposition to the very laws now opposed, and in the very counties supposed to be combined in the present opposition, riots have likewise formerly occurred; but in every instance, supported by legal proof, the offenders have been indicted, convicted, and punished, before the tribunals of the State. This result does not announce a defect of jurisdiction, a want of judicial power or disposition to punish infractions of the law, or a necessity for an appeal from the political to the physical strength of the nation.

But another principle of policy deserves some consideration. In a free country it must be expedient to convince the citizens of the necessity that shall at any time induce the Government to employ the coercive authority with which it is invested. To convince them that it is necessary to call forth the military power for the purpose of executing the laws, it must be shown that the judicial power has in vain attempted to punish those who violate them; and, therefore, thinking as I do that the incompetency of the judicial power of Pennsylvania has not yet been sufficiently ascertained, I remarked, in the course of our late conference, that I did not think it would be an easy task to embody the militia on the present occasion. The citizens of Pennsylvania (however a part of them may for a while be deluded) are the friends of law and order; but when the inhabitants of one district shall be required to take arms against the inhabitants of another, their general character does not authorize me to promise a passive obedience to the mandates of Government. I believe that, as freemen, they would inquire into the cause and nature of the service proposed to them; and I believe that their alacrity in performing, as well as in accepting it, would essentially depend on their opinion of its justice and necessity.

Upon great political emergencies, the effect of every measure should be deliberately weighed. If it shall be doubted, whether saying that the judiciary power is yet untried is enough to deter us from the immediate use of military force, an anticipation of the probable consequences of that awful appeal will enable us, perhaps, satisfactorily to remove or overlook the doubt. Will not the resort to force inflame and cement the existing opposition? Will it not associate, in a common resistance, those who have hitherto peaceably, as well as those who have riotously, expressed their abhorrence of the excise? Will it not collect and combine every latent principle of discontent, arising from the supposed oppressive operations of the federal judiciary, the obstruction of the western navigation, and a variety of other local sources? May not the magnitude of the opposition, on the part of the ill-disposed, or the dissatisfaction at a premature resort to arms, on the part of the well-disposed citizens of this State, eventually involve the necessity of employing the militia of other States? And the accumulation of discontent, which the jealousy engendered by that movement may produce, who can calculate, or who will be able to avert? Nor, in this view of the subject, ought we to omit paying some regard to the ground for suspecting that the British Government has already, insidiously and unjustly, attempted to seduce the citizens on our western frontier from their duty; and, we know that, in a moment of desperation or disgust, men may be led to accept that as an asylum, which, under different impressions, they would shun as a snare. It will not, I am persuaded, sir, be presumed, from the expression of these sentiments, that I am insensible to the indignation which the late outrages ought to excite in the mind of a magistrate intrusted with the execution of the laws. My object, at present, is to demonstrate that, on the principles of policy as well as of law, it would be improper in me to employ the military power of the State, while its judiciary authority is competent to punish the offenders. But should the judiciary authority prove insufficient, be assured of the most vigorous co-operation of the whole force which the constitution and laws of the State intrust to me, for the purpose of compelling a due obedience to the Government; and, in that unfortunate event, convinced that every other expedient has been resorted to in vain, the public opinion will sanctify our measures, and every honest citizen will willingly lend his aid to strengthen and promote them.

The steps which, under my instructions, were taken as soon as the intelligence respecting the riots was received, will clearly, indeed, manifest the sense that I entertain upon the subject. To every judge, justice, sheriff, brigade, inspector—in short, to every public officer residing in the western counties, a letter was addressed, expressing my indignation and regret, and requiring an exertion of their influence and authority to suppress the tumults and punish the offenders. The Attorney General of the State was, likewise, desired to investigate the circumstances of the riot, to ascertain the names of the rioters, and to institute the regular process of the law for bringing the leaders to justice. In addition to these preliminary measures, I propose issuing a proclamation, in order to declare (as far as I can declare them) the sentiments of the Government; to announce a determination to prosecute and punish the offenders; and to exhort the citizens at large to pursue a peaceable and patriotic conduct. I propose engaging three respectable citizens to act as commissioners for addressing those who have embarked in the present combination, upon the lawless nature and ruinous tendency of their proceedings; for inculcating the necessity of an immediate return to the duty which they owe their country; and for promising (as far as the State is concerned) a forgiveness of their past transgressions, upon receiving a satisfactory assurance that, in future, they will submit to the laws; and I propose, if all these expedients should be abortive, to convene the Legislature, that the ultimate means of subduing the spirit of insurrection, and of restoring tranquillity and order, may be prescribed by their wisdom and authority.

You will perceive, sir, that throughout my observations I have cautiously avoided any reference to the nature of the evidence from which the facts that relate to the riots are collected, or to the conduct which the Government of the United States may pursue on this important occasion. I have hitherto, indeed, only spoken as the Executive Magistrate of Pennsylvania, charged with a general superintendence and care that the laws of the commonwealth be faithfully executed, leaving it, as I ought, implicitly to your judgment to choose on such evidence as you approve, the measures for discharging the analogous trust which is confided to you in relation to the laws of the Union. But before I conclude, it is proper, under the impression of my federal obligations, to add a full and unequivocal assurance, that whatever requisition you may make, whatever duty you may impose, in pursuance of your constitutional and legal powers, will on my part be promptly undertaken and faithfully discharged.

I have the honor to be, with perfect respect, sir, your excellency's most obedient humble servant,

THO. MIFFLIN.

The PRESIDENT OF THE UNITED STATES.

SIR:

DEPARTMENT OF STATE, August 7, 1794.

The President of the United States has directed me to acknowledge the receipt of your letter of the 5th instant, and to communicate to you the following reply:

In requesting an interview with you on the subject of the recent disturbances in the western parts of Pennsylvania, the President, besides the desire of manifesting a respectful attention to the Chief Magistrate of a State immediately affected, was influenced by the hopes that a free conference, guided by a united and comprehensive view of the constitutions of the United States and of Pennsylvania, and of the respective institutions, authorities, rights, and duties of the two Governments, would have assisted him in forming more precise ideas of the nature of the co-operation which could be established between them, and a better judgment of the plan which it might be advisable for him to pursue, in the execution of his trust in so important and delicate a conjuncture. This having been his object, it is matter of some regret that the course which has been suggested by you as proper to be pursued, seems to have contemplated Pennsylvania in a light too separate and unconnected. The propriety of that course in most, if not in all respects, would be susceptible of little question, if there were no Federal Government, federal laws, federal judiciary, or federal officers; if important laws of the United States, by a series of violent, as well as of artful expedients, had not been frustrated in their execution for more than three years; if officers immediately charged with that execution, after suffering much and repeated insult, abuse, personal ill-treatment, and the destruction of property, had not been compelled for safety to fly the places of their residence and the scenes of their official duties; if the service of the processes of a court of the United States had not been resisted, the marshal of the district made and detained for some time prisoner, and compelled for safety also to abandon the performance of his duty, and return, by a circuitous route, to the seat of Government; if, in fine, a judge of the United States had not, in due form of law, notified to the President "that, in the counties of Washington and Allegany, in Pennsylvania, laws of the United States are opposed, and the execution thereof obstructed, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district." It is true your excellency has remarked that, in the plan suggested, you have only spoken as the Executive Magistrate of Pennsylvania, charged with a general superintendence and care that the laws of the commonwealth be fully executed, leaving it implicitly to the judgment of the President to choose, on such evidence as he approves, the measures for discharging the analogous trust which is confided to him in relation to the laws of the Union. But it is impossible not to think that the current of the observations in your letter, especially as to the consequences which may result from the employment of coercive measures previous to the preliminary course which is indicated in it, may be construed to imply a virtual disapprobation of that plan of conduct on the part of the General Government in the actual stage of its affairs, which you acknowledge would be proper on the part of the Government of Pennsylvania if arrived at a similar stage. Let it be assumed here, (to be more particularly shown hereafter,) that the Government of the United States is now at that point where it is admitted, if the Government of Pennsylvania was, the employment of force, by its authority, would be justifiable. And let the following extracts be consulted for the truth of the inference which has been just expressed: "Will not the resort to force inflame and cement the existing opposition? Will it not associate in a common resistance those who have hitherto peaceably, as well as those who have riotously, expressed their abhorrence of the excise? Will it not collect and combine every latent principle of discontent arising from the supposed oppressive operations of the federal judiciary, the obstruction of the western navigation, and a variety of other local sources? May not the magnitude of the opposition on the part of the ill-disposed, or the dissatisfaction of a *premature resort to arms* on the part of the well-disposed citizens of the State, eventually involve the necessity of employing the militia of other States? And the accumulation of discontent, which the jealousy engendered by that moment may produce, who can calculate, or who will be able to avert?"

These important questions naturally give birth to the following serious reflections—the issue of human affairs are in the hands of Providence. Those intrusted with them in society have no other sure guide than the sincere and faithful discharge of their duty, according to the best of their judgment. In emergencies great and difficult, not to act with an energy proportioned to their magnitude and pressure is as dangerous as any other conceivable course. In the present case, not to exert the means which the laws prescribe for effectuating their own execution, would be to sacrifice those laws, and with them the constitution, the Government, the principles of social order, and the bulwarks of private right and security. What worse can happen from the execution of those means?

If, as cannot be doubted, the great body of the citizens of the United States are attached to the constitution which they have established for the management of their common concerns; if they are resolved to support their own authority, in that of the constitutional laws, against disorderly and violent combinations of comparatively small portions of the community; if they are determined to protect each other in the enjoyment of security to person and property; if they are decided to preserve the character of republican government, by evincing that it has adequate resources for maintaining the public order; if they are persuaded that their safety and their welfare are materially connected with the preservation of the Union, and, consequently, of a Government adequate to its exigencies; in fine, if they are disposed to continue that state of respectability and prosperity which is now deservedly the admiration of mankind, the enterprise to be accomplished, should a resort to force prove inevitable, though disagreeable and painful, cannot be arduous or alarming.

If, in addition to these dispositions in the community at large, the officers of the Governments of the respective States, feeling it to be not only a patriotic, but a constitutional duty (inculcated by the oath enjoined upon all the officers of a State, legislative, executive, and judicial) to support, in their several stations, the constitution of the United States, shall be disposed, as occasion may require, (a thing as little to be doubted as the former,) with sincerity and good faith to co-operate with the Government of the United States, to second, with all their influence and weight, its legal and necessary measures by a real and substantial concert, then the enterprise to be accomplished can hardly ever be deemed difficult.

But if, contrary to the anticipations which are entertained of these favorable dispositions, the great body of the people should be found indifferent to the preservation of the Government of the Union, or insensible to the necessity of vigorous exertions to repel the danger with threatens their most important interests; or if an unwillingness to encounter partial inconveniences should interfere with the discharge of what they owe to their permanent welfare; or if either yielding to the suggestions of particular prejudices, or misled by the arts which may be employed to infuse jealousy and discontent, they should suffer their zeal for the support of public order to be relaxed by an unfavorable opinion of the merits and tendency of the measures which may be adopted; if, above all, it were possible that any of the State Governments should, instead of prompting the exertions of the citizens, assist directly or indirectly in damping their ardor, by giving a wrong bias to their judgment, or by disseminating dissatisfaction with the proceedings of the General Government, or should counteract the success of those proceedings by any sinister influence whatever; then, indeed, no one can calculate, or may be able to avert, the fatal evils with which such a state of things would be pregnant. Then, indeed, the foundations of our political happiness may be deeply shaken, if not altogether overturned.

The President, however, can suppose none of these things. He cherishes an unqualified confidence in the virtue and good sense of the people, in the integrity and patriotism of the officers of the State Governments; and he counts absolutely on the same affectionate support which he has experienced upon all former occasions, and which he is conscious that the goodness of his intentions now, not less than heretofore, merits.

It has been promised to show more particularly hereafter that the Government of the United States is now at that point where it is confessed, if the State Government was, the employment of force on its part would be justifiable. This promise remains to be fulfilled.

The facts already noted establish the conclusion; but to render it palpable, it will be of use to apply them to the positions which your excellency has been pleased to lay down.

You admit that, as the offences committed respect the State, the military power of the Government ought to be employed where its judiciary authority, after a fair experiment, had proved incompetent to enforce obedience, or to punish infractions of the law; that if the strength and audacity of a lawless combination shall baffle and destroy the efforts of the judiciary authority to recover a penalty or inflict a punishment, that authority may constitutionally claim the auxiliary intervention of the military power; that, in the last resort, at the requisition, and as an auxiliary of the civil authority, the military force of the State would be called forth. And you declare that the circumstances of the case evidently require a firm and energetic conduct on the part both of State and General Governments.

For more than three years, as already observed, certain laws of the United States have been obstructed in their execution by disorderly combinations. Not only officers, whose immediate duty it was to carry them into effect, have suffered violent personal outrage and injury, and destruction of property, at different times, but similar persecution has been extended to private citizens, who have aided, countenanced, or only complied with the laws. The violences committed have been so frequent, and such, in their degree, as to have been matter of general notoriety and alarm; and it may be added, that they have been abundantly within the knowledge and under the notice of the judges and marshals of Pennsylvania, of superior as well as of inferior jurisdiction. If, in particular instances, they have been punished by the exertions of the magistrates, it is at least certain that their effects have been, in the main, ineffectual. The spirit has continued, and, with some intervals of relaxation, has been progressive, manifesting itself in reiterated excesses. The judiciary authority of the United States has, also, prior to the attempt which preceded the late crisis, made some fruitless efforts under a former marshal; an officer sent to execute process, was deterred from it by the manifest danger of proceeding. These particulars serve to explain the extent, obstinacy, and inveteracy of the evil.

But the facts which immediately decide the complexion of the existing crisis are these—numerous delinquencies existed with regard to a compliance with the laws laying duties on spirits distilled within the United States, and upon stills. An armed banditti, in disguise, had recently gone to the house of an officer of the revenue in the night, attacked it, broke open the doors, and, by menaces of instant death, enforced by pistols presented at him, had compelled a surrender of his commission and books of office. Contemporary acts of violence had been perpetrated in other quarters. Processes issued out of a court of the United States to recover the penalties incident to non-compliance with the laws, and to bring to punishment the violent infractors of them in the above-mentioned case, against two of whom indictments had been found. The marshal of the district went in person to execute these processes. In the course of his duty he was actually fired upon on the high road by a body of armed men. Shortly after, other bodies of armed men (in the last instance amounting to several hundred persons) repeatedly attacked the house of the inspector of the revenue, with the declared intention of compelling him to renounce his office, and of obstructing the execution of the laws. One of these bodies of armed men made prisoner the marshal of the district, put him in jeopardy of his life, and did not release him till, for safety, and to obtain his liberty, he engaged to forbear the execution of the processes with which he was charged. In consequence of further requisitions and menaces of the insurgents, the marshal, together with the inspector of the revenue, have been since under the necessity of flying secretly, and by a circuitous route, from the scene of these transactions towards the seat of Government.

An associate justice, pursuant to the provisions of the laws for that purpose, has, in the manner already stated, officially notified the President of the existence of combinations in two of the counties of this State to obstruct the execution of the laws, too powerful to be suppressed by the judiciary authority, or by the powers of the marshal.

Thus, then, is it unequivocally, and in due form, ascertained, in reference to the Government of the United States, that the judiciary authority, after a fair and full experiment, has proved incompetent to enforce obedience to or to punish infractions of the laws; that the strength and audacity of certain lawless combinations have baffled and destroyed the efforts of the judiciary authority to recover penalties or inflict punishment; and that this authority, by a regular notification of this state of things, has, in the last resort, as an auxiliary of the civil authority, claimed the intervention of the military power of the United States. It results, from these facts, that the case exists, when, according to the positions advanced by your excellency in reference to the State Government, the military power may, with due regard to all the requisite cautions, be rightfully interposed. And that the interposition of this power is called for not only by principles of a firm and energetic conduct on the part of the General Government, but by the indispensable duty which the constitution and the laws prescribe to the Executive of the United States.

In this conclusion, your excellency's discernment, on mature reflection, cannot, it is presumed, fail to acquiesce; nor can it refuse its concurrence in the opinion which the President entertains, that he may reasonably expect, when called for, the zealous co-operation of the militia of Pennsylvania; that, as citizens, friends to law and order, they may comply with the call without any thing that can properly be denominated "a passive obedience to the mandates of Government;" and that, as freemen, judging rightly of the cause and nature of the service proposed to them, they will feel themselves under the most sacred of obligations to accept and to perform it with alacrity. The theory of our political institutions knows no difference between the obligations of our citizens in such a case, whether it relate to the Government of the Union or of a State; and it is hoped and confided that a difference will be as little known to their affections or opinions.

Your excellency, it is also presumed, will as little doubt, on the like mature reflection, that in such a case the President could not, without an abdication of the undoubted rights and authorities of the United States and of his duty, postpone the measures for which the laws of the United States provide, to a previous experiment of the plan which is delineated in your letter.

The people of the United States have established a Government for the management of their general interests. They have instituted executive organs for administering that Government; and their representatives have established the rules by which those organs are to act. When their authority, in that of their Government, is attacked by lawless combinations of the citizens of part of a State, they could never be expected to approve that the care of vindicating their authority, of enforcing their laws, should be transferred from the officers of their own Government to those of a State; and this to wait the issue of a process so undeterminate in its duration as that which it is proposed to pursue; comprehending a further and full experiment of the judiciary authority of the State, a proclamation "to declare the sentiments of its Government, announce a determination to prosecute and punish offenders, and to exhort the citizens at large to pursue a peaceable and patriotic conduct;" the sending of commissioners "to address those who have embarked in the present combinations upon the lawless nature and ruinous tendency of their proceedings, to inculcate the necessity of an immediate return to the duty which they owe their country, and to promise, as far as the State is concerned, forgiveness of their past transactions, upon receiving a satisfactory assurance that in future they will submit to the laws;" and, finally, a call of the Legislature of Pennsylvania, "that the ultimate means of subduing the spirit of insurrection, and of restoring tranquillity and order, may be prescribed by their wisdom and authority."

If there were no other objection to a transfer of this kind, the very important difference which is supposed to exist in the nature and consequences of the offences that have been committed in the contemplation of the laws of the United States and of those of Pennsylvania, would alone be a very serious obstacle.

The paramount considerations which forbid an acquiescence in this course of proceeding, render it unnecessary to discuss the probability of its success; else it might have been proper to test the considerations which have been mentioned as a ground of hope, by the inquiry what was the precise extent of the success of past experiments, and especially whether the execution of the revenue laws of Pennsylvania, within the scene in question, was truly and effectually accomplished by them; or, whether they did not rather terminate in a tacit compromise, by which appearances only were saved.

You are already, sir, advised that the President, yielding to the impressions which have been stated, has determined to take measures for calling forth the militia, and that these measures contemplate the assembling a body of between twelve and thirteen thousand men from Pennsylvania, and the neighboring States of Virginia, Maryland, and New Jersey. The recourse thus early to the militia of the neighboring States proceeds from a probability of the insufficiency of that of Pennsylvania alone to accomplish the object; your excellency having, in your conference with the President, confirmed the conclusion, which was deducible from the known local and other circumstances of the State, by the frank and express declaration which you made of your conviction of that insufficiency in reference to the number which could be expected to be drawn forth for the purpose.

But while the President has conceived himself to be under an indispensable obligation to prepare for that eventual resort, he has still consulted the sentiment of regret which he expressed to you at the possible necessity of an appeal to arms; and to avert it, if practicable, as well as to manifest his attention to the principle that "a firm and energetic conduct does not preclude the exercise of a prudent and humane policy," he has (as you have been also advised) concluded upon the measure of sending himself commissioners to the discontented counties, to make one more experiment of a conciliatory appeal to the reason, virtue, and patriotism of their inhabitants; and has also signified to you how agreeable would be to him your co-operation in the same expedient, which you have been pleased to afford. It can scarcely be requisite to add, that there is nothing he has more at heart than that the issue of this experiment, by establishing the authority of the laws, may preclude the always calamitous necessity of an appeal to arms. It would plant a thorn in the remainder of his path through life to have been obliged to employ force against fellow-citizens, for giving solidity and permanency to blessings which it has been his greatest happiness to co-operate with them in procuring for a much loved country.

The President receives with much pleasure the assurance you have repeated to him, that whatever requisition he may make, whatever duty he may impose, in pursuance of his constitutional and legal powers, will on your part be promptly undertaken and faithfully discharged; and acknowledging, as an earnest of this, and even more, the measures of co-operation which you are pursuing, he assures you, in return, that he relies fully on the most cordial aid and support from you in every way which the constitutions of the United States and of Pennsylvania shall authorize and present, or future exigencies may require.

And he requests that you will construe, with a reference to this assurance of his confidence, whatever remarks may have been made in the course of this reply to your letter, if it shall have happened that any of them have erred, through a misconception of the sentiments and views which you may have meant to communicate.

With perfect respect, I have the honor to be, sir, your most obedient servant,

EDM. RANDOLPH, *Secretary of State.*

His Excellency Governor MIFFLIN.



PHILADELPHIA, August 12, 1794.

SIR:

The Secretary of State has transmitted to me, in a letter dated the 7th of August, (but only received yesterday,) your reply to my letter of the 5th instant.

For a variety of reasons, it might be desirable at this time to avoid an extension of our correspondence upon the subject to which those letters particularly relate; but the nature of the remarks contained in your reply, and the sincerity of my desire to merit, on the clearest principles, the confidence which you are pleased to repose in me, will justify, even under the present circumstances of the case, an attempt to explain any ambiguity and to remove any prejudices that may have arisen, either from an inaccurate expression or an accidental misconception of the sentiments and views which I meant to communicate.

That the course which I have suggested as proper to be pursued in relation to the recent disturbances in the western parts of Pennsylvania contemplates the State in a light too separate and unconnected, is a position that I certainly did not intend to sanction in any degree that could wound your mind with a sentiment of regret. In submitting the construction of the facts which must regulate the operations of the General Government implicitly to your judgment; in cautiously avoiding any reference to the nature of the evidence from which those facts are collected, or to the conduct which the Government of the United States might pursue; in declaring that I spoke only as the Executive Magistrate of the State, charged with a general superintendence and care that its laws be faithfully executed; and, above all, in giving a full and unequivocal assurance that whatever requisition you may make, whatever duty you may impose, in pursuance of your constitutional and legal powers, would on my part be promptly undertaken and faithfully discharged—I thought that I had manifested the strongest sense of my federal obligations; and that, so far from regarding the State in a separate and unconnected light, I had expressly recognised the subjection of her individual authority to the national jurisdiction of the Union.

It is true, however, sir, that I have only spoken as the Executive Magistrate of the State; but, in that character, it is a high gratification to find that, according to your opinion likewise, “the propriety of the course which I suggested would, in most if not in all respects, be susceptible of little question.” Permit me then to ask, in what other character could I have spoken, or what other language did the occasion require to be employed? If the co-operation of the Government of Pennsylvania was the object of our conference, your constitutional requisition as the Executive of the Union, and my official compliance as the Executive of the State, would indubitably insure it; but if a preliminary, a separate, an unconnected conduct was expected to be pursued by the Executive Magistrate of Pennsylvania, his separate and unconnected power and discretion must furnish the rule of proceeding; and by that rule, agreeably to the admission which I have cited, “the propriety of my course would, in most if not in all respects, be susceptible of little question.” It must, therefore, in justice be remembered, that a principal point in our conference related to the expediency of my adopting, independent of the General Government, a *preliminary* measure, (as it was then termed,) under the authority of an act of the Legislature of Pennsylvania, which was passed on the 22d of September, 1783, and which the Attorney General of the United States thought to be in force, but which had in fact been repealed on the 11th of April, 1793.

Upon the strictest idea of co-operative measures, however, I do not conceive, sir, that any other plan could have been suggested consistently with the powers of the Executive Magistrate of Pennsylvania, or with a reasonable attention, on my part, to a systematic and energetic course of proceeding. The complicated nature of the outrage which was committed upon the public peace gave a jurisdiction to both Governments; but in the mode of prosecuting, or in the degree of punishing the offenders, that circumstance could not, I apprehend, alter or enlarge the powers of either. The State (as I observed in my last letter) could only exert itself in executing the laws or maintaining the authority of the Union by the same means which she employed to execute and maintain her more peculiarly municipal laws and authority; and hence I inferred, and still venture to infer, that if the course which I have suggested is the same that would have been pursued had the riot been unconnected with the system of federal policy, its propriety cannot be rendered questionable merely by taking into our view (what I never have ceased to contemplate) the existence of a federal Government, federal laws, federal judiciary, and federal officers. But would it have been thought more consonant with the principle of co-operation, had I issued orders for an immediate, a separate, and an unconnected call of the militia, under the special authority which was supposed to be given by a law, or under the general authority which may be presumed to result from the constitution? Let it be considered that you had already determined to exercise your legal powers in draughting a competent force of the militia, and it will be allowed that if I had undertaken not only to comply promptly with your requisition, but to embody a distinct corps for the same service, a useless expense would have been incurred by the State, an unnecessary burden would have been imposed on the citizens, and embarrassment and confusion would probably have been introduced instead of system and co-operation. Regarding it in this point of light, indeed, it may be natural to think that, in the judiciary as well as the military department, the subject should be left entirely to the management either of the State or of the General Government; for “the very important difference which is supposed to exist in the nature and consequences of the offences that have been committed, in the contemplation of the laws of the United States and those of Pennsylvania,” must otherwise destroy that uniformity in the distinction of crimes, and the apportionment of punishments, which has always been deemed essential to a due administration of justice.

But let me not, sir, be again misunderstood: I do not mean by these observations to intimate an opinion, or to express a wish, that “the care of vindicating the authority or of enforcing the laws of the Union should be transferred from the officers of the General Government to those of the State;” nor, after expressly avowing that I had cautiously avoided any reference to the conduct which the Government of the United States might pursue on this important occasion, did I think an opportunity could be found to infer that I was desirous of imposing a suspension of your proceedings, for the purpose of waiting the issue of the process which I designed to pursue. If, indeed, “the Government of the United States was at that point, where, it was admitted, if the Government of Pennsylvania was, the employment of force by its authority would be justifiable,” I am persuaded that, on mature consideration, you will do more credit to my candor than to suppose that I meant to condemn or to prevent the adoption of those measures on the part of the General Government which in the same circumstances I should have approved and promoted on the part of Pennsylvania. The extracts that are introduced into the letter of the Secretary of State, in order to support that inference, can only be justly applied to the case which was immediately in contemplation—the case of the State of Pennsylvania, whose judiciary authority had not then, in my opinion, been sufficiently tried. They ought not surely be applied to a case which I had cautiously excluded from my view—the case of the United States, whose judiciary authority had, in your opinion, proved inadequate to the execution of the laws and the preservation of order. And if they shall be thus limited to their proper object, the justice and force of the argument which flows from them can never be successfully controverted or denied. While you, sir, were treading in the plain path designated by a positive law with no other care than to preserve the forms which the Legislature had prescribed, and relieved from a weight of responsibility by the legal operation of a judge’s certificate,



I was called upon to act, not in conformity to a positive law, but in compliance with the duty which is supposed to result from the nature and constitution of the Executive office.

The Legislature had prescribed no forms to regulate my course; no certificate to inform my judgment; every step must be directed by my own discretion; and every error of construction or conduct would be charged on my own character. Hence arose an essential difference in our official situations; and I am confident that on this ground alone you will perceive a sufficient motive for my considering the objection, in point of law, to forbear the use of military force, until the judiciary authority had been tried, as well as the probable effects, in point of policy, which that awful appeal might produce.

For, sir, it is certain that at the time of our conference there was no satisfactory evidence of the incompetency of the judicial authority of Pennsylvania to vindicate the violated laws; I, therefore, could not, as Executive Magistrate, proceed upon a military plan; but actuated by the genuine spirit of co-operation, not by a desire to sully the dignity or to alienate the powers of the General Government; I still hoped and expected to be able on this, as on former occasions, to support the laws of the Union, or to punish the violators of them, by an exertion of the civil authority of the State Government, the State judiciary, and the State officers. This hope prompted the conciliatory course which I determined to pursue, and which, so far as respects the appointment of commissioners, you have been pleased to incorporate with your plan. And if, after all, the purposes of justice could be attained, obedience to the laws could be restored, and the horrors of a civil war could be averted, by the auxiliary intervention of the State Government, I am persuaded you will join me in thinking that the idea of placing the State in a separate and unconnected point of view, and the idea of making a transfer of the powers of the General Government, are not sufficiently clear or cogent to supersede such momentous considerations.

Having thus generally explained the principles contained in my letter of the 5th instant, permit me (without advertent to the material change that has since occurred in the state of our information, relative to the riots, and which is calculated to produce a corresponding change of sentiments and conduct) to remark, that many of the facts that are mentioned by the Secretary of State, in order to show that the judiciary authority of the Union, after a fair and full experiment, had proved incompetent to enforce obedience, or to punish infractions of the laws, were, before that communication, totally unknown to me. But still, if it shall not be deemed a deviation from the restriction that I have determined to impose upon my correspondence, I would offer some doubts which, in that respect, occurred to my mind on the evidence, as it appeared at the time of our conference. When I found that the marshal had, without molestation, executed his office in the county of Fayette, that he never was insulted or opposed until he acted in company with General Neville, and that the virulence of the rioters was directly manifested against the person and property of the latter gentleman, and only incidentally against the person of the former, I thought there was ground yet to suppose (and as long as it was reasonable I wished to suppose) that a spirit of opposition to the officers employed under the excise law, and not a spirit of opposition to the officers employed in the administration of justice, was the immediate source of the outrages which we deprecate. It is true that these sources of opposition are equally reprehensible, and that their effects are alike unlawful; but on a question respecting the power of the judiciary authority to enforce obedience, or to punish infractions of the law, it seemed to be material to discriminate between the cases alluded to, and to ascertain with precision the motives and the object of the rioters. Again: as the associate judge had not, at that time, issued his certificate, it was proper to scrutinize with strict attention the nature of the evidence on which an act of Government was to be founded. The constitution of the Union, as well as of the State, had cautiously provided, even in the case of an individual, that "no warrant should issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." And a much higher degree of caution might reasonably be exercised in a case that involved a numerous body of citizens in the imputation of treason or felony, and required a substitution of the military for the judicial instruments of coercion. The only affidavits that I recollect to have appeared at the time of our conference were those containing the hearsay of Colonel Mentges, and the vague narrative of the post rider. The letters that had been received from a variety of respectable citizens, not being written under the sanction of an oath or affirmation, could not acquire the legal force and validity of evidence, from a mere authentication of the signatures of the respective writers. Under such circumstances, doubts arose, not whether the means which the laws prescribe for effectuating their own execution should be exerted, but whether the existence of a specific case, to which specific means of redress were appropriated by the laws, had been legally established; not whether the laws, the constitution, the Government, the principles of social order, and the bulwarks of private right and security should be sacrificed, but whether the plan proposed was the best calculated to preserve those inestimable blessings. And, recollecting a declaration which was made in your presence, "that it would not be enough for a military force to disperse the insurgents, and to restore matters to the situation in which they were, two or three weeks before the riots were committed, but that the force must be continued for the purpose of protecting the officers of the revenue, and securing a perfect acquiescence in the obnoxious law," I confess, sir, the motives to caution and deliberation strike my mind with accumulated force. I hope, however, that it will never be seriously contended that a military force ought now to be raised with any view but to suppress the rioters; or that, if raised with that view, it ought to be employed for any other. The dispersion of the insurgents is, indeed, obviously the sole object for which the act of Congress has authorized the use of military force, on occasions like the present, for, with a generous and laudable precaution, it expressly provides that even before that force may be called forth a proclamation shall be issued, commanding the insurgents to disperse, and retire peaceably to their respective abodes within a limited time.

But the force of these topics I again refer implicitly to your decision; convinced, sir, that the goodness of your intentions now, not less than heretofore, merits an affectionate support from every description of your fellow-citizens. For my own part, I derive a confidence from the heartfelt integrity of my views, and the sincerity of my professions, which renders me invulnerable by any insinuation of practising a sinister or deceitful policy.

I pretend not to infallibility in the exercise of my private judgment, or in the discharge of my public functions; but in the ardor of my attachment, and in the fidelity of my services to our common country, I feel no limitation: and your excellency, therefore, may justly be assured, that in every way which the Constitutions of the United States and of Pennsylvania shall authorize and present, or future exigencies may require, you will receive my most cordial aid and support.

I am, with perfect respect, sir, your excellency's most obedient humble servant,

THOS. MIFFLIN.

THE PRESIDENT OF THE UNITED STATES.

SIR:

PHILADELPHIA, August 30, 1794.

I am directed by the President to acknowledge the receipt, on the 17th, of your excellency's letter dated the 12th instant.

The President feels with you the force of the motives which render undesirable an extension of correspondence on the subject in question. But the case being truly one of great importance and delicacy, these motives must yield, in a degree, to the propriety and utility of giving precision to every part of the transaction, and guarding effectually against ultimate misapprehension.

To this end, it is deemed advisable, in the first place, to state some facts which either do not appear, or are conceived not to have assumed an accurate shape in your excellency's letter. They are these:

1. You were informed at the conference that all the information which had been received had been laid before an associate justice, in order that he might consider and determine whether such a case as is contemplated by the second section of the act, which provides for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, had occurred; that is, whether combinations existed too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal by that act; in which case, the President is authorized to call forth the militia to suppress the combinations and to cause the laws to be duly executed.

2. The idea of a preliminary proceeding by you was pointed to an eventual co-operation with the Executive of the United States, in such plan as, upon mature deliberation, should be deemed advisable, in conformity with the laws of the Union. The inquiry was particularly directed towards the possibility of some previous accessory step in relation to the militia, to expedite the calling them forth if an acceleration should be judged expedient and proper, and if any delay on the score of evidence should attend the notification from a judge, which the laws make the condition of the power of the President to require the aid of the militia, and turned more especially upon the point, whether the law of Pennsylvania of the 22d of September, 1783, was or was not still in force. The question emphatically was: Has the Executive of Pennsylvania power to put the militia in motion, previous to a requisition from the President, under the laws of the Union, if it shall be thought advisable so to do? Indeed, it seems to be admitted by one part of your letter, that the *preliminary* measure contemplated did turn on this question, and with a particular eye to the authority and existence of the act just mentioned.

3. The information contained in the papers read at the conference, besides the violence offered to the marshal, while in company with the inspector of the revenue, established that the marshal had been afterwards made prisoner by the insurgents, put in jeopardy of his life, had been obliged to obtain safety and liberty by a promise guaranteed by Colonel Presby Neville that he would serve no other process on the west side of the Allegany mountain; that in addition to this, a deputation of the insurgents had gone to Pittsburg to demand of the marshal a surrender of the processes in his possession, under the intimation that it would satisfy the people *and add to his safety*; which necessarily implied that he would be in danger of further violence without such a surrender. That under the influence of this menace, he had found it necessary to seek security by taking, secretly, and in the night, a circuitous route.

This recapitulation is not made to invalidate the explanation offered in your last letter of the view of the subject, which you assert to have led to the suggestions contained in your first, and of the sense which you wish to be received as that of the observations accompanying those suggestions. It is intended solely to manifest that it was natural for the President to regard your communication of the 5th instant in the light under which it is presented in the reply to it.

For, having informed you that the matter was before an associate justice, with a view to the law of the United States which has been mentioned, and having pointed out what was said respecting a *preliminary* proceeding on your part to a call of the militia under the authority of a State law, by anticipation of a requisition from the General Government, and in co-operation with an eventual plan to be founded upon the laws of the Union, it was not natural to expect that you would have presented a plan of conduct entirely on the basis of the State Government, even to the extent of resorting to the Legislature of Pennsylvania, after its judiciary had proved incompetent "to prescribe by their wisdom and authority the means of subduing the spirit of insurrection and of restoring tranquility and order;" a plan which, being incompatible with the course marked out in the laws of the United States, evidently could not have been acceded to without a suspension, for a long and indefinite period, of the movements of the Federal Executive pursuant to those laws. The repugnancy and incompatibility of the two modes of proceeding at the same time cannot, it is presumed, be made a question.

Was it extraordinary, then, that the plan suggested should have been unexpected, and that it should even have been thought liable to the observation of having contemplated Pennsylvania in a light too separate and unconnected?

The propriety of the remark, "that it was impossible not to think that the current of the observations in your letter might be construed to imply a virtual disapprobation of that plan of conduct on the part of the General Government, in the actual stage of its affairs, which you acknowledged would be proper on the part of the Government of Pennsylvania, if arrived at a similar stage," must be referred to the general tenor and complexion of those observations, and to the inference they were naturally calculated to inculcate. If this inference was, that under the known circumstances of the case, the employment of force to suppress the insurrection was improper, without a long train of preparatory expedients; and if, in fact, the Government of the United States (which has not been controverted) was at that point where it was admitted that the Government of Pennsylvania being arrived the resort to force on its part would be proper, the impression which was made could not have been effaced by the consideration that the forms of referring what concerned the Government of the Union to the judgment of its own Executive were carefully observed. There was no difficulty in reconciling the intimation of an opinion unfavorable to a particular course of proceeding with an explicit reference of the subject (officially speaking) to the judgment of the officer charged by the constitution to decide, and with a sincere recognition of the subjection of the individual authority of the State to the national jurisdiction of the Union.

The disavowal by your excellency of an intention to sanction the inference, which was drawn, renders what has been said a mere explanation of the cause of that inference, and of the impression which it *at first* made.

It would be foreign to the object of this letter to discuss the various observations, which have been adduced to obviate a misapprehension of your views, and to maintain the propriety of the course pursued in your first communication. It is far more pleasing to the President to understand you in the sense you desire, and to conclude that no opinion has been indicated by you inconsistent with that which he has entertained of the state of things and of his duty in relation to it. And he remarks, with satisfaction, the effect which subsequent information is supposed to be calculated to produce favoring an approximation of sentiments.

But there are a few miscellaneous points, which, more effectually to prevent misconception any where, seem to demand a cursory notice.

You observe that the President had *already determined* to exercise his legal powers in draughting a competent force of the militia. At the point of time to which you are understood to refer, namely, that of the conference,

the President *had no legal power* to call forth the militia. No judge had yet pronounced that a case justifying the exercise of that power existed. You must be sensible, sir, that all idea of your calling out the militia by your authority was referred to a state of things antecedent to the lawful capacity of the President to do it by his own authority; and when he had once determined upon the call, pursuant to his legal powers, it were absurd to have proposed to you a separate and unconnected call. How, too, it might be asked, could such a determination, if it had been made, and was known to you, have comported with the plan suggested in your letter, which pre-supposes that the employment of force had not already been determined upon?

This passage of your letter is, therefore, construed to mean only that the President had manifested an opinion predicated upon the event of such a notification from a judge as the law prescribes, that the nature of the case was such as would probably require the employment of force. You will, also, it is believed, recollect that he had not at the time finally determined upon any thing, and that the conference ended with referring the whole subject to further consideration.

You say, that if you had undertaken not only to comply promptly with the President's requisition, but to embody a distinct corps for the same service, a useless expense would have been incurred by the State, an unnecessary burden would have been imposed on the citizens, and embarrassment and confusion would probably have been introduced instead of system and co-operation. *But both were never expected.* Your embodying the militia independent of a requisition from the President was never thought of, except as a preliminary and auxiliary step. Had it taken place when the requisition came, the corps embodied would have been ready towards a compliance with it, and no one of the inconveniences suggested could possibly have arisen.

You say, in another place, that you "were called upon to act, not in conformity to a positive law, but in compliance with the duty which is supposed to result from the nature and constitution of the executive office." It is conceived that it would have been more correct to have said "you were called upon to be consulted whether you had power in the given case to call forth the militia, without a previous requisition from the General Government." The supposition that you might possess this power was referred to a law of Pennsylvania, which appeared, on examination, to have been repealed. A gentleman who accompanied you thought that the power, after a due notification of the incompetency of the judiciary, might be deduced from the nature and constitution of the executive office.

It has appeared to your excellency fit and expedient to animadvert upon the nature of the evidence produced at the conference, and to express some doubts which had occurred to your mind concerning it.

As the laws of the United States have referred the evidence in such cases to the judgment of a district judge or associate justice, and, foreseeing that circumstances so peculiar might arise as to render rules relating to the ordinary and peaceable state of society inapplicable, have forborne to prescribe any, leaving it to the understanding and conscience of the judge, upon his responsibility, to pronounce what kind and degree of evidence should suffice, the President would not sanction a discussion of the standard or measure by which evidence in those cases ought to be governed. He would restrain himself by the reflection that this appertains to the province of another, and that he might rely as a guide upon the decision which should be made by the proper organ of the laws for that purpose.

But it may be no deviation from this rule to notice to you that the facts stated in the beginning of this letter, under the third head, appear to have been overlooked in your survey of the evidence, while they seem to be far from immaterial to a just estimate of it.

You remark that "when you found that the marshal had without molestation executed his office in the county of Fayette, that he never was insulted or opposed till he acted in company with General Neville, and that the virulence of the rioters was directly manifested against the person and property of the latter gentleman, and only incidentally against the person of the former, you thought there was ground yet to suppose that a spirit of opposition to the officers employed under the excise law, and not a spirit of opposition to the officers employed in the administration of justice, was the immediate source of the outrages which are deprecated."

It is natural to inquire how this supposition could consist with the additional facts which appeared by the same evidence, namely, that the marshal, having been afterwards made prisoner by the rioters, had been compelled, for obtaining safety and liberty, to promise to execute no more processes within the discontented scene; and that subsequently again to this, in consequence of a deputation of the rioters deliberately sent to demand a surrender of the processes in his possession, enforced by a threat, he had found it necessary to seek security in withdrawing by a secret and circuitous route—did not these circumstances unequivocally denote that officers employed in the administration of justice were as much objects of opposition as those employed in the execution of the particular laws, and that the rioters were at least consistent in their plan?

It must needs be that these facts escaped your excellency's attention, else they are too material to have been omitted in your review of the evidence, and too conclusive not to have set aside the supposition which you entertained, and which seems to have had so great a share in your general view of the subject.

There remains only one point on which your excellency will be longer detained—a point, indeed, of great importance, and consequently demands serious and careful reflection. It is the opinion you so emphatically express, that the mere dispersion of the insurgents is the sole object for which the militia can be lawfully called out, or kept in service after they may have been called out.

The President reserves to the last moment the consideration and decision of this point.

But there are arguments weighing heavily against the opinion you have expressed, which, in the mean time, are offered to your candid consideration.

The constitution of the United States (article 1, section 8) empowers Congress "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:" evidently, from the wording and distribution of the sentence, contemplating the execution of the laws of the Union as a thing distinct from the suppression of insurrections.

The act of May 2, 1792, for carrying this provision of the constitution into effect, adopts for its title the very words of the constitution, being "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions"—continuing the constitutional distinction.

The first section of the act provides for the cases of invasion and of insurrection, confining the latter to the case of insurrection against the Government of a State. The second section provides for the case of the execution of the laws being obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals.

The words are these: "Whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, the same being notified to the President of the United States by an associate justice or the district judge, it shall be lawful for the President of the United States to call forth the militia of such State to suppress such combinations, and to cause the laws to be duly executed." Then follows a provision for calling forth the militia of the other States.

The terms of this section appear to contemplate and describe something that may be less than insurrection. "The combinations" mentioned may indeed amount to insurrections, but it is conceivable that they may stop at associations not to comply with the law, supported by riots, assassinations, and murders, and by a general spirit in a part of the community which may baffle the ordinary judiciary means, with no other aid than the *posse comitatus*, and may even require the stationing of military force for a time, to awe the spirit of riot and countenance the magistrates and officers in the execution of their duty. And the objects for which the militia are to be called are expressly *not only* to suppress these combinations, (whether amounting to insurrections or not,) *but to cause the laws to be duly executed.*

It is therefore plainly contrary to the manifest general intent of the constitution and of this act, and to the positive and express terms of the second section of the act, to say that the militia called forth are not to be continued in service for the purpose of *causing the laws to be duly executed*, and, of course, till they are so executed.

What is the main and ultimate object of calling forth the militia? "*To cause the laws to be executed.*" Which are the laws to be executed? Those which are opposed and obstructed in their execution by the combinations described in the present case—the laws laying duties upon spirits distilled within the United States, and upon stills; and, incidentally, those which uphold the judiciary functions. When are the laws executed? Clearly, when the opposition is subdued; when penalties for disobedience can be enforced; when a compliance is effectuated.

Would the mere *dispersion* of insurgents, and their retiring to their respective homes, do this? Would it satisfy either member of the provision—the suppression of the combinations or the execution of the laws? Might not the former, notwithstanding the *dispersion*, continue in full vigor, ready at any moment to break out into new acts of resistance to the laws? Are the militia to be kept perpetually marching and countermarching towards the insurgents while they are embodied, and from them when they have separated and retired? Suppose the insurgents hardy enough to wait the experiment of a battle, are vanquished, and then disperse and retire home, are the militia immediately to retire also, to give them an opportunity to reassemble, recruit, and prepare for another battle? And is this to go on and be repeated without limit?

Such a construction of the law, if true, were certainly a very unfortunate one, rendering its provisions essentially nugatory, and leading to endless expense and as endless disappointment. It could hardly be advisable to vex the militia by marching them to a distant point, where they might scarcely be arrived before it would be legally necessary for them to return, not in consequence of having effected their object—of having "caused the laws to be executed"—but in consequence of the mere stratagem of a deceitful dispersion and retiring.

Thus far the spirit as well as the positive letter of the law combats the construction which you have adopted. It remains to see if there be any other part of it which compels to a renunciation both of the letter and spirit of the antecedent provisions.

The part which seems to be relied upon for this effect is the third section, which, by way of proviso, enjoins "That whenever it may be necessary, in the judgment of the President, to *use* the military force by that act directed to be called forth, he shall forthwith, and previous thereto, by proclamation, command the insurgents to disperse and retire peaceably to their respective abodes, within a limited time." But does this affirm, does it even necessarily imply, that the militia, after the dispersion and retiring, are not to be used for the purpose for which they are authorized to be called forth, that is, "to cause the laws to be duly executed;" to countenance by their presence, and, in case of further resistance, to protect and support, by their strength, the respective civil officers in the execution of their several duties, whether for bringing delinquents to punishment, or otherwise for giving effect to the laws? May not the injunction of this section be regarded as a merely humane and prudent precaution, to distinguish, previous to the *actual application* of force, a hasty tumult from a deliberate insurrection? To give an opportunity for those who may be accidentally or inadvertently mingled in a tumult or disorderly rising, to separate and withdraw from those who are designedly and deliberately actors? To prevent, if possible, bloodshed in a conflict of arms; and, if this cannot be done, to render the necessity of it palpable, by a premonition to the insurgents to disperse and go home? And are not all these objects compatible with the further employment of the militia for the ulterior purpose of causing the laws to be executed in the way which has been mentioned? If they present a rational end for the proviso, without defeating the main design of the antecedent provision, it is clear they ought to limit the sense of the former, and exclude a construction which must make the principal provision nugatory.

Do not the rules of law and reason unite in declaring that the different parts of a statute shall be so construed as, if possible, to consist with each other; that a proviso ought not to be understood or allowed to operate in a sense tending to defeat the principal clause; and that an implication (if, indeed, there be any such implication as is supposed in the present case) ought not to overrule an express provision, especially at the sacrifice of the *manifest general intent* of a law, which, in the present case, undoubtedly is, that the militia shall be called forth "*to cause the laws to be duly executed?*"

Though not very material to the merit of the argument, it may be remarked that the proviso which forms the third section contemplates merely the case of insurrection. If the *combinations* described in the second section may be less than insurrection, then the proviso is not commensurate with the whole case contained in the second section, which would be an additional circumstance to prove that it cannot work an effect which shall be a substitute for the main purpose of the first section.

I have the honor to be, with perfect respect, sir, your excellency's most obedient servant,

EDM. RANDOLPH.

His Excellency Governor MIFFLIN.

SIR:

TREASURY DEPARTMENT, August 5, 1794.

The disagreeable crisis at which matters have lately arrived in some of the western counties of Pennsylvania, with regard to the laws laying duties on spirits distilled within the United States, and on stills, seems to render proper a review of the circumstances which have attended those laws in that scene, from their commencement to the present time, and of the conduct which has hitherto been observed on the part of the Government, its motives and effect, in order to a better judgment of the measures necessary to be pursued in the existing emergency.

The opposition to those laws in the four most western counties of Pennsylvania, (Alleghany, Washington, Fayette, and Westmoreland,) commenced as early as they were known to have been passed. It has continued, with different degrees of violence, in the different counties and at different periods; but Washington has uniformly distinguished its resistance by a more excessive spirit than has appeared in the other counties, and seems to have been chiefly instrumental in kindling and keeping alive the flame.

The opposition first manifested itself in the milder shape of the circulation of opinions unfavorable to the law, and calculated, by the influence of public disesteem, to discourage the accepting or holding of offices under it, or the complying with it by those who might be so disposed; to which was added a show of the discontinuance of the business of distilling.

These expedients were shortly after succeeded by private associations to *forbear* compliances with the law. But it was not long before these mere negative modes of opposition were perceived to be likely to prove ineffectual. And in proportion as this was the case, and as the means of introducing the laws into operation were put into execution, the disposition to resistance became more turbulent, and more inclined to adopt and practise violent expedients; the officers now began to experience marks of contempt and insult; threats against them became more frequent and loud; and, after some time, these threats were ripened into acts of ill-treatment and outrage.

These acts of violence were preceded by certain meetings of malcontent persons, who entered into resolutions calculated at once to confirm, inflame, and systematize the spirit of opposition.

The first of these meetings was holden at a place called Redstone (Old Fort) on the 27th of July, 1791, where it was concerted that county committees should be convened in the four counties, at the respective seats of justice therein. On the 23d of August following one of these committees assembled in the county of Washington.

This meeting passed some intemperate resolutions, which were afterwards printed in the *Pittsburg Gazette*, containing a strong censure on the law, declaring that any person *who had accepted or might accept an office under Congress, in order to carry it into effect, should be considered as inimical to the interests of the country; and recommending to the citizens of Washington county to treat every person who had accepted, or might thereafter accept, any such office, with contempt, and absolutely to refuse all kind of communication or intercourse with the officers, and to withhold from them all aid, support, or comfort.*

Not content with this vindictive proscription of those who might esteem it their duty, in the capacity of officers, to aid in the execution of the constitutional laws of the land, the meeting proceeded to accumulate topics of crimination of the Government, though foreign to each other; authorizing by this zeal for censure a suspicion that they were actuated not merely by the dislike of a particular law, but by a disposition to render the Government itself unpopular and odious.

This meeting, in further prosecution of their plan, deputed three of their members to meet delegates from the counties of Westmoreland, Fayette, and Allegany, on the first Tuesday of September following, for the purpose of expressing the sense of the people of those counties in an address to the Legislature of the United States upon the subject of the excise law and *other grievances.*

Another meeting accordingly took place on the 7th of September, 1791, at Pittsburg, in the county of Allegany, at which there appeared persons in character of delegates from the four western counties.

This meeting entered into resolutions more comprehensive in their objects, and not less inflammatory in their tendency, than those which had before passed the meeting in Washington. Their resolutions contained severe censures not only on the law which was the immediate subject of objection, but upon what they termed the exorbitant salaries of officers; the unreasonable interest of the public debt; the want of discrimination between original holders and transferees, and the institution of a national bank. The same unfriendly temper towards the Government of the United States, which seemed to have led out of their way the meeting at Washington, appears to have produced a similar wandering in that at Pittsburg.

A representation to Congress, and a remonstrance to the Legislature of Pennsylvania, against the law more particularly complained of, were prepared by this meeting, published, together with their other proceedings, in the *Pittsburg Gazette*, and afterwards presented to the respective bodies to whom they were addressed.

These meetings, composed of very influential individuals, and conducted without moderation or prudence, are justly chargeable with the excesses which have been from time to time committed; serving to give consistency to an opposition which has at length matured to a point that threatens the foundations of the Government and of the Union, unless speedily and effectually subdued.

On the 6th of the same month of September, the opposition broke out in an act of violence upon the person and property of Robert Johnson, collector of the revenue for the counties of Allegany and Washington.

A party of men, armed and disguised, waylaid him at a place on Pigeon creek, in Washington county, seized, tarred and feathered him, cut off his hair, and deprived him of his horse, obliging him to travel on foot a considerable distance in that mortifying and painful situation.

The case was brought before the district court of Pennsylvania, out of which processes issued against John Robertson, John Hamilton, and Thomas McComb, three of the persons concerned in the outrage.

The serving of these processes was confided by the then marshal, Clement Biddle, to his deputy, Joseph Fox, who, in the month of October, went into Allegany county for the purpose of serving them.

The appearances and circumstances which Mr. Fox observed himself in the course of his journey, and learned afterwards upon his arrival at Pittsburg, had the effect of deterring him from the service of the processes, and unfortunately led to adopt the injudicious and fruitless expedient of sending them to the parties by a private messenger, under cover.

The deputy's report to the marshal states a number of particulars, evincing a considerable fermentation in the part of the country to which he was sent, and inducing a belief, on his part, that he could not with safety have executed the processes. The marshal, transmitting this report to the district attorney, makes the following observations upon it: "I am sorry to add that he (the deputy) found the people, in general, in the western part of the State, and particularly beyond the Allegany mountains, in such a ferment on account of the act of Congress for laying a duty on distilled spirits, and so much opposed to the execution of the said act, and from a variety of threats to himself personally, (although he took the utmost precaution to conceal his errand,) that he was not only convinced of the impossibility of serving the process, but that any attempt to effect it would have occasioned the most violent opposition from the greater part of the inhabitants; and he declares that, if he had attempted it, he believes he should not have returned alive.

"I spared no expense nor pains to have the process of the court executed, and have not the least doubt that my deputy would have accomplished it, if it could have been done."

The reality of the danger to the deputy was countenanced by the opinion of General Neville, the inspector of the revenue, a man who before had given, and since has given, numerous proofs of a steady and firm temper; and what followed is a further confirmation of it.

The person who had been sent with the processes was seized, whipped, tarred, and feathered; and, after having his money and horse taken from him, was blindfolded and tied in the woods; in which condition he remained for five hours.

Very serious reflections naturally occurred upon this occasion. It seemed highly probable, from the issue of the experiment which had been made, that the ordinary course of civil process would be ineffectual for enforcing the execution of the law in the scene in question, and that a perseverance in this course might lead to a serious concussion. The law itself was still in the infancy of its operation, and far from established in other important portions of the Union. Prejudices against it had been industriously disseminated, misrepresentations diffused, misconceptions fostered. The Legislature of the United States had not yet organized the means by which the Executive could come in aid of the Judiciary, when found incompetent to the execution of the laws. If neither of these im-

pediments to a decisive exertion had existed, it was desirable, especially in a republican Government, to avoid what is in such cases the ultimate resort, till all the milder means had been tried without success.

Under the united influence of these considerations, it appeared advisable to forbear urging coercive measures until the laws had gone into more extensive operation; till further time for reflection and experience of its operation had served to correct false impressions, and inspire greater moderation; and till the Legislature had had an opportunity, by a revision of the law, to remove as far as possible objections, and to reinforce the provisions for securing its execution.

Other incidents occurred, from time to time, which are further proofs of the very improper temper that prevailed among the inhabitants of the refractory counties.

Mr. Johnson was not the only officer who, about the same period, experienced outrage. Mr. Wells, collector of the revenue for Westmoreland and Fayette, was also ill-treated at Greensburg and Uniontown. Nor were the outrages perpetrated confined to the officers; they extended to private citizens, who only dared to show their respect for the laws of their country.

Some time in October, 1791, an unhappy man, of the name of Wilson, a stranger in the county, and manifestly disordered in his intellects, imagining himself to be a collector of the revenue, or invested with some trust in relation to it, was so unlucky as to make inquiries concerning distillers who had entered their stills, giving out that he was to travel through the United States, to ascertain and report to Congress the number of stills, &c. This man was pursued by a party in disguise; taken out of his bed; carried about five miles back, to a smith's shop; stripped of his clothes, which were afterwards burnt; and, having been himself inhumanly burnt in several places with a heated iron, was tarred and feathered, and about day-light dismissed, naked, wounded, and otherwise in a very suffering condition. These particulars are communicated in a letter from the inspector of the revenue, of the 17th of November, who declares that he had then himself seen the unfortunate maniac, the abuse of whom, as he expresses it, exceeded description, and was sufficient to make human nature shudder. The affair is the more extraordinary, as persons of weight and consideration in that county are understood to have been actors in it, and as the symptoms of insanity were, during the whole time of inflicting the punishment, apparent; the unhappy sufferer displaying the heroic fortitude of a man who conceived himself to be a martyr to the discharge of some important duty.

Not long after, a person of the name of Roseberry underwent the humiliating punishment of tarring and feathering with some aggravations, for having in conversation hazarded the very natural and just, but unpalatable remark, that the inhabitants of that county could not reasonably expect protection from a Government whose laws they so strenuously opposed.

The audacity of the perpetrators of these excesses was so great, that an armed banditti ventured to seize and carry off two persons who were witnesses against the rioters in the case of Wilson, in order to prevent their giving testimony of the riot to a court then sitting, or about to sit.

Designs of personal violence against the inspector of the revenue himself, to force him to a resignation, were repeatedly attempted to be put in execution by armed parties, but, by different circumstances, were frustrated.

In the session of Congress, which commenced in October, 1791, the law laying a duty on distilled spirits and stills came under the revision of Congress, as had been anticipated. By an act passed May 8, 1792, during that session, material alterations were made in it; among these, the duty was reduced to a rate so moderate, as to have silenced complaint on that head; and a new and very favorable alternative was given to the distiller—that of paying a monthly instead of a yearly rate, according to the capacity of his still, with liberty to take a license for the precise term which he should intend to work it, and to renew that licence for a further term or terms.

This amending act, in its progress through the Legislature, engaged the particular attention of members, who themselves were interested in distilleries, and of others who represented parts of the county in which the business of distilling was extensively carried on.

Objections were well considered, and great pains taken to obviate all such as had the semblance of reasonableness.

The effect has, in a great measure, corresponded with the views of the Legislature. Opposition has subsided in several districts where it before prevailed, and it was natural to entertain, and not easy to abandon a hope, that the same thing would by degrees have taken place in the four western counties of this State.

But notwithstanding some flattering appearances at particular junctures, and infinite pains, by various expedients, to produce the desirable issue, the hope entertained has never been realized, and is now at an end, as far as the ordinary means of executing laws are concerned.

The first law had left the number and positions of the offices of inspection, which were to be established in each district for receiving entries of stills, to the discretion of the supervisor. The second, to secure a due accommodation to distillers, provides, peremptorily, that there shall be one in each county.

The idea was immediately embraced that it was a very important point in the scheme of opposition to the law, to prevent the establishment of offices in the respective counties.

For this purpose, the intimidation of well-disposed inhabitants was added to the plan of molesting and obstructing the officers, by force or otherwise, as might be necessary. So effectually was the first point carried, (the certain destruction of property and the peril of life being involved,) that it became almost impracticable to obtain suitable places for offices in some of the counties; and, when obtained, it was found a matter of necessity, in almost every instance, to abandon them.

After much effort, the inspector of revenue succeeded in procuring the house of William Faulkner, a captain in the army, for an office of inspection in the county of Washington. This took place in August, 1792. The office was attended by the inspector of the revenue in person, till prevented by the following incidents:

Captain Faulkner, being in pursuit of some deserters from the troops, was encountered by a number of people, in the same neighborhood where Mr. Johnson had been ill-treated the preceding year, who reproached him with letting his house for an office of inspection, drew a knife upon him, threatened to scalp him, tar and feather him, and reduce his house and property to ashes, if he did not solemnly promise to prevent the further use of his house for an office. Captain Faulkner was induced to make the promise exacted; and, in consequence of the circumstance, wrote a letter to the inspector, dated the 20th of August, countermanding the permission for using his house; and the day following gave a public notice in the Pittsburg Gazette that the office of inspector should be no longer kept there.

At the same time another engine of opposition was in operation. Agreeable to a previous notification, there met at Pittsburg, on the 21st of August, a number of persons, styling themselves "A meeting of sundry inhabitants of the western counties of Pennsylvania."

This meeting entered into resolutions not less exceptionable than those of its predecessors. The preamble suggests that a *tax on spirituous liquors* is unjust in itself and oppressive upon the poor; that *internal taxes upon consumption* must, in the end, destroy the liberties of every country in which they are introduced; that the law in ques-



tion, from certain local circumstances, which are specified, would bring immediate distress and ruin upon the western country; and concludes with the sentiment, that they think it their duty to persist in remonstrances to Congress, and in every other *legal* measure that may obstruct the *operation* of the law.

The resolutions then proceed, first, to appoint a committee to prepare and cause to be presented to Congress an address stating objections to the law, and praying for its repeal; secondly, to appoint committees of correspondence for Washington, Fayette, and Allegany, charged to correspond together, and with such committees as should be appointed for the same purpose in the county of Westmoreland, or with any committees of a similar nature that might be appointed in other parts of the United States; and, also, if found necessary, to call together either general meetings of the people in their respective counties, or conferences of the several committees; and lastly, to declare that they will in future consider those who hold offices for the collection of the duty as unworthy of their friendship; that they will have *no intercourse nor dealings with them*, will *withdraw from them every assistance, withhold all the comforts of life which depend upon those duties that as men and fellow-citizens we owe to each other, and will upon all occasions treat them with contempt; earnestly recommending it to the people at large to follow the same line of conduct towards them.*

The idea of pursuing *legal* measures to *obstruct the operation of a law* needs little comment. Legal measures may be pursued to procure the repeal of a law, but to *obstruct its operation* presents a contradiction in terms. The *operation* (or, what is the same thing, the *execution*) of a law cannot be *obstructed* after it has been constitutionally enacted, without illegality and crime. The expression quoted is one of those phrases which can only be used to conceal a disorderly and culpable intention under forms that may escape the hold of the law.

Neither was it difficult to perceive that the anathema pronounced against the officers of the revenue placed them in a state of virtual outlawry, and operated as a signal to all those who were bold enough to encounter the guilt, and the danger to violate both their lives and their properties.

The foregoing proceedings, as soon as known, were reported by the Secretary of the Treasury to the President. The President, on the 15th of September, 1792, issued a proclamation "earnestly admonishing and exhorting all persons whom it might concern to refrain and desist from all unlawful combinations and proceedings whatsoever, having for object, or tending, to obstruct the operation of the laws aforesaid, inasmuch as all lawful ways and means would be put in execution for bringing to justice the infractors thereof, and securing obedience thereto: and, moreover, charging and requiring all courts, magistrates, and officers, whom it might concern, according to the duties of their several offices, to exert the powers in them respectively vested by law for the purposes aforesaid; thereby, also, enjoining and requiring all persons whomsoever, as they tendered the welfare of their country, the just and due authority of Government, and the preservation of the public peace, to be aiding and assisting therein, according to law; and likewise directed that prosecutions might be instituted against the offenders, in the cases in which the laws would support, and the requisite evidence could be obtained.

Pursuant to these instructions, the attorney general, in co-operation with the attorney of the district, attended a circuit court, which was holden at Yorktown, in October, 1792, for the purpose of bringing forward prosecutions in the proper cases.

Collateral measures were taken to procure for this purpose the necessary evidence.

The supervisor of the revenue was sent into the opposing survey, to ascertain the real state of that survey, to obtain evidence of the persons who were concerned in the riot in Faulkner's case, and of those who composed the meeting at Pittsburg, to uphold the confidence and encourage the perseverance of the officers acting under the law; and to induce, if possible, the inhabitants of that part of the survey, which appeared least disinclined to come voluntarily into the law, by arguments addressed to their sense of duty, and exhibiting the eventual dangers and mischiefs of resistance.

The mission of the supervisor had no other fruit than that of obtaining evidence of the persons who composed the meeting at Pittsburg, and of two who were understood to be concerned in the riot; and a confirmation of the enmity which certain active and designing leaders had industriously infused into a large proportion of the inhabitants, not against the particular laws in question only, but of a more ancient date, against the Government of the United States itself.

The then attorney general being of opinion that it was at best a doubtful point, whether the proceedings of the meeting at Pittsburg contained indictable matter, no prosecution was attempted against those who composed it; though, if the ground for proceeding against them had appeared to be firm, it is presumed that the truest policy would have dictated that course.

Indictments were preferred to the circuit court, and found against the two persons understood to have been concerned in the riot; and the usual measures were taken for carrying them into effect.

But it appearing afterwards, from various representations supported by satisfactory testimony, that there had been some mistake as to the persons accused, justice and policy demanded that the prosecution should be discontinued, which was accordingly done.

This issue of the business unavoidably defeated the attempt to establish examples of the punishment of persons who engaged in a violent resistance to the laws, and left the officers to struggle against the stream of resistance, without the advantage of such examples.

The following plan, afterwards successively put in execution, was about this time digested, for carrying, if possible, the laws into effect, without the necessity of recurring to force.

1st. To prosecute delinquents in the cases in which it could be clearly done for non-compliance with the laws. 2d. To intercept the markets for the surplus produce of the distilleries of the non-complying counties, by seizing the spirits in their way to those markets, in places where it could be effected without opposition. 3d. By purchases, through agents, for the use of the army, (instead of deriving the supply through contractors, as formerly,) confining them to spirits, in respect to which there had been a compliance with the laws.

The motives to this plan speak for themselves. It aimed, besides the influence of penalties on delinquents, at making it the general interest of the distillers to comply with the laws, by interrupting the market for a very considerable surplus, and by at the same time confining the benefit of the large demand for public service to those who did their duty to the public; and furnishing, through the means of payments in cash, that medium for paying the duties, the want of which was alleged to be a great difficulty in the way of compliance.

But two circumstances conspired to counteract the success of the plan: one, the necessity, towards incurring the penalties of non-compliance, of there being an office of inspection in each county, which was prevented in some of the counties by means of the intimidation practised for that purpose: another, the non-extension of the law to the territory northwest of the Ohio, into which a large proportion of the surplus before mentioned was sent.

A cure for these defects could only come from the Legislature; accordingly, in the session which began in November, 1792, measures were taken for procuring a further revision of the laws. A bill containing amendments of those and other defects was brought in; but it so happened that this object, by reason of more urgent business, was deferred till towards the close of the session, and finally went off, through the usual hurry of that period.

The continuance of the embarrassment incident to this state of things naturally tended to diminish much of the efficacy of the plan which had been devised; yet it was resolved, as far as legal provisions would bear out the officers, to pursue it with perseverance. There was ground to entertain hopes of its good effect, and it was certainly the most likely course which could have been adopted towards attaining the object of the laws by means short of force; evincing, unequivocally, the sincere disposition to avoid this painful resort, and the steady moderation, which has characterized the measures of the Government.

In pursuance of this plan, prosecutions were occasionally instituted in the mildest forms; seizures were made as opportunities occurred; and purchases on public account were carried on.

It may be incidentally remarked, that these purchases were extended to other places, where, though the same disorders did not exist, it appeared advisable to facilitate the payment of the duties by this species of accommodation.

Nor was this plan, notwithstanding the deficiency of legal provision, which impeded its full execution, without corresponding effects.

Symptoms, from time to time, appeared, which authorized expectation that, with the aid, at another session, of the desired supplementary provisions, it was capable of accomplishing its end, if no extraordinary events occurred.

The opponents of the laws, not insensible of the tendency of that plan, nor of the defects in the laws which interfered with it, did not fail, from time to time, to pursue analogous modes of counteraction. The effort to frustrate the establishment of officers of inspection in particular was persisted in, and even increased; means of intimidating officers and others continued to be exerted.

In April, 1793, a party of armed men in disguise made an attack in the night upon the house of a collector of the revenue, who resided in Fayette county; but he happening to be from home, they contented themselves with breaking open his house, threatening, terrifying, and abusing his family.

Warrants were issued for apprehending some of the rioters upon this occasion by Isaac Mason and James Findley, assistant judges of Fayette county, which were delivered to the sheriff of that county, who, it seems, refused to execute them; for which he has since been indicted.

This is at once an example of a disposition to support the laws of the Union, and of an opposite one in the local officers of Pennsylvania within the non-complying scene.

But it is a truth too important not to be noticed, and too injurious not to be lamented, that the prevailing spirit of those officers has been either hostile or lukewarm to the execution of those laws; and that the weight of an unfriendly official influence has been one of the most serious obstacles with which they have had to struggle.

In June following, the inspector of the revenue was burnt in effigy in Allegany county, at a place and on a day of some public election, with much display, in the presence of, and without interruption from, magistrates and other public officers.

On the night of the 22d of November another party of men, some of them armed, and all in disguise, went to the house of the same collector of Fayette, which had been visited in April, broke and entered it, and demanded a surrender of the officer's commission and official books; upon his refusing to deliver them up, they presented pistols at him, and swore that if he did not comply they would instantly put him to death. At length a surrender of the commission and books was enforced; but, not content with this, the rioters, before they departed, required of the officer that he should, within two weeks, publish his resignation, on pain of another visit, and the destruction of his house.

Notwithstanding these excesses, the laws appeared, during the latter periods of this year, (1793,) to be rather gaining ground. Several principal distillers, who had formerly held out, complied; and others discovered a disposition to comply, which was only restrained by the fear of violence.

But these favorable circumstances served to beget alarm among those who were determined, at all events, to prevent the quiet establishment of the laws. It soon appeared that they meditated, by fresh and greater excesses, to aim a still more effectual blow at them, to subdue the growing spirit of compliance, and to destroy entirely the organs of the laws within that part of the country, by compelling all the officers to renounce their offices.

The last proceeding, in the case of the collector of Fayette, was in this spirit. In January, of the present year, further violences appear to have been perpetrated. William Richmond, who had given information against some of the rioters, in the affair of Wilson, had his barn burnt, with all the grain and hay which it contained; and the same thing happened to Robert Shawhan, a distiller, who had been among the first to comply with the law, and who had always spoken favorably of it; but in neither of these instances, (which happened in the county of Alleghany) though the presumptions were violent, was any positive proof obtained.

The inspector of the revenue, in a letter of the 27th of February, writes that he had received information that persons, living near the dividing line of Alleghany and Washington, had thrown out threats of tarring and feathering one William Cochran, a complying distiller, and of burning his distillery; and that it had also been given out that in three weeks there would not be a house standing in Alleghany county of any person who had complied with the laws; in consequence of which, he had been induced to pay a visit to several leading individuals in that quarter, as well to ascertain the truth of the information as to endeavor to avert the attempt to execute such threats.

It appeared afterwards, that, on his return home, he had been pursued by a collection of disorderly persons, threatening, as they went along, vengeance against him. On their way, these men called at the house of James Kiddoe, who had recently complied with the laws, broke into his still-house, fired several balls under his still, and scattered fire over and about the house.

Letters from the inspector, in March, announce an increased activity in promoting opposition to the laws; frequent meetings to cement and extend the combinations against it; and, among other means for this purpose, a plan of collecting a force to seize him, compel him to resign his commission, and detain him prisoner—probably as a hostage.

In May and June new violences were committed. James Kiddoe, the person above mentioned, and William Cochran, another complying distiller, met with repeated injury to their property. Kiddoe had parts of his grist-mill at different times carried away; and Cochran suffered more material injuries. His still was destroyed; his saw-mill was rendered useless, by the taking away of the saw; and his grist-mill so injured as to require to be repaired, at considerable expense.

At the last visit a note in writing was left, requiring him to publish what he had suffered in the Pittsburg Gazette, on pain of another visit, in which he is threatened, in figurative but intelligible terms, with the destruction of his property by fire. Thus adding to the profligacy of doing wanton injuries to a fellow-citizen the tyranny of compelling him to be the publisher of his wrongs.

June being the month for receiving annual entries of stills, endeavors were used to open offices in Westmoreland and Washington, where it had been hitherto found impracticable. With much pains and difficulty, places were procured for the purpose. That in Westmoreland was repeatedly attacked in the night by armed men, who frequently fired upon it; but, according to a report which has been made to this Department, it was defended with so much courage and perseverance by John Wells, an auxiliary officer, and Philip Ragan, the owner of the house, as to have been maintained during the remainder of the month.



That in Washington, after repeated attempts, was suppressed. The first attempt was confined to pulling down the sign of the office, and threats of future destruction; the second effected the object in the following mode: About twelve persons, armed and painted black, in the night of the 6th of June, broke into the house of John Lynn, where the office was kept, and, after having treacherously seduced him to come down stairs, and put himself in their power, by a promise of safety to himself and his house, they seized and tied him; threatened to hang him; took him to a retired spot in the neighboring wood, and there, after cutting off his hair, tarring and feathering him, swore him never again to allow the use of his house for an office, never to disclose their names, and never again to have any sort of agency in aid of the excise: having done which, they bound him naked to a tree, and left him in that situation till morning, when he succeeded in extricating himself. Not content with this, the malcontents, some days after, made him another visit, pulled down part of his house, and put him in a situation to be obliged to become an exile from his own home, and to find an asylum elsewhere.

During this time several of the distillers, who had made entries and benefited by them, refused the payment of the duties; actuated, no doubt, by various motives.

Indications of a plan to proceed against the inspector of the revenue, in the manner which has been before mentioned, continued. In a letter from him of the 10th of July, he observed that the threatened visit had not yet been made, though he had still reason to expect it.

In the session of Congress which began in December, 1793, a bill for making the amendments in the laws, which had been for some time desired, was brought in, and on the 5th of June last became a law.

It is not to be doubted that the different stages of this business were regularly notified to the malcontents, and that a conviction of the tendency of the amendments contemplated to effectuate the execution of the law had matured the resolution to bring matters to a violent crisis.

The increasing energy of the opposition rendered it indispensable to meet the evil with proportionable decision. The idea of giving time for the law to extend itself, in scenes where the dissatisfaction with it was the effect, not of an improper spirit, but of causes which were of a nature to yield to reason, reflection, and experience, (which had constantly weighed in the estimate of the measures proper to be pursued,) had had its effect, in an extensive degree. The experiment, too, had been long enough tried to ascertain that, where resistance continued, the root of the evil lay deep, and required measures of greater efficacy than had been pursued. The laws had undergone repeated revisions of the legislative representatives of the Union, and had virtually received their repeated sanction, without even an attempt, as far as is now recollected or can be traced, to effect their repeal; affording an evidence of the general sense of the community in their favor. Complaints began to be loud, from complying quarters, against the impropriety and injustice of suffering the laws to remain unexecuted in others.

Under the united influence of these considerations, there was no choice but to try the efficiency of the laws in prosecuting with vigor delinquents and offenders.

Process issued against a number of non-complying distillers in the counties of Fayette and Alleghany; and indictments having been found at a circuit court holden at Philadelphia in July last, against Robert Smilie and John McCulloch, two of the rioters in the attack which, in November preceding, had been made upon the house of a collector of the revenue in Fayette county, processes issued against them also, to bring them to trial, and, if guilty, to punishment.

The marshal of the district went in person to serve these processes. He executed his trust without-interruption, though under many discouraging circumstances, in Fayette county; but while he was in the execution of it in Alleghany county, being then accompanied by the inspector of the revenue, to wit, on the 15th of July last, he was beset on the road by a party of from thirty to forty armed men, who, after much previous irregularity of conduct, finally fired upon him, but, as it happened, without injury either to him or to the inspector.

This attempt on the marshal was but the prelude of greater excesses.

About break of day, the 16th of July, in conformity with a plan which seems to have been for some time entertained, and which probably was only accelerated by the coming of the marshal into the survey, an attack, by about one hundred persons armed with guns and other weapons, was made upon the house of the inspector, in the vicinity of Pittsburg. The inspector, though alone, vigorously defended himself against the assailants, and obliged them to retreat without accomplishing their purpose.

Apprehending that the business would not terminate here, he made application by letter to the judges, generals of militia, and sheriff of the county, for protection. A reply to his application, from John Wilkins, Jun. and John Gibson, magistrates and militia officers, informed him that the laws could not be executed, so as to afford him the protection to which he was entitled, owing to the too general combination of the people in that part of Pennsylvania to oppose the revenue law; adding, that they would take every step in their power to bring the rioters to justice, and would be glad to receive information of the individuals concerned in the attack upon his house, that prosecutions might be commenced against them; and expressing their sorrow that should the *posse comitatus* of the county be ordered out in support of the civil authority, very few could be gotten that were not of the party of the rioters.

The day following the insurgents reassembled with a considerable augmentation of numbers, amounting, as has been computed, to at least five hundred; and on the 17th of July renewed their attack upon the house of the inspector, who, in the interval, had taken the precaution of calling to his aid a small detachment from the garrison of Fort Pitt, which, at the time of the attack, consisted of eleven men, who had been joined by Major Abraham Kirkpatrick, a friend and connexion of the inspector.

There being scarcely a prospect of effectual defence against so large a body as then appeared, and as the inspector had every thing to apprehend for his person, if taken, it was judged advisable that he should withdraw from the house to a place of concealment; Major Kirkpatrick generously agreeing to remain with the eleven men, in the intention, if practicable, to make a capitulation in favor of the property; if not, to defend it as long as possible.

A parley took place under cover of a flag, which was sent by the insurgents to the house to demand that the inspector should come forth, renounce his office, and stipulate never again to accept an office under the same laws. To this it was replied that the inspector had left the house upon their first approach, and that the place to which he had retired was unknown. They then declared that they must have whatever related to his office. They were answered that they might send persons, not exceeding six, to search the house, and take away whatever papers they could find appertaining to the office. But not satisfied with this, they insisted, unconditionally, that the armed men who were in the house for its defence should march out and ground their arms, which Major Kirkpatrick peremptorily refused; considering it and representing it to them as a proof of a design to destroy the property. This refusal put an end to the parley.

A brisk firing then ensued between the insurgents and those in the house, which, it is said, lasted for near an hour, till the assailants, having set fire to the neighboring and adjacent buildings, eight in number, the intensesness of the heat, and the danger of an immediate communication of the fire to the house, obliged Major Kirkpatrick and his small party to come out and surrender themselves. In the course of the firing one of the insurgents was

killed and several wounded, and three of the persons in the house were also wounded. The person killed is understood to have been the leader of the party, of the name of James McFarlane, then a major in the militia, formerly a lieutenant in the Pennsylvania line. The dwelling-house, after the surrender, shared the fate of the other buildings, the whole of which were consumed to the ground. The loss of property to the inspector, upon this occasion, is estimated, and as it is believed with great moderation, at not less than three thousand pounds.

The marshal, Colonel Presley Neville, and several others, were taken by the insurgents going to the inspector's house. All, except the marshal and Colonel Neville, soon made their escape; but these were carried off some distance from the place where the affray had happened, and detained till one or two o'clock the next morning. In the course of their detention, the marshal in particular suffered very severe and humiliating treatment, and was frequently in imminent danger of his life. Several of the party repeatedly presented their pieces at him with every appearance of a design to assassinate, from which they were with difficulty restrained by the efforts of a few more humane and more prudent.

Nor could he obtain safety or liberty, but upon the condition of a promise, guaranteed by Colonel Neville, that he would serve no other process on the west side of the Alleghany mountain. The alternative being immediate death, extorted from the marshal a compliance with this condition, notwithstanding the just sense of official dignity, and the firmness of character which were witnessed by his conduct throughout the trying scenes he had experienced.

The insurgents, on the 18th, sent a deputation of two of their number (one a justice of the peace) to Pittsburg, to require of the marshal a surrender of the processes in his possession, intimating that his compliance would satisfy the people, and *add to his safety*; and also to demand of General Neville, in peremptory terms, the resignation of his office; threatening, in case of refusal, to attack the place and take him by force: demands which both these officers did not hesitate to reject, as alike incompatible with their honor and their duty.

As it was well ascertained that no protection was to be expected from the magistrates or inhabitants of Pittsburg, it became necessary to the safety, both of the inspector and the marshal, to quit that place; and, as it was known that all the usual routes to Philadelphia were beset by the insurgents, they concluded to descend the Ohio, and proceed, by a circuitous route, to the seat of Government; which they began to put in execution on the night of the 19th of July.

Information has also been received of a meeting of a considerable number of persons at a place called Mingo Creek meeting-house, in the county of Washington, to consult about the further measures which it might be advisable to pursue: that, at this meeting, a motion was made to approve and agree to support the proceedings which had taken place, until the excise law was repealed, and an act of oblivion passed. But that, instead of this, it had been agreed that the four western counties of Pennsylvania, and the neighboring counties of Virginia, should be invited to meet in a convention of delegates, on the 14th of the present month, at Parkinson's, on Mingo creek, in the county of Washington, to take into consideration the situation of the western country, and concert such measures as should appear suited to the occasion.

It appears, moreover, that, on the 25th of July last, the mail of the United States, on the road from Pittsburg to Philadelphia, was stopped by two armed men, who cut it open, and took out all the letters, except those contained in one packet; these armed men, from all the circumstances which occurred, were manifestly acting on the part of the insurgents.

The declared object of the foregoing proceedings is to obstruct the execution and compel a repeal of the laws laying duties on spirits distilled within the United States, and upon stills. There is just cause to believe that this is connected with an indisposition, too general in that quarter, to share in the common burdens of the community, and with a wish, among some persons of influence, to embarrass the Government. It is affirmed, by well-informed persons, to be a fact of notoriety, that the revenue laws of the State itself have always been either resisted or very defectively complied with in the same quarter.

With the most perfect respect, I have the honor to be, sir, your most obedient and humble servant,  
ALEXANDER HAMILTON.

The PRESIDENT OF THE UNITED STATES.

SIR:

BEDFORD, *October 20, 1794.*

I have it in special instruction from the President of the United States, now at this place, to convey to you, on his behalf, the following instructions for the general direction of your conduct in the command of the militia army, with which you are charged.

The objects for which the militia have been called forth are—

1st. To suppress the combinations which exist in some of the western counties of Pennsylvania in opposition to the laws laying duties upon spirits distilled within the United States, and upon stills.

2d. To cause the laws to be executed.

These objects are to be effected in two ways—

1. By military force.
2. By judiciary process, and other civil proceedings.

The objects of the military force are two-fold—

1. To overcome any armed opposition which may exist.
2. To countenance and support the civil officers in the means of executing the laws.

With a view to the first of these two objects, you will proceed, as speedily as may be, with the army under your command, into the insurgent counties, to attack, and, as far as shall be in your power, subdue, all persons whom you may find in arms, in opposition to the laws above mentioned. You will march your army in two columns, from the places where they are now assembled, by the most convenient routes, having regard to the nature of the roads, the convenience of supply, and the facility of co-operation and union; and bearing in mind that you ought to act, till the contrary shall be fully developed, on the general principle of having to contend with the whole force of the counties of Fayette, Westmoreland, Washington, and Allegany, and of that part of Bedford which lies west of the town of Bedford; and that you are to put as little as possible to hazard. The approximation, therefore, of your columns, is to be sought, and the subdivision of them, so as to place the parts out of mutual supporting distance, to be avoided as far as local circumstances will permit. Parkinson's ferry appears to be a proper point towards which to direct the march of the columns for the purpose of ulterior measures.

When arrived within the insurgent country, if an armed opposition appear, it may be proper to publish a proclamation, inviting all good citizens, friends of the constitution and laws, to join the standard of the United States. If no armed opposition exist, it may still be proper to publish a proclamation, exhorting to a peaceable and dutiful demeanor, and giving assurances of performing, with good faith and liberality, whatsoever may have been promised by the commissioners to those who have complied with the conditions prescribed by them, and who have not forfeited their title by subsequent misconduct.

Of those persons in arms, if any, whom you may make prisoners, leaders, including all persons in command, are to be delivered up to the civil magistrate; the rest to be disarmed, admonished, and sent home, (except such as may have been particularly violent and also influential,) causing their own recognizances for their good behavior to be taken, in the cases in which it may be deemed expedient.

With a view to the second point, namely, "the countenance and support of the civil officers in the means of executing the laws," you will make such dispositions as shall appear proper to countenance and protect, and, if necessary, and required by them, to support and aid the civil officers in the execution of their respective duties; for bringing offenders and delinquents to justice; for seizing the stills of delinquent distillers, as far as the same shall be deemed eligible by the supervisor of the revenue, or chief officer of inspection; and also for conveying to places of safe custody such persons as may be apprehended and not admitted to bail.

The objects of judiciary process, and other civil proceedings, will be—

1. To bring offenders to justice.
2. To enforce penalties on delinquent distillers by suit.
3. To enforce the penalty of forfeiture on the same persons by the seizure of their stills and spirits.

The better to effect these purposes, the judge of the district, Richard Peters, esquire, and the attorney of the district, William Rawle, esquire, accompany the army.

You are aware that the judge cannot be controlled in his functions; but I count on his disposition to co-operate in such a general plan as shall appear to you consistent with the policy of the case. But your method of giving a direction to legal proceedings, according to your general plan, will be by instruction to the district attorney.

He ought particularly to be instructed, (with due regard to time and circumstance,) 1st. To procure to be arrested all influential actors in riots and unlawful assemblies relating to the insurrection, and combinations to resist the laws, or having for object to abet that insurrection and those combinations, and who shall not have complied with the terms offered by the commissioners, or manifested their repentance in some other way, which you may deem satisfactory. 2d. To cause process to issue for enforcing penalties upon delinquent distillers. 3d. To cause offenders, who may be arrested, to be conveyed to jails where there will be no danger of rescue; those for misdemeanors, to the jails of York and Lancaster; those for capital offences, to the jail of Philadelphia, as more secure than the others. 4th. To prosecute indictable offences in the courts of the United States: those for penalties on delinquents, under the laws before mentioned, in the courts of Pennsylvania.

As a guide in the case, the district attorney has with him a list of the persons who have availed themselves of the offers of the commissioners on the day appointed.

The seizure of stills is the province of the supervisor and other officers of inspection. It is difficult to chalk out the precise line concerning it. There are opposite considerations, which will require to be nicely balanced, and which must be judged of by those officers on the spot. It may be found useful to confine the seizures to stills of the most leading and refractory distillers. It may be advisable to extend them far in the most refractory county.

When the insurrection is subdued, and the requisite means have been put in execution to secure obedience to the laws, so as to render it proper for the army to retire, (an event which you will accelerate as much as shall be consistent with the object,) you will endeavor to make an arrangement for detaching such a force as you deem adequate, to be stationed within the disaffected country, in such manner as best to afford protection to well-disposed citizens and to the officers of the revenue, and to repress, by their presence, the spirit of riot and opposition to the laws.

But before you withdraw the army, you will promise, on behalf of the President, a general pardon to all such as shall not have been arrested, with such exceptions as you shall deem proper. The promise must be so guarded as not to affect pecuniary claims under the revenue laws. In this measure, it is advisable there should be a co-operation with the Governor of Pennsylvania.

On the return of the army you will adopt some convenient and certain arrangement for restoring to the public magazines the arms, accoutrements, military stores, tents, and other articles of camp equipage and entrenching tools, which have been furnished, and shall not have been consumed or lost.

You are to exert yourself by all possible means to preserve discipline among the troops, particularly a scrupulous regard to the rights of persons and property, and a respect for the authority of the civil magistrate; taking especial care to inculcate and cause to be observed this principle: that the duties of the army are confined to the attacking and subduing of armed opponents of the laws, and to the supporting and aiding of the civil officers in the execution of their functions.

It has been settled that the Governor of Pennsylvania will be second, the Governor of New Jersey third in command; and that the troops of the several States in line, on the march and upon detachment, are to be posted according to the rule which prevailed in the army during the late war; namely, in moving towards the sea-board, the most southern troops will take the right; in moving westward, the most northern will take the right.

These general instructions, however, are to be considered as liable to such alterations and deviations in the detail, as from local and other causes may be found necessary, the better to effect the main object upon the general principles which have been indicated.

With great respect, I have the honor to be, sir, your obedient servant,

ALEXANDER HAMILTON.

3d CONGRESS.]

No. 57.

[2d SESSION.

## BOUNDARY BETWEEN VIRGINIA AND THE TERRITORY SOUTH OF THE RIVER OHIO.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 8, 1794.

Mr. PRESTON, from the committee to whom was referred the petition of sundry citizens of the United States residing between the lines commonly called Walker's and Henderson's lines, praying the former may be established as the dividing line between the State of Virginia and the territory south of the river Ohio, reported the following resolution:

*Resolved*, That a law should pass establishing Walker's line as the southern boundary between the State of Virginia and the territory of the United States south of the river Ohio, reserving to the said inhabitants their claims to lands lying between the said lines, according to the laws of the State under which they claim.

3d CONGRESS.]

No. 58.

[2d SESSION.]

CONCURRENT JURISDICTION GRANTED TO THOSE STATES THAT HAVE CEDED  
LANDS FOR LIGHT-HOUSES WITHOUT RESERVATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 17, 1794.

Mr. CORR, from the committee to whom it was referred to consider and report on the expediency of making any alterations in the laws relative to the cession of jurisdiction by particular *States* in *lands* where have been erected, or may by law be provided to be erected, *light-houses*, beacons, &c., made the following report:

That the States of New Hampshire, Massachusetts, and Rhode Island, have, in their cessions of jurisdiction, made in pursuance of the law of the United States providing for the support of light-houses, beacons, &c., reserved a concurrent jurisdiction so far as that all civil and criminal process, issued under the authority of said States, respectively, may be executed within the ceded territory; the other States in which light-houses were situated before the passing the said law having ceded the jurisdiction without such reservation.

That, in pursuance of a law providing for the building a light-house on Montock Point, in the State of New York, wherein it is provided that the State of New York cede the jurisdiction of the place where, before it shall be built, the said State have made a cession of jurisdiction of the place designated by the President of the United States for the site of the light-house, with a proviso that such cession shall not extend or be construed to impede or prevent the execution of any process within the ceded territory, under the authority of that State, except so far as the said process may affect the real or personal property of the United States; but this not having been deemed by the President a cession comporting with the requisition of the act providing for the building of the said light-house, the same has not been built.

In the act providing for the erection of a light-house on the island of Seguin, in the State of Massachusetts, it is declared that the said State had ceded the land on which the same was to be erected, and no condition for cession of jurisdiction is provided; the cession of this land contains the same reservation of jurisdiction as is contained in the cession of that State, made in pursuance of the law providing for the support of light-houses, &c.

That the provision made by law for the supporting, by the United States, of light-houses, &c. without the cession of jurisdiction by the States in which the same may be, ceases on the first day of July next.

The committee are of opinion, that the reservation of concurrent jurisdiction by the States in their cessions, cannot in any degree obstruct the purposes for which cessions of jurisdiction are required; that it would be expedient to provide for the accepting of cessions containing such reservations; and as uniformity of proceeding would be desirable, and inconveniences may arise from the United States retaining an exclusive jurisdiction, that a concurrence of jurisdiction should be restored to those States who have made their cessions absolute; and thereupon submit the following resolution:

*Resolved*, That a committee be appointed to bring in a bill declaring that cessions of jurisdiction made by any State, in lands where have been erected, or may by law be provided to be erected and placed light-houses, beacons, buoys, and public piers, with a reservation of concurrent jurisdiction to such State, shall be deemed sufficient cessions of jurisdiction in pursuance of the laws providing for the maintenance and erection of light-houses, beacons, buoys, and public piers; and that where absolute cessions for such purposes have been made, the States which have made the same shall, notwithstanding, be entitled to exercise and retain a concurrent jurisdiction.

3d CONGRESS.]

No. 59.

[2d SESSION.]

PROMULGATION OF THE LAWS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 23, 1794.

Mr. MOORE, from the committee appointed to report what further provisions are necessary for the more general promulgation of the laws, made the following report:

That the provision heretofore made has been entirely inadequate to the purpose of a due promulgation of the laws; that it is become expedient to extend the provision on this subject to the commencement of the Government under the present constitution. That for the accommodation of such Germans, citizens of the United States, as do not understand the English language, it will be necessary that the laws be translated, and printed in the German language. Your committee therefore submit the following resolutions:

*Resolved*, That three thousand complete sets of the laws of the Congress, to the close of the present session, be printed, and distributed among the different States, in proportion to their numbers. That the number of sets allotted to each State be distributed throughout the counties within the State in the same proportion, and be deposited in fixed and convenient places in each county, under the direction of the court of such county.

*Resolved*, That a like number of the laws passed at each succeeding session be printed and distributed as above directed.

*Resolved*, That such proportion of the above number of copies shall be printed in the German language as the representatives from the districts within which such German citizens reside, shall certify to the Secretary of State to be necessary.

*Resolved*, That each printer of a newspaper within the United States, who, as soon as may be, after the close of each session, shall print in his newspaper all the laws passed at each session, continuing them in each succeeding number, until the whole are finished, shall, on making it appear to the satisfaction of the Secretary of State, be entitled to receive \_\_\_\_\_ dollars: provided the same shall not be allowed to more than two printers in any one town.

[NOTE.—See No. 62.]

3d CONGRESS.]

No. 60.

[2d SESSION.]

## WEIGHTS AND MEASURES—DEFECTS IN THE JUDICIARY SYSTEM IN THE NORTH-WESTERN TERRITORY.

COMMUNICATED TO CONGRESS, JANUARY 8, 1795,

By message from the President of the United States, of which the following is an extract:

“The minister of the French republic having communicated to the Secretary of State certain proceedings of the Committee of Public Safety, respecting weights and measures, I lay them before Congress.”

“The letter from the Governor of the Western Territory, copies of which are now transmitted, refers to a defect in the judicial system of that Territory deserving the attention of Congress.”

*Jos. ph Fauchet, minister plenipotentiary of the French republic near the United States, to Mr. Randolph, Secretary of State of the United States.*

[TRANSLATION.]

PHILADELPHIA, 15th Thermidor, (August 2, 1794,) old style.

SIR:

*2d year of the French republic, one and indivisible.*

You have doubtless been informed of the tedious and constant efforts which have been made in Europe, and particularly in France, for some years past, in order to substitute for the uncertainty which reigns in the instruments employed in comparing or measuring physical quantities, a certain system taken from nature, and of course as immutable as nature itself. The learned alone were long occupied with it as mere matter of speculation. France was the first to place those researches among the cares of Government. America, if I mistake not, has since followed the example; for I think I have heard that the present Government were engaged in the same changes, and even waited the result of the operation made in France on this subject, for the purpose of commencing the reform. The national assemblies have given great activity to those researches. The convention, which is constantly occupied in invigorating the arts, has caused them to make a rapid progress, and, at length, has lately adopted the methods resulting therefrom.

The Committee of Public Safety of the National Convention, convinced that an enlightened and free people would receive with pleasure one of the discoveries of the human mind, the most beautiful in theory, and the most useful in application, had expressly charged the citizen Dombey, a learned natural philosopher, to come and communicate to you the first types of the new mode of mensuration which has been adopted. You will observe, by the decree of which I enclose you a copy, the motives and express order for this mission. Dombey had likewise received from the Board of Weights and Measures the instruction of which I also send you a copy. The American vessel in which he had embarked put into Montserrat, where he died. His papers, and the models which he had received in order to deliver to the Government, have luckily come to my hands. I hasten, sir, to forward the whole to you, regretting that the patriot Dombey could not enjoy the honor of fulfilling his mission, and of communicating perhaps some instructions in detail interesting to the learned to whom you may consign the examination of the new system.

To you, sir, I shall not dissemble that, as to myself, I see in the adoption of the new measures by America a mean of cementing the political and commercial connexions of the two nations. I see, moreover, therein, a great step towards the destruction of those customs, more or less absurd and arbitrary, which shackle the relations of nations with each other. Persuaded that the Government takes an equal interest itself in both these objects, I cannot entertain a doubt of its sanctioning with its authority the introduction of the new method.

If you desire, sir, to avail yourself of the instructions about to be prepared by order of the National Convention, in order to facilitate in practice the use of the new instruments and the understanding of their relation to the old, I shall with pleasure undertake to make an express application for them in France.

Accept, sir, my esteem.

JH. FAUCHET.

[TRANSLATION.]

*Decree of the Committee of Public Safety of the National Convention, on the 21st day of the month Frimaire, (December 11, 1793,) 2d year of the French republic, one and indivisible.*

The Committee of Public Safety, considering that it may be important to make known to the people with whom the republic may have relations, the new system of weights and measures which it has adopted, decrees, that the Board of Weights and Measures cause to be sent to citizen Dombey, who departs for North America, a measure in copper, and a weight divided in the form decreed for the standards, the expense of which shall be defrayed out of the funds allotted to this work.

Done at Paris, the 21st Frimaire, 2d year of the French republic one and indivisible.

Signed, in original, Robespierre, Carnot, C. A. Prieur, Barrère, Billaud Varennes, and R. Lindet.

Extract signed C. A. Prieur, Carnot, R. Lindet, and Billaud Varennes.

True copy:

JH. FAUCHET.

[TRANSLATION.]

The Board of Weights and Measures, in execution of a decree of the Committee of Public Safety, has transmitted to Citizen Dombey a measure in copper, and a weight decimally divided, both being conformable to standards which will soon be in use throughout the republic.

According to the decrees of the National Convention, our measure ought to be equal to the ten millionth part of the 4th part of a terrestrial meridian, which is the unit taken in nature, to which all our measures are referred; and our weight ought to be equal to the weight of a cubic measure of distilled water, having for its side the tenth part of the measure, (this water being supposed to be weighed in the open air, and in the temperature of melting ice.)

We already know very nearly the length of the fourth part of a meridian from the measures of several terrestrial arcs made in the last and present century by different astronomers. It results, from these measures, that the 45th degree of latitude contains 57.027 toises of France. Now, in supposing the earth to be an elliptical spheroid of small eccentricity, the 45th degree is very nearly the mean term between all the other degrees,\* it will hence follow that, by multiplying 57.027 toises by 90, we shall have the length of the fourth part of a meridian, which will be found equal to 5,132,430 toises, and, consequently, its ten millionth part, in which the measure will be equal to 3 French feet  $11 \frac{44}{100}$  lignes. It is thought that the error of this determination does not exceed the tenth of a ligne.

The standard of the measure has been regulated by this precise length of 3 French feet  $11 \frac{44}{100}$  lignes to the temperature marked by  $10^{\circ}$  of the thermometer of Reaumur or by  $54\frac{1}{2}^{\circ}$  of that of Fahrenheit, which is the constant temperature observed either in summer or winter in the cellars of the observatory of Paris.

The standard of weight has been determined from experiments on the weight of distilled water made by the Board of Weights and Measures, and referring the volume of the body, which was used in the experiments, to the cubic measure, which has for its side the tenth part of the measure.

Although the determination of these two models be already of more than sufficient exactness for the ordinary necessities of commerce, still, however, it is regarded as provisory only, and the investigation will not be definitively decreed until the measure of the terrestrial arc, which is now making, shall be entirely accomplished. It is hoped that this measure, which comprehends  $9\frac{1}{2}$  degrees of the meridian, and which is the greatest operation of the kind that has been undertaken, will be completed by the end of this year; then the length of the measure being fixed, as well as the weight of the unit of weights, the provisory models will be corrected if they require it, and shall be executed in *platina*, a single model of each kind, which shall be deposited in the place of residence of the National Assembly, and will serve to verify, from time to time, at fixed periods, those which shall be scattered throughout the republic.

It is thought that the National Convention will, in like manner, cause to be executed in *platina* other models, which will be sent to the nations with whom France may be connected in commerce; these models shall be absolutely similar to those which are to be preserved in the place of residence of the National Assembly, and the identity such as that each nation may regard those she possesses as the prototypes of all the others.

The standard of measure and that of weight are divided into decimal parts. This system of division, which is uniform and similar to that of our arithmetical scale, will be established generally in all kinds of measures; in those of length, superficies, and of capacity, as well as in weights and money, and, in short, in astronomical, geographical, and nautical measures.

Already our livre tournois, or numerical livre, is divided into dimes and cents; and the public accounts will immediately be kept conformably to this new division. The small moneys which are coined are equally subject to this system, and are decimal parts of the weight.

As to measures which interest the sciences, the decimal division has been executed in the instruments which are used to measure the terrestrial arc contained between Dunkirk and Barcelona. In these instruments the fourth of the circle is divided into 100 degrees, the degree into 100 minutes, and the minute into 100 seconds. It is also attempted to reduce all the astronomical tables to the new division.

In like manner, astronomical clocks divided into decimals have been made. The whole length of the day, from one midnight to the other, is divided into 10 hours; the hour into 100 minutes, and the minute into 100 seconds, which make each day to consist of one hundred thousand seconds instead of 86,400 as formerly computed; so that the new second will be but about  $\frac{2}{3}$  of the ancient, and the length of the new pendulum for seconds will be equal to 2 pi. 3 po. 7 li. instead of 3 pi. 8 $\frac{1}{2}$  li.

Several pocket watches have been made according to the decimal division, and, in short, the division of the year decreed by the National Convention adheres as nearly as possible to this new system.

NOTE.—The standards of measures of capacity have not been added, because it is sufficient to say that our elementary unit of capacity, or our pint, will be equal to a cubic measure having for its side the tenth part of the measure; hence it will be seen that the unit of weight is the weight of a pint of distilled water.

True copy:

JH. FAUCHET.

MARIETTA, December 15, 1794.

SIR:

By the ordinance of Congress establishing the Government of the Western Territory, the supreme judicial authority is vested in three judges, two of whom were necessary to form a court, with power to decide in all matters, without appeal; and, by a law of Congress, one of those judges is made competent, also without appeal. Many representations, sir, have been made to me on this subject; the people, very generally, think it an unsafe situation which they are in; and, indeed, taking the matter abstractedly, it cannot be thought very eligible that the whole property of a country which may be the subject of legal dispute should be governed by the determination of a single judge, without the possibility of having that determination revised. But circumstances exist at present that render it dangerous for them. The principal settlements have been made on tracts of land purchased by certain companies or associations of persons. The first of these is the Ohio Company, and the next that of the Miami. In both those associations, the management of the directors and agents is thought to have laid the foundation of endless disputes. General Putnam has been the active director in the first association, and Mr. Symmes the principal if not the sole agent in the second; and they are both judges of the supreme court. Every land dispute will be traced to some transaction of one or other of those gentlemen in those capacities, and they are to sit in judgment upon them. It must be acknowledged that this is not a groundless cause of apprehension; for, though they are both of very fair character, and delicacy would prevent their judging in any case where they are themselves parties, interest hangs an insensible bias on the minds of the most upright men; and, in the matters that are most likely to be litigated, in whichever of the associations they happen, there must necessarily be so great a similarity, that deciding in one by a judge who has no direct interest in the cause, may, nevertheless, have as direct and certain an effect in another wherein he is interested as if he had determined in his own cause. I believe, sir, it would therefore be well if the law empowering one judge to hold the court could be repealed, and that some

\* In like manner, if we measure an arc of the meridian, divided into equal parts by the 45th degree, we shall have the fourth of a meridian by multiplying the given length of this arc by 90, and dividing the product by the number of degrees measured.

The terrestrial arc contained between Dunkirk and Barcelona, which the Board of Weights and Measures is instructed to measure in order to ascertain the length of the meridian, is found to be divided into two parts by the 45th degree; in fact, the two parts are not equal, but they differ so little that the ratio of the arcs to which our attention is called in the calculation will not be sensibly influenced by the result.

mode were prescribed for bringing the decisions of the supreme court here before the federal court, either by direct appeal or by writ of error, or both, as cases may require. It appears to me, sir, to be necessary for rendering the people easy and safe. And there are also political ends that would clearly be served by it; for there is perhaps nothing that contributes more to induce an affectionate submission to any power, than the habit of looking up to that power as the depository and dispenser of justice in the last resort. I have thought it my duty to make you acquainted with the fears and wishes of the people upon this subject;

And have the honor to be, with great respect, sir, your most obedient servant,

ARTHUR ST. CLAIR.

The Honorable EDMUND RANDOLPH, *Secretary of State.*

3d CONGRESS.]

No. 61.

[2d SESSION.]

### FEES OF COURTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 12, 1795.

SIR:

PHILADELPHIA, *January 8, 1795.*

In obedience to the resolve passed on the 5th of last June, I have the honor to report to the House of Representatives of the United States "such tables of fees and regulations relative to the same, as, on a comparative view of the fees taxable in the several States, are, in my opinion, proper to be established for the courts of the United States;" and I have thrown the whole into the form of a bill, as the most convenient method of making a report on this subject.

It may, however, be proper to observe, that the comparative view which I have taken of the tables transmitted to me by the clerks of the district courts, did not in general furnish a standard to ascertain the amount of the fees proper to be reported. Whenever it appeared that many of the States prescribed the same, or nearly the same fee, for any specific service, *that* has been adopted; but, in most instances, the tables transmitted differ so widely from each other, that no common measure could be collected from them. Attention has, therefore, been principally paid to the fees heretofore established by Congress; to the nature of the suit; to the stage of the cause in which the service is to be performed, and to the frequency with which it may occur; and in some instances to a mean sum between the highest and lowest of the State fees. After all, sir, as the price of labor, the quantum of business, and the course of practice, are very different in different districts, I am apprehensive that those fees, which in one part of the Union may be a bare compensation to the officer for his trouble, may, in another, be deemed excessive. This inequality might, perhaps, be removed, by adopting a method established in some places, of directing the fees to be paid into the Treasury, and allowing the officer a stated compensation, proportioned to the nature and extent of his duties, and to the price of labor in the district.

May I be allowed, sir, to suggest, that such a mode of compensation appears to be peculiarly proper for the marshal and attorney of the district? The former of these officers is frequently obliged to perform services exceedingly expensive to himself, for which no adequate fee can be established without rendering the costs of a suit burdensome to the parties; and from the representations made to me, it is apparent that, in several of the districts, even very liberal fees would not afford to men properly qualified a sufficient compensation for the trouble, hazard, and expense to which they are exposed. As to the attorney of the district, his duties are not merely those of an attorney. He is the counsel and advocate of the United States in all criminal and civil suits in the circuit or district court, in which the United States are concerned. It has also been in practice for the officers of the customs, and other officers of the United States, in the several districts, when they could not have recourse in time to the head of the department, to call on the attorney of the district for his opinion on points of real difficulty and importance. For services like these, which necessarily require men of talents, a stated compensation, beyond the mere attorney fee, is usual in almost every State in the Union; and is perhaps a more economical method of making compensation than that of paying counsel fees in every cause that occurs.

I have thought it my duty, sir, to hazard these few observations on this subject; but as the resolve of your honorable House does not appear to warrant a report of any compensation for these officers but by *fees*, I have endeavored to mark out a method in which it may (for one of them at least) be secured.

I have only to add, that the 4th of next March is reported as proper for the commencement of a new act, because that of the 1st of March, 1793, will expire, by its own limitation, with the present session of Congress. If a further day should be deemed proper, or if Congress should not continue in session till that day, a clause to continue that act will be necessary.

I have the honor to be, with sentiments of the most perfect respect, sir, your most obedient servant,

WM. BRADFORD.

The Honorable the SPEAKER of the *House of Representatives.*

*A draught of an act to establish fees and compensations for the officers of the courts of the United States and others.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the third day of March next, the fees and compensations of the several officers and persons hereinafter mentioned, for the services to be done and performed by them, respectively, shall be as follows; that is to say:*

*To the clerk of the district and circuit courts in any civil suit at law.*

For every writ of <i>capias</i> , summons, attachment, <i>replevin</i> , <i>scire facias</i> , or other original writ for instituting a suit or writ of error, returnable into the circuit court (if drawn by him)	-	-	\$ 80
For every writ of error returnable into the supreme court	-	-	1 50
For every judicial writ, writ of <i>habeas corpus</i> , or other writ (except <i>subpœnas</i> for witnesses)	-	-	50
For affixing the seal to any of the said writs	-	-	50
For filing and entering a return to any writ	-	-	15
For entering every action or cause	-	-	25
For filing and entering a record on a writ of error	-	-	80
For filing every warrant of attorney (where necessary)	-	-	10
For entering every admission of guardian or next friend	-	-	15
For entering every appearance	-	-	15
For taking a recognizance of special bail, engrossing bail-piece, and filing the same	-	-	75
For every copy of bail-piece and seal	-	-	60
For filing every declaration, plea, demurrer, replication, and every other subsequent pleading and issue, and entering and (if necessary) reading the same	-	-	15
For filing affidavits, exceptions to bail, reports, and all other papers in a cause, each	-	-	10
For filing and entering a retraxit, discontinuance, <i>noli prosequi</i> , abatement, quashing a writ of error or other writ, each	-	-	15
For entering every confession of lease entry and ouster	-	-	18
For calling plaintiff or defendant, and recording default	-	-	15
For every continuance of a suit or cause from one term to another	-	-	30
For entering every motion, rule, warrant, <i>committitur</i> , or order of court	-	-	15
For drawing list of special jury	-	-	40
For attending and striking the same	-	-	50
For calling and swearing a jury	-	-	40
For every oath or affirmation administered in court	-	-	8
For receiving and recording a general verdict	-	-	20
For receiving, filing, and recording a special verdict, report of referees or inquisition	-	-	30
For entering every judgment	-	-	25
For entering every arrest of judgment	-	-	20
For entering every stay of execution	-	-	18
For entering an acknowledgment of satisfaction on record	-	-	37
For entering the suggestion of the death of a party	-	-	10
For introducing the names of the executors and administrators on death of plaintiff or defendant	-	-	50
For every writ of <i>subpœna</i> for one witness, including seal	-	-	50
For every name therein, more than one, and not exceeding four	-	-	12½
For making up a record, for every ninety words	-	-	15
For all copies, for every ninety words	-	-	10
For every certificate	-	-	25
For affixing the seal to a certificate or any paper	-	-	25
For every search (where the cause is ended) in the records of one year 20 cents; and for every other year	-	-	6
For taking and entering the acknowledgment of a marshal's deed	-	-	50
For every <i>dedimus potestatem</i> or commission to take deposition of witnesses (including seal)	-	-	75
For filing interrogatories, and a copy of the same annexed to the commission, for every ninety words	-	-	15
For all services in entering up a judgment (without writ) by warrant of attorney	-	-	2 00
For receiving money when brought into court, and paying it again, two per centum, if under five hundred dollars; and one and a quarter per centum for all sums above.	-	-	
Attending at the judges' chambers on any motion or other necessary business in the cause	-	-	33
For drawing every bond or recognizance to prosecute or citation on writ of error (where he does it)	-	-	40
For filing and entering a special mandate to issue execution	-	-	75
For reading in court any deposition, paper, or exhibit, when necessary	-	-	10
For administering the oath or affirmation, making entry, granting certificate, and all other services relating to the naturalization of an alien	-	-	5 00
For making out and certifying the account of travel and attendance of grand and petit jurors, and of the fees or compensations due from the United States to the officers, for their services or attendance at any session or term	-	-	1 00
For administering the oath or affirmation to persons admitted attorneys or counsellors at law, recording the same, and making out certificates	-	-	5 00
For drawing, or examining, and allowing a bill of costs and copy	-	-	25

*To the same officer for his services in any criminal suit or prosecution.*

For calling and swearing a grand jury, for each person against whom a bill is presented	-	-	10
For filing and entering a recognizance taken out of court	-	-	8
For taking and entering every recognizance in court	-	-	10
For filing and entering an indictment on the minutes	-	-	25
For entering an award of process	-	-	8
For a warrant, for every ninety words	-	-	10
For calling any recognizance, and entering appearance or default	-	-	10
For entering a respite of every recognizance	-	-	10
For arraigning a person indicted	-	-	25
For entering every plea, demurrer, replication, or other pleading	-	-	10
For every <i>subpœna</i> in a criminal cause, including seal	-	-	25
For every name therein, more than one, and not exceeding four	-	-	8
For affixing the seal to any writ or paper in any criminal cause	-	-	20
For all other services in any criminal prosecution, the same fees are allowed for the same or similar services in any civil cause.	-	-	



*To the same officer in any suit in equity in the circuit court, (who is hereby authorized to do and perform the duties usually assigned to a master, register, or examiner in chancery,) the following fees; that is to say:*

For drawing every subpoena, attachment, ne exeat, summons, injunction, dedimus potestatem, commission, or other writ, for each sheet containing ninety words	-	-	-	-	\$ 20
For engrossing the same, each sheet	-	-	-	-	10
For affixing the seal to any writ	-	-	-	-	60
For entering defendant's appearance, or an appearance in contempt	-	-	-	-	20
For filing every bill, plea, answer, demurrer, replication, and other pleading, report, affidavit, deposition, or other paper	-	-	-	-	15
Drawing every recognizance or security in any cause, or on any writ or order, every affidavit, decree, or other part of the proceedings in the cause, (where he does it) for each sheet, as aforesaid	-	-	-	-	15
For engrossing the same, for each sheet	-	-	-	-	10
For entering the same on the minutes (where necessary) for each sheet	-	-	-	-	10
For all copies and exemplifications, for each sheet	-	-	-	-	15
For every term the cause is continued	-	-	-	-	40
For signing every report by him made pursuant to order	-	-	-	-	1 00
For drawing and engrossing the same, for each sheet	-	-	-	-	15
For administering every oath or affirmation	-	-	-	-	12
For entering a cause for hearing	-	-	-	-	15
For reading in court all the papers and exhibits in a suit	-	-	-	-	1 00
For entering every americiament, attachment, proclamation, or default	-	-	-	-	20
For every supersedeas	-	-	-	-	75
For every dismissal	-	-	-	-	30
For attending at the judge's chamber on any motion or other necessary business	-	-	-	-	50
For taking the examination of every witness, and making a fair copy for the witness to sign, for every sheet as aforesaid	-	-	-	-	20
For certifying every exhibit shown to a witness on his examination	-	-	-	-	30
For making up a record on a writ of error, for every sheet	-	-	-	-	15
For a bill of costs and copy	-	-	-	-	40
For a notification to insert in a gazette and attendance on the printer	-	-	-	-	50
And for all other services done in any suit in equity the same fees as are allowed for the same or similar services in a suit at law.					

*To the same officer, in any cause of admiralty, or maritime jurisdiction.*

For drawing every stipulation, bond, process, monition, subpoena, warrant, commission, deposition, decree, or decretal order, record, and every writing or proceeding in the cause, for every sheet containing ninety words	-	-	-	-	15
For engrossing each sheet	-	-	-	-	10
For entering a record in the register, for each sheet	-	-	-	-	10
For affixing the seal to any writ	-	-	-	-	50
For entering an appeal and allowance	-	-	-	-	33
For notification to insert in gazette, and attendance on printer	-	-	-	-	40
For reducing the testimony of any witness taken in court to writing, and engrossing a fair copy of the same, per sheet	-	-	-	-	20
For all other services, the same fees as are allowed for the same or similar services in a suit in equity.					
To the same officer, for his attendance in the district or circuit court, each day	-	-	-	-	5 00

*To the marshal.*

For the service and return of any writ of capias, summons, warrant, attachment, replevin, copy of a declaration in ejectment, writ of subpoena, or other process, from chancery, or the supreme, circuit, or district courts, if but one person be named therein,	-	-	-	-	2 00
For the service on each person, more than one named therein	-	-	-	-	1 00
For the serving any order, rule of court or citation and return (where he does it) on each person named therein	-	-	-	-	67
For the return of any writ where the same cannot be served or executed	-	-	-	-	50
For the copy of any writ, declaration, or process, when necessary or demanded, for every ninety words	-	-	-	-	15
For every bail bond, replevin bond, attachment bond, security on any process out of chancery, or other bond, regularly taken in the execution of his duty	-	-	-	-	50
For the assignment of every bail bond or other bond	-	-	-	-	25
For every committitur or discharge of a prisoner	-	-	-	-	50
For summoning witnesses or appraisers, where he does it, each	-	-	-	-	20
For summoning and returning a jury in each cause that is tried: <i>Provided</i> That in those States where jurors are by the laws of the State drawn by constables or other officers of corporate towns or places by lot, the marshals shall receive for the use of such constable or officers, the fees allowed	-	-	-	-	1 50
For summoning and returning a special jury	-	-	-	-	2 00
For making and returning a book of freeholders for striking a jury (where he does it)	-	-	-	-	1 00
For executing a writ of inquiry of damages, or other writ on which an inquisition may be necessary, summoning and attesting the jury, and taking an inquisition and return (besides four cents for each witness sworn or affirmed)	-	-	-	-	4 00
For executing a writ of partition or elegit, summoning and attesting a jury, and the return thereof	-	-	-	-	5 00
For attending a jury on a view	-	-	-	-	2 50
For every day that he shall attend on the execution of such writ of inquiry, elegit, or partition, or on a view, more than one	-	-	-	-	2 00
For the service of every writ of capias ad satisfaciendum, fieri facias, habere facias possessionem, restitution, retorno habendo, levari facias, venditioni exponas, or other writ of execution (not otherwise provided for) and return (with inventory, when necessary) besides with the actual expenses of advertisements and public notice	-	-	-	-	2 00
Executing a writ of estrepement	-	-	-	-	2 00

For poundage and commissions on the sales of lands, goods, or vessels, and receiving and paying the money for any sum under five hundred dollars three per cent., and for any greater sum one and a half per cent. on the excess.	
For poundage and commissions on receiving and paying moneys where there is no sale, if under five hundred dollars, one and a half per cent., and if a greater sum one-half per cent. on the excess: <i>Provided</i> That no such poundage shall be paid on more than the sum due to the party at whose suit the execution issued, and on all moneys paid to a landlord on notice, or to a prior judgment creditor. For the custody of a vessel by order of the court one dollar per diem, where the vessel shall be afterwards sold by the marshal; and where the same shall not be sold, two dollars per diem.	
For the custody of goods taken on a writ of attachment, fieri facias, or any other writ, where the said goods shall not be sold, such compensation as the court shall, in their discretion, tax, and order to be paid, together with all reasonable disbursements.	
For a deed on the sale of lands or other property requiring a transfer thereof in writing	3 00
For his travel out in serving or attempting to serve any process, writ, declaration, or order of any of the courts of the United States, six cents per mile, to be computed from the court where the same shall be returnable, to the place of service or place where the marshal shall be directed to serve the same; and if more than one person be named therein, adding thereto his extra travel necessary to serve it on others: <i>Provided</i> That such fee for travel, where one person only is named in such process, writ, declaration, or order, shall in no case exceed eight dollars; and where there are more than one, not more than one dollar for each person above one.	
For attending the supreme, circuit, or district court, per day	5 00
And at the rate of ten cents per mile, for his expenses and time in travelling from the place of his abode, to either of the said courts.	
For summoning a grand jury	3 00
For summoning a traverse or petit jury on each indictment that shall be at issue each session	1 00
For his necessary aid in criminal cases, each person so employed per day	67
For all other services in every criminal prosecution, where the indictment shall be found, and the charge not capital, previous to judgment	2 00
For the same services, if the charge be capital	4 00
For bringing up a prisoner on a habeas corpus (besides mileage)	1 00
For levying fines, forfeitures, and penalties, and paying the same, three per cent. if the sum be under five hundred dollars, and if above that sum one and a half per cent. on the excess.	
For every taking into custody, by order of the court, every commitment or discharge of a prisoner criminally charged	40
For inflicting corporal or capital punishment, such sum as the court awarding the execution shall order or direct.	

*To the plaintiff's attorney, on all suits at law in the district or circuit court.*

For commencing an action, and all proceedings previous to declaring; or removing an action by writ of error, and assigning errors	3 00
For all subsequent proceedings previous to final judgment	4 00
For all proceedings subsequent to the former, including the issuing the execution	1 00

*To the defendant's attorney on the said suits, in the same courts.*

For appearance, and all proceedings previous to filing a plea or demurrer, or joinder in error	3 00
For all subsequent proceedings to final judgment	4 00
For all other proceedings in the cause, if any, on the part of the defendants	1 00

*To the plaintiff's solicitor, on all suits in equity, in the said courts.*

For preparing and filing a bill in equity, with all necessary exhibits, or removing the same by writ of error, and assigning errors	8 00
For all subsequent proceedings, previous to the hearing	4 00
For all subsequent proceedings, previous to the final decree	4 00
For all other subsequent services in the cause	2 00

*To the defendant's solicitor.*

For preparing and filing defendant's answer with all necessary exhibits, or appearing for defendant in error and pleading	8 00
For all subsequent proceedings, previous to the hearing	4 00
For all subsequent proceedings, previous to the final decree	4 00
For all other services in the cause, if any, on the part of the defendant	2 00

*To the proctors in any admiralty or maritime cause.*

For preparing and filing libel, or appearance and answer, and all services previous to hearing	6 00
For all subsequent proceedings in the cause	4 00
For all services in any suit removed by appeal to the circuit court	10 00

*To the district attorney of the United States.*

For drawing every bill of indictment	2 50
For prosecuting every indictment to judgment or outlawry, if the charge be capital	7 50
For the same services, if the charge be not capital	3 50
For his attendance on every hearing before a judge respecting the remission of any fine or penalty, (to be paid by the party, if the fine or penalty be remitted).	5 00
For his attendance in court in any criminal prosecution or prosecutions, or civil cause or causes, in which the United States are concerned, each day	5 00

For his travel from the place of his abode to the place where the court sits, and back, each mile	-	\$ 10
For his advice and services in prosecuting or defending every civil cause in the circuit or district court in which the United States shall be concerned, other than suits on forfeited recognizances, such counsel fee as the court shall certify to be a reasonable compensation therefor, not less than _____ dollars, nor more than _____ dollars.		
For every opinion, in writing, which he shall give to the collector of the customs or supervisor of the revenue at their written request, (copies of which opinions shall be transmitted by the officer to whom they are given to the Secretary of the Treasury.)		
To any attorney who shall in any cause draw and file interrogatories where the same are necessary, three dollars; and where by law or the practice adopted in any of the said courts in any district, the attorney, an examiner, commissioner, justice of the peace, or other person, hath usually performed and shall perform any service, for which by this act a fee is assigned to the clerk thereof, the said attorney, examiner, commissioner, justice of the peace, or other person, shall, in such case, have and receive the said fee, instead of the clerk of such court.		

*To witnesses.*

For each day's attendance for every witness residing in the city, town, or place where the court is held, or within three miles thereof, per diem-	-	40
For each day's attendance, coming and returning of every other witness, seventy-five cents, besides the toll or ferriage which such witnesses are obliged to pay in consequence of their coming to or going from court. The fees of all witnesses attending on behalf of the United States, in any criminal prosecution, to be advanced by the marshal as soon as the party is convicted or acquitted, or the witness dismissed.		

*To the jurors in the circuit or district court.*

To each grand and petit juror fifty cents each day for attending in court, (provided he appears at every call,) and for travelling, at the rate of five cents each mile, from the place of his abode to the place where the court is held, and like allowance for returning, to be advanced by the marshal, as soon as the jurors are respectively dismissed, and by him charged to the United States.	-	20
To every juror, for each civil action on which he is sworn or affirmed, (to be immediately advanced by the party in whose favor the verdict is given, or non-suit suffered, and afterwards taxed in his bill of costs.)	-	20
To every special juror summoned and attending court, ten cents per mile, from the place of his abode to the place where the court sits, and the like allowance for returning, to be advanced by the party at whose instance a special jury shall be ordered.		
To every juror coming to and attending a view (to be advanced by the party at whose instance the view shall be had)	-	50
To every juror attending on the execution of a writ of elegit, or partition, and making inquisition, per day, (to be advanced by the party suing out such writ)	-	75
To every juror on an inquest of damages, or other inquest not before mentioned, (to be advanced by the party suing out the writ on which such inquisition is taken)	-	20
To every surveyor, for going to and returning from a view, and for going to and attending on the trial, per day	-	1 50
For his actual services on the view, and making plat and returning the same to the court	-	2 50
To the crier, for his services in any cause the first term (to be advanced by the plaintiff)	-	50
For his services in any cause every subsequent term	-	50
For his attendance and services during the session of the court on any criminal prosecution, each day	-	67
To each bailiff or person attending a grand jury for each day	-	33
To the bailiff or person attending a jury on the trial of any civil or criminal cause	-	25

*To the clerk of the Supreme Court.*

For every writ of mandamus, or prohibition, (including seal)	-	3 00
For every special mandate to award execution, for every ninety words therein	-	25
For every writ of error, including seal	-	2 00

*And be it further enacted,* That the clerk of the supreme court, for all other services in any cause, and his attendance in the Supreme Court, and all officers and persons (except marshals and witnesses) doing service in or attending the same court, shall be entitled to and shall receive double the fees or allowance which are hereby established for the same or similar service or attendance in the circuit or district courts.

*And be it further enacted,* That in every prosecution for any fine or forfeiture incurred under any statute of the United States, if judgment is rendered against the defendant, he shall be subject to the payment of costs; and on every conviction for any other offence (not capital) the court may, in their discretion, award that the defendant shall pay the costs of prosecution; and if any informer or plaintiff, on a penal statute, to whose benefit the penalty, or any part thereof, if recovered, is directed by law to accrue, shall discontinue his suit or prosecution, or shall be non-suit in the same, or if upon trial a verdict shall pass for the defendant, the court shall award to the defendant his costs, unless such informer or plaintiff be an officer of the United States, specially authorized to commence such prosecution, and the court before whom the action or information shall be tried shall at the trial, in open court, certify upon record that there was reasonable cause for commencing the same; in which case, no costs shall be adjudged to the defendant.

*And be it further enacted,* That there shall be allowed and taxed in the supreme, circuit, and district courts of the United States, in favor of the parties obtaining judgments therein, such compensation for their travel and attendance, as are allowed in the supreme or superior courts of the respective States.

*And be it further enacted,* That the fees and compensation to the several officers and persons hereinbefore mentioned, other than those which are above directed to be paid out of the Treasury of the United States, shall be recovered, in like manner as the fees of the officers of the States, respectively, for like services are recovered.

*And be it further enacted,* That the court in which any civil suit is depending, may, in their discretion, or on the application of the clerk or marshal, direct the plaintiff or plaintiffs to give security for the payment of such fees as the services done or to be done and rendered by them in the cause shall entitle the said officers to demand and have from him or them.

*And be it further enacted,* That the personal and real property of any person indicted, and capitally convicted, or sentenced to pay the costs of his or her prosecution, shall be liable to be taken in execution, and sold to satisfy

the same, by writ of fieri facias, or other proper writ of execution. And it shall be the duty of the marshal to recover and collect all such fees, where the person so convicted or sentenced hath sufficient ability or property to pay the same, and to account therefor in the manner hereinafter mentioned.

*And be it further enacted,* That there shall be paid to the marshal the amount of the expense for fuel, candles, and other reasonable contingencies that may accrue in holding the courts within his district, and providing the books necessary to record the proceedings thereof; and such amount, as also the compensations aforesaid to the grand jurors; to the petit jurors on every trial in a criminal cause, and bailiffs attending them; to the witnesses summoned on the part of the United States; to the clerk of the supreme court for his attendance; to the clerks of the district and circuit courts for their attendance and travel; to the attorney of the district for his attendance and travel; to the marshal for his attendance at court; for summoning grand juries and witnesses in behalf of any person to be tried for a capital offence; and also of the legal fees due to the clerk, attorney of the district, marshal, and bailiff, on any criminal prosecution, and the compensation certified to be due to the said attorney for his services in all civil actions in which the United States shall have been concerned, shall be included in the marshal's account; which being examined and certified by the court, or one of the judges of it, in which the services shall have been rendered, shall be presented once at least in every year, and passed in the usual manner at, and the amount thereof paid out of the Treasury of the United States to the marshal, and by him shall be paid over to the persons entitled to the same, except such part thereof as he hath advanced to the grand or petit jurors, or the witnesses on behalf of the United States; and the marshal shall be allowed two and a half per centum on the amount by him so advanced or paid over, to be charged in his future account. *Provided always,* That the marshal shall in such his account give credit to the United States for all fees which he shall receive from any person convicted of a criminal offence.

*And be it further enacted,* That if any officer hereinbefore mentioned, or his deputy, shall, by reason or color of his office, wilfully and corruptly demand and receive any greater fees than those allowed by this act, he shall, on conviction thereof, in any court of the United States, forfeit and pay a fine not exceeding five hundred dollars, or be imprisoned not exceeding six months, at the discretion of the court before whom such conviction shall be.

*And be it further enacted,* That it shall be lawful for any person to refuse payment of fees to any officer who will not make out and deliver a bill of particulars signed by him if required, and also a receipt or discharge signed by him of the fees paid.

*And be it further enacted,* That the third, fourth, fifth, sixth, and seventh sections of an act, entitled "An act for regulating processes in the courts of the United States, and providing compensations for the officers of the said courts, and for jurors and witnesses," and so much of any other act or acts of Congress, as is hereby altered and supplied, shall, from and after the said third day of March next, stand and be repealed.

*And be it further enacted,* That this act shall be and continue in force from and after the said third day of March next, for and during the term of two years, and from thence to the end of the next session of Congress thereafter, and no longer.

All which is respectfully submitted:

WILLIAM BRADFORD.

JANUARY 8, 1794.

[NOTE.—See No. 63.]

3d CONGRESS.]

No. 62.

[2d SESSION.]

## PROMULGATION OF THE LAWS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 29, 1795.

Mr. BALDWIN made the following report:

The committee to whom was recommitted the report of the committee appointed to report what further provisions are necessary for the more general promulgation of the laws, have had the subject referred to them under consideration, and submit the following resolutions:

*Resolved,* That there be printed, under the direction of the Secretary of State, a complete edition of five thousand copies of the laws to the close of the present session of Congress, to include only the public acts which are now in force, and that they be divided among the respective States, and the territories northwest and south of the river Ohio, according to the rule for apportioning representatives: that the number allotted to each State or Territory be transmitted to the Governor or supreme Executive Magistrate thereof, in order to be deposited in fixed and convenient places in each county or subordinate civil division, as the Executive or Legislature of such State or Territory may judge most conducive to the general information of the people.

*Resolved,* That a like number of the laws passed at each succeeding session be printed and distributed as above directed.

*Resolved,* That the Secretary of State shall, as soon as may be after the close of each session, cause to be printed, in two newspapers in each State, all the laws passed at such session, continuing them in each succeeding number of such paper, until the whole are finished.

[NOTE.—See No. 59.]

3d CONGRESS.]

No. 63.

[2d SESSION.

## FEES OF COURTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 14, 1795.

Mr. BOUDINOT, from the committee to whom was referred the report of the attorney general of such tables of fees and regulations as are proper to be established for the courts of the United States, made the following report:

That they have carefully examined the same, and are of opinion that the fees payable in the several States are properly averaged therein, from a comparative view of the same, and brought to one uniform standard, to the particular charges of which the committee have no solid objection; yet they cannot but observe to the House the great impropriety (in the opinion of the committee) of one universal rule of charges for all the States in the Union, whose circumstances are so different, that those which in one State might be very reasonable, in another would be complained of as highly extravagant.

The difficulties attending this important business are greatly increased by the particular organization of the federal courts, which requires a speedy revision. Your committee are of opinion, that either salaries must be given to the several officers of the courts, and the fees be paid into the Treasury of the United States, or that a sum in gross applied to the different stages of a suit be paid to the several officers in each suit that may be brought, in full for all services performed therein.

But as the full examination and consideration of this interesting subject will require more time than can be devoted to it in so late a stage of the session, and it being necessary that the table of fees reported should be clearly understood, the committee are of opinion that the same should be printed for consideration, and referred to the determination of the next Congress. In the mean time, it is indispensable that the present law relative to fees to be taken in the several courts which will expire at the end of this session, should be continued. They, therefore, recommend the following resolutions:

1st. *Resolved*, That the table of fees reported by the attorney general be printed for the use of the members and the consideration thereof be referred to the next session of Congress.

2d. *Resolved*, That a committee be appointed to bring in a bill to continue the act entitled "An act to ascertain the fees in admiralty proceedings in the district courts of the United States, and for other purposes."

[NOTE.—See No. 61.]

3d CONGRESS.]

No. 64.

[2d SESSION.

## REPORTERS TO CONGRESS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 23, 1795.

Mr. WILLIAM SMITH, from the committee to whom was referred the petition of Edmund Hogan, made the following report:

That, in their opinion, an impartial publication of the debates of the House would be of great public utility, and, for that purpose, that it would be proper to appoint one or more persons competent to the task of faithfully reporting public debates as officers of this House; they, therefore, recommend the following resolution:

*Resolved*, That the Secretary of State be requested to receive proposals from any person or persons skilled in the art of stenography, or capable of reporting debates with accuracy, and to report the same to this House at the commencement of the next session, with his observations and opinion respecting the qualifications of the said person or persons for the said duty; to the end that this House may be enabled to appoint one or more persons, as officers of the House, for the valuable purpose above mentioned.

3d CONGRESS.]

No. 65.

[2d SESSION.

## REMONSTRANCE OF NEW HAMPSHIRE AGAINST THE EXERCISE OF CERTAIN POWERS BY THE JUDICIARY OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1795.

Mr. MADISON, from the committee to whom was referred the memorial and remonstrance of the Legislature of New Hampshire, praying the interference and support of Congress in favor of the judicial power of the State court against an encroachment of the judiciary of the United States, in revising a decree of the supreme judicial court of said State, made the following report:

That the subject of the said memorial being of a nature wholly judicial, and having undergone a course of judicial investigation and of final decision by the Supreme Court of the United States, the committee have conceived themselves precluded from all inquiry into the particular merits of the case; nor can perceive any ground on which legislative interference could be proper.

The committee for draughting a remonstrance to Congress reported the following:

*To the Senate and House of Representatives of the United States in Congress assembled: The memorial of the Legislature of New Hampshire, sheweth:*

That, impelled by a firm attachment to the first principles of a free Government, and the accumulated distresses of a number of their citizens, they again remonstrate to Congress against a violation of State independence, and an unwarrantable encroachment in the courts of the United States.

That, soon after the commencement of the late war with Great Britain, a number of the citizens of this State, under a sanction of a law of the Legislature, fitted out a privateer called the McClary, and captured a vessel called the Susannah, bound to a port of our enemies, and carrying supplies to them; that this vessel and cargo, regularly libelled in the State courts, was claimed by Elisha Doane and others, inhabitants of a neighboring State, and was condemned according to the laws of New Hampshire; that an appeal was claimed to Congress by said Doane, and repelled by the supreme judicial court of the State; this not being one of the cases where an appeal was allowed to Congress by the law for fitting out privateers and trying of captures; that, notwithstanding this refusal of appeal, a complaint was entered before a committee of Congress, and from thence transferred to the court of appeals, (so called,) who, without authority, decreed that the judgment of the courts of New Hampshire be reversed; that, during the pendency of the action before the committee or court of appeals, application was made by Congress to the Legislature for a grant of the right of appeal, which was refused.

That, after the establishment of the present constitution, it was so transacted that the circuit court for the district of New Hampshire, upon complaint to them, decreed that the judgment of the aforesaid court of appeals should be carried into execution, and that the original captors should be liable to pay the amount of vessel and cargo claimed by said Doane, with interest.

That the former Congress of the United States, by their courts, interfered in determining causes respecting captures against the express will of the State, and without the intervention of a jury; that this was prior to any formal agreement of the States, except in the act of independence; and that the courts of the United States, under the present constitution, have resolved to put those determinations into effect.

That this State had a right to oppose the British usurpation in the way it thought best; could make laws as it chose, with respect to every transaction where it had not explicitly granted the power to Congress; that the formation of courts for carrying those laws into execution belonged only to the several States; that Congress might advise and recommend, but the States only could enact and carry into execution; and that the attempts repeatedly made to render the laws of the State in this respect null and void is a flagrant insult to the principles of the revolution; is establishing a Government they hoped to be a blessing on the uniform plea of arbitrary power, on an implication of grants of jurisdiction not intended to be included, nor even in contemplation.

Can the rage for annihilating all the power of the States, and reducing this extensive and flourishing country to one domination, make the administrators blind to the danger of violating all the principles of our former Government; to the hazard of convulsions in endeavoring to eradicate every trace of State power, except in the resentment of the people? Can the constitutional exercise of the power of Congress in future be in no other way established than by the belief that the former Congress always possessed the same? Can the remembrance of the manner of our opposition to tyranny, and the gradual adoption of federal ideas, be so painful as to exclude (unless forced into view) the knowledge that Congress, in its origin, was merely an advisory body; that it entirely depended upon the will of the several Legislatures to enforce any measures they might recommend; that the inconveniences of this principle produced the confederation; and, even at that late day, it was declared that powers not expressly delegated to Congress, are reserved by the States, or the people, respectively; that the experience of years, of the inefficacy of thirteen Legislatures to provide for the wants and to procure the happiness of the American people, caused the adoption of the present constitution—an adoption totally unnecessary, in point of principle, if the claims of former Congressional power are established.

Forced by events, the Legislature of New Hampshire have made the foregoing statements; and while they cheerfully acknowledge the power of Congress in cases arising under this constitution, they equally resolve not to submit the laws, made before the existence of the present Government by this (then independent State) to the adjudication of any power on earth, while the freedom of the Federal Government shall afford any constitutional means of redress.

Impressed with the singular merits of the present case, and deprecating the many and complicated evils which must be the necessary consequence of establishing the power claimed by the courts of the United States, and its tendency to produce disaffection to our Government, the Legislature of New Hampshire rest assured that a speedy and just decision will be had, and that the rights of State Governments and the interests of their citizens will be secured against the exercise of a power in the courts, or any body of men under Congress, of carrying into effect an unconstitutional decree of a court instituted by a former Congress, and which, in its effects, would unsettle property and tear up the laws of the several States.

STATE OF NEW HAMPSHIRE:

IN THE HOUSE OF REPRESENTATIVES, *January 14, 1795.*

The foregoing report having been several times read and duly considered, *Resolved*, That it be received and accepted; and that his excellency the Governor be, and hereby is, requested to transmit said remonstrance to the Congress of the United States; and that the Senators and Representatives of this State in Congress be desired to attend to and enforce the same.

Sent up for concurrence:

JOHN PRENTICE, *Speaker.*

Read and concurred:

IN SENATE, *January 16, 1795.*

A true copy.

Attest:

EBENEZER SMITH, *President of the Senate.*  
JOSEPH PEARSON, *Secretary.*

4th CONGRESS.]

No. 66.

[1st Session.]

## BREACH OF PRIVILEGES.

PROCEEDINGS OF THE HOUSE OF REPRESENTATIVES IN THE CASE OF RANDALL AND WHITNEY.

MONDAY, December 28, 1795.

Information being given to the House by the following members, in their places, to wit: Mr. Smith, of South Carolina, Mr. Murray, of Maryland, and Mr. Giles, of Virginia, that a person of the name of Robert Randall had made, or communicated to them, respectively, certain overtures to obtain their several support in this House to a memorial intended to be presented by the said Robert Randall, on behalf of himself and others, for the grant of a tract of land, containing eighteen or twenty millions of acres, bordering on lakes Erie, Michigan, and Huron, and lying within the limits of the United States; for which support, the said members, respectively, were promised to receive of the said Robert Randall and his associates a consideration or emolument in lands or money; and this House regarding the said information as sufficient evidence of a contempt to and breach of the privileges of this House, in an unwarrantable attempt to corrupt the integrity of its members:

*Resolved*, That Mr. Speaker do issue his warrant, directed to the sergeant-at-arms attending this House, commanding him to take into custody, wherever to be found, the body of the said Robert Randall, and the same in his custody to keep, subject to the further order and direction of the House.

A warrant, pursuant to the said resolution, was accordingly prepared, signed by Mr. Speaker, under his seal, attested by the clerk, and delivered to the sergeant, with order forthwith to execute the same, and make due return thereof to the House.

Information being also given to the House, by Mr. Buck, one of the members from Vermont, of an application to him by a person of the name of Charles Whitney, by which there is good reason to believe that the said Whitney is a partner and associate of the beforenamed Randall, and equally concerned in the business and overtures of the said Randall, a similar warrant was ordered, signed, and delivered to the sergeant, as aforesaid, for taking into his custody the body of the said Charles Whitney, subject, in like manner, to the further order and direction of the House.

TUESDAY, December 29, 1795.

The sergeant-at-arms having returned on the warrants issued to him yesterday that he had executed the same on the bodies of Robert Randall and Charles Whitney, the persons therein named, and that he now held them in his custody, subject to the further order and direction of the House; it was, on motion,

*Resolved*, That a Committee of Privileges, to consist of seven members, be appointed, and that the said committee be instructed to report a mode of proceeding in the case of Robert Randall and Charles Whitney, who were taken into custody yesterday, by order of the House, and that the said committee have leave to sit immediately.

*Ordered*, That Mr. Baldwin, Mr. William Smith, Mr. Giles, Mr. Murray, Mr. Livingston, Mr. Coit, and Mr. Goodhue, be appointed a committee pursuant to the said resolution.

Mr. Baldwin, from the Committee of Privileges, to whom it was referred to report a mode of proceeding in the case of Robert Randall and Charles Whitney, made a report, which was read, considered, and agreed to by the House, as followeth:

*Resolved*, That the said Robert Randall and Charles Whitney be brought to the bar of the House, and interrogated by the Speaker, touching the information given against them, on written interrogatories, which, with the answers thereto, shall be entered on the minutes of the House. And that every question proposed by a member be reduced to writing, and a motion made that the same may be put by the Speaker. That, after such interrogatories are answered, if the House deem it necessary to make any further inquiry on the subject, the same be conducted by a committee to be appointed for that purpose.

The said Robert Randall was accordingly brought to the bar of the House in custody of the sergeant; and the charge against him, as stated in the journal of yesterday, being read, he was interrogated by Mr. Speaker, "whether he did admit or deny the truth of the said charge?" To which interrogatory he answered, that he was not prepared to admit or deny the same; but requested that time might be allowed him to make answer and offer a vindication of his conduct, until the day after to-morrow. Whereupon,

*It was ordered*, That the said Robert Randall do now withdraw, in custody, until the House shall presently decide on his request.

The said Robert Randall accordingly withdrew, in custody; and after debate,

*It was resolved by the House*, That time be allowed him until to-morrow, twelve o'clock, to make answer in conformity to his request.

*Resolved, also*, That it be an addition to the charge against the said Robert Randall, "that he informed a member of this House that a number of the members of this House, not less than thirty, had engaged, or were engaged, to support his memorial and application, or words to that effect."

The said Robert Randall was then returned to the bar, in custody, and notified by Mr. Speaker of the indulgence and further proceeding of the House respecting him. After which,

*It was ordered*, That the said Robert Randall be detained in custody of the sergeant, and brought up again to the bar of the House to-morrow, at twelve o'clock.

Charles Whitney, the other person named in the warrant of Mr. Speaker, was then brought to the bar, in custody of the sergeant, and the charge against him, as stated in the journal of the proceedings of yesterday, being read, the following interrogatories were propounded to him by Mr. Speaker; to which he gave the respective answers thereto subjoined:

Question. What is your name?

Answer. Charles Whitney.

Question. Where do you reside?

Answer. In the State of Vermont.

Question. What is your occupation?

Answer. I am a farmer.

Question. When did you come to this city?

Answer. About the first of this month.

Question. Where is your usual abode whilst in this city?

Answer. At the Green Tree tavern, in Fourth street.

Question. Are you, or are you not, guilty of the charge which has been read to you of being a partner and associate of Robert Randall, and equally concerned in the business and overtures of the said Randall?

Answer. I am not guilty. I am equally concerned with Mr. Randall in the present land business, but am ignorant of any improper motives or improper conduct of the said Randall therein; and can only answer for myself.

Question. Are any other persons associated with Mr. Randall and yourself in this business, and what appropriations or disposition of the said lands did you design to make?

Answer. Colonel Pepune, and Mr. Jones, of Massachusetts, and Colonel Ebenezer Allen, of Vermont, agreed to associate with us in this business; and it was our intention to divide it into forty-one shares, and associate with us such other influential characters as we could engage, in order to divide with us the great expense and trouble of the undertaking.

Question. Are any persons within the British lines associated with you in this business?

Answer. Yes. Mr. Askins, senior, Mr. Askins, junior, Mr. Robinson, Mr. Innes, a Mr. Pattenson, merchants and traders residing at Detroit, and its vicinity, are concerned with us.

Question. Are any of the persons you have named at Detroit, as concerned with you, in civil or military commission under the British Government?

Answer. Yes. Mr. Askins the elder is said to be in civil commission, as a judge.

Question. Have you any instrument of association between yourself and partners?

Answer. I have: it is signed by the persons last named, and is, I believe, now at my lodgings.

Question. Have you any objection to produce the said instrument?

Answer. I do not know that I have; but being without counsel, I wish for time to reflect upon it.

Question. Are you acquainted with a person of the name of John Gove, and did you make application to him to become an associate with you?

Answer. I am acquainted with Mr. Gove, and did apply to him to become an associate; to which I understood him to have agreed.

Question. Where does Mr. Gove lodge?

Answer. At the Green Tree tavern, in Fourth street.

Question. Was Mr. Gove authorized by you to apply to any members of Congress in favor of your proposal?

Answer. I did mention to Mr. Gove that he might apply to the members in favor of our proposal.

Question. Were there any shares of the said land to be left open or unappropriated between you and your associates?

Answer. There were shares left open, to be filled at my pleasure.

Question. Did you make any, and what, application to Mr. Buck, one of the members of this House, from the State of Vermont, to support your application?

Answer. I did apply to Mr. Buck, at his house in Vermont, and represented to him, generally, the nature and advantages of our plan; but I made no proposal to him of benefit or advantage to himself, or of other improper inducement.

Mr. Buck then informed the House, that the said Charles Whitney had made overtures to him in Vermont, offering a share in land, or an equivalent in money, or words to that effect: Whereupon,

It was moved and seconded that the said Charles Whitney do now withdraw, in custody, and that all further proceedings respecting him be adjourned until to-morrow, twelve o'clock.

And on a question taken, the same was ordered accordingly; with an instruction to the sergeant to keep him separate and apart from Robert Randolph.

WEDNESDAY, December 30, 1795.

A petition of Robert Randall, in custody of the sergeant-at-arms, was presented to the House and read, praying that he may be indulged with the assistance of counsel, and a reasonable time to prepare for his defence, on the charges now depending against him before the House: Whereupon,

*It was resolved*, That the prayer of the said petition be granted.

The said Robert Randall was then brought to the bar, in custody of the sergeant, and it being demanded of him by Mr. Speaker, "what further time he required to prepare for his defence?" he answered until Friday next.

*Resolved*, That further time be allowed the said Robert Randall, until Friday next, to prepare for his defence; and that, in the mean time, he be remanded in the custody of the sergeant, until further order.

The Speaker laid before the House an instrument of writing, purporting to be "articles of agreement entered into and concluded at Detroit, the twenty-sixth day of September, in the year of our Lord one thousand seven hundred and ninety-five, for the purpose of obtaining the pre-emption right from the United States of America, and extinguishing the right of the native Indians to a certain territory therein defined, containing by computation eighteen or twenty millions of acres, and lying on lakes Erie, Huron, and Michigan, between Ebenezer Allen and Charles Whitney, of the State of Vermont, and Robert Randall, of the city of Philadelphia, on the one part; and John Askin, Jonathan Schieffelin, William Robertson, John Askin, junior, David Robertson, Robert Innes, and Richard Pattenson, all of Detroit, of the other part;" which instrument of writing had been given up by Charles Whitney to the sergeant-at-arms and by the sergeant delivered to the Speaker.

The said instrument of writing was read, and ordered to lie on the table.

Charles Whitney was then brought to the bar, in custody of the sergeant, and the further information against him, by Mr. Buck, one of the members from Vermont, as stated in the journal of the proceedings of yesterday, being read to him, he was interrogated by Mr. Speaker, "whether he did admit or deny the same?" To which he answered, that he did wholly deny the same: Whereupon,

*It was ordered*, That he be remanded to the custody of the sergeant, until further order of the House: and on motion,

*It was resolved*, That the Committee of Privileges be instructed to consider and report to this House the proper mode of conducting the further inquiry, and the trial in the case of Robert Randall and Charles Whitney.

THURSDAY, December 31, 1795.

The Speaker laid before the House a letter from Robert Randall, in custody of the sergeant, "stating that the engagements of the gentlemen of the bar of this city will prevent them from assisting him as counsel, until



Saturday evening; and praying a further postponement of the proceedings respecting him, until the earliest part of next week," which was read: Whereupon,

*Ordered*, That further time be allowed the said Robert Randall, until Monday next, in conformity to his request.

Mr. Baldwin, from the Committee of Privileges, to whom it was referred to consider and report on the proper mode of conducting the further inquiry, and the trial in the case of Robert Randall and Charles Whitney, made a report, which was read, and debate arising thereon, an adjournment was called for.

FRIDAY, January 1, 1796.

The House resumed the consideration of the report from the Committee of Privileges, to whom it was referred to consider and report the proper mode of conducting the further inquiry, and the trial in the case of Robert Randall and Charles Whitney; and the said report being again read, and amended at the clerk's table, was, on the question put thereupon, agreed to by the House as followeth:

That the proper mode of conducting the further inquiry and the trial in the case of Robert Randall and Charles Whitney, will be, to proceed, first, with a further hearing of Robert Randall, at the bar of the House.

That the information that has been given against the said Robert Randall and Charles Whitney be reduced to writing, and signed by the informants themselves, respectively, and entered at large on the journal. That the said information be read to the prisoners, and that they be called upon by the Speaker to declare what they have to say in their defence.

That if the said prisoners shall offer any parole evidence, in their exculpation, the same shall be heard at the bar of the House; excepting the members of the House, who may give their testimony on oath in their places; and no question shall be put to any member, on the part of the prisoner, by way of cross-examination, except leave be first given by the House, and every such question shall be put by the Speaker; and that the judge of the district of Pennsylvania be requested to attend, for the purpose of administering an oath or affirmation, to all witnesses. That all questions on the part of the House, to be asked of the said witnesses, shall be put by the Speaker.

That, on every debate, the prisoners and their counsel shall be directed to withdraw; and that, when they shall have concluded their defence, and are withdrawn, the sense of the House shall be taken on the guilt or innocence of the prisoners, respectively.

MONDAY, January 4, 1796.

Pursuant to the proceedings of the House on Friday last, Mr. Smith, of South Carolina, Mr. Murray, of Maryland, Mr. Giles, of Virginia, and Mr. Buck, of Vermont, delivered in at the clerk's table their several informations, in writing, subscribed with their names, respectively, in the case of Robert Randall and Charles Whitney—which are as follows:

William Smith, one of the representatives of the State of South Carolina in the Congress of the United States, declares: That on Tuesday last, the 22d instant, a person who called himself—— Randall, and who is said to be from the State of Maryland, applied to him at his lodgings, in the city of Philadelphia, and requested a private and confidential conversation of an hour, which the informant agreed to; and at the time appointed, which was the same evening, the said Randall being alone with the informant, communicated to him a proposal for procuring from the Legislature of the United States a grant of about eighteen or twenty millions of acres in the Northwestern Territory, between lakes Michigan, Huron, and Erie. That the said Randall observed that the grant he proposed would be of great service to the United States, from the persons who would be interested therein, (to wit, certain Canada merchants at or near Detroit, whose names he did not mention,) having great influence over the Indians, who were not pacified by the late treaty concluded with General Wayne; and that the said persons would extinguish the Indian claims at their own expense; and after setting forth the saving of expense, by the cessation of the Indian war, and other reasons to induce a belief that the proposed grant would be of public utility, he proceeded to inform the informant that the intention was to divide the land into about forty shares, twenty-four of which would be allowed to, or distributed among, such persons (meaning, as this informant understood him, from the whole purport of his conversation, members of Congress,) as would favor the measure. That, of these twenty-four shares, he had the management or distribution of twelve, for the southern part, (meaning, as the informant understood, the southern members of Congress;) and another person, whose name he did not mention, had the disposition of the other twelve, for the eastern part, (still, as the informant understood and believes, meaning as aforesaid.) That he, the said Randall, proposed subdividing the said shares into so many portions as to have a sufficiency to obtain a majority, (meaning, as the informant understood him, a majority of Congress;) and that gentlemen, after the session was over, or when they returned to private life, might then have such parts of shares, as the said twenty-four shares would be reserved for such of them as would favor the business, on the same terms as the original associators. That the view of him, the said Randall, and of those concerned with him, was to present a memorial, on the following Monday, to Congress, to obtain the said grant for a small price, mentioning half a million of dollars; and that he supposed the land was worth more than two shillings an acre. On taking leave, he pressed the informant for an early and decisive answer to the foregoing proposals; to which the informant replied, that he would not wish to see him again before Friday morning, and requested him to call on him at Congress, and not at his lodgings; but the House did not sit on Friday, and the informant has not seen him since. The informant further says, that the foregoing is the substance and purport of the communication to him made by the said Randall, on the subject above set forth; and that the impression clearly made on the mind of the informant, by the overtures, was, that, under a pretext of public utility, the object of the application was to secure the informant's influence as a member of Congress, by a temptation of great personal advantage. That the informant, the next morning, communicated the substance of the foregoing to Mr. Murray, one of the members from Maryland, and consulted him on the most proper mode of proceeding on so delicate an occasion; that Mr. Murray advised a consultation with Mr. Henry, of the Senate; and that, in consequence of such consultation with Mr. Murray and Mr. Henry, on the following day (Thursday) it was resolved that the informant should immediately communicate the whole transaction to the President of the United States; which he accordingly did.

WILLIAM SMITH.

DECEMBER 28, 1795.

Mr. Murray declares that, on Wednesday last, the 23d instant, Mr. Smith, member of Congress, of South Carolina, informed him that a man of the name of Randall, of Maryland, had, the evening before, attempted to bribe him in western lands, on condition of his supporting an application which Randall told him he should soon make to Congress, the object of which application was a grant from Congress of from eighteen to twenty millions of acres of land, between Erie, Huron, and Michigan. That Mr. Smith was extremely solicitous that some other

gentleman should immediately be informed of the infamous proposal, and that he said he would mention it to Mr. Henry, of the Senate, and advise with him upon proper measures for the detecting of the full extent of the scheme, and crushing it. That he had no opportunity of talking to Mr. Henry on that day, but early on the morning of the 24th instant communicated the intelligence to Mr. Henry, who recommended that Mr. Smith should immediately inform the President. That on the said day Mr. Randall, of Maryland, was introduced to him, the informant, and requested a confidential interview at his, the informant's, lodgings, which the informant readily promised him, to be at five, for the purpose of developing his scheme. That Randall came at or near five, that day last named, to wit, on Thursday, and communicated to Mr. Henry and himself, in general terms, the outline of a plan by which he, Randall, and his Canadian friends, would extinguish the Indian title to all the lands between lakes Erie, Huron, and Michigan, as marked on a map which Randall then showed, containing from eighteen to twenty millions of acres. That he, the informant, then asked Randall into his apartment, where they were alone. That Randall expatiated at first upon the public utility of his scheme, which was, that Congress should grant to him and his company all the land aforesaid mentioned, for five hundred thousand, or, at most, one million of dollars; and that he would undertake, in four months, that the harmony of the Indians should be secured to the Union; or, if Congress thought proper, that the Indian tribes now on said land should be removed to the British side, or down Lake Michigan, reserving to some aged chiefs a few miles square; that his company and himself had determined to divide the lands aforesaid into forty (or forty-one) shares. That, of these shares, twenty-four were to be reserved for the disposal of himself and his partner, now in town, for such members of Congress as assisted them, by their abilities and votes, in obtaining the grant aforesaid. That, of these twenty-four shares, his partner had twelve under his management, for the eastern members of Congress, and that he, Randall, had the other twelve shares under his management, for the southern members of Congress. That these shares were to be so divided as to accomplish the object, by securing a majority of Congress. That the informant started an objection to land speculation, as troublesome, and that he, Randall, said, if you (meaning the informant) do not choose to accept your share of the land, you shall have cash in hand for your share. That the informant appointed Randall to meet him in the lobby of the House, on Monday, the 28th instant. That Randall told him a memorial was to be handed in, upon this subject, on said Monday, but refused to inform the informant what member was to present it. That Randall told him that he, Randall, mentioned his plan to some members in the *general way* only—meaning thereby, as he understood him, a view of the sounder part of the plan, as being conducive to public utility. That, in the early part of the confidential and secret conversation, Randall said that the members of Congress who would behave handsomely should come into their shares on the same terms upon which the company obtained the grant; but soon after made proposals more openly seductive and corrupt, closing them with the offer of cash in hand, as aforesaid. That the informant on that evening, when Randall went away, told Mr. Henry of the whole of Randall's offers aforesaid; then called on the Secretary of State, and communicated the same to him; and next morning, early, informed the President of the transaction.

W. V. MURRAY.

DECEMBER 29, 1795.

William B. Giles, a member of the House of Representatives, in the Congress of the United States, declares: That in the evening of Thursday, the 17th of December, 1795, as well as this informant recollects, a person called upon this informant, at his lodgings, under the name of Robert Randall, with an introductory note from Mr. Gabriel Christie, in the usual form, dated the 15th of the same month.

That the said Robert Randall informed this informant that he had some business of importance to communicate to this informant, which would probably come before Congress; that it respected the fur trade, at present carried on by the British traders with the Indians, through the lakes. He observed that it would be important to change the course of that trade into some channel through the United States; that he believed he could put Congress upon some plan of effecting that object; that the plan was of a secret nature; that he was not then prepared to disclose it, and requested a private interview with this informant, for that purpose, at some other time. Upon which request, this informant appointed the next Saturday, at twelve o'clock, (being the 19th of December,) to receive the communication.

That, about the time appointed, the said Robert Randall called on this informant, and, after some general conversation, informed this informant that an association had been formed by himself and others, with some of the most influential traders at Detroit, for the purpose of purchasing all the lands contained in the peninsula formed by the lakes Erie, Huron, and Michigan, and the waters connecting those lakes, amounting, in the whole, to twenty or thirty millions of acres, if the consent of Congress could be obtained for the extinguishment of the Indian claims thereto. The said Randall then produced a map of the peninsula and lakes.

That this tract of country was to be divided into shares, and that a number of shares was to be left unappropriated, until the necessary law of Congress should pass, authorizing the extinguishment of the Indian claims; and might then be filled up by those who might think proper to concur in the plan, and should give their aid for procuring the passage of such law. Upon this intimation, this informant observed that he hoped the said Randall did not intend to address the information of the unappropriated shares particularly to this informant.

To which the said Randall replied that he did not: that he only meant it as general information; but he could see no impropriety in the members of Congress being concerned in the scheme, if the public good was to be promoted by it; and that thirty or forty members were already engaged in its support, or words to that effect.

After some further conversation of a general nature respecting the present state of the fur trade, the value of the lands contained in the peninsula, and the probable effect of the late treaty upon that trade and country, the said Randall inquired of this informant "whether he deemed his plan advisable, and whether it would meet with the support of this informant in Congress." To which this informant replied, that, if the said Randall should bring his proposals before Congress, this informant would give them the consideration which his duty required, and should give such vote as he deemed right, or words to the same effect. Very shortly after this observation, Mr. Edward Livingston, a member of Congress from New York, entered the room, and the said Randall left it, without further observation, as well as this informant recollects. This informant immediately communicated the contents of this conversation to Mr. Livingston, and declared that he considered the proffer of the unappropriated shares to the members of Congress a direct attempt at corruption.

This informant, on the same day, communicated the substance of the conversation to the Speaker of the House of Representatives of the United States, to Messrs. Blount and Macon of North Carolina, and to Messrs. Madison and Venable of Virginia. It was deemed advisable by all these gentlemen, as well as by this informant, to permit the plan to be brought before Congress, in the usual way, by memorial, and to cause a detection, by means of a committee, to whom the said memorial should be referred; and, in the mean time, if the said Randall should again call on this informant, he should proceed to make further discovery of the real state and nature of the transaction.

That, on the next day, the said Randall did again call on this informant, and informed him that he, the said Randall, then proposed to disclose his plan more particularly; and after some general remarks upon the public utility, as well as individual benefit of the plan, he said that it was in substance as follows:

The tract of country before described was to be divided into forty-one shares; five of which were to be reserved to the Indian traders at Detroit; the other thirty-six were to be divided into two departments—eighteen to the eastern, and eighteen to the southern department; that six out of the eighteen shares were to be reserved to his eastern partner and associates, and six out of the remaining eighteen to himself and his associates; that the remaining twenty-four shares were to be left unappropriated for the use of such members of Congress as should support the measure. That the names of those members were not to be made known until after the law for the extinguishment of the Indian claims had passed; and then requested this informant to prepare some writing which would compel the ostensible persons to surrender the unappropriated shares to the real supporters of the measure, after it should be effected. That one million of dollars were spoken of as the price for the lands; but that he deemed that sum by far too much; and as Congress would have to fix the price, they might make the terms such as to ensure considerable emoluments to the purchasers; that a majority of the Senate had consented to give the plan their support, and within three of a majority of the House of Representatives. After much further conversation on the subject, which this informant thinks unnecessary to particularize, the said Randall promised to wait again on this informant, at his lodgings, on Tuesday evening, at seven o'clock, and introduce to this informant his eastern associate.

The said Randall did not call at the appointed hour, and this informant did not see him again until Friday, the 25th of December, when the said Randall again called on this informant, and, after making an apology for not calling at the appointed hour of the preceding Tuesday, informed him, at the door of his apartment, that his memorial to Congress would be ready to be presented on the next Monday; but as several gentlemen were in this informant's room, at that time, the said Randall did not enter, and no further conversation was then had; since which time this informant has not seen the said Randall until he was brought to the bar of the House of Representatives in custody.

This informant further saith, that he communicated the substance of every material conversation with the said Randall to the Speaker of the House of Representatives, and to the several gentlemen before mentioned.

WILLIAM B. GILES.

JANUARY 1, 1796.

I, Daniel Buck, inform and say, that, about ten days previous to my setting out on my journey to Congress, (which was on the 30th day of November last,) a stranger, whom I now know to be Charles Whitney, in custody of the serjeant-at-arms, called at my office in Norwich, in the State of Vermont, introduced himself by the name of Whitney, and informed me that he had some business of importance which he wished to converse with me upon. I asked if he wished to be in private; he signified that he did; upon which my clerk withdrew, and the said Whitney proceeded to inform me that the business of which he wished to converse was of great importance to the public, as well as to the individuals immediately concerned; that it would come before Congress, but was so circumstanced as to render it necessary to make a previous statement to some of the members, that they might be able to explain to others, and the whole thereby be better prepared to judge upon the business; he declared he wished for nothing improper, and that he did not want that I should favor the plan, unless I saw it to be consistent; for he said he wanted nothing but what was perfectly just and honorable, and was confident that, if the matter could be understood, it would appear to be of great public utility. He then stated that he and his associates had discovered a large and immensely valuable tract of land between, or contiguous to, lakes Erie, Huron, and Michigan, (if I mistake not the names,) which he said might be purchased of the Indians, at a low rate; that this purchase would conciliate the affections, and secure the friendship of the hostile tribes; that he, the said Whitney, together with Ebenezer Allen, Doctor Randall, and a number of Canadian merchants at Detroit, had formed an association for the purpose of extinguishing the Indian title, and petitioning Congress for the pre-emption right to those lands; that, if they succeeded, it was their intention immediately to make settlement on them; that those merchants had such influence with and control over the Indians, that there would be no difficulty with them; and that such a settlement would be a barrier against the savages, and effectually secure peace to the United States; that those merchants were then employed in the business among the Indians; and that his partner, Doctor Randall, and his other associates, had such connexions, that there was a fair prospect of success; that it was not their intention, however, to engross all this property to themselves, but that it was to be divided into a number of shares, and that he and the said Randall had the disposal of them; that he, the said Whitney, was then directly from Philadelphia, and that it was agreed that Randall should dispose of a part amongst his friends, and the influential characters in the Southern States; that he, the said Whitney, was to distribute the other part amongst his, the said Whitney's, friends, and the influential characters in the Eastern and Northern States; that they had already got a number engaged, but that the subscription was not full, and that I might become an adventurer, if I wished for it; and as he conceived that I could make myself acquainted with the facts, they, the said associates, would be able so clearly to demonstrate the public utility of the measure, that there could be no impropriety in my being concerned in the business, as I should thereby only connect my private interest with the public good, and while I was advancing the greatest interest of my country, might put two or three thousand dollars in my own pocket. Upon my suggesting that, by a late treaty, a peace was already concluded with the Indians, and that this was a business that might involve in it an important national question, as, by the treaty, the right of purchasing lands of the Indians was reserved to the United States, the said Whitney replied and said that the Indians were greatly dissatisfied with the treaty, and would not keep it, and that another war would be the certain consequence, unless other measures were adopted. He then renewed the protestations of the purity of his intentions, and said that he conceived that they (meaning himself and associates, as I understood him) should so clearly evince the utility of the plan, as that there could be no doubt of its propriety in the mind of any well-wisher to his country; and said that he thought it would be hard to suppose that members of Congress were, in consequence of their appointment, to be deprived of those advantages to acquire property which might be taken by others. The said Whitney showed me a plan of the country, and the articles of agreement between the associates, which appear to be the same as have been read in Congress; he also said much upon the magnitude of the object, in respect to the subscribers and partners; and though I cannot now repeat his expressions, yet I can truly assert that I then clearly understood him, that if I would subscribe as a partner, my name might be kept secret, and after the grant was obtained, if I chose to relinquish my share in the lands, I might receive money in lieu of it; though no specified sum was mentioned other than has already been stated; and the conversation finally broke off, upon my declaring that I would make no engagement in the business until I was better informed as to the merits of the question.

DANIEL BUCK.

JANUARY 2, 1796.

The House then proceeded to a further hearing in the case of Robert Randall; and the said Robert Randall being brought to the bar, in the custody of the sergeant, and attended by his counsel, the informations, in writing, of Mr. Smith of South Carolina, Mr. Murray of Maryland, and Mr. Giles of Virginia, were read to him.

It was then demanded of him, by Mr. Speaker, "what he had to say in his defence?" to which he answered, that he was not guilty.

It was further demanded of him, by Mr. Speaker, "whether he had any witnesses that he wished to be examined in proof of his innocence?" To which he answered that he had not.

Application was then made to the House, by the prisoner's counsel, that the informations which had been delivered in against him may be attested by the oaths of the informant members, and that he may be permitted to examine them, on oath, touching the same, subject to the order of the House; whereupon,

The prisoner, with his counsel, having withdrawn from the bar, it was, after debate,

*Resolved*, That the prisoner be informed that if he has any questions to propose to the informants, or other members of the House, he is at liberty to put them in the mode already prescribed; that the said informant members be sworn to the declarations just read, and, also, to answer such questions as shall be asked of them, touching the same.

The prisoner, with his counsel, having then returned to the bar, and being informed of the further proceeding respecting him the informant members were respectively sworn to the truth of the written informations which they had severally delivered in against him; and also true answer to make to such questions as should be asked of them, touching the same; the said oaths being administered to them, by the judge of the district of Pennsylvania, who attended for that purpose.

The House then resumed the hearing of the said trial, and having made some progress therein,

It was, on motion, *Resolved*, That further proceeding be adjourned until to-morrow, twelve o'clock.

TUESDAY, January 5, 1796.

The House resumed the adjourned hearing in the case of Robert Randall; and the prisoner, by his counsel, being fully heard at the bar of the House, and his defence closed; it was, on motion,

*Resolved*, That this House will, to-morrow, at twelve o'clock, proceed to a final decision on the said case.

WEDNESDAY, January 6, 1796.

On motion of Mr. Christie, of Maryland, and Mr. Sedgwick, of Massachusetts, the several informations heretofore given by them, on oath, in the case of Robert Randall, and now delivered in, in writing, at the clerk's table, subscribed with their names, respectively, were read, and ordered to be inserted in the journal, as follows:

The declaration of Gabriel Christie is, that some time in the month of October or November last, this informant was in Philadelphia, when he saw Robert Randall, who had, as he informed this informant, just returned from Canada, where he had been disappointed in the business he went to that country on; but he, Randall, informed this informant, that on his way home he had called at Detroit, where he had spent some time; and had, he believed, entered into an association, to which, if he got the consent of the Government of the United States, would be of considerable advantage to him, and those who chose to associate with him; and informed this informant that he might be concerned with him, provided he liked the speculation: he then informed this informant that he had associated with a number of influential persons at Detroit, for the purpose of obtaining the pre-emption right to a large tract of country within the territory of the United States, and produced to this informant the original association. After this informant had heard all that Randall had to communicate to him, this informant told Randall that he considered his scheme as a wildgoose one, and that this informant would not have any concern in it. Randall then requested this informant to give him his opinion in what manner he, Randall, ought to proceed. This informant told him that the most proper person to apply to was Mr. Randolph, the late Secretary of State; and if he, Randall, thought proper, this informant would inform Mr. Randolph of it, and get his advice; which Randall agreed to. This informant then went to Mr. Randolph, and gave him all the information that the informant had received from Randall. After considering the business some time, Mr. Randolph advised that an application should be made to the President of the United States; which advice the informant gave to Randall, who seemed, at that time, fully satisfied with the proposal, and requested the informant to introduce him to the President for that purpose; but as this informant was going out of town in a day or two, he told Randall that he would introduce him to the President on his return to Congress. When the informant came to Philadelphia, in December, he found Randall in the city; and after asking Randall what he had done in his business, and whether he still meant to apply to the President, Randall then informed the informant that his friend and associate, Mr. Whitney, had arrived in Philadelphia, and that, upon consulting with him, they came to a determination not to apply to the President, as he heretofore had agreed, but had determined to present a memorial to the Legislature for a grant of the said land. This informant told Randall that he disapproved of this mode, and asked Randall who had advised him to it. Randall then informed the informant that this said Mr. Whitney had informed him that he had consulted with a number of the eastern members of Congress, and in particular with Mr. Sedgwick, who had advised this mode of proceeding. Randall also informed this informant that Mr. Sedgwick had agreed to draw up and present his memorial. This informant then informed Randall that, by this mode of proceeding, he had put it out of this informant's power to be concerned with him, if he thought ever so well of it. Randall asked the informant the reason; the informant answered, that it would be improper in any member of Congress to be concerned in any thing that he was to vote on. This informant was not able to impress Randall with the propriety of his remark. The informant never understood that Mr. Sedgwick was, in any manner, concerned with Randall or his associates; but that he, Mr. Sedgwick, thought the thing a public benefit, and would support it: that Randall never informed this informant that any of the members of Congress were concerned, but that a majority of them thought favorably of the plan, and would support it. In all the conversation the informant had with Randall, this informant told him that he could not expect this informant's assistance, as the informant would never agree to sell any of the lands of the United States for less than a dollar per acre. Randall then informed the informant, before a witness, that it was strange that the informant was the only person in Congress that he had applied to but what seemed to think favorably of his plan. The informant told Randall that his opinion was fixed, and still advised his application to the President; which Randall declined.

G. CHRISTIE.

JANUARY 5, 1796.

The informant, Theodore Sedgwick, a member of the House of Representatives of the United States, declares, that some time before he left the place of his residence in Massachusetts, one Israel Jones, Esq., of Adams, in that State, waited on him, and introduced to him a man, whom he now knows by the name of Charles Whitney, of the State of Vermont: that Mr. Jones is a man of respectable character, a magistrate, a member of the State Legisla-

ture, (as the informant believes,) and a trustee of the corporation of William's college: that Mr. Jones informed the informant that he, with others, had in contemplation an application to Congress for a grant of a tract of country lying between the lakes Huron, Michigan, and Erie. Considerations of a public nature having been stated and enlarged upon, the opinion of the informant was requested relative to the propriety and success of the proposed application. He answered, in substance, that he believed it was to be doubted whether the Legislature would undertake actually to contract for any of the vacant public lands, and that the doubt was still stronger respecting these lands, the Indian claim to which had not been previously extinguished. He stated to Mr. Jones that, by reason of sickness in his family, it was not probable he should attend the next session of Congress; at all events, however, he advised Mr. Jones not to make an early application, as it was probable the subject of disposing of the public lands would occupy the attention of Congress during the then ensuing session; and that, by the delay, Mr. Jones could form a more correct judgment of the course which it would be most eligible for him to pursue relative to this subject. That while the informant was waiting on Mr. Jones to the door, at his departure, Mr. Jones asked him if there would be any impropriety in a member of Congress being concerned in an application for a grant of lands? The informant answered that it would depend on the circumstances under which the application was made; proper, if the application was made to a land office, but otherwise if to the Legislature; because, in the latter case, it would be for a man to contract with himself. To this answer Mr. Jones gave an explicit assent. That the informant never, at any time before or afterwards, to his remembrance, saw the said Whitney, until he saw him in this city, during the present session: that the informant came from his own home to New York, in company with Colonel Pepune, stated by the said Whitney as one of his associates: that the informant hath been informed, and believes, that the said Pepune is now in this city, but that he had never spoken to the informant on the subject of the said land speculation: that, not long after the arrival of the informant in this city, the said Whitney one morning waited on him, and stated to him an intended memorial respecting the tract of land aforesaid, and urged on the consideration of the informant the motives of a public nature for a grant thereof: that the informant inquired of the said Whitney to what State he belonged; and being answered to Vermont, he recommended to him to request the representatives of that State to present his memorial: that the said Whitney requested the informant to peruse his memorial when it should be prepared, which he understood was not then the case: that he answered, according to his best recollection, that whenever he had leisure he should be willing to do it; or to that effect: that the whole time of the interview he believes did not exceed six, he is very confident could not exceed ten minutes: that twice afterwards the informant's servant informed him that the said Whitney wished to see him, and that he caused himself to be denied; and the informant is very confident he never undertook either to draught or to present any memorial for the said Whitney.

On the morning of the 28th of December, Mr. Smith, of South Carolina, informed the informant of what he afterwards stated in evidence to the House respecting Robert Randall. The informant advised Mr. Smith, as soon as possible, to make the same known to the House of Representatives, (which Mr. Smith informed the informant he had determined to do,) and the informant having previously advised the said Whitney to apply to the representatives of Vermont, he thought it his duty, and he accordingly took the earliest opportunity, to request Mr. Smith, of that State, to avoid presenting any memorial with which he might be intrusted for a grant of land, and desired him to make the same request to Mr. Buck, the other member from the same State.

The informant further declares that he never, to his remembrance, saw Robert Randall, till he saw him at the bar of the House.

THEODORE SEDGWICK.

JANUARY 5, 1796.

The House, then, according to the order of the day, proceeded to a final decision in the case of Robert Randall; and,

A motion being made and seconded that the House do come to the following resolution:

Whereas any attempt to influence the conduct of this House, or its members, on subjects appertaining to their legislative functions, by motives other than the public advantage, is a high contempt of this House, and a breach of its privileges: and whereas it does appear to this House, by the information, on oath, of sundry members, and by the proceedings thereon had before the House, that Robert Randall did attempt to influence the conduct of the said members, in a matter relating to their legislative functions, to wit, the sale of a large portion of the public property, by motives of private emolument to the said members, other than, and distinct from, the public advantage; therefore,

*Resolved*, That the said Robert Randall has thereby committed a high contempt of this House, and a breach of its privileges:—

The previous question thereon was called for by five members, to wit:—Shall the main question, to agree to the said resolution, be now put?

And on the question—Shall the said main question be now put? It passed in the negative.

A motion was then made and seconded that the House do come to the following resolution:

*Resolved*, That it appears to this House that Robert Randall has been guilty of a contempt to, and a breach of the privileges of, this House, by attempting to corrupt the integrity of its members, in the manner laid to his charge.

And on the question thereupon, it was resolved in the affirmative—yeas 78, nays 17.

The yeas and nays being demanded by one-fifth of the members present—

Those who voted in the affirmative are

David Baird,  
Abraham Baldwin,  
Thomas Blount,  
Benjamin Bourne,  
Theophilus Bradbury,  
Nathan Bryan,  
Daniel Buck,  
Dempsey Burges,  
Samuel J. Cabell,  
Joshua Coit,  
Isaac Coles,  
William Cooper,  
Henry Dearborn,  
George Dent,  
Gabriel Duvall,  
William Findley,

Abiel Foster,  
Dwight Foster,  
Jesse Franklin,  
Albert Gallatin,  
Ezekiel Gilbert,  
James Gillespie,  
William B. Giles,  
Nicholas Gilman,  
Henry Glen,  
Benjamin Goodhue,  
Chauncey Goodrich,  
Andrew Gregg,  
Christopher Greenup,  
Roger Griswold,  
William B. Grove,  
George Hancock,

Carter B. Harrison,  
Robert G. Harper,  
Thomas Hartley,  
Jonathan N. Havens,  
Daniel Heister,  
Thomas Henderson,  
James Hillhouse,  
William Hindman,  
Aaron Kitchell,  
John Wilkes Kittera,  
George Leonard,  
Edward Livingston,  
Samuel Lyman,  
William Lyman,  
Francis Malbone,  
John Milledge,

Andrew Moore,  
Frederick A. Muhlenberg,  
William Vans Murray,  
Anthony New,  
Josiah Parker,  
John Patten,  
Francis Preston,  
John Reed,  
Theodore Sedgwick,  
John S. Sherburne,

Samuel Sitgreaves,  
Jeremiah Smith,  
Nathaniel Smith,  
Isaac Smith,  
Samuel Smith,  
William Smith,  
John Swanwick,  
Zephaniah Swift,  
Absalom Tatom,  
George Thatcher,

Richard Thomas,  
Mark Thompson,  
Uriah Tracey,  
John E. Van Allen,  
Philip Van Cortlandt,  
Joseph B. Varnum,  
Abraham Venable,  
Peleg Wadsworth,  
John Williams,  
Richard Winn.

Those who voted in the negative are

Theodorus Bailey,  
Richard Brent,  
Gabriel Christie,  
Thomas Claiborne,  
John Clopton,  
Samuel Earle,

Nathaniel Freeman, Jun.  
John Hathorn,  
James Holland,  
George Jackson,  
Matthew Locke,  
Samuel Maclay,

Nathaniel Macon,  
James Madison,  
John Nicholas,  
John Page,  
Israel Smith.

Another motion was then made and seconded that the House do come to the following resolution:

*Resolved*, That the said Robert Randall be brought to the bar, reprimanded by the Speaker, and committed to the custody of the sergeant-at-arms, until the further order of this House.

And on the question thereupon, it was resolved in the affirmative.

Pursuant thereto, the said Robert Randall was brought to the bar, in custody, reprimanded by Mr. Speaker, and remanded, in custody of the sergeant-at-arms, until further order of the House.

THURSDAY, *January 7, 1796.*

The House, according to the order of the day, proceeded to the further hearing and trial in the case of Charles Whitney. Whereupon,

The said Charles Whitney being brought to the bar, in custody of the sergeant-at-arms, the information, in writing, delivered in against him by Mr. Buck, one of the members from Vermont, was read; and it was demanded of him by Mr. Speaker "What he had to say in his defence?" To which he answered, that he was not prepared to make defence, and requested that further time might be allowed him for that purpose, until Monday next.

The said Charles Whitney then withdrew from the bar, in custody, and the House proceeded to consider of his request; when,

A motion being made and seconded that the House do come to the following resolution:

*Resolved*, That Charles Whitney be discharged from the custody of the sergeant-at-arms—  
It was resolved in the affirmative—yeas 52, nays 30.

The yeas and nays being demanded by one-fifth of the members present—

Those who voted in the affirmative are

Theodorus Bailey,  
Abraham Baldwin,  
Benjamin Bourne,  
Theophilus Bradbury,  
Dempsey Burges,  
Samuel J. Cabell,  
Gabriel Christie,  
Thomas Claiborne,  
Joshua Coit,  
William Cooper,  
Henry Dearborn,  
Samuel Earle,  
William Findley,  
Nathaniel Freeman, Jun.  
Albert Gallatin,  
Ezekiel Gilbert,  
William B. Giles,  
Nicholas Gilman,

Henry Glen,  
Chauncey Goodrich,  
Andrew Gregg,  
Roger Griswold,  
William B. Grove,  
Wade Hampton,  
George Hancock,  
Carter B. Harrison,  
Robert G. Harper,  
John Hathorn,  
Jonathan N. Havens,  
William Hindman,  
James Holland,  
George Jackson,  
Aaron Kitchell,  
George Leonard,  
Samuel Maclay,  
Nathaniel Macon,

John Milledge,  
John Nicholas,  
John Page,  
Josiah Parker,  
John Patten,  
Francis Preston,  
Theodore Sedgwick,  
Samuel Sitgreaves,  
Nathaniel Smith,  
Israel Smith,  
Isaac Smith,  
Samuel Smith,  
Zephaniah Swift,  
Mark Thompson,  
Joseph B. Varnum,  
Richard Winn.

Those who voted in the negative are

David Baird,  
Thomas Blount,  
Daniel Buck,  
Isaac Coles,  
George Dent,  
Gabriel Duvall,  
Abiel Foster,  
Dwight Foster,  
Jesse Franklin,  
Benjamin Goodhue,

Daniel Heister,  
James Hillhouse,  
John Wilkes Kittera,  
Edward Livingston,  
Samuel Lyman,  
William Lyman,  
Francis Malbone,  
Andrew Moore,  
John Reed,  
John S. Sherburne,

Jeremiah Smith,  
William Smith,  
Absalom Tatom,  
George Thatcher,  
Richard Thomas,  
John E. Van Allen,  
Philip Van Cortlandt,  
Abraham Venable,  
Peleg Wadsworth,  
John Williams.

FRIDAY, *January 8, 1796*

A petition of Charles Whitney was presented to the House, and read, praying that certain testimony in his behalf, applying to the late charges against him, may be entered on the journal of the House.

*Ordered*, That the said petition do lie on the table.

TUESDAY, *January 12, 1796.*

A petition of Robert Randall was presented to the House, and read, praying to be released from the imprisonment to which he is subjected by the order of this House of the 6th instant.

*Ordered,* That the said petition do lie on the table.

WEDNESDAY, *January 13, 1796.*

The House proceeded to consider the petition of Robert Randall, which lay on the table. Whereupon,

*Resolved,* That Robert Randall be discharged from the custody of the serjeant-at-arms, upon the payment of fees.

4th CONGRESS.]

No. 67.

[1st Session.]

## DISTRICT OF COLUMBIA.

COMMUNICATED TO CONGRESS, JANUARY 8, 1796.

UNITED STATES, *January 8, 1796.*

*Gentlemen of the Senate and of the House of Representatives:*

I transmit to you a memorial of the commissioners appointed by virtue of an act entitled "An act for establishing the temporary and permanent seat of the Government of the United States," on the subject of the public buildings under their direction.

Since locating a district for the permanent seat of the Government of the United States, as heretofore announced to both Houses of Congress, I have accepted the grants of money and of land stated in the memorial of the commissioners. I have directed the buildings therein mentioned to be commenced on plans which I deemed consistent with the liberality of the grants, and proper for the purposes intended.

I have not been inattentive to this important business intrusted by the Legislature to my care. I have viewed the resources placed in my hands, and observed the manner in which they have been applied; the progress is pretty fully detailed in the memorial from the commissioners; and one of them attends, to give further information, if required. In a case new and arduous, like the present, difficulties might naturally be expected; some have occurred; but they are, in a great degree, surmounted; and I have no doubt, if the remaining resources are properly cherished, so as to prevent the loss of property by hasty and numerous sales, that all the buildings required for the accommodation of the Government of the United States may be completed in season, without aid from the Federal Treasury. The subject is, therefore, recommended to the consideration of Congress, and the result will determine the measures which I shall cause to be pursued with respect to the property remaining unsold.

GEO. WASHINGTON.

*To the Honorable the Congress of the United States of America: The memorial of the commissioners appointed by the President of the United States, by virtue of an act entitled "An act for establishing the temporary and permanent seat of Government of the United States," respectfully sheweth:*

That the President of the United States, by virtue of the act above mentioned, appointed three commissioners for the purposes declared in the said act, and in an act to amend the same, passed at Philadelphia, in the year 1791, who, under his direction, did cause to be surveyed, and, by proper metes and bounds defined and limited, a district of territory ten miles square, on both sides of the Potomac river, including the towns of Alexandria, in Virginia, and Georgetown, in Maryland, for the permanent seat of the Government of the United States. That the proprietors of all the lands within the following bounds, that is to say: beginning on the east side of Rock Creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburg; thence, along the middle of the said road to a stone standing on the east side of Reedy branch of Goose Creek; thence, southeasterly, making an angle of 61° 20' with the meridian to a stone standing in the road leading from Bladensburg to the Eastern Branch Ferry; thence, south, to a stone eighty poles north of the east and west line drawn from the mouth of Goose Creek to the Eastern Branch; thence, with the waters of the Eastern Branch, Potomac river, and Rock Creek to the beginning; have conveyed the same to trustees for a federal city, to be laid out with such streets, squares, parcels, and lots as the President of the United States should approve; the streets and squares to be the property of the United States solely, and the lots to be equally divided between the grantors and the United States. That the State of Virginia has paid one hundred and twenty thousand dollars, which had been previously offered by an act of the Legislature, on condition that Congress would establish the permanent seat of Government on the banks of the Potomac, to be applied, under the direction of the President of the United States, towards erecting the necessary buildings for the Federal Government; and that the State of Maryland hath paid seventy-two thousand dollars for the same purpose. That the commissioners, in order to secure proper materials for the public buildings, directed by the act above mentioned, at reasonable rates, and to facilitate the carriage thereof, proceeded to purchase quarries of freestone, to build wharves and bridges, and to open such roads and canals as were deemed necessary for these purposes; which having accomplished, they commenced the building of the Capitol and the President's house, and have made considerable progress therein. The commissioners, considering that an increase of houses would induce settlers in the city, and thereby contribute much to the accommodation of Congress and the advancement of trade and manufactures, did, in the month of December, 1793, enter into a contract with two gentlemen for the sale of six thousand lots, at the low rate of eighty dollars per lot, payable in seven equal annual instalments; the purchasers obliging themselves to erect one hundred and forty convenient brick dwelling-houses, each covering one thousand two hundred square feet, before the year 1800; and engaging further, that all sales made by them previous to the year 1796 should be on condition that the purchasers should erect one such house for every three lots purchased. The commissioners have, from time to time, sold lots in small numbers, or singly,



to various persons, to the amount of ninety-five thousand six hundred and fifty-two dollars, and there still remain unsold about four thousand seven hundred lots; which, valued at the average price of those sold as last above mentioned, are worth near one million and a half of dollars. With these resources in their hands, your memorialists entertain no doubt of completing such buildings as will be absolutely necessary for the reception of Congress before the time appointed for their removal to the permanent seat of Government; but as the punctual compliance with the contracts of individuals cannot be relied on with that certainty which is necessary to the carrying on of public works to advantage, and as the bringing into market so large a portion of the city property as would raise money sufficient for that purpose would greatly depreciate its value, your memorialists conceive that the loan of a sum of money, secured on the city property, would be highly advantageous, as it would enable them to proceed with more celerity in completing the public buildings than a dependence on the collection of debts and sale of property will admit. The rapid progress of the buildings would, in itself, be an encouragement to private improvements, and have an immediate tendency to enhance the price of lots; but could the lots be generally retained until the seat of Government shall be removed, they will rise so far beyond their present value, that not only all sums now borrowed on that foundation may be repaid, but much property reserved for the disposal of the United States; yet, as the laws of Maryland, which are still in force in the federal district, do not permit the receiving of more than an interest of six per centum per annum, which, on this occasion, it will probably be necessary to exceed, and as money-lenders in foreign countries at least may be unacquainted with the value of the security offered, your memorialists beg leave to submit to the consideration of your honorable body the propriety of giving your sanction to a loan on the principle above stated, so far as to guaranty the payment of such sums as may be deemed adequate to the purpose of erecting the federal buildings, or to such an amount as Congress may be satisfied is clearly within the value of the property pledged, if it shall be judged inexpedient either to advance money, or at this time to subject the revenues of the United States to the eventual payment of moneys in future for the above mentioned purposes, and to authorize the payment of such interest as the President of the United States may judge reasonable. Should Congress adopt the proposed measure, your memorialists have no hesitation in expressing their confidence that not only all the buildings required by the acts aforesaid will be erected in a convenient and elegant style, and in due time, and (what is, perhaps, unparalleled among nations) at private expense, but that private buildings will progress in such a degree as to afford sufficient accommodation for Congress and all their attendants, and render their situation perfectly agreeable. Your memorialists, in contemplating a measure which to them appears mutually advantageous to the city and to the United States, have considered what objections, if any, could be raised against it; they discover none; they have heard none suggested; and they cannot believe that Congress will refuse their aid to render valuable property granted by individuals for public purposes on the faith of Government, pledged by repeated acts of the Legislature, more especially when, by giving that aid, no expense will be incurred; but, on the contrary, much property will be saved to the United States. Your memorialists, therefore, pray your honorable body to pass an act, authorizing the President of the United States to borrow such sums as on consideration of the premises shall appear reasonable, to be secured on the lots ceded for the use of the federal city (now called the city of Washington) as above stated, at such rate of interest as he may judge expedient, and payable at such time or times as he may judge proper after the expiration of the year 1800; and to guaranty to the money-lenders that, in case the property so pledged shall prove inadequate to the purpose of re-payment, the United States will make good the deficiency.

GUSTAVUS SCOTT,  
WILLIAM THORNTON,  
ALEX. WHITE.

4th CONGRESS.]

No. 68.

[1st SESSION.

CLAIM OF JOHN RICHARDS TO A SEAT IN THE HOUSE OF REPRESENTATIVES, AS A REPRESENTATIVE FROM PENNSYLVANIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 13, 1796.

Mr. VENABLE made the following report:

The Committee of Elections, to whom was recommitted, on the eighteenth of last month, their report on the memorial of John Richards, stating his claim to a seat in this House as one of the representatives from the State of Pennsylvania, for the district composed of the counties of Bucks, Northampton, and Montgomery, have proceeded to reconsider the same, and submit the following statement and resolution thereupon, to wit:

It appears to your committee that an election was held on the second Tuesday in October, in the year 1794, in the counties of Bucks, Northampton, and Montgomery, in the State of Pennsylvania, for the purpose of electing a member to this House.

That on the same day an election was held by the militia that had marched from the before-mentioned counties, on the western expedition, for the same purpose.

That the law of Pennsylvania, made for that special case, directs that the county judges of elections, instead of meeting on the third Tuesday of October, as formerly, should meet on the tenth day of November. That the army election returns should be sent by the said tenth of November to the prothonotaries of the respective counties, and that the prothonotaries should on that day deliver them over to the county judges, to enable them to make their returns. That the district judges should meet on the fifteenth day of November, to examine the county returns, to make an estimate of all the votes, and to return the person having the highest number the representative for the district.

That the county judges, as the law directs, met on the tenth day of November, at which time no army returns had been received, except from the militia of the county of Northampton.



That after the tenth, and before the fifteenth, the returns of the county of Montgomery were received by the prothonotary of that county and delivered over to some of the county judges; two of whom made up a return, and certified it, on the fourteenth, to be a true return of the votes that had come to their hands.

That, on the fifteenth, the judges of the district met, according to law, at which time were laid before them the last-mentioned return, together with the returns of the elections held in the counties, respectively, and the return of the election held by the militia of Northampton. Upon which the judges reported, that by the general return of the county elections, together with the return of the Northampton militia, James Morris had the highest number of votes, to wit, sixteen hundred and forty-eight.

That, by the Montgomery army return, which had been put into their hands in the manner before stated, it appeared that John Richards had one hundred and fifty-six votes, and James Morris fifty-eight; which number, together with all the votes in favor of John Richards on the other returns, amounted to seventeen hundred and ninety-one, and in favor of James Morris seventeen hundred and six; and that no returns had at that time come to hand from the Bucks county militia.

That after the before-mentioned report was made to the Governor of Pennsylvania, to wit, on the 18th day of January, 1795, certain papers were lodged with the Secretary of the State, purporting to be a regimental return made by Lieutenant Colonel James Hanna, of the Bucks county militia, and sundry tally-papers, unaccompanied by any list of the persons' names who had voted at the said election, or any certificate of its having been examined by the county judges; on which return it is stated that James Morris had ninety-one votes.

Whereupon the petitioner states,

1st. That he is entitled to a seat in this House, because, upon an estimate of all the votes that appeared by the returns which were produced before the district judges on the fifteenth day of November, including the return of the Montgomery militia, which was defective in form only, and not insubstance, he will be found to have the highest number of votes, to wit, seventeen hundred and ninety-one; and James Morris seventeen hundred and six.

2dly. That if both the army returns for the counties of Montgomery and Bucks are rejected, by deducting from the army returns of the county of Northampton sixteen votes, which were given by persons unqualified to vote, and two votes for so many given by proxy, he would still have the highest number, to wit, sixteen hundred and thirty-five; and James Morris sixteen hundred and thirty.

And, 3dly. That by admitting both the returns of Bucks and Montgomery, and rejecting the number of votes given for James Morris, by persons unqualified to vote, and the two given by proxy, on the Northampton return, he would then also have the highest number, to wit, seventeen hundred and ninety-one; and James Morris seventeen hundred and seventy-nine.

Upon which statement, and the evidence adduced by the petitioner in support thereof, your committee are of opinion—

1st. That the Montgomery return ought to have been received by the district judges, and estimated with the other returns; it having come to the hands of the county judges, and having been acted on by them, before the fifteenth day of November, the time prescribed for the district judges to meet.

2dly. That the Bucks county return ought to be rejected, as being substantially defective; having never been examined by the county judges, and being unaccompanied by a list of the names of the persons who voted; and,

3dly. That sixteen votes were given at the election held by the Northampton militia, for James Morris, by persons who do not appear to stand on the tax lists of that county, and who are not within the description of such electors' sons as are permitted to vote by law, without being on the tax lists; also, that two votes were given by proxy.

Your committee, therefore, recommend the following resolution:

*Resolved*, That John Richards is duly elected as one of the representatives for the district composed of the counties of Bucks, Northampton, and Montgomery, in the State of Pennsylvania, and that the said John Richards be permitted to take his seat in this House.

EXEMPLIFICATION.

	Votes.
James Morris, general returns and Northampton militia,	- 1648
Montgomery return,	- 58
	<u>1706</u>
John Richards, general returns,	- 1635
Montgomery return,	- 156
	<u>1791</u>
James Morris, general returns,	1648
Deduct defective votes,	18
	<u>1630</u>
John Richards, - - - - -	<u>1635</u>
James Morris, general and Northampton returns,	- 1648
Montgomery return,	- 58
Bucks, do.	- 91
	<u>1797</u>
Deduct defective votes,	- 18
	<u>1779</u>
John Richards, general returns,	- 1635
Montgomery return,	- 156
	<u>1791</u>

4th CONGRESS.]

No. 69.

[1st SESSION.]

## CONTESTED ELECTION OF JOHN CLOPTON, A REPRESENTATIVE FROM VIRGINIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1796.

Mr. VENABLE, from the Committee of Elections, to whom was referred the petition of Burwell Bassett, of the State of Virginia, complaining of an undue election and return of John Clopton, to serve as a member of this House for the said State, made the following report:

It appears that an election was held on the 16th day of March, 1795, in the district composed of the counties of Henrico, Hanover, New Kent, Charles City, and James City, in the State of Virginia, to elect a member to this House.

That, upon an estimate of all the polls taken at the several elections, John Clopton had four hundred and thirty-two votes, and Burwell Bassett four hundred and twenty-two.

That, out of the number of persons who voted for John Clopton, thirty-seven were unqualified to vote; and of those who voted for Burwell Basset, thirty-three were also unqualified to vote.

Whereupon, your committee are of opinion that John Clopton, who has the highest number of votes after deducting the before-mentioned defective votes from the respective polls, is entitled to a seat in this House.

4th CONGRESS.]

No. 70.

[1st SESSION.]

## CITY OF WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 25, 1796.

Mr. JEREMIAH SMITH, from the committee to whom was referred the message from the President of the United States, of the 8th of January instant,\* enclosing a memorial of the commissioners appointed by virtue of the "act for establishing the temporary and permanent seat of Government of the United States," made the following report:

That, having carefully perused the memorial and documents furnished by the commissioners, and having been attended by one of them in person, as the result of their inquiries, they beg leave to state for the consideration of the House:

That considerable progress has been made towards fulfilling the object of the afore-mentioned act; the difficulties incidental to an undertaking of this nature are chiefly surmounted.

Though much remains to be done, yet almost every branch of the business has been commenced, and many of the materials necessary for erecting the buildings are provided. The house for the accommodation of the President is in considerable forwardness, and the foundation of the Capitol is laid, and the walls begun; wharves and bridges have also been built, and the necessary roads opened.

The funds for defraying the expense of procuring the lands and erecting the buildings necessary for the accommodation of Congress, of the President, and for the public offices, are the lands ceded to the commissioners as stated in the memorial, together with one hundred and twenty thousand dollars granted by the State of Virginia, and seventy-two thousand dollars by the State of Maryland. It is the opinion of the committee that these funds, if properly managed, are fully adequate to the completing of all the buildings required for the accommodation of the Government, in season, without any aid from the Treasury of the United States.

The commissioners, soon after the laying out of the federal city, sold six thousand of the public lots at eighty dollars each; the purchasers stipulating to build one hundred and forty convenient large brick dwelling houses in the federal city before the year 1800; and the said purchasers further stipulating that all sales made by them previous to 1796 should be on condition that, for every three lots so sold, one such dwelling house should be erected.

The committee are informed that, under this condition, upwards of six hundred lots have been sold.

The commissioners have, at different periods, sold to sundry persons upwards of two hundred other lots, together with a small number of water lots, for the sum of ninety-six thousand six hundred and fifty-two dollars. The payment of the six thousand lots was to be in seven equal annual instalments.

The whole amount of donations and sale of lots is seven hundred and sixty-eight thousand six hundred and fifty-two dollars.

The commissioners state to the committee that, of this sum, three hundred and seventy-four thousand two hundred and fifty dollars are already expended.

From this statement, which is apprehended to be sufficiently accurate for general purposes, it is easy to form an estimate of the resources remaining in the hands of the commissioners. They are, the money due on contracts for lots sold, being three hundred and ninety-four thousand four hundred and two dollars, payable in the present and four succeeding years, in sums nearly equal, that is, about eighty thousand dollars annually; and the lots unsold, being four thousand six hundred and ninety-four, exclusive of the water lots, which occupy three thousand five hundred feet on the water, and extend back from sixty to a hundred feet.

It is difficult to say, with any degree of precision, what this property will realize, as much will depend on the time and manner of the sale.

It is stated by the commissioners that, estimating these lots according to the average price of the lots sold, exclusive of the great sale of six thousand in 1793, they are worth one million three hundred and ninety-three thousand

\* See No. 67.

seven hundred and ninety dollars; and that, from the progress made in the public buildings, and from the improvements made and contemplated by private persons, the value of this property must rapidly increase.

The commissioners also state that, in their opinion, it would be unsafe to calculate on strict punctuality in the payment of the instalments as they become due from their debtors, though they assure the committee that there will eventually be no loss.

The committee have endeavored to state, as correctly as possible, the resources now in the hands of the commissioners, that these may be compared with the objects yet to be accomplished. The principal of these are the completing of the President's house; the Capitol, at least as far as may be necessary for the accommodation of the two Houses of Congress and their officers; a building for the Judiciary, and another for the several Departments of State, of the Treasury, in all its branches, the Department of War, and the General Post Office; and such improvements in the streets as may be essentially requisite for public convenience.

The committee have availed themselves of the best means of information which the shortness of the time they have had the subject under consideration would allow, to form an estimate of the sums necessary for these several purposes; and, though certainty cannot be expected, and much must after all be left to conjecture, they apprehend they may with safety be estimated at seven hundred thousand dollars for completing the whole.

The committee conceive that it will be necessary to expend, till the year 1800, in completing the several objects enumerated, at least the annual sum of one hundred and forty thousand dollars.

The committee have already observed that firm reliance cannot be placed on the punctuality of the debtors of the public. If forty thousand dollars be taken as the sum that shall be annually received from this source, there will be an annual deficiency of the sum of one hundred thousand dollars.

If this deficiency be not supplied in some way, it will result that the public buildings will not be in readiness for the reception of Congress at the time proposed.

This deficiency must be supplied by the sale of the lots belonging to the public, if no better mode can be devised.

The committee conceive that the real interest, as well as the good faith of the Government, forbid the relinquishment of the objects contemplated by the act establishing the permanent seat of Government. It is stated by the commissioners that this property, if sold under the most unfavorable circumstances, would still be adequate to the purpose; but as this property may justly be considered as that of the public, it would, in the opinion of the committee, be a wanton sacrifice of the public interest, and justified only by the most urgent necessity, which the committee conceive does not exist, to raise the money wanted in this way. It is, in the opinion of the committee, the duty of Congress, founded on the truest principles of economy, to cherish these funds so as to make them productive of the greatest public utility.

But two other modes of accomplishing the objects contemplated have presented themselves to the view of the committee, namely, that of annual advances from the federal Treasury of the requisite sums, and that of raising the same by a loan.

If the state of the public finances would admit of it, the former mode would, in every view, be the most eligible, as it would be the most economical and the most certain. The public would, in that case, derive all the advantage resulting from the rapid increase of the value of property in this infant city, and might reimburse the sums so advanced by sales, at such times, and in such manner, as would be most advantageous. But, conceiving that the existing objects of expenditure will equal, if not exceed, the revenues already provided, and that it would not be advisable to impose new taxes for this object, the committee are induced to believe that the only mode which can with propriety be adopted, at this time, for supplying the deficiency stated, will be that of a loan secured on the city property, and negotiated under the direction of the President; and that it would conduce to the real interest of the public that the United States should guaranty the payment of the sums so borrowed, in case the property pledged should prove insufficient.

The committee also conceive that it would be proper, in order that Congress may be enabled to judge of the application of the moneys so borrowed, that it be made the duty of the said commissioners, semi-annually, to render to the Secretary of the Treasury a particular account of their receipts and expenditures, and also of the progress and state of the business intrusted to their care, and the state of the funds in their hands; and that the same be laid before Congress by the said Secretary at every session.

The committee, therefore, recommend the following resolutions:

*Resolved*, That the President of the United States be authorized to borrow such sums as, in his judgment, may be necessary (not exceeding the sum of five hundred thousand dollars in the whole, and not exceeding two hundred thousand dollars in any one year) for completing the buildings requisite for the accommodation of the Government of the United States at the city of Washington; the said loan to be secured on the public property in the said city, and at such rate of interest as he may judge expedient, and payable at such time or times as he may judge proper after the year 1800; and that the United States guaranty to the money-lenders that, in case the property so pledged shall prove inadequate, the United States will make good the deficiency.

*Resolved*, That it shall be the duty of the commissioners appointed by virtue of the act entitled "An act for establishing the temporary and permanent seat of the Government of the United States," every six months to render to the Secretary of the Treasury a particular account of the receipts and expenditures of all moneys intrusted to them, and also the progress and state of the business, and the state of the funds in their hands, and, generally, an account of their administration; and that the said Secretary lay the same before Congress, at the next session after the same shall be received; and that a bill or bills be brought in accordingly.

[NOTE.—See No. 78.]

[4th CONGRESS.]

No. 71.

[1st SESSION.]

## APPLICATION FOR A DISCHARGE FROM IMPRISONMENT AT THE SUIT OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 26, 1796.

JANUARY 23, 1796.

The ATTORNEY GENERAL respectfully reports to the House of Representatives, that the petition of James Mackey to him referred, together with a statement of legal proceedings in the suit mentioned in the petition, signed by John Cadwallader, acting for the district attorney in the county of Huntingdon, transmitted to him by William Rawle, attorney for the district of Pennsylvania, have been maturely considered.

The statute entitled "An act for the relief of persons imprisoned for debt," passed on the 5th May, 1792, will remain in force till the end of the session of Congress next ensuing the 30th day of May, in the year 1796; it having been continued in May, 1794, till that period. But the operation of this statute is confined to "persons imprisoned on executions, issuing from any court of the United States, for satisfaction of judgments in any civil actions." If the petitioner was prosecuted in a court of the United States for the cause stated in the petition, he might be discharged as insolvent under the said statute, after judgment and execution; and supposing the suit to be maintainable, which seems to be admitted by the petitioner, it would be in his power to hasten his liberation from jail, by confessing judgment in order that he might be charged in execution, and thereby placed in a condition to avail himself of that law.

In the interpretation of this statute, it may be observed that it is remedial, and in favor of personal liberty, and on both principles is entitled to the most liberal construction. A person imprisoned on execution from a court of the United States, for satisfaction of a judgment, for taxes, imposts, excises, or duties, may claim the benefit of it, in like manner as if the debt were due to an individual citizen. And it is right that the law should be so; for the object of revenue laws being to obtain money where it may be had, it would not be promoted by the imprisonment of persons, unable to pay, for a long space of time, or forever; and, therefore, such severity would be inconsistent with wise legislation. The words *any civil actions*, which are used in the act, cannot, upon any sound principles of construction, be interpreted to exclude an action of debt for excise due upon the capacity of a still; for the declaration, pleadings, and judgment all demonstrate it to be a *civil* and not a *criminal* action.

Further it may be remarked, that these words "*any civil actions*" comprehended all suits for pecuniary penalties belonging to the United States wholly, or partly to them and partly to individuals, which latter most frequently occur; and the form of the action, whether debt, information, or case, will create no difference. In cases where the penalty belongs partly to an individual, that part cannot be constitutionally remitted or discharged, either by a pardon of the Executive authority, or any act of the Legislature to be passed subsequent to a right thereto being vested in the individual; and if such a case were not within a general insolvent law, antecedent to the offence, perpetual imprisonment might, in certain cases, be the consequence of the poverty of citizens. Such a system would be unreasonable, cruel, and oppressive, and ought not to be supposed to exist, if the words of the law in question can be otherwise understood. It is believed the words *any civil actions* may, without difficulty or violence, be understood to include actions for pecuniary penalties, as well from the forms used in legal proceedings, as from the effect desired, which is a recovery of money. In confirmation of this opinion, the case of Atcheson against Everett, reported in Cowper, 382; and Gilbert's Law of Evidence, revised by Loft, 264, may be mentioned as in-point, although no adjudication in a foreign court, since the independence of America, is conceived as an authority obligatory on the courts of the United States. This was an action of debt upon the statute against bribery to recover the penalty, and by all the judges it was decided to be a *civil* and not a *criminal* action.

This act of Congress leaves in full force the various laws of the several States, relative to suits brought or judgments recovered in the State courts; and perhaps this *variety* is attended with injustice where taxes of any kind, or penalties in which the United States are interested, are the objects of suit in the State courts. By uniformity in cases of this kind, citizens would receive the same measure of justice in similar prosecutions, in whatever State they should be carried on. In the present instance, James Mackey, being sued for a debt, claimed in behalf of the United States, in a court of the State of Pennsylvania, is entitled to the benefit of the laws of the said State relative to insolvent debtors, and, upon complying therewith, may be *personally* discharged. Consequently, it is not necessary for his liberation for Congress to pass a particular act for the purpose; neither does he appear to be a fit object of the grace of the Legislature, when he is believed to have conducted himself uncandidly, if not unfairly, before the State court, relative to this business, as is represented in the statement of John Cadwallader hereinbefore referred unto, and herewith transmitted.

All which is humbly submitted to the consideration of the House of Representatives.

CHARLES LEE, *Attorney General*.

SIR:

PHILADELPHIA, January 13, 1796.

I have been prevented, by a disorder in my eyes, from doing myself the pleasure of waiting upon you.

Having observed in the minutes of the House of Representatives that the petition of one James Mackey, praying to be discharged from imprisonment, has been referred to you, I have thought proper to transmit to you the enclosed statement from the gentleman prosecuting for the United States in the county of Huntingdon, as containing a fuller explanation of his case than his petition does.

Any further information in my power will be readily communicated.

I am, sir, with much respect, your most obedient, humble servant,

W. RAWLE.

CHARLES LEE, Esq., *Attorney General*.

*James Mackey's case.*

HENRY MILLER, Esq., supervisor of the district of Pennsylvania, for the use of the United States,

*versus*

JAMES MACKEY, a distiller in Franklin township, in the county of Huntingdon,

Capias debt in the Common Pleas for about four hundred dollars excise due upon capacity of his still.—  
*Sheriff returned: C. C. & C.*

The prisoner petitioned for the benefit of the acts for the relief of insolvent debtors.

At an adjourned court on the 1st of December, 1795, the following objections were made, on the part of the plaintiff, to the discharge of prisoner:

1st. The prisoner did not make a return of property, or any disclosure whatever, whereby the demand could be satisfied, alleging that his stills were disposed of, and refused to give information of the purchaser, or whose land they were worked on.

Whereas it was alleged that, during his confinement, he had offered donation lands for sale, which had been by himself some years ago conveyed to some of his relatives.

It was likewise urged, on the part of the plaintiff, that the prisoner should give information where the stills were, and whose land whereon they were worked, in order that the duty might be recovered therefrom.

This he evaded, and denied having any knowledge of the owner or owners of the land.

2d. It was further alleged, on part of the plaintiff, that an objection would exist to a discharge of the prisoner, even if his surrender had been *bona fide*, arising from his being confined for a demand which does not accrue from *contract*, this being in the case of *mesne process*; and that he had not, at the time of filing his petition, been in custody six months.

JOHN CADWALLADER,

*Acting for the district attorney in the county of Huntingdon.*

JANUARY 9, 1796.

[4th CONGRESS.]

[No. 72.]

[1st SESSION.]

CONTESTED ELECTION OF ISRAEL SMITH, A REPRESENTATIVE FROM VERMONT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 27, 1796.

Mr. VENABLE, from the Committee of Elections, to whom was referred the petition of Matthew Lyon, of the State of Vermont, complaining of an undue election and return of Israel Smith, as one of the representatives for the said State, made the following report:

That, by the law which directs the time and manner of holding elections for the purpose of choosing representatives, it was provided: That the first constables in all the towns having a right to elect, and, in their absence, the select-men, should warn the freemen of their respective towns to meet on the last Tuesday in December, 1794, for the purpose of holding an election; that, after holding such election, the presiding officers should, within six days, deliver to the respective county clerks the ballots, sealed up, together with a certificate of their number, and superscribed by them respectively.

That the several county clerks in each district should meet on the second Thursday in January, and proceed to sort and count the votes, and to declare the person having a majority of all the votes one of the representatives for the said State; that if it should be found, upon examination, that no one of the candidates had a majority of the votes, the said clerks should immediately notify the same to the Chief Magistrate of the State, who is thereupon directed to issue his warrant to all the first constables, and, in their absence, to the select-men, of all the towns in any district where there had been a failure of choice, directing them to hold another election on the second Thursday in February, and to return the votes in the manner before directed; that, upon such second election, the person that should be found to have the highest number of votes should be declared the representative.

That, in conformity to the before-recited provisions and directions, an election was held on the last Tuesday in December, 1794, in the several towns in the district, composed of the counties of Bennington, Rutland, Addison, and a part of Chittenden.

That, upon an estimate of all the votes, it was found that a majority had not been given for any one of the candidates, and it was so notified to the Chief Magistrate; who, thereupon, issued his warrant to all the towns in the district, directing a second meeting for the purposes, and in the manner prescribed by law.

That the sheriff of the county of Addison failed to deliver the said warrant to two of the towns in that county, to wit, Kingston and Hancock, both of which had a right of suffrage, and had given their votes at the first election, amounting to twelve in the town of Kingston for Israel Smith, and three in the town of Hancock for Matthew Lyon; by which failure of the sheriff, those two towns were deprived of an opportunity of voting at the second election.

That, upon an estimate of all the votes which were returned on the second election, it was found that Israel Smith had eighteen hundred and four, and Matthew Lyon seventeen hundred and eighty-three.

That, as it does not appear to the satisfaction of the committee that there were a sufficient number of freemen in those two towns to have altered the state of the election, fifteen only having voted on the first occasion, they are of opinion that Israel Smith is entitled to take a seat in this House.

[NOTE.—See supplemental report, No. 88.]

4th CONGRESS.]

No. 73.

[1st Session.]

## REPORTERS TO CONGRESS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 29, 1796.

Mr. WILLIAM SMITH, from the committee appointed to receive proposals from persons skilled in the art of stenography, who may wish to be employed by this House during the present session, made the following report:

That they have received from David Robertson, of Petersburg, in Virginia, the following proposals, viz:

He engages to prepare for publication an accurate report of the debates and proceedings of this House, on condition that he be allowed, as a compensation for the services, and for the payment of clerk-hire, stationary, and all incidental expenses, the sum of four thousand dollars for each session.

The committee being satisfied with Mr. Robertson's skill in the art of stenography, and ability to perform the service above mentioned, and being strongly impressed with the expediency of disseminating throughout the United States the most accurate information of the debates and proceedings of this House, recommend the following resolution:

*Resolved*, That David Robertson be, and he is hereby, appointed stenographer to this House, for the purpose of reporting the debates and proceedings of this House; and that before he enter on the duties of his office, he take an oath to perform the same with fidelity and impartiality.

The committee further report, that Andrew Brown, printer of the Philadelphia Gazette, being desirous of publishing in his paper the debates and proceedings of this House, from Mr. Robertson's manuscript, has engaged to pay him the sum of eleven hundred dollars each session for the said manuscript; which sum is to be deducted out of the four thousand dollars before mentioned. The committee, therefore, submit the following resolution:

*Resolved*, That the sum of two thousand nine hundred dollars be allowed the said David Robertson for his services each session; the same to be paid, on the certificate of the Speaker, out of the moneys which may be appropriated for the contingent expenses of this House.

4th CONGRESS.]

No. 74.

[1st Session.]

## ENCOURAGEMENT FOR USEFUL INVENTIONS AND DISCOVERIES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 3, 1796.

Mr. PAGE, from the committee to whom was referred the petition of Frederick Guyer, made the following report:

That it is their opinion that application to Congress for pecuniary encouragement of important discoveries, or of useful arts, cannot be complied with, as the constitution of the United States appears to have limited the powers of Congress to granting patents only, intending thereby, as they humbly conceive, to secure to authors and inventors, for a limited time, a right to an undisturbed or unrivalled use of their respective writings and discoveries, to a full and fair chance of deriving every advantage from the approbation of individuals at large, which, upon mature consideration and examination of such writings and discoveries, they may be found to deserve. That such applications to Congress, if encouraged, might be too frequent to admit of a proper attention thereto, and to their peculiar duty as legislators; that as to the supposed discovery of the petitioner, they think it does not improve the method of ascertaining the longitude by lunar observations, as set forth in the said petition; and that for this, and the foregoing reason, the prayer of the same is unreasonable, and ought to be rejected.

4th CONGRESS.]

No. 75.

[1st Session.]

## MINERALOGY AND METALLURGY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1796.

Mr. LIVINGSTON, from the committee to whom was referred the memorial of Nicholas Roosevelt and Jacob Mark, and their associates, made the following report:

That the said memorialists having procured from the mining countries in Europe a number of men well skilled in the arts of mineralogy and metallurgy, have them now in the United States, either connected with or employed by them.

That, by their means, they offer to explore the territory of the United States for mines of metals, semi-metals, and all other minerals, provided a reasonable time be allowed them to make the search, and the right of working

the mines when discovered, be exclusively vested in them for a sufficient period, they rendering a proper proportion of the gross product to the United States.

The committee are of opinion that their offers merit the attention and encouragement of Congress; the general use of all metals, and of most minerals, rendering it a very desirable object to possess them within our own limits. Appearances, too, as your committee are informed, justify the opinion that many valuable mines do exist within the territory of the United States, which can only be rendered useful by that skill and knowledge of the subject which the peculiar circumstances of Europe enable the memorialists to offer. Your committee, therefore, recommend the following resolutions:

*Resolved*, That a right be granted to Nicholas Roosevelt and Jacob Mark, and their associates, during the term of ——— years, to enter upon any of the waste lands in the territory of the United States, the Indian title whereof is extinguished, to search and explore the same for mines of metals, semi-metals, and all other minerals.

*Resolved*, That the right of working all such mines as shall be discovered by the said Nicholas Roosevelt and Jacob Mark, and their associates, shall be vested in them for the term of ——— years, they rendering an equitable proportion of the gross product of such mines to the United States.

4th CONGRESS.]

No. 76.

[1st Session.]

## CHARGES AGAINST HUMPHREY MARSHALL, A SENATOR FROM KENTUCKY.

COMMUNICATED TO THE SENATE, FEBRUARY 26, 1796.

FRANKFORT, December 21, 1795.

*To the Senate of the United States:*

The representatives of the freemen of Kentucky in General Assembly met, feel themselves bound, by every tie of honor and patriotism, to represent to you the following facts and reflections:

In the month of February, 1795, not long after the election of Humphrey Marshall, one of the Senators of this State in the Congress of the United States, a pamphlet was published by George Muter and Benjamin Sebastian, two of the judges of the court of appeals of this State, in which they say that "Humphrey Marshall had a suit in chancery, in the court of appeals, in which it appearing manifest, from the oath of the complainant, from disinterested testimony, from records, from documents furnished by himself, and from the contradiction contained in his own answer, that he had committed a gross fraud, the court gave a decree against him; and though, in the course of investigation, he was publicly charged of being guilty of wilful and corrupt perjury, in order to screen himself from the consequence of his fraud, yet so conscious was he of his guilt, that he had never since dared, by way of suit, or any other mode, to bring forward an examination into the truth of the charge; indeed, callous as he is, he appeared at the time to be so fully convicted, that he had scarcely effrontery enough to deny it."

Though this passage evidently contains in effect a charge that Humphrey Marshall was guilty not only of fraud but perjury, yet he appears in his pamphlet published at Philadelphia, as also in a publication in the Kentucky Gazette, to think the expression too vague, and calls for a specification of the charge. To this demand George Muter and Benjamin Sebastian reply, that he was guilty of perjury in his answer to the bill in chancery exhibited against him by James Wilkinson, and pledge themselves that they will plead justification to any suit brought against them therefor; no such suit, as we believe, or that we can learn, has been brought; our duty, under these circumstances, strongly and unequivocally requires that we should request your serious attention to the consideration which this case suggests. Important, indeed, it is to society, that those intrusted with the exercise of the power of Government should be men of unshaken virtue and integrity; without these qualities, in vain shall they expect the confidence of the people, when the basis on which alone that confidence can be founded is wanting.

We mean not to give an opinion on the justice of the charge which has been made against Humphrey Marshall; it has been made, and is of such a nature as must render him unworthy, if true, of any, still more so of the highest trust; while it is untried, unexamined, and undecided upon, doubts will exist; those doubts cannot but have the worst effects on the public mind.

The character of the Senator may involve the reputation of the State which he represents; it is also highly interesting to the honor and dignity of the House of which he is a member. We, therefore, conclude with requesting that an investigation may immediately take place relative to the charges stated; and if Humphrey Marshall can evince his innocence, that such exculpation may be promulgated throughout the United States, that himself, as well as our State, may be exonerated from the imputation of such a crime; but if the charges can be fixed upon him, that he may be expelled from a seat in your House.

EDM. BULLOCK,  
*Speaker of the House of Representatives.*ALEX. SKULLETT,  
*Speaker of the Senate.*

SIR:

STATE OF KENTUCKY, December 23, 1795.

A resolution of the Legislature of this State, passed on the 21st instant, directs "that the Governor shall transmit to the Senate of the United States a memorial respecting Humphrey Marshall, a Senator from this State in the Congress of the United States." I now have the honor of complying with that resolution, by enclosing the said memorial, together with those numbers of the Kentucky Gazette, which contain the publications therein alluded to, and of requesting that they may be laid before the Senate for their consideration.

With every sentiment of respect and esteem, I have the honor to be, sir, your most obedient humble servant,

ISAAC SHELBY.

The PRESIDENT of the Senate of the United States.

[NOTE.—See No. 79.]

4th CONGRESS.]

No. 77.

[1st SESSION.]

## CREDENTIALS OF DAVID BARD, A REPRESENTATIVE FROM PENNSYLVANIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 9, 1796.

Mr. VENABLE, from the Committee of Elections, to whom were referred the credentials of David Bard, returned to serve in this House as a member for the State of Pennsylvania, made the following report:

That the elections appear to have been regularly held in the several counties composing the district, and that the judges of the several districts, in the respective counties, made up a return for each of the said counties in the manner and at the time prescribed by law.

That the general election law directs that one of the judges of each of the counties composing the district should meet at a place called the Burnt Cabins, in the county of Bedford, on the third Tuesday in October ensuing the election, to estimate the votes given in the several counties, and to return the person having the highest number of votes in the entire district as their representative; except there should be, at the time of holding the said elections, any of the militia of any of the said counties in the service of the United States; and, in that case, that the judges should meet on the 15th of November ensuing the election.

That, at the time of holding the elections, Bedford and Huntingdon, two of the counties in the said district, had no part of their militia in the service of the United States; and the judges of these two counties met at the Burnt Cabins on the third Tuesday in October, in order to make their district return.

That the county of Franklin had a part of their militia in the service of the United States at that time, and the judge from that county did not meet the other judges; in consequence of which, no return was made on that day.

That, on the 15th of November, the judges of Bedford and Franklin met for the purpose of making a return; but the judge of Huntingdon, as it is suggested, not being informed of the alteration of the law in that respect, failed to attend; by which they were again prevented from making a return.

That, on the 1st day of May last, all the judges met at the Burnt Cabins, and returned David Bard as having the highest number of votes.

That in consequence of the informality of the said return, it being the 1st of May instead of the 15th of November, the committee have called for and obtained the several county returns, on which the district return was founded, and have made an estimate of the votes as they appear from those returns; which estimate is as follows:

David Bard	-	-	-	-	1808
James McClain	-	-	-	-	1090
James Chambers	-	-	-	-	519

Whereupon, your committee are of opinion that David Bard is entitled to a seat in this House.

4th CONGRESS.]

No. 78.

[1st SESSION.]

## CITY OF WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 11, 1796.

Mr. JEREMIAH SMITH, from the committee to whom was recommitted the bill authorizing a loan for the use of the city of Washington, in the District of Columbia, and for other purposes therein mentioned, with instructions to inquire whether any, and what, alterations ought to be made in the plans of the buildings intended for public use at the said city; and, also, to inquire into the state of the public buildings, the expenses already incurred in erecting, and the probable expenses of completing the same, made the following report:

That, in their opinion, no alteration can with propriety now be made in the plans of the public buildings; for information as to the state of the public buildings, the expenses incurred in erecting, and the probable expenses of completing them, the committee can only refer to the original report\* and the papers accompanying, which have been read in the House.

Alexander White, one of the commissioners appointed by the President of the United States, by virtue of an act entitled "An act to establish the temporary and permanent seat of the Government of the United States," respectfully states to the committee, to whom the memorial of the said commissioners and the President's message respecting the same were referred:

That, on the 1st day of December, 1795, the wall of the President's house, in the city of Washington, was raised within six feet of the eave; that the sashes, sash-frames, doors, window shutters, and trimmings for doors and windows for the basement story, were made and ready to be put together; and the sashes and sash-frames for the principal story were expected to be finished by March, with the labor of two hands. The work of all the doors of the principal story was cut out, and in a state of forwardness. There was mahogany laid in sufficient to complete the House, as sashes, doors, hand-rails, stairs, balusters, &c. for the two principal stories; flooring plank nearly sufficient to finish the two principal stories, was procured and preparing. The principal timbers were prepared ready to be put up together, and the roof considered as half done.

The expense of finishing the house in an elegant style is estimated at £33,259, Maryland currency, or \$83,690 66.

There were freestone, bricks, lime, and timber on hand; but A. White does not know the quantities.

The foundation of the Capitol is laid; the foundation wall under ground and above is of different thicknesses, and is computed to average fourteen feet high and nine feet thick. The freestone work is commenced on the north wing; it is of different heights, but may average three feet and a half; the interior walls are carried up the same height. The estimate to finish the north wing is, for brick and stone work, £22,308 3s. 3d. Maryland currency; for carpenters' work and materials £5,870, Maryland currency, making \$75,141 45. The materials on

\* See No. 70.



hand are, freestone prepared 1,994 superficial feet; freestone prepared 3,826 feet, running; good freestone in the rough 440 tons; inferior freestone 200 tons; bricks 267,618; lime 4,750 bushels; timber prepared for use 7,000 feet, running; timber not prepared 11,000 feet, running.

A. White has no estimate of the remainder of the building, but would observe, that as the south wing is to be occupied by one large room only, the expense must be much less than that of the north wing, which is considered as sufficient to accommodate both Houses of Congress during the present state of representation. The main body, too, will be finished in the same way; and the grand vestibule may or may not be covered with a dome; architects differ in opinion with regard to covering it. If it should not be covered, it will consist only of an arcade, twenty feet high and ten feet wide; and over that a colonnade sixteen feet high, affording a communication from the grand staircase to all the other parts of the building. Upon the whole, A. White thinks he goes beyond the necessary sum, when he estimates \$400,000 for finishing the whole building.

He considers the estimate for finishing the President's house as much to be relied on, yet would allow for that purpose \$100,000.

Two buildings may be erected on the President's square, at the expense of \$100,000, sufficient to accommodate, in a handsome manner, the Departments of State, Treasury, and War, and the General Post Office; and \$100,000 he conceives sufficient to erect a Judiciary.

The funds of the city are:

The Virginia donation	-	-	-	-	\$120,000
The Maryland donation	-	-	-	-	72,000
Amount of sales to Morris & Greenleaf	-	-	-	-	480,000
Sales of other lots	-	-	-	-	96,652
Harbaugh, Lee, Deakins, and Cassanove's note (arising from the sale of property, the original cost of which is charged in the article of expenditures)	-	-	-	-	10,533
					<u>\$779,185</u>
Deduct money expended	-	-	-	-	343,783*
Deduct money due the Bank of Columbia	-	-	-	-	30,000
Deduct money due the original proprietors, for squares appropriated	-	-	-	-	12,000
					<u>†384,783</u>
					<u>394,402</u>

Of the last mentioned sum, \$378,191 are not yet due, but will become due in the following proportions, viz:

In the year 1796	-	-	-	-	\$84,539 19
In the year 1797	-	-	-	-	80,719 09
In the year 1798	-	-	-	-	75,789 93
In the year 1799	-	-	-	-	68,571 42
In the year 1800	-	-	-	-	68,571 42
					<u>\$378,191 05</u>

Leaving in the hands of the commissioners, were all debts due to them received, and debts due from them paid	-	-	-	-	\$16,211
Or, in other words, there is due to the commissioners	-	-	-	-	53,211
And they are indebted	-	-	-	-	42,000

The real property of the city consists in 4,694 lots, exclusive of water lots, averaging 5,265 square feet; 1,694 of these are choice lots, from which Morris & Greenleaf were excluded in their selection. The average value of these lots, taking the prices at which they have been sold from the commencement of the city, is \$285 per lot, amounting to

Water property, 3,500 feet front, at \$16 per foot	-	-	-	-	56,000
					<u>\$1,337,790</u>
					<u>\$1,393,790</u>

Lots no doubt vary in their value; those from which Morris & Greenleaf were excluded far exceed the above average price; others may fall considerably below. A. White has no doubt but the whole may be sold if the public buildings can be carried on without immediate sales for \$1,000,000, even before the Government removes.

The city has, likewise, an island of freestone of immense value, and some other property of less note.

A. White is of opinion, that filling up some gulleys or ravines near the Capitol, and paving the Pennsylvania Avenue from thence to the President's house, is all that is necessary to be done to the streets, except clearing of stumps and grubs, and perhaps, in a few instances, levelling previous to the removal of Government; the ground in general being hard and gravelly, will afford an easy passage till the city becomes populous. He can form no estimate of the expenses, being unacquainted with such business, and not having it in contemplation while on the spot; he believes, however, the necessary materials are convenient.

ALEXANDER WHITE.

JANUARY 21, 1796.

*General account of expenditures by the commissioners of the Federal District, from the 12th of April, 1791, to the 1st of November, 1795.*

Bridge at James's creek	-	-	-	-	\$342 04
Bridge over Tiber	-	-	-	-	788 04
Wharf at Eastern Branch	-	-	-	-	1,017 51
City of Washington	-	-	-	-	†15,311 42
Capitol	-	-	-	-	78,035 29
Engraved plans of the city and territory	-	-	-	-	370 37

\* This ought to be \$338,565 30; the sum of \$4,217 91, consisting of small balances due, being, through inattention, stated as expenditures.

† This addition appears to be erroneous; \$1,000 too little.

‡ This article requires explanation. In the early part of the business, all expenditures were charged to the city of Washington; in making out this abstract for the information of Congress, such articles as could, with certainty, be applied to the other objects mentioned were selected; those which could not be ascertained were stated as originally charged to the city of Washington.

Expense of commissioners' office	-	-	-	-	\$5,895 76
Freestone quarries	-	-	-	-	23,749 90
Hospital for sick laborers	-	-	-	-	1,196 26
President's house	-	-	-	-	97,329 83
Public ground, paid sundries	-	-	-	-	1,766 67
Surveying department	-	-	-	-	18,838 97
Stone quarry in the city	-	-	-	-	291 56
Temporary buildings	-	-	-	-	3,018 46
Wharf account	-	-	-	-	1,858 30
Wharf log account	-	-	-	-	6,189 12
White oak swamp, Virginia	-	-	-	-	1,948 78
Buildings on square No. 728, balance	-	-	-	-	573 33
Causeway account at the bridge over Rock Creek	-	-	-	-	6,297 14
Provision account	-	-	-	-	11,809 27
Stone wharf at the south side of the bridge over Rock Creek	-	-	-	-	315 73
Slate quarries	-	-	-	-	58 29
Bridge over Rock Creek	-	-	-	-	12,563 83
Canal from Tiber to James's Creek	-	-	-	-	4,974 75
Utensils for various works	-	-	-	-	1,376 91
Expense of expresses	-	-	-	-	61 67
Surveying on the line	-	-	-	-	2,986 25
Post road	-	-	-	-	1,518 27
Account of commissions	-	-	-	-	1,387 58
Account of discounts	-	-	-	-	2,722 74
Account of advances made on contracts	-	-	-	-	25,762 39
Brick making account	-	-	-	-	3,209 09
					\$338,565 52

4th CONGRESS.]

No. 79.

[1st SESSION.]

## CHARGES AGAINST HUMPHREY MARSHALL, A SENATOR FROM KENTUCKY.

COMMUNICATED TO THE SENATE, MARCH 11, 1796.

Mr. LIVERMORE, from the committee to whom were referred the letter of the Governor and the memorial of the representatives of Kentucky, with the papers accompanying them, made the following report:

That the representatives of the freemen of Kentucky state, in their memorial, that, in February, 1795, a pamphlet was published by George Muter and Benjamin Sebastian, (who were two judges of the court of appeals,) in which they say that Humphrey Marshall had a suit in chancery in the said court of appeals, in which it appearing manifest, from the oath of the complainant, from disinterested testimony, from records, from documents furnished by himself, and from the contradictions contained in his own answer, that he had committed a gross fraud, the court gave a decree against him; and that in the course of the investigation, he was publicly charged with perjury. That Mr. Marshall, in a publication in the Kentucky Gazette, called for a specification of the charge; to which the said George Muter and Benjamin Sebastian, in a like publication, replied, that he was guilty of perjury in his answer to the bill in chancery exhibited against him by James Wilkinson; and that they would plead justification to any suit brought against them therefor. That no such suit, as the said representatives could learn, had been brought. The said representatives further say that they do not mean to give an opinion on the justice of the said charge, but request that an investigation may immediately take place relative thereto.

Your committee observe, that the said suit was tried eighteen months before Mr. Marshall was chosen a member of the Senate; and that, previous to his election, mutual accusations had taken place between him and the judges of the said court, relating to the same suit.

The representatives of Kentucky have not furnished any copy of Mr. Marshall's answer, on oath, nor have they stated any part of the testimony, or produced any of the said records or documents, or the copy of any paper in the cause; nor have they intimated a design to bring forward these or any other proofs.

Your committee are informed by the other Senator, and the two Representatives in Congress, from Kentucky, that they have been requested by the Legislature of that State to prosecute this inquiry; and that they are not possessed of any evidence in the case; and that they believe no person is authorized to appear on behalf of the Legislature.

Mr. Marshall is solicitous that a full investigation of the subject should take place in the Senate, and urges the principle, that consent takes away error, as applying, on this occasion, to give the Senate jurisdiction. But as no person appears to prosecute, and there is no evidence adduced to the Senate, nor even a specific charge, the committee think any further inquiry by the Senate would be improper. If there were no objections of this sort, the committee would still be of opinion that the memorial could not be sustained. They think that, in a case of this kind, no person can be held to answer for an infamous crime, unless on a presentment or indictment of a grand jury; and that, in all such prosecutions, the accused ought to be tried by an impartial jury of the State and district wherein the crime shall have been committed. If, in the present case, the party has been guilty in the manner suggested, no reason has been alleged by the memorialists why he has not long since been tried in the State and district where he committed the offence. Until he is legally convicted, the principles of the constitution and of the common law concur in presuming that he is *innocent*. And the committee are compelled, by a sense of justice, to declare that, in their opinion, this presumption in favor of Mr. Marshall is not diminished by recriminating publications which manifest strong resentment against him. And they are also of opinion that, as the constitution does not give jurisdiction to the Senate, the consent of the party cannot give it; and that, therefore, the said memorial ought to be dismissed.

[NOTE.—See No. 76.]

[4th CONGRESS.]

No. 80.

[1st SESSION.]

CONTESTED ELECTION OF JOSEPH B. VARNUM, A REPRESENTATIVE FROM  
MASSACHUSETTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 15, 1796.

Mr. VENABLE made the following report:

The Committee of Elections, to whom were referred the petitions of sundry persons of the second middle district of the State of Massachusetts, complaining of an undue election and return of Joseph Bradley Varnum as a member of this House, have, according to order, proceeded to examine the petitions, and the documents that accompany them. They have also received from Aaron Brown, a petitioner, a paper purporting to be a specification of the facts relied on to support the charge, and praying for a general power to take evidence in support thereof, which is as follows:

*"A statement of facts to be proved by the petitioners.*

"1st. That one hundred and eighty-five votes were returned by the selectmen of Dracutt, and counted by the Governor and Council.

"2d. That, of those, sixty were illegal or bad; fifty-five ballots or votes being received and certified by the select-men or presiding officers, of whom Joseph Bradley Varnum, Esquire, was one, which were given by proxy, that is, votes from persons who were not present at the meeting, but from other persons who pretended to act for them; and five votes were received and certified by the said presiding officers, which were given by persons by law not qualified to vote at said meeting.

"3d. If Mr. Varnum does propose to examine the proceedings at the meetings of any other towns in the district the petitioners wish to reserve liberty of showing that votes given for Mr. Varnum in any other town in the district were illegal.

*"AARON BROWN, for the petitioners."*

On the 12th of March, 1796, the said Aaron Brown subjoined the following explanation of the above specification:

"The petitioners expect to prove that the above sixty illegal votes were received by the select-men, by showing that the whole number of legal voters were not more than two hundred and twenty-five, of which number one hundred did not attend the meeting on the 23d day of March last, and a part of those that did attend and vote were not legally qualified to vote.

*"AARON BROWN."*

Also the objections of the sitting member, and a requisition that the petitioners be held to a specification of the names of the persons objected to, and the objections to each, a notification thereof to the sitting member, before he should be compelled to take evidence concerning the matters alleged, or make any answer thereto.

Upon all which, as well from the difficulty of the case, as from a desire to have uniformity in proceedings of this kind, your committee have been induced to pray the instructions of the House as to the kind of specification that shall be demanded of the petitioners, and the manner in which the evidence shall be taken.

[4th CONGRESS.]

No. 81.

[1st SESSION.]

FERRIES IN THE NORTHWESTERN TERRITORY.

COMMUNICATED TO THE SENATE, APRIL 1, 1796.

Mr. BROWN made the following report:

The committee to whom was referred the petition of Ebenezer Zane, have had the same under consideration, and respectfully report:

That the petitioner sets forth that he hath, at considerable trouble and expense, explored, and in part opened, a road northwest of the river Ohio, between Wheeling and Limestone, which, when completed, will greatly contribute to the accommodation of the public as well as of individuals; but that several rivers intervening, the road proposed cannot be used with safety until ferries shall be established thereon. That the petitioner will engage to have such ferries erected, provided he can obtain a right to the land, which is now the property of the United States; and thereupon prays that he may be authorized to locate and survey, at his own expense, military bounty warrants upon as much land at Muskingum, Hockhocking, and Scioto rivers, as may be sufficient to support the necessary establishments; and that the same be granted to him by the United States.

That the committee, having received satisfactory information in support of the above statement, are of opinion that the proposed road will be of general utility; that the petitioner merits encouragement; and that his petition, being reasonable, ought to be granted. The committee, therefore, submit the following resolution:

*Resolved*, That the petition of Ebenezer Zane is reasonable; that he be authorized to locate warrants, granted by the United States for military services, upon three tracts of land, not exceeding one mile square each, at Muskingum, Hockhocking, and Scioto, where the proposed road shall cross those rivers, for the purpose of establishing ferries thereon; and that leave be given to bring in a bill for that purpose.

4th CONGRESS.]

No. 82.

[1st SESSION.]

## STATE OF TENNESSEE.

COMMUNICATED TO CONGRESS, APRIL 8, 1796.

SIR:

KNOXVILLE, *February 9, 1796.*

As Governor it is my duty, and as President of the Convention I am instructed, by a resolution of that body, to forward to you, express, a copy of the constitution formed for the permanent government of the State of Tennessee, which you will herewith receive by the hands of Major Joseph McMin, of Hawkins county, who was himself a member of the convention.

The sixth section of the first article will inform you that the first General Assembly to be held under this constitution is to commence on the last Monday in March next. The object of the convention, in determining on this early day, is a representation in the Congress of the United States before the termination of the present session. And the third section of the schedule will inform you how long it is contemplated the temporary form of Government shall continue.

I have the honor to be, very respectfully, your most obedient, humble servant,

WILLIAM BLOUNT.

TIMOTHY PICKERING, Esq., *Secretary of State, Philadelphia.*

WILLIAM BLOUNT, *Governor in and over the Territory of the United States of America south of the river Ohio, to the people thereof.*

Whereas, by an act passed on the 11th day of July last, entitled "An act providing for the enumeration of the inhabitants of the territory of the United States of America south of the river Ohio," it is enacted, "that if upon taking the enumeration of the people in the said territory as by that directed, it shall appear that there are 60,000 inhabitants therein, counting the whole of the free persons, including those bound to service for a term of years, and excluding Indians not taxed, and adding three-fifths of all other persons, the Governor be authorized and requested to recommend to the people of the respective counties to elect five persons for each county, to represent them in convention, to meet at Knoxville, at such time as he shall judge proper, for the purpose of forming a constitution or permanent form of Government."

And whereas, upon taking the enumeration of the inhabitants of the said territory, as by the act directed, it does appear that there are 60,000 free inhabitants therein, and more, besides other persons: Now I, the said William Blount, Governor, &c. do recommend to the people of the respective counties to elect five persons for each county, on the 18th and 19th days of December next, to represent them in a convention to meet at Knoxville, on the 11th day of January next, for the purpose of forming a constitution or permanent form of Government.

And to the end that a perfect uniformity in the election of the members of convention may take place in the respective counties, I, the said William Blount, Governor, &c. do further recommend to the sheriffs or their deputies, respectively, to open and hold polls of election for members of convention, on the 18th and 19th days of December, as aforesaid, in the same manner as polls of election have heretofore been held for members of the General Assembly; and that all free males, twenty-one years of age and upwards, be considered as entitled to vote by ballot for five persons for members of convention; and that the sheriffs or their deputies, holding such polls of election, give certificates to the five persons in each county, having the greatest number of votes, of their being duly elected members of convention.

And I, the said William Blount, Governor, &c. think proper here to declare, that this recommendation is not intended to have, nor ought to have, any effect whatever upon the present temporary form of Government; and that the present temporary form will continue to be exercised in the same manner as if it never had been issued, until the convention shall have formed and published a constitution or permanent form of Government.

Done at Knoxville, November twenty-eight, one thousand seven hundred and ninety-five.

WM. BLOUNT.

By the Governor:

WILLIE BLOUNT, *pro Secretary.*

SIR:

KNOXVILLE, *November 28, 1795.*

Herewith you will receive an aggregate schedule of the enumeration of the inhabitants of the territory south of the Ohio, taken agreeably to an act passed on the 11th July last, entitled "An act providing for the enumeration of the inhabitants of the territory of the United States of America south of the river Ohio," together with a copy of my recommendation to the people of the said territory, of this date, to elect members of convention to form a constitution, or permanent form of Government, made in pursuance to the power in me vested by that act, upon the event of there being "sixty thousand inhabitants therein, counting the whole of the free persons, including those bound to serve for a term of years, and excluding Indians not taxed, and adding three-fifths of all other persons." A copy of the act above cited has been forwarded to and received at your office.

I have the honor to be, respectfully, your obedient servant,

WILLIAM BLOUNT.

The SECRETARY OF STATE of the *United States.*

P. S. The newspaper contains the recommendation to the people.

## TERRITORY OF THE UNITED STATES OF AMERICA SOUTH OF THE RIVER OHIO.

*Schedule of the aggregate amount of each description of persons, taken agreeably to "An act providing for the enumeration of the inhabitants of the territory of the United States of America south of the river Ohio," passed July 11, 1795.*

	Free white males, 16 years and upwards, includ'g heads of families.	Free white males under 16 years.	Free white females, including heads of families.	All other free persons.	Slaves.	Total amount.	Yeas.	Nays.
Jefferson county, - -	1,706	2,225	3,021	112	776	7,840	714	316
Hawkins county, - -	2,666	3,279	4,767	147	2,472	13,331	1,651	534
Greene county, - -	1,567	2,203	3,350	52	466	7,638	560	495
Knox county, - -	2,721	2,723	3,664	100	2,365	11,573	1,100	128
Washington county, - -	2,013	2,578	4,311	225	978	10,105	873	145
Sullivan county, - -	1,803	2,340	3,499	38	777	8,457	715	125
Sevier county, - -	628	1,045	1,503	273	129	3,578	261	55
Blount county, - -	585	817	1,231	-	183	2,816	476	16
Davidson county, - -	728	695	1,192	6	992	3,613	96	517
Sumner county, - -	1,382	1,595	2,316	1	1,076	6,370	-	-
Tennessee county, - -	380	444	700	19	398	1,941	58	231
	16,179	19,944	29,554	973	10,613	77,262	6,504	2,562

I, William Blount, Governor in and over the territory of the United States of America south of the river Ohio, do certify that this schedule is made in conformity with the schedules of the sheriffs of the respective counties in the said territory, and that the schedules of the said sheriffs are lodged in my office.

Given under my hand, at Knoxville, November 28, 1795.

WILLIAM BLOUNT.

NOTE.—The yeas and nays are unimportant, as there proves to be upwards of sixty thousand free inhabitants, as will appear by reading the act providing for the enumeration.

UNITED STATES, April 8, 1796.

*Gentlemen of the Senate and of the House of Representatives:*

By an act of Congress passed on the 26th of May, 1790, it was declared that the inhabitants of the territory of the United States south of the river Ohio should enjoy all the privileges, benefits, and advantages set forth in the ordinance of Congress for the government of the territory of the United States northwest of the river Ohio, and that the Government of the said territory south of the Ohio should be similar to that which was then exercised in the territory northwest of the Ohio, except so far as was otherwise provided in the conditions expressed in an act of Congress passed the 2d of April, 1790, entitled "An act to accept a cession of the claims of the State of North Carolina to a certain district of Western territory."

Among the privileges, benefits, and advantages thus secured to the inhabitants of the territory south of the river Ohio, appear to be the right of forming a permanent constitution and State Government, and of admission, as a State, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, when it should have therein sixty thousand free inhabitants: provided the constitution and Government so to be formed should be republican, and in conformity to the principles contained in the articles of the said ordinance.

As proofs of the several requisites to entitle the territory south of the river Ohio to be admitted, as a State, into the Union, Governor Blount has transmitted a return of the enumeration of its inhabitants, and a printed copy of the constitution\* and form of Government on which they have agreed, which, with his letters accompanying the same, are herewith laid before Congress.

GEO. WASHINGTON.

4th CONGRESS.]

No. 83.

[1st SESSION.]

## STATE OF TENNESSEE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 12, 1796.

Mr. DEARBORN made the following report:

The committee, to whom was referred the message of the President of the United States, relative to the territory of the United States south of the river Ohio, together with sundry documents accompanying the same, have, according to order, had the subject under consideration, and have agreed to report the following resolution for the consideration of the House:

*Resolved*, That, by the authenticated documents accompanying the message from the President of the United States to this House, on the 8th day of the present month, and by the ordinance of Congress bearing date the 13th

\* Not found.

of July, 1787, and by the law of the United States, passed on the 26th of May, 1790, it appears that the citizens of that part of the United States which has been called the territory of the United States south of the river Ohio, and which is now formed into a State, under a republican form of Government, by the name of Tennessee, are entitled to all the rights and privileges to which the citizens of the other States in the Union are entitled under the constitution of the United States; and that the State of Tennessee is hereby declared to be one of the sixteen United States of America.

4th CONGRESS.]

No. 84.

[1st SESSION.]

## WEIGHTS AND MEASURES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 12, 1796.

Mr. HARRISON, from the committee to whom were referred the report of the Secretary of State, made the 13th of July, 1790, and so much of the message of the President of the United States of the 8th of January, 1795, as relates to weights and measures,\* made the following report:

That they have examined into the subject referred to them, and are of opinion that the following principles ought to be assumed in regulating the standards of weights and measures in the United States:

1. That all measures of surface, capacity, and weight, ought to be regulated by measures in length.
2. That the unit of measures in length, and the unit of weights to be adopted as standards, ought not to vary in any very sensible degree from the present foot now in use, and the present pound avoirdupois.
3. That the objections against assumed standards, on account of their being arbitrary, and always liable to be injured or lost, make it a matter worthy the attention of an enlightened Legislature to refer to some certain measure in length, derived from a uniform principle in nature, more especially if it can be made to appear that reference may be had to such a measure with sufficient certainty of uniformity, in the result of different experiments, and without much time, trouble, or expense, in making them.

In order to carry into effect the first and second of these principles, reference need only to be had to a very remarkable correspondence which is said to exist between the avoirdupois pound and the English standard foot; it having been ascertained that one thousand ounces avoirdupois of rain water will fill a cubic foot, of English standard measure, with great exactness; and, for carrying into effect the third principle, little doubt can be entertained but that recourse ought to be had to the pendulum rod, vibrating seconds of mean time in any given place, and in any known temperature of the atmosphere, because this will, without doubt, furnish a standard, derived from a uniform principle in nature, more certain and easy to be obtained than any that hath hitherto been discovered; by which a measure in length may be ascertained, differing very insensibly in the result of different experiments, and by which the unit in measures of length, to be adopted as a standard in the United States, may, therefore, at all times be regulated. The committee are, therefore, of opinion that one or more experiments ought to be made in the city of Philadelphia, to ascertain the length of the pendulum rod, vibrating seconds of mean time, and that, after such length shall be obtained, the present foot ought to be compared with it; and if it appears not to bear any even proportion to it, then such a standard foot ought to be assumed as shall bear an even proportion to it, and which will not vary, in any sensible degree, from the length of the foot now in use; and that, after such a standard foot shall be obtained, one or more experiments ought to be made to ascertain the weight of a cube of rain water, which shall be equal to the one-thousandth part of a cube whose side shall be the aforesaid standard foot; and that sixteen times the weight of such a cube of water ought to be the unit of weights, or pound avoirdupois; and that after this unit of weights or pound shall be so obtained, experiments ought to be made to ascertain the weights of such divisions of this unit or pound as shall be most convenient for the purpose of weighing all substances that require exactness in the weight, such as the precious metals, and the like; and, in making these, the four following methods of dividing the pound have been contemplated by the committee:

1. The division of the pound in a decimal ratio, until it shall be divided into one thousand parts, and the division of each of these into seven parts, which will divide the pound into seven thousand parts.
2. The division of the pound in a decimal ratio; the smallest weight in common use to be the one ten-thousandth part.
3. The division of the ounce into eighteen parts, and each of these again into twenty-four, which will divide the pound into six thousand nine hundred and twelve parts.
4. The division of the ounce in a decimal ratio; the least weight in common use to be the one-thousandth part, which will divide the pound into sixteen thousand parts.

The least weight in the first of these divisions will be the present troy grain, and the remaining will bear the following proportions to it: that is, the second will be to the present troy grain as seven is to ten; the third as seven thousand to six thousand nine hundred and twelve; the fourth as seven to sixteen. Of these respective divisions, the committee are of opinion that the second and last are preferable, because they may be more easily introduced, will better accommodate themselves to decimal arithmetic, and, in the least divisions before mentioned, will produce weights less than the present troy grain, and which must, therefore, be sufficiently exact for most purposes. The committee have conceived it unnecessary to come to any particular determination about the divisions of the feet, or respecting the contents of the gallon and bushel, until it shall be determined whether experiments shall be made relative to this subject; and they would, therefore, submit the following resolutions:

*Resolved*, That the President of the United States shall be authorized to employ such persons, of sufficient mathematical and philosophical skill, as he shall think most proper for the purpose of making the following experiments, the result of which shall be reported to Congress at their next session:

1. To ascertain the length of a pendulum rod of iron, of a cylindrical form, whose diameter shall not exceed the one hundred and twentieth part of its length, which shall perform its vibrations in one second of mean time, in

\* For the report and message, see Nos. 15 and 60.

an arc not exceeding four degrees, and in the latitude of the city of Philadelphia, at any place between the rivers Delaware and Schuylkill, and at a known height above the level of common high water in the river Delaware, and in a known temperature of the atmosphere, according to Fahrenheit's thermometer, both to be ascertained when the experiment shall be made; and, after its length shall be ascertained by one or more experiments for that purpose, a standard foot, to be the unit of all measures in length for the United States, shall be derived from it, which shall be equal to, or shall not sensibly vary from, the present foot now in use, and which shall bear an even proportion to the length of such pendulum rod.

2. To ascertain the weight of a cube of rain water, of a known degree of heat, according to Fahrenheit's thermometer, to be ascertained at the time when the experiment shall be made, which shall be equal in quantity to the one-thousandth part of a cube whose side shall be equal to the standard foot ascertained by the pendulum rod, in manner as above directed; which weight of water, when so obtained, shall be the standard ounce avoirdupois, sixteen of which shall make the pound avoirdupois; and the pound, when so determined on, shall be the unit of weights for the United States.

3. To ascertain the respective weights of the following divisions of the pound and the ounce:

First. The division of the pound, in a decimal ratio, into one thousand parts, and the least of these again into seven parts.

Second. The division of the pound, in a decimal ratio, into ten thousand parts.

Third. The division of the ounce into eighteen parts, and each of these into twenty-four parts.

Fourth. The division of the ounce, in a decimal ratio, into one thousand parts.

*Resolved*, That a sum, not exceeding one thousand dollars, ought to be appropriated for the purpose of defraying the expenses that may arise in making the foregoing experiments.

4th CONGRESS.]

No. 85.

[1st Session.]

GEORGE WASHINGTON MOTIER LAFAYETTE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 26, 1796.

Mr. LIVINGSTON, from the committee appointed to inquire into the truth of the information that a son of General Lafayette is now within the United States, and also what measures it will be proper to take, if the same be true, to evince the grateful sense entertained by this country for the services of his father, made the following report:

That, pursuant to order, they made the inquiry directed by the House, and find that the son of General Lafayette arrived some time in the last autumn in the United States, and is now with the President of the United States in the city of Philadelphia; and they further report that no measures are necessary to be taken relative to the other object of their inquiry, as will appear from the letter, hereunto annexed, addressed to the chairman of your committee, in answer to one written by him, enclosing a copy of the resolutions of the House on this subject.

[TRANSLATION.]

Sir:

RAMAPAGE, NEW JERSEY, *March 28, 1796.*

I have just received the honorable resolution which the merits of my father have procured for me. Deign to express to the representatives of the people of America *his* gratitude—my youth forbids me yet to speak of mine. Every day recalls to me what he taught me, at every period of his life, so full of vicissitude, and what he has repeated in a letter, written from the depth of his prison: "I am convinced," he says, "that the goodness of the United States, and the tenderness of my paternal friend, will need nothing to excite them."

Arrived in America some months since, I live in the country, in New Jersey, occupied in the pursuits of my education. I have no wants; if I had felt any, I should have answered to the paternal solicitude of the President of the United States, either by confiding them to him, or by accepting his offers. I shall hereafter consider it a duty to impart them to the House of Representatives, which deigns to inquire into my situation.

I am as happy as a continual inquietude, relative to the object of my first affections, will permit. I have found benevolence wherever I have been known, and have often had the satisfaction of hearing those who were ignorant of my connexions, speak of their interest in the fate of my father, express their admiration of, and partake the gratitude I feel for, the generous Doctor Bollman, who has done so much to break his chains.

It is amid all these motives of emulation that I shall continue my studies; every day more convinced of the duties which are imposed by the goodness of Congress, and the names I have the honor to bear.

GEORGE WASHINGTON MOTIER LAFAYETTE.

Hon. EDWARD LIVINGSTON, *Chairman, &c.*

4th CONGRESS.]

No. 86.

[1st SESSION.]

## STATE OF TENNESSEE.

COMMUNICATED TO THE SENATE, MAY 5, 1796.

Mr. KING, from the committee to whom was referred the message of the President of the United States of the 8th of April, 1796,\* relative to the territory of the United States south of the river Ohio, made the following report:

By the deed of cession of the State of Virginia, the United States are bound to lay off the territory northwest of the river Ohio into States, not less than one hundred nor more than one hundred and fifty miles square. And by the ordinance of the 13th day of July, 1787, Congress resolved that so soon as Virginia should by law consent to the laying off the said territory so as to form three States, the same should be bounded in the manner therein specified. By the same ordinance, the whole of the territory of the United States northwest of the Ohio is made one district for the purpose of temporary government; and it is therein declared that so soon as any one of the said States, so to be laid out as aforesaid, should contain *sixty thousand free inhabitants*, the same should be admitted by their delegates into Congress on an equal footing with the original States.

On the 9th July, 1787, the State of South Carolina ceded, without any condition whatever, their claims to all lands lying between the Mississippi and the ridge of mountains, which divides the western from the eastern waters; the same being south of, and contiguous to, the territory ceded by North Carolina, and uninhabited except by Indians.

By the deed of cession of the State of North Carolina of the lands therein described, it is made a condition that the territory so ceded shall *be laid out and formed* into a State or States, containing a suitable extent of territory; the inhabitants of *which* shall enjoy all the privileges set forth in the ordinance for the Government of the Western Territory of the United States. By the act for the government of the territory of the United States south of the river Ohio, the whole of the said territory, for the purpose of temporary government, is made one district; and it is declared that the inhabitants thereof shall enjoy all the privileges set forth in the ordinance for the government of the territory of the United States northwest of the Ohio; as in the territory northwest of the Ohio, it is necessary that the same shall by Congress *be laid out into States according to the conditions of the act of cession*, or to the provisions expressed in the ordinance of Congress, and that *such States* shall each contain 60,000 free inhabitants before they are entitled to be admitted into the Union, so in the territory south of the Ohio, Congress *are obliged* by the act of cession of North Carolina to lay out the territory thereby ceded into *one or more States*, the inhabitants of *which*, so soon as they shall amount to 60,000 free persons, will be entitled to be admitted into the Union.

Congress have declared that the whole of the territory northwest of the Ohio shall, for the purpose of temporary government, compose one district; and likewise that the whole of the territory south of the Ohio shall, for the like purpose, compose one district; but they have not definitively laid out the territory northwest of the Ohio into States, nor have they decided whether the territory of the Ohio shall be laid out into one or more States. If the district northwest of the Ohio contained more than 60,000 free inhabitants, it would not from thence follow that the district could demand admission as a new State into the Union, because the district must, by the terms of its cession, be previously divided into a number of States, the free inhabitants of *each of which* must amount to 60,000, before such State would have a right of admission into the Union; in like manner, although the district south of the Ohio should contain 60,000 free inhabitants, it cannot from thence be inferred that the district, or that portion thereof ceded by North Carolina, would have a right to be admitted as a new State into the Union, because Congress have not decided whether the same shall compose a single State, or be laid out into two or more States. The number of inhabitants which establishes a claim of admission must be the number of inhabitants of a State previously laid out, and defined in its boundaries by Congress, and not the number of inhabitants of a territory which, for the purpose of temporary government, composes a district which may be divided by Congress into several States.

Hence results this conclusion: that Congress must have previously enacted that the whole of the territory ceded by North Carolina, and which is only a part of the territory of the United States south of the Ohio, should be laid out into *one State*, before the inhabitants thereof (admitting them to amount to 60,000 free persons) could claim to be admitted as a new State into the Union.

Had the territory south of the Ohio, which, for the purpose of temporary government, composes one district, been laid out by Congress into one State, the enumeration of the inhabitants, in order to ascertain whether such State was entitled to be received into the Union, ought to have been made under the authority of Congress; for the enumeration of the inhabitants of the original States for the purpose of apportioning the Representatives, and ascertaining a rule for the apportionment of direct taxes, must, by the constitution, be made by Congress, and cannot be made by the individual States; and as the rights of the original States, as members of the Union, are affected by the admission of new States, the same principle which enjoins the census of their inhabitants to be taken under the authority of Congress requires the enumeration of the inhabitants of any new State laid out by Congress, in like manner, to be made under their authority. Did not the principles of the constitution seem to leave Congress without discretion on this point, yet the propriety of the enumeration being made under their authority will be manifest on comparing the fifth section of the law, for the enumeration of the inhabitants of the United States, with the law under which the census has lately been taken in the territory south of the Ohio. By this comparison it will be perceived that the guards against error, provided in the former law, are omitted in the latter; and that instead of confining the enumeration to the free inhabitants of the territory south of the Ohio, the law authorizes and requires the enumeration of all *the people* within the said territory, at any time within the term allowed to complete the same, including as well the persons casually within or passing through the said territory as the inhabitants thereof.

From the preceding view of the subject, the committee are of opinion that the inhabitants of that part of the territory south of the Ohio, ceded by North Carolina, are not, at this time, entitled to be received as a new State into the Union.

But as the said territory ceded by North Carolina may by Congress be laid out into one State, although from the distance between its extreme parts the inhabitants thereof may thereby be exposed to some inconvenience, and as it appears to be the desire of a majority of the inhabitants of the said territory to be received as a new State into the Union, the committee recommend that leave be given to bring in a bill laying out the whole of the said territory ceded by North Carolina into one State, and providing for an enumeration of the inhabitants thereof in the manner prescribed in the act entitled "An act providing for the enumeration of the inhabitants of the United States, passed on the 1st of March, 1790."

\*See No. 82.



4th CONGRESS.]

No. 87.

[1st SESSION.]

INQUIRY INTO THE OFFICIAL CONDUCT OF A JUDGE OF THE SUPREME COURT OF  
THE NORTHWESTERN TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 10, 1796.

PHILADELPHIA, *May 9, 1796.*

SIR:

I do myself the honor to transmit to the House of Representatives of the United States a report on the petition of sundry inhabitants of the county of St. Clair, in the Territory northwest of the river Ohio, against George Turner, one of the judges of that Territory.

With the most perfect respect, I remain, sir, your most obedient servant,

CHARLES LEE, *Attorney General.*

To the SPEAKER of the *House of Representatives of the United States.*

To the *House of Representatives of the United States:*

MAY 9, 1796.

The ATTORNEY GENERAL, in obedience to their resolution bearing date the 5th of this month, referring to him the petition of sundry inhabitants of the county of St. Clair, in the Territory northwest of the river Ohio, relative to the conduct of George Turner, one of the judges of the supreme court in that Territory, most respectfully reports:

That the charges exhibited in the petition against Judge Turner, and especially the first, second, and fifth, are of so serious a nature as to require that a regular and fair examination into the truth of them should be made, in some judicial course of proceeding; and if he be convicted thereof, a removal from office may and ought to be a part of the punishment. His official tenure is during good behavior: and, consequently, he cannot be removed until he be lawfully convicted of some malversation in office. A judge may be prosecuted in three modes, for official misdemeanors or crimes: by information, or by indictment before an ordinary court, or by impeachment before the Senate of the United States. The last mode, being the most solemn, seems, in general cases, to be best suited to the trial of so high and important an officer; but, in the present instance, it will be found very inconvenient, if not entirely impracticable, on account of the immense distance of the residence of the witnesses from this city. In the prosecution of an impeachment, such rules must be observed as are essential to justice; and, if not exactly the same as those which are practised in ordinary courts, they must be analogous, and as nearly similar to them as forms will permit. Thus, before an impeachment is sent to the Senate, witnesses must be examined, in solemn form, respecting the charges, before a committee of the House of Representatives, to be appointed for that purpose, as in a case of indictment witnesses are examined by a grand jury. Upon the trial, the witnesses must give their testimony before the Senate, as in a case of indictment they do before the ordinary court and petit jury; so also, perhaps, it would be proper that some responsible person or persons should undertake to answer the costs of trial to the accused, in the event of his acquittal. It ought to be remarked that, if the mode of impeachment be deemed preferable, the aforesaid petition, subscribed by forty-nine citizens, may be regarded as sufficient inducement to the House to appoint a committee of inquiry, with authority to examine witnesses and report the substance of their testimony respecting the charges therein set forth, at the present or next session; and, if the report of the testimony will warrant an impeachment, articles are to be directed to be drawn and presented to the Senate, who will appoint a time of trial, giving reasonable notice thereof to the accused and to the accusers, &c.

However, the Attorney General is of opinion that it will be more advisable, on account of the expense, the delay, the certain difficulty, if not impossibility, of obtaining the attendance here of the witnesses who reside in the Territory northwest of the Ohio, about the distance of one thousand five hundred miles, that the prosecution should not be carried on by impeachment, but by information or indictment before the supreme court of that Territory, which is competent to the trial; and he prays leave to inform the House that, in consequence of affidavits stating complaints against Judge Turner, of oppressions and gross violations of private property, under color of his office, which have been lately transmitted to the President of the United States, the Secretary of State has been by him instructed to give orders to Governor St. Clair to take the necessary measures for bringing that officer to a fair trial, respecting those charges, before the court of that Territory, according to the laws of the land; which course is also recommended to be pursued relative to the matters charged in said petition.

All which is humbly submitted.

CHARLES LEE, *Attorney General.*

To the *Honorable the House of Representatives of the United States, in Congress assembled: the humble petition of the inhabitants of the county of St. Clair, in the Territory northwest of the Ohio, humbly sheweth:*

That your petitioners find themselves heavily aggrieved by the unexampled tyranny and oppressions used in this county by the honorable George Turner, one of the judges in and over this Territory, whilst on his circuit.

First, by holding a court unknown to and contrary to the laws of this Territory, and at the extremity of the population of the county, and compelling a great number of the good people of this county to attend thereat, as well suitors as jurors and civil officers of the county, thereby absenting themselves from their abodes, and exposing many families to the ravages of the hostile Indians, and to the great loss and damage of the good people by heavy charges that attended the majority travelling sixty-six miles to attend that court.

By heavy fines set and levied by the said court; by forfeitures incurred of the property of citizens quietly travelling on the Ohio; and the people grieved in various other ways, by suits and prosecutions in the same court, attended with very heavy charges.

By compelling the register to transport the office to the extremity of the population of the county, thereby rendering it unsafe, as well as inconvenient for the people to have recourse to the office.

By denying us, as we conceive, the rights reserved to us by the constitution of the Territory, to wit, the laws and customs heretofore used in regard to the descent and conveyance of property, in which the French and Canadian inhabitants conceive the language an essential.

By taking possession of intestate estates, converting part thereof into ready money, to the great damage of the heirs and creditors, and carrying the same money away with him; the remaining goods left in a loose manner, without any account whatever to satisfy those who have claims.

We therefore pray that your honorable House will take into consideration the injuries we have sustained by the conduct of the honorable George Turner, in this county, and provide us such remedy as you, in your wisdom, may judge expedient; and we shall, as in duty bound, ever pray.

[NOTE.—See Report, No. 95.]

4th CONGRESS.]

No. 88.

[1st SESSION.]

CONTESTED ELECTION OF ISRAEL SMITH, A REPRESENTATIVE FROM VERMONT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 13, 1796.

Mr. VENABLE, from the Committee of Elections, to whom was recommitted the petition of Matthew Lyon, complaining of an undue election and return of Israel Smith, made the following statement, in addition to their former report:

That it appears, by the deposition of the town clerk of Hancock, that there were seventeen persons in the said town who were entitled to vote; twelve of whom are stated to have been admitted in that town, and five in other towns.

That, by a like deposition of the clerk of Kingston, it appears that there were in that town nineteen persons; seventeen of whom had been qualified in that town, and two in other towns.

That it does not appear that the warrants were withheld from the said towns by the sheriff from any fraudulent intention; but the failure was accidental as to the town of Kingston, and the warrant was not sent to the town of Hancock, because the sheriff believed they had not voted at the first meeting.

[NOTE.—See No. 72.]

4th CONGRESS.]

No. 89.

[1st SESSION.]

COMPENSATION TO DISTRICT ATTORNEYS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 25, 1796.

Mr. KITTERA, from the committee to whom was referred the message of the President of the United States transmitting a letter from the Attorney General, relative to compensation to the attorneys of the United States, in the several districts, made the following report:

That it appears to your committee that those attorneys are men of the first reputation for talents and integrity, employed in a lucrative profession, who are always consulted by the officers of the revenue, in every difficult case that arises in the discharge of their duty; for which services no compensation is allowed by law.

Your committee, therefore, recommend the following resolution:

*Resolved*, That there be allowed to the district attorneys of the United States, in addition to the fees to which they are by law entitled, the following yearly salaries, to wit: to the district attorneys of Massachusetts, New York, Pennsylvania, Maryland, Virginia, North Carolina, and South Carolina, the sum of three hundred and fifty dollars, respectively. To the district attorneys of New Hampshire, Maine, Rhode Island, Connecticut, New Jersey, Delaware, Georgia, and Kentucky, the sum of two hundred and fifty dollars, respectively; and to the district attorney of Vermont, the sum of one hundred and fifty dollars.

[NOTE.—The letter of the Attorney General referred to in this report is not now on the files, and no record of it in the office of the Attorney General.]

4th CONGRESS.]

No. 90.

[2d Session.]

## DEBATES OF CONGRESS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 13, 1796.

Mr. WILLIAM SMITH, from the committee to whom were referred the petitions of Thomas Lloyd and Thomas Carpenter, proposing to take down in shorthand, and publish, for the use of the House, the debates of the present session, reported the following resolution:

*Resolved*, That the clerk of this House cause the members to be furnished, during the present session, with copies of the debates of Congress printed in this city, [Philadelphia,] such as the members respectively shall choose, to be delivered at their lodgings: provided, they do not exceed the price at which subscribers, citizens of Philadelphia, are furnished with them.

4th CONGRESS.]

No. 91.

[2d Session.]

## NATIONAL UNIVERSITY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 21, 1796.

Mr. MADISON, from the committee to whom was committed the memorial of the commissioners appointed under the "Act establishing the temporary and permanent seat of the Government of the United States," and to whom also was referred that part of the President's speech relating to a national university, reported the following resolution:

That it is expedient, at present, that authority should be given, as prayed for by the said memorial, to proper persons to receive and hold in trust pecuniary donations, in aid of the appropriations already made, towards the establishment of a university within the District of Columbia.

*To the honorable the Congress of the United States of America: The commissioners appointed under the act entitled "An act for establishing the temporary and permanent seat of the Government of the United States," respectfully represent:*

That the institution of a national university within the United States has been the subject of much conversation; that all men seem to agree in the utility of the measure, but that no effectual means have hitherto been proposed to accomplish it; that recent transactions seem to call upon them, in a more particular manner than on their fellow-citizens at large, to promote this desirable object: they therefore take the liberty to state that, after the temporary and permanent seat of the Government of the United States was located by the President, agreeably to the act of Congress above mentioned, the proprietors of the lands adjacent to, and including the sites designated for the public buildings, ceded a large territory for the purpose of a federal city, and by their deeds of cession authorized the President of the United States for the time being to appropriate such portions thereof as he should judge necessary to public use. In virtue of this power the President has appropriated nineteen acres one rood and twenty-one perches, part of the land so ceded, for the site of a national university. That he has likewise declared to them his intention to grant, in perpetuity, fifty shares in the navigation of the Potomac river, as soon as the system assumes a shape which will enable him to do it with effect; and that they have no doubt, when that event shall take place, but many other liberal donations will be made, as well in Europe as in America; that the money actually paid on those fifty shares is five thousand pounds sterling; that the navigation is now nearly completed; and that all who are acquainted with the river Potomac and the adjacent country are sensible that the produce of those shares will be very great. They do not think it necessary to dilate on a subject, in respect to which there seems to be but one voice. The preservation of the morals and of the political principles of our youth; the saving of the expense of foreign education; the drawing to our shores the youth of other countries, particularly those attached to republican government; and the proportionate accession of wealth, the removal, or at least the diminution, of those local prejudices which at present exist in the several States, by the uniformity of education and the opportunity of a free interchange of sentiments and information among the youth from all the various parts of the Union, which would consequently take place, may, with certainty, be accounted among the benefits resulting from such an institution. We flatter ourselves it is only necessary to bring this subject within the view of the Federal Legislature. We think you will eagerly seize the occasion to extend to it your patronage, to give birth to an institution which may perpetuate and endear your names to the latest posterity.

How far it would be proper to go, at the present moment, we presume not to determine; but would beg leave to observe that, although the ultimate organization of the institution may be postponed to a future period, when the means of establishing and supporting it shall be more fully ascertained, yet much good will arise from a law authorizing proper persons to receive pecuniary donations and to hold estates, real and personal, which may be granted by deed, or devised by last will and testament, for the use of the intended establishment, with proper regulations for securing the due application of the moneys paid. Without some provisions of that kind (to the establishing of which we consider the Federal Legislature alone competent) the benevolent wishes of the virtuous and well-disposed will be rendered abortive.

Having performed what a sense of duty strongly impressed upon us to perform, we, with great respect, submit the consideration of the premises to your honorable body, with this further observation: that the relative state of Europe and America seems to render this a favorable era for the commencement of such a work. Whether the flames of war shall long continue to rage within the bounds of the former, or whether they shall be extinguished by a speedy peace, the learned and the wealthy in those unfortunate regions will seek an asylum from future oppressions in our more happy country; many of whom will, no doubt, be among the foremost to promote those useful arts, the benefits of which they so well understand.

GUST. SCOTT,  
WILLIAM THORNTON,  
ALEX. WHITE.

WASHINGTON, *November 21, 1796.*

4th CONGRESS.]

No. 92.

[2d SESSION.]

### PROMOTION OF AGRICULTURE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 11, 1797.

Mr. SWIFT, from the committee to whom was referred that part of the President's speech which relates to the promotion of agriculture, made the following report:

That the encouragement of agriculture is an object highly worthy the public attention, as it constitutes the most useful employment of our citizens, is the basis of manufactures and commerce, and is the richest source of national wealth and prosperity. The present situation of the United States opens the fairest prospect to agricultural improvements, and invites the attention of the Legislature to so interesting and important an object. The lands are usually divided among the citizens into farms of an extent convenient and suitable for cultivation; and the cultivators are generally absolute proprietors of the soil, free from the heavy burden of tithes, and the slavish appendages of the feudal tenure, which, in many countries, have operated as a great discouragement to agriculture. The exclusive right to enjoy the advantages resulting from agricultural improvements will be the strongest inducement to introduce and adopt them. These peculiar privileges, superior to any other nation, render it probable that, by proper attention from the Government, agriculture in America will improve with greater celerity, and arrive to higher perfection, than has yet been known in any other country.

On a view of the state of agriculture in the United States, it will be found that, though it has made very considerable progress in some parts, yet there are many important principles and valuable improvements, known and practised in other countries, to which most of the American farmers and planters are utter strangers. It may, also, with propriety be remarked, that the science of agriculture is in its infancy, and is susceptible of much greater improvement than it has yet received in any country. These circumstances, while they claim the attention of Government, open to the Legislature a new field for the exercise of the power intrusted to them, in which they have the fairest prospect of promoting the public good. To introduce into our own the improvements of other countries, and to lay the foundation for discoveries which shall essentially contribute to the happiness of mankind, is an object worthy the attention of the Legislature of a free people.

The only method which a Government can with propriety adopt, to promote agricultural improvement, is to furnish the cultivators of the soil with the easiest means of acquiring the best information respecting the culture and management of their farms, and to excite a general spirit of inquiry, industry, and experiment. This object can be best attained by the institution of societies for the encouragement of agriculture and internal improvement; a practice which has been already sanctioned by the experience of other countries.

Societies have been established in many parts of the United States, but are on too limited a scale to answer the great national purpose of agricultural improvement throughout the United States; it is, therefore, necessary that a society should be established, under the patronage of the General Government, which should extend its influence through the whole country, and comprehend the extensive object of national improvement.

It is believed that very essential advantages would be derived from such an institution. While it excites a general spirit of inquiry, it will awaken the attention and animate the exertions of the State societies, as well as encourage new associations, by extending the means of increasing their knowledge. It will be a common centre to unite all the institutions in the United States, and will strengthen the bond of union; it will be a deposite to receive and preserve all the discoveries and improvements which shall be made by the experiments of individuals or societies in every part of the world; whence the result of the whole, after it has been digested by the society, may be disseminated throughout the United States, and every part of the country become acquainted with the best mode of husbandry. Hence, all improvements of a superior nature introduced into any part of the Union might, in a short time, become common to the whole; while, by the ordinary course of things, ages would be requisite to extend agricultural improvements from one end of the continent to the other.

By the instrumentality of such a society, the different parts of the Union might become better acquainted with each other, and the culture of such productions might be introduced as would best suit the different climates, and be best calculated for exchange, whereby the progress of that domestic commerce might be greatly accelerated, which, at no distant period, will, in all probability, be far more valuable than foreign commerce. In the United States is found that variety of soil and climate which will furnish to the citizens all the necessaries and most of the luxuries of life, independent of foreign countries; and the interchange of them will be a permanent source of national wealth and prosperity.

Such a society, by proposing honorary rewards or pecuniary premiums for valuable discoveries and experiments, might excite a general spirit of improvement in the country, and, by the exhibition of specimens of culture, might promote and extend their adoption. Gentlemen of science and fortune, concerned in farming, would be ambitious to make experiments when there was a society to which they might communicate their discoveries, and by the

instrumentality of which they might be rendered a public advantage. Their example would be imitated and their improvements adopted by those in their vicinity who wanted the pecuniary means or the enterprising spirit necessary for a course of experiments, and in this way all valuable improvements might easily be spread through the country.

Through the medium of such a society there might be obtained, from time to time, a complete statistical survey of the United States, which would furnish to the Legislature that minute information respecting the state of every part of the country, which would enable them to pass laws most conducive to the public good.

In the present state of the finances, it is necessary to adopt such principles in the institution of the society as will not create an inconvenient expense. It is believed that no provision from the public Treasury need be made, excepting for the salary of a secretary and for stationary, which will not be sufficient to constitute any objection to the institution. But if the state of the Treasury should render this unadvisable, it is beyond a doubt that the institution might be supported without any public pecuniary aid.

The committee have thought proper to present to the House the outlines of such an institution, to explain its principles and object.

That a society for the promotion of agriculture be established at the seat of the Government of the United States, to be denominated

*The American Society of Agriculture.*

1. That the society shall be composed of the members of the Legislature of the United States, of the judges of the Supreme Court; of the Secretaries of State, Treasury, and War, and the Attorney General; and of such members as shall be appointed in the manner hereafter provided, not exceeding —.

2. That there shall be an annual meeting of the society at the seat of Government, on the — day of —; and the society may, by a major vote, adjourn from time to time, as they shall see proper.

3. That the society, at their annual meeting, shall have power to choose a president, a secretary, and a treasurer, and also a board of thirty members belonging to the society, to be called the Board of Agriculture.

4. That the society shall be a body corporate, capable of holding property, not exceeding the annual value of —, and shall have power to establish such by-laws and regulations as may be necessary for the well ordering and government of the same, and to do all acts proper and necessary to be done, to promote the object of the institution; they may encourage experiments and discoveries, by honorary rewards; they may take the necessary measures to obtain a statistical survey of the United States; they shall have power to elect members, and supply vacancies; they may elect honorary members, residing in foreign countries, not exceeding —.

5. That the Board of Agriculture shall be chosen annually by the society, not to exceed thirty, and the president of the society shall be president of the board. There shall be an annual meeting of the board on the — day of —, and ten members shall constitute a sufficient number to transact business. The board may adjourn from time to time, and may hold special meetings, on notice from the president. It shall be the duty of the board to perform such services as shall be assigned to them by the society pursuant to the powers vested in them; they shall take proper measures to obtain information of the state of agriculture in the United States; they may correspond with and receive communications from similar institutions in foreign countries, and in the United States, as well as from private associations and individuals; and for that purpose, they may appoint a committee of their own board. They shall cause to be published the result of all the information, experiments, and discoveries, which shall be communicated to them; and shall distribute the same throughout the United States, in such manner as they shall judge best calculated to promote the public good.

6. The president, at each annual meeting, shall lay before the society the state thereof, with an account of all important discoveries and improvements that may have been made in the course of the year, and of the measures that shall have been taken to promote the object of the institution.

7. The secretary shall record the doings of the society and board, and shall perform such other duty as may be assigned to him by the board, relative to the selecting, digesting, and preparing for publication any papers that may be communicated to the society.

8. That all communications to the society or board, or from them, on the subject of agriculture, shall be free from postage.

The committee submit to the consideration of the House the following resolution:

*Resolved*, That a society, for the promotion of agriculture, ought to be established at the seat of the Government of the United States.

KIDNAPPING.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1797.

Mr. SWANWICK, from the Committee of Commerce and Manufactures, to whom was referred the report made by the said committee, on the subject of kidnapping negroes and mulattoes, made the following report:

That having taken into consideration the propriety of this House interfering as to the business of kidnapping negroes and mulattoes, they are of opinion that it will be best to leave any provisions to be made on this subject to the Legislatures of the several States, apprehending considerable inconveniences from any general regulations being adopted on this subject, the local circumstances of several of the States being considered; they therefore recommend to the House to adopt the following resolution:

*Resolved*, That it is not expedient for this House to interfere with any existing laws of the States on this subject.

## SUABILITY OF STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 21, 1797.

Mr. HARPER made the following report:

The committee to whom was recommitted their report on a resolution from the Senate, providing "that the President be requested to adopt some speedy and effectual means of obtaining information from the States of Connecticut, New Jersey, Pennsylvania, Maryland, Virginia, Kentucky, Tennessee, and South Carolina, whether they have ratified the amendment proposed by Congress to the constitution respecting the suability of States; if they have, to obtain the proper evidences thereof;" having taken the matter of the said resolution into consideration, beg leave to report:

That on the 4th day of March, 1789, the United States then being thirteen in number, twelve amendments to the constitution were proposed by Congress to the several States.

That from authentic documents laid before Congress, the last ten of those amendments appear to have been ratified, in the course of the years 1789 and 1790, by nine States out of the then thirteen, viz: New Jersey, Maryland, North Carolina, South Carolina, New Hampshire, Delaware, New York, Pennsylvania, and Rhode Island; which number not being three-fourths of the then existing States, those ten amendments, or any of them, did not then become parts of the constitution.

That on the 4th of March, 1791, the State of Vermont was admitted into the Union; whereby the number of States was augmented to fourteen.

That after this augmentation, and in the course of the year 1791, the said ten amendments were ratified by Virginia and Vermont, which raised the number of ratifying States to eleven. In the opinion of the committee a doubt may arise whether this ought to be considered as three-fourths of fourteen, the number of States at that time; and, consequently, whether those ten amendments then became part of the constitution. They do not appear to have been ratified, as yet, by any other State.

The committee further find that by virtue of a law of Congress, passed February 4th, 1791, the State of Kentucky was admitted into the Union on the 1st of June, 1792; and the whole number of States having since that time been augmented to sixteen, by the admission of Tennessee, on the 1st of June, 1796, the ratification of one State more is necessary, and would be sufficient to remove all doubts on the subject of the ten amendments now under consideration. The States by which none of them appear to have been ratified are, Massachusetts, Connecticut, Georgia, Kentucky, and Tennessee.

It further appears, from the documents above referred to, that the first of the above-mentioned twelve amendments was ratified before the admission of Vermont, by seven States—New Jersey, Maryland, North Carolina, South Carolina, New Hampshire, New York, and Rhode Island; which being less than three-fourths of the then number of States, this amendment did not then become part of the constitution. After the admission of Vermont, and before that of Kentucky, it was ratified by the three States of Pennsylvania, Vermont, and Virginia. This brings the number of ratifying States to ten; which being less than three-fourths of fourteen, the whole number of States at that time, the amendment in question did not then become part of the constitution. It does not appear to have been since ratified by any State; and as the whole number is now sixteen, the ratification of two is still necessary. Those by which it does not appear to have been ratified are, Massachusetts, Delaware, Kentucky, Tennessee, and Georgia.

From the documents already cited, it appears that the second of the above-mentioned twelve amendments was ratified in the course of the years 1789 and 1790, by five States only, viz: New Jersey, Maryland, North Carolina, South Carolina, and Delaware. In the year 1791, (but subsequently to the admission of Vermont,) this amendment was ratified by two States, Virginia and Vermont. It does not appear to have been ratified since by any other State, so that it has not yet become a part of the constitution; the ratification of five States being still wanting for that purpose. The States by which it does not appear to have been ratified are, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Kentucky, Tennessee, and Georgia.

The committee think it proper to state, that six States, New Jersey, Maryland, North Carolina, South Carolina, Virginia, and Vermont, have ratified the whole twelve amendments in question: that New Hampshire, New York, Rhode Island, and Pennsylvania have ratified all except the second; that Delaware has ratified all except the first; and that none of them appear, by the documents laid before Congress, to have been ratified by Massachusetts, Connecticut, Tennessee, or Georgia.

That in the month of June, 1794, the amendment respecting the suability of States was proposed to the States, which, as appears by authentic documents laid before Congress, has been ratified in the years 1794 and 1795 by eight States, viz: Rhode Island, Vermont, New Hampshire, Massachusetts, New York, Delaware, North Carolina, and Georgia. This being four less than three-fourths of the States now composing the Union, this amendment does not appear, from any documents heretofore transmitted, to have become a part of the constitution. The committee, however, find strong reasons to believe that some States have ratified the amendment in question, from whom no official or authentic notification of the fact has yet been received.

As to the resolution proposed by the Senate on this subject, the committee conceive it to be perfectly proper as far as it goes; but it is confined to one amendment only; and as it is possible that some, if not all of the others, may have been ratified by States which have as yet furnished no authentic information of the matter, they apprehend that the measure should be extended to all the amendments which have been proposed: they therefore recommend that the resolution sent from the Senate be rejected, and that which follows be adopted in its stead, viz:

*Resolved,* That the President be requested to apply, as speedily as may be, to all those States by which, as far as can be known from the official documents heretofore transmitted, all or any of the amendments at any time proposed by Congress still remain to be ratified; and to obtain from them authentic information of the proceedings had by them, respectively, on the subject of those amendments, or any of them.

4th Congress.]

No. 95.

[2d Session.

INQUIRY INTO THE OFFICIAL CONDUCT OF A JUDGE OF THE SUPREME COURT OF  
THE NORTHWESTERN TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1797.

Mr. BRADLEY, from the committee to whom was referred the petition of George Turner, together with the petition of sundry inhabitants of the county of St. Clair, in the territory of the United States northwest of the river Ohio, and the report of the Attorney General thereon,\* made the following report:

That the petition of the said inhabitants, charging the said George Turner with divers illegal and oppressive acts in the execution of his office, as one of the judges of the said territory, was referred last session to the Attorney General, who then reported to the House that most of those charges were of so serious a nature as to require a regular and fair examination in some judicial course of proceeding, and that if Judge Turner should be convicted thereof, a removal from office might and ought to be part of the punishment; and gave it as his opinion, for the reasons set forth in his report, that a prosecution therefor should not be carried on by way of impeachment, but by way of information and indictment before the supreme court of that territory, which he conceived to be competent to the trial; and therein further informed the House that, in consequence of affidavits stating complaints against Judge Turner of oppressions and gross violations of private property, under color of his office, then lately transmitted to the President, the Secretary of State had been by him instructed to give orders to Governor St. Clair to take the necessary measures to bring that officer to a fair trial respecting those charges before the court of that territory, according to the law of the land; which course the Attorney General also recommended to the House to be pursued relative to the matters charged in the said petition.

Your committee are of opinion that the mode of prosecution recommended by the Attorney General will afford Judge Turner a fair opportunity of defending himself against said charges, and will be for the mutual ease and convenience of both parties, and, for the reasons given in the Attorney General's report, is preferable to a prosecution by way of impeachment. And as your committee have been assured by the Secretary of State that orders should be forthwith transmitted to Governor St. Clair for taking the measures aforesaid, they are of opinion that it is not expedient to take any further order respecting the petition of the said inhabitants, and the memorial of the said Judge Turner, praying to be heard upon the subject thereof, till the effect of such measures shall be known.

4th Congress.]

No. 96.

[2d Session.

APPLICATION FOR A DISCHARGE FROM IMPRISONMENT, AT THE SUIT OF THE  
UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 3, 1797.

Mr. SWANWICK, from the committee to whom was referred the petition of Joseph Rittenhouse, made the following report:

That the petitioner states that he is confined in prison for a debt due to the United States, under process from the district courts of Pennsylvania; that he has surrendered all his estate to the generality of his creditors, and obtained a certificate of insolvency, and is unable to pay said debt; that he has applied to the district judge of Pennsylvania, pursuant to the act entitled "An act for the relief of persons imprisoned for debt," who was of opinion that, as he was a debtor to the United States, and confined under mesne process, and not under execution, the law did not extend to him.

The committee find that said Rittenhouse, about the time said suit was brought against him in favor of the United States, transferred all his estate to his father; and, after having made a fallacious return of outstanding debts to assignees, none of which were recoverable, he obtained a discharge, under the insolvent laws of the State of Pennsylvania, from his private creditors. The committee are of opinion that the transference of the whole of his estate by said Rittenhouse to his father was an act of injustice, not only to his private creditors but to the United States, and was calculated to defeat the United States of that priority of payment to which they are entitled; and that the granting of relief in this case would establish a principle that would wholly destroy the law of the United States, which directs that, in all cases of insolvency, the debts due to the United States shall be first satisfied. They therefore submit the following resolution:

*Resolved*, That the petition of Joseph Rittenhouse ought not to be granted.

\* See No. 87.

5th CONGRESS.]

No. 97.

[2d SESSION.]

## CONTESTED ELECTION OF DANIEL MORGAN, A REPRESENTATIVE FROM VIRGINIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 4, 1797.

Mr. CORT, from the Committee of Elections, to whom was referred, on the 29th ultimo, the memorial of Robert Rutherford, of the State of Virginia, complaining of an undue election and return of Daniel Morgan to serve in this House, as a member for the said State, made the following report:

That the committee have examined the proofs adduced by the memorialist, and are of opinion that they are wholly insufficient to support the allegations contained in the said memorial.

*Rules for taking evidence prescribed by the committee.*

1. That the evidence to be taken in the case of the contested election for the district of Frederick and Berkeley counties, in the State of Virginia, on the memorial of Robert Rutherford, shall be taken in Frederick county, before Meredith Nelm, Abraham Neil, Hugh Holmes, Thomas Massey, Robert Page, Thomas Parker, William Hickman, Solomon Vanmeter, and Hezekiah Turner, Esquires, or either of them; and in Berkely county before Robert Stephens, Joseph Swearingen, John Turner, Abraham Shepherd, George Cunningham, Andrew Waggener, William Henshaw, Elisha Boyd, and William Leman, Esquires, or either of them.
2. That the said commissioners give a notice of at least ten days of the times and places, in each county, at which evidence shall be taken as aforesaid; that the parties or their attorneys may attend with their witnesses, at the appointed times and places; that they may put cross interrogatories, if they think fit; and that when the evidence shall be completed, the commissioner or commissioners who shall attend transmit the several depositions, or other written evidence or documents sealed up by him or them, and directed to the Committee of Elections.
3. Every person deposing shall be sworn or affirmed to testify the whole truth, and shall subscribe the testimony given, after the same shall be reduced to writing, which shall be done only by the commissioner or commissioners taking the deposition, or by the deponent in his or their presence.
4. That no written evidence shall be admitted, which shall be taken prior to the first day of September, or subsequent to the twentieth day of October next.
5. That notice shall be given by the petitioner to the sitting member, at least ten days before the taking of any testimony of the names of the several persons, against the legality of whose votes he means to object; and in like manner, notice shall be given by the sitting member, if he means to take evidence against the legality of any of the votes given for the petitioner.
6. The testimony to be taken by the petitioner is to be confined to the facts stated in the specification by him handed to the committee, which is in the words following, viz:

PHILADELPHIA, *May 22, 1797.*

"Robert Rutherford, of the State of Virginia, having presented his memorial to Congress on Friday, the 19th day of May, 1797, complaining of an undue election in the return of General Morgan, which memorial was referred to the Committee of Privileges and Elections; and the committee requiring that the several objections in the memorial should be more specifically pointed out, the said Robert Rutherford therefore states:

"That great numbers of illegal and improper votes were given in favor of General Morgan, at Winchester, in the State of Virginia, on Monday, the 20th day of March, 1797; many of these unlawful votes were given by persons resident in adjacent counties, and who had not the right of suffrage, in Frederick county, one of the two counties composing the district; namely, William Palmer, and other inhabitants of the county of Loudoun.

"That the illegal and improper votes, thus given at Winchester aforesaid, in favor of General Morgan, were more in number than the majority by which he was returned as a member to represent the district composed of the counties of Frederick and Berkely, in the said State of Virginia.

"That money was given or promised by General Morgan, or his friends, for meat, drink, wagon-hire, and other acts of bribery and corruption.

"That the friends of Robert Rutherford, who came to the election with intention to vote for the said Rutherford, did, nevertheless, return to their respective homes, without giving their suffrages, discouraged or disheartened as they were by the great number of unlawful votes in favor of General Morgan, or reluctant to enter into a crowd of men heated by feasting and carousals.

"That in one of the counties composing the district, and where order and regularity were observed, the suffrages were decidedly in favor of Robert Rutherford, well nigh or quite double the number of votes in favor of General Morgan.

"That the election law of Virginia was violated by treats, &c. Robert Rutherford, therefore, prays that the committee may not narrow or circumscribe the powers of the commissioners to be appointed so as to prevent an investigation of facts, in support of justice and truth, as the case may appear to them necessary and right."

R. RUTHERFORD.

*To the Committee of Privileges and Elections.*



5th CONGRESS.]

No. 98.

[2d Session.

## DEBATES OF CONGRESS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 6, 1797.

Mr. HARPER, from the committee to whom was referred the memorial of Thomas Carpenter, made the following report:

The memorialist states that he, some time ago, undertook the publication of a work entitled "The American Senator," and containing an account of the debates and proceedings of Congress; but that the number of subscribers has not been sufficient to enable him to carry it on. He therefore prays the patronage of the House, and proposes that it should order each member to be furnished, at public expense, with three copies, which, calculating the session at eighteen weeks, he supposes would not amount to more than \$2,350 annually.

It appears that, about two years ago, a subject analogous to the present was brought under the consideration of Congress, and in a form the committee conceives to have been far more advisable. It was then proposed to engage a stenographer, a person of known and considerable abilities, who, assisted by proper clerks, and aided by all the papers of the House, should report the debates and proceedings, and publish them from day to day in the newspapers. In this way the House and its members would have had a more complete control over the publication, better and more early opportunities would have been afforded for correcting any errors, and the reports appearing in the newspapers from day to day would have been far more useful and satisfactory than in the mode now suggested. The publication of these reports in a volume, at the end of the session, would have answered equally the purpose of preserving them; and the expense proposed, even if expense in a case of this kind were a more important consideration than the committee take it to be, would have been nearly the same. This plan, however, after mature discussion, was discountenanced and finally dropped. The committee can perceive no reason why it should be more eligible now than it then was; and, were it proper for the House to adopt any measure of this nature, they are of opinion that the one proposed by the memorialist is wholly inadmissible; since by it the House, at a very considerable expense, would give its sanction to a publication not under its control, and which, appearing in the first instance in the form of a volume, could answer little purpose of general information, and would be little susceptible of correction.

The committee are therefore of opinion that the plan proposed by the memorialist ought not to be agreed to; and they beg leave, accordingly, to submit to the consideration of the House the following resolution:

*Resolved*, That the said Thomas Carpenter have leave to withdraw his memorial.

5th CONGRESS.]

No. 99.

[2d Session.

## EVIDENCE IN CASES OF CONTESTED ELECTIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 15, 1797.

Mr. HARPER, from the committee to whom were recommitted certain resolutions respecting the mode of taking evidence in cases of contested elections, with instructions to take the matter of those resolutions generally into their consideration, and report their opinion thereon to the House, having carefully examined the subject, made the following report:

The subject contemplated by these resolutions naturally presents itself under two points of view: the inconveniences resulting from the want of permanent regulations, and the difficulties which stand in the way of their establishment.

These inconveniences have been felt and complained of, from the commencement of the Government till the present day; and they must continually augment with the natural increase of those causes which give rise to contests in elections, while their pressure will become more and more heavy as the progress of population on the frontiers shall add new and more remote districts to the Union. They have been so frequently experienced, and are so universally admitted, that a particular enumeration of them does not appear necessary.

These inconveniences, the committee suppose, may, in a very considerable degree, be avoided by the establishment of some permanent regulations respecting evidence in cases of contested elections. As to the difficulties which oppose themselves to the adoption of such regulations, they have been considered by the committee under a two-fold point of view: first, as respects the powers of one House of Representatives to establish rules binding upon future Houses; and, secondly, as respects the propriety of permitting the other branches of the Legislature to interfere, even in the most indirect manner, in the trial of contested elections for the House of Representatives, to which the sole decision, in such cases, is referred by the constitution.

It is said that if resolutions merely are adopted, they can last no longer than the House which made them, and, consequently, cannot be permanent. It is said that such resolutions, even could they be permanent, could confer no power to compel the attendance of witnesses before the persons authorized to take examinations, without which the whole process would be imperfect and ineffectual; and that this object cannot be accomplished without a law. It is said that to pass a law, by the consequences of which the decision of contested elections might be effected, would be to give the other branches of the Legislature a control over objects which the principles of the constitution, no less than its express directions, require to be confined exclusively to the House itself. It is said, in fine, that such a law, even if permitted by the constitution, would be ineffectual, because it could enact no sanctions under which the admission of testimony, taken pursuant to its directions, could be enforced on any future House of Representatives.

Upon a careful review of these various objections, it has appeared to the committee that the most proper and most effectual method of establishing permanent regulations on this subject, if not the only practicable method, would be to pass a law for that purpose; nor do they consider as well founded the objections which are urged against that measure.

The constitution does, indeed, provide that "each House shall be the judge of the elections, returns, and qualifications of its own members." But the committee conceive that to pass a law for the object in question, far from admitting the other branches of the Legislature to a participation in the peculiar powers of the House, would be, in effect, to call in the aid of the whole Legislature for enabling the House to exercise those powers in a manner more complete and effectual.

As to the objection that such a law could enact no sanctions by which the admission of testimony, taken in pursuance of its provisions, could be enforced on any future House of Representatives, the committee do not consider it as of sufficient weight to prevent the adoption of the measure, even the utility of which they do not suppose would be in any considerable degree diminished by this objection.

The proper and the only necessary functions of such a law would be to prescribe the mode in which testimony should be taken, and to grant powers for compelling the attendance of witnesses. Whether testimony thus obtained should be admitted in any particular case, or whether further testimony should be required, must depend on the decision of that House before which such case should come for discussion; and it would be in the power of each House, at the commencement of its first session, to adopt a rule declaring that, in all cases of contested elections to come before it, testimony taken pursuant to such law should be received. This, it is presumable, would be done, and would gradually grow into a constant and well known regulation, to which all persons engaged in contested elections might with safety conform. It would still be in the power of each House to refrain from passing such a resolution, and to reject the testimony; but it ought not to be presumed that, when the mode should have been perfected by experience, and become generally known, testimony fairly taken in conformity to it would be rejected. On the contrary, there would be a strong and well-founded presumption that such testimony would be received; and this presumption, joined to the aid which the law would afford in compelling witnesses to attend, would enable persons concerned in contested elections to come at first duly prepared for the trial, while the constitutional rights of each House would be saved by its power to adopt or reject the rule for the admission of the testimony.

To adopt this rule at the beginning of each Congress, before it should be known to what particular cases it was to apply, would, moreover, preclude those inconveniences which result from the discussion of general principles in connexion with particular cases.

Conformably to these ideas, the committee recommend that a law be passed prescribing the mode in which, and the persons before whom, testimony in cases of contested elections for this House shall be taken, and giving power to compel the attendance of witnesses for that purpose. The details of this law, they apprehend, will appear best in a bill; but, not being authorized to report in that form, they forbear at present to enter into those details, and confine themselves to the following resolutions, which they present for the consideration of the House, to wit:

*Resolved*, That it is expedient to make provision, by law, for taking evidence in contested elections for the House of Representatives, and for compelling the attendance of witnesses in such cases.

*Resolved*, That the committee have leave to bring in a bill pursuant to the foregoing resolution.

5th CONGRESS.]

No. 100.

[2d SESSION.]

## APPLICATION FOR A DISCHARGE FROM IMPRISONMENT AT THE SUIT OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 4, 1798.

Mr. LIVINGSTON, from the Committee of Commerce and Manufactures, to whom was referred the petition of William Bell, made the following report:

That he is confined in the jail of the city and county of Philadelphia, at the suit of the United States, on a custom-house bond executed by him for duties on goods imported by one Joseph Rittenhouse, who, as he says, induced him to become principal in the bond, contrary to his intentions. This circumstance, (on which, together with his poverty and good character, the petitioner relies for relief,) is not a sufficient ground for the interposition of legislative aid; for the committee believe that, whether principal or surety only, he is equally bound to pay the debt.

But having been well informed that the petitioner was extremely poor, they directed their inquiries to the operation of the act for the relief of persons imprisoned for debt, passed the 28th May, 1796, supposing the provisions of that law were competent to the petitioner's relief. On inquiry, however, they found that various opinions were entertained, by different judicial officers of the United States, on the subject; some of them construing the law to extend to debtors of the United States, others confining it solely to the case of individuals. In order to obtain the most precise information on this point, the committee directed a letter to be written to the Attorney General of the United States, which, with his answer, are annexed to this report.

Upon consideration of all the circumstances stated in this report, your committee think it would not be advisable to pass any law explanatory of the act before cited, until a judicial decision of the Supreme Court shall make it necessary; nor can they recommend any special interference in a law of individual insolvency.

They are therefore of opinion that the petitioner cannot obtain the relief he desires, and that he have leave to withdraw his petition.

Sir:

I am directed, by the Committee of Commerce and Manufactures, to request your opinion on the construction of the act of Congress "for the relief of persons imprisoned for debt," passed the 28th of May, 1796. The

point they wish to have determined, is, whether the relief contemplated by this act can be extended to persons imprisoned in civil causes, at the suit of the United States. You will much oblige the committee by giving your opinion of the true construction of the law, and also by mentioning such decisions thereon as have come to your knowledge; it having been intimated to the committee that different determinations have taken place on this subject, by the judges of different districts.

I am, sir, with great respect, your obedient servant,

EDWARD LIVINGSTON.

The ATTORNEY GENERAL of the United States.

PHILADELPHIA, December 21, 1797.

SIR:

I have considered the question proposed in the letter which I had the honor to receive from you as chairman of the Committee of Commerce and Manufactures, bearing date the 29th of November.

It is my opinion that the act for the relief of persons imprisoned for debt, passed on the 28th day of May, 1796, extends as to persons imprisoned in civil causes, at the suit of the United States, as to other prisoners in civil causes.

In Great Britain, the King in some instances is not bound by the general words of a statute, unless he be expressly named. These instances are where his prerogative would be impaired or divested by the general words; and the correct rule is, that general words, in an act of Parliament, bind the King, though not expressly named, unless his prerogative is touched, and all his other rights are to be no more favored than the rights of his subjects. For this let me refer you to 8 Mod. 8, *King vs. Bishop of Armagh*; Dyer, 250; Cro. Eliz. 500; 2 Inst. 191.

Every statute for the advancement of justice, &c. shall bind the ordinary right of the King, by general words, as well as the right of the subject.—2 Inst. 681; 5 Rep. 14; 11 Rep. 66. The right of the King to arrest the body of his debtor, till his debt is paid, is of the ordinary kind; the like right is possessed by the subject also. The same reason exists, in both cases, for this proceeding. But the King is entitled to a priority of payment, which is a part of his prerogative, and founded on the preference due to the public treasury before any private interest; yet, to discharge a debtor from jail, who has no sort of property, cannot interfere with this prerogative. In such a case there can be no priority in payment, because there is nothing to be paid. Thus, if this reasoning be just, an act of Parliament, similar to the act of May 28, 1796, would bind the King, though not expressly named. It is true the bankrupt laws of England, though the words are general, do not bind the King, and for this reason—that the debtor's estates, after assignment, are to be applied to all creditors alike, which distribution would interfere with the King's prerogative right of priority; and his prerogatives, as I have before remarked, cannot be abridged but by express words. This is not like our insolvent law, which can operate in no case where the debtor has any property of greater value than thirty dollars, or sufficient to pay the debt for which he is imprisoned.

Again, it may be observed that a statute in some cases binds the King, though not named.—2 Inst. 142, 169. And, if in any case, surely the general words of a statute in favor of personal liberty ought to bind the King, though not named.

The statute 32 Hen. VIII. ch. 28, binds the King, though not named, because its object is to suppress wrong, and to give a speedier remedy.—2 Inst. 681. *A fortiori*, a statute in favor of releasing from perpetual imprisonment an insolvent citizen ought to bind, by its general words, the sovereign as well as the subject.

These arguments, if used on a question of this sort in Great Britain, would in my judgment be decisive there; and they seem to me to have even more weight when applied in this country, where a priority of payment has been established by law, and not considered as a right belonging to the United States as a sovereign prerogative. If the sovereign power of the United States possess certain rights different from the rights of individual citizens, they must be of a nature essential to the care or promotion of the public good. Surely it will not be contended that the right to imprison forever an insolvent debtor is of this kind. Our law gives to the United States a priority of payment before other creditors; but, construing the act of the 28th May, 1796, to include the United States as well as individuals within its general words, does not interfere with their right of priority, as has been already shown; nor does it interfere with any right of sovereignty vested in the United States, or any right essential or contributory to the national good, which they should possess.

I have been the more full on this subject, because I have heard of one instance where an adjudication contrary to this opinion has been given. I have been told that Judge Peters, in the case of one Rittenhouse, who was a prisoner in a civil cause at the suit of the United States, refused to administer the oath of an insolvent to him, on the ground that the act did not bind the United States, they not being expressly named in it. It is probable the subject was not investigated at that time. However that may be, for the reasons before stated, I cannot concur in opinion with the learned judge.

I beg leave to refer the committee to a report of the Attorney General on Mackey's petition to Congress, in the winter of 1796, which suggested the act of 28th May, 1796, as containing some observations connected with the subject now under consideration.

I have the honor to be, sir, your most obedient, humble servant,

CHARLES LEE.

To EDWARD LIVINGSTON, Esq., *Chairman of the Committee of Commerce and Manufactures.*

P. S. The foregoing I submitted to the district attorney for Pennsylvania, whose opinion deserves much respect; and it becomes my duty to mention that we do not concur. By *mandamus* the law may be settled in February.

5th CONGRESS.]

No. 101.

[2d SESSION.]

## REVISION OF THE ACT FOR THE RELIEF OF PERSONS IMPRISONED FOR DEBT.

COMMUNICATED TO CONGRESS, JANUARY 18, 1798.

UNITED STATES, January 18, 1798.

*Gentlemen of the Senate and of the House of Representatives:*

A representation has been made to me by the judge of the Pennsylvania district of the United States, of certain inconveniences and disagreeable circumstances which have occurred in the execution of the law passed on the twenty-eighth day of May, one thousand seven hundred and ninety-six, entitled "An act for the relief of persons imprisoned for debt," as well as of certain doubts which have been raised concerning its construction. This representation, together with the report of the Attorney General on the same subject, I now transmit to Congress for their consideration, that if any amendments or explanations of that law should be thought advisable, they may be adopted.

JOHN ADAMS.

SIR:

PHILADELPHIA, January 8, 1798.

From motives of humanity towards the objects of the act of Congress entitled "An act for the relief of persons imprisoned for debt," I have, under several disagreeable circumstances, endeavored to carry that law into effect; but I find it deficient in many essential provisions. It is doubtful whether the district judge is vested with judicial powers, or those of a bankrupt commissioner. It should seem that judicial authority was not intended, as I can hardly suppose Congress meant to commit any part of the judiciary authority of the United States into a situation so inefficient and degrading. The proceedings are to be had within the walls of a prison, and the judge is to certify them to the jailer. In this district, where contracts are numerous, complicated, and extensive, it is impracticable to do business with propriety and effect in a jail. No record of the transactions is directed when the judge himself acts, though the law requires the commissioners appointed by him to return their doings to the district court. The judge has no authority to order the prisoner to be brought into a more fit and convenient place, nor to punish contempts or enforce orders; and if it be, as it appears, an extrajudicial transaction, it is doubtful whether persons, other than the debtor, taking false oaths, before either the judge or commissioners, can be punished for perjury. These are not all the defects of this law, but they are sufficient to show that it wants revision and correction.

There are some persons in the debtors' apartment of the city and county of Philadelphia, confined under process of the district court, for debts to the United States. I have been (*after due investigation at the time*, as the liberty of a citizen was in question) and am now of opinion, that debtors to the United States are not relievable under the act before mentioned. These debtors have been a long time confined. One of them before the last winter session of Congress. A learned law officer conceives that I ought to consider them as objects of the law; but another, whose opinion he is reminded by his duty to mention as deserving respect, does not concur with him. He proposes, instead of legislative explanations, that the question should be examined by *mandamus*. In the mean time these unhappy prisoners are the victims to a delay, which a few words in law would long ago have remedied, and will now further prevent. I mention this barely to show that the law is at least doubtful on this point. In my motives for executing this law, I choose to forget all questions about constitutional authority to compel a judge to perform extrajudicial duty.

The marshal of the district represents to me that there is no provision made for fuel and other necessaries for poor debtors confined by process of the courts of the United States. Witnesses are also confined in jail, to insure their appearance to give testimony, and suffer for want of provision adequate to their support.

I have deemed myself bound to make this representation to you, that no imputation may lie on me, if persons confined under the process of the courts of the United States suffer and continue in prison for want of provision for their release or support.

I have the honor to be, with sincere respect, your obedient servant,

RICHARD PETERS,

*Judge of the Pennsylvania district of the United States.*

THE PRESIDENT OF THE UNITED STATES.

SIR:

PHILADELPHIA, January 10, 1798.

I have attentively considered the letter of the judge of the United States for the district of Pennsylvania, dated the 8th instant, relative to the act of Congress entitled "An act for the relief of persons imprisoned for debt," which he thinks deficient in many particulars.

1st. He states it as doubtful whether the act vested judicial power in the judge relative to the discharge of insolvents, and assigns for the reason of the doubt that the law requires the proceedings to be had in the jail, and certified to the jailer. This reason creates no doubt in my mind, for judicial authority may be exercised in any place appointed by law, and the certificate to the jailer is requisite to inform him whether the prisoner may be discharged as an insolvent, or is to remain in custody.

2d. The complaint against the law in requiring the judge to go to the jail, and there to execute the business, is well founded. It is unnecessarily degrading and troublesome, and must be very disagreeable. The act should be amended, by authorizing the judge to issue his warrant commanding the jailer to bring the prisoner before him, at some certain time and place to be named in the warrant, and authorizing any parties interested to obtain subpoenas for witnesses from the clerk of the court, requiring their attendance to give testimony then and there. Also in the great cities of Philadelphia, New York, Boston, Baltimore, and Charleston, the judge of the district should have power to appoint two commissioners to do this kind of business, when it shall be inconvenient to the district judge, by reason of other judicial occupations, absence, sickness, or other inability, to act.

3d. It is objected that the act does not require a record of the transactions when the judge himself acts. Certainly the proceedings ought to be recorded in the district court by the clerk of that court, whether done before the judge of the district court or commissioners, and so I understand the law as it now is; for though it does not expressly direct the judge, when he acts, to return his doings to the district court, yet it is implied, from the nature

of a court of record, that whatever is judicially done by the court shall be recorded. However, this may be made plainer by an amendment.

4th. It is doubted whether witnesses taking false oaths *before the commissioners* are punishable for perjury; and considering the expressions of the act of Congress respecting perjury, there seems good cause for this doubt.

5th. It is represented that no provision is made for supplying necessaries to poor persons confined under execution as debtors, or confined as witnesses, to insure their appearance to testify. This defect should be supplied.

6th. A difference of opinion is entertained whether the act before mentioned comprehends debtors to the United States or not. On this question, and on this alone, a committee of Congress applied lately to me for my opinion, which I sent, and of which I take the liberty to transmit the enclosed copy. As I think the fewer the laws the better, if competent to the purpose of society, I deem it advisable to avoid every unnecessary multiplication of legislative acts. If this was the only objection or doubt in the law now under consideration, it might wait for a judicial decision in the Supreme Court; but, as in other respects the law is capable of essential amendments, it will be best that the attention of Congress be called to the whole subject.

With perfect respect, I have the honor to remain, sir, your most obedient humble servant,

CHARLES LEE.

The PRESIDENT OF THE UNITED STATES.

5th CONGRESS.]

No. 102.

[2d SESSION.]

LAWS OF NORTH CAROLINA RELATIVE TO FREE NEGROES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 29, 1798.

Mr. SITGREAVES, from the committee to whom was referred the memorial and address of the people called Quakers, from their yearly meeting, held in Philadelphia, in the month of September last, made the following report:

That, inasmuch as the said memorial and address present, in general terms only, certain subjects to the consideration of the Legislature, without containing any definite state of facts, or any specific application for its interposition, the memorialists were desired to exhibit a particular view of the grievances of which they complained, in order that the attention of the House might be directed to precise objects, and that it might be better discerned whether the complaints of the memorialists were of a nature to justify legislative interference:

That, in consequence of this request, the memorialists laid before the committee the representation and documents which accompany this report:

That, on the subject of this representation, the memorialists were invited to confer with the committee, and were solicited to suggest the remedy which they conceived it to be in the power of Congress to apply to the case as stated by them:

That the committee, after several conferences with the memorialists, and an attentive consideration of the subject, are very clearly of opinion that the facts disclosed in the said representation are exclusively of judicial cognizance; and that it is not competent to the legislative authority of Congress to do any act in relation to the matter thereof.

Wherefore, the committee recommend the following resolution:

*Resolved*, That the memorialists have leave to withdraw the said memorial and address.

*To the Senate and House of Representatives of the United States, in Congress assembled: The memorial and address of the people called Quakers, from their yearly meeting, held in Philadelphia, by adjournment, from the 25th of the 9th month, to the 29th of the same, inclusive, 1797, respectfully sheweth:*

That being convened, at our annual solemnity, for the promotion of the cause of truth and righteousness, we have been favored to experience religious weight to attend our minds, and an anxious desire to follow after those things which make for peace. Among other investigations, the oppressed state of our brethren of the African race has been brought into view, and particularly the circumstances of one hundred and thirty-four in North Carolina, and many others whose cases have not so fully come to our knowledge, who were set free by members of our religious society, and again reduced into cruel bondage, under the authority of existing or retrospective laws; husbands, and wives, and children, separated one from another, which we apprehend to be an abominable tragedy; and, with other acts of a similar nature, practised in other States, has a tendency to bring down the judgments of a righteous God upon our land.

This city and neighborhood, and some other parts, have been visited with an awful calamity, which ought to excite an inquiry into the cause and endeavor to do away those things which occasion the heavy clouds that hang over us. It is easy with the Almighty to bring down the loftiness of men, by diversified judgments, and make them fear the rod, and him that hath appointed it.

We wish to revive in your view the solemn engagement of Congress, made in the year 1774, as follows:

“And therefore we do for ourselves, and the inhabitants of the several colonies, whom we represent, firmly agree and associate, under the sacred ties of virtue, honor, and love of our country, as follows:

“ART. 2. We will neither import nor purchase any slaves imported after the 1st day of December next; after which time we will wholly discontinue the slave trade; and will neither be concerned in it ourselves, nor will we hire our vessels, nor sell our commodities or manufactures to those who are concerned in it.”

“ART. 8. And will discountenance and discourage every species of extravagance and dissipation, especially all horse-racing, and all kinds of gaming, cock-fighting, exhibitions of shows, plays, and other expensive diversions and entertainments.”

This was a solemn league and covenant made with the Almighty in an hour of distress, and he is now calling upon you to perform and fulfil it. But how has this solemn covenant been contravened by the wrongs and cruelties practised upon the poor African race; the increase of dissipation and luxury, the countenance and encouragement given to play-houses, and other vain amusements! And how grossly is the Almighty affronted on the day of the celebration of independence! What rioting and drunkenness, chambering and wantonness! to the great grief of sober inhabitants, and the disgrace of our national character.

National evils produce national judgments; we therefore fervently pray the Governor of the universe may enlighten your understandings and influence your minds, so as to engage you to use every exertion in your power to have these things redressed.

With sincere desires for your happiness here and hereafter, and that when you come to close this life you may individually be able to appeal as a ruler did formerly—"Remember now, O Lord, I beseech thee, how I have walked before thee, in truth, and with a perfect heart, and have done that which is good in thy sight:"

We remain your friends and fellow-citizens.

Signed in and on behalf of the said meeting, by

JONATHAN EVANS,

Clerk to the meeting this year.

*To the committee of Congress to whom was referred the memorial of the people called Quakers.*

In the latter part of the year 1776, several of the people called Quakers, residing within the counties of Perquimons and Pasquotank, in the State of North Carolina, liberated their negroes; as it was then clear there was no existing law to prevent their so doing, for the law of 1741 could not, at that time, be carried into effect; and they were suffered to remain free until a law was passed in the spring of 1777, under which they were taken up and sold, contrary to the bill of rights recognised in the constitution of that State as a part thereof, and to which it was annexed.

In the spring of 1777, when the General Assembly met for the first time, a law was enacted to prevent slaves from being manumitted, except for meritorious services, &c., to be judged of by the county courts or the General Assembly; and ordering that, if any shall be manumitted in any other manner, they be taken up, and the county courts, within whose jurisdiction they are apprehended, order them to be sold. Under this law, the county courts of Perquimons and Pasquotank, in the year 1777, ordered a large number of persons to be sold who were free at the time the law was made. In the year 1778, several of those cases were, by *certiorari*, brought before the superior court for the district of Edenton, where the decisions of the county courts were reversed, the superior court declaring "that the said county courts, in such their proceedings, have exceeded their jurisdiction, violated the rights of the subjects, and acted in direct opposition to the bill of rights of this State, considered justly as part of the constitution thereof, by giving a law, not intended to affect this case, a retrospective operation; thereby to deprive free men of this State of their liberty contrary to the laws of the land."

In consequence of this decree, several of the negroes were again set at liberty, but the next General Assembly, early in 1779, passed a law, wherein they mention that *doubts have arisen* whether the purchasers of such *slaves* have a good and legal title thereto, and confirm the same, under which they were again taken up by the purchaser and reduced to slavery.

Being much affected with this enormity, we believed it right to spread it before you. We wish not to give unnecessary trouble, but being persuaded that righteousness exalteth a nation, and promotes the peace and happiness of the people, it is the fervent concern of our minds that it may more and more prevail; and having discharged our duty in this matter at this time, we leave the subject with you, and the event to Him who hath the hearts of all men in his hands; and are,

Respectfully, your friends,

Signed, on behalf of the committee of our yearly meeting:

JOHN PARRISH,  
NICHOLAS WALN,  
THOMAS MORRIS,  
WARNER MIFFLIN,  
JONATHAN EVANS,  
THOMAS STEWARDSON.

PHILADELPHIA, 22d of 1st month, 1798.

*A list of emancipated blacks taken up and sold by order of the county courts of Pasquotank, Perquimons, and Chowan, in consequence of several acts of the General Assembly of the State of North Carolina, since the passing of the first act, in the year 1777, to the present time.*

David, emancipated by William Albertson; parted from his wife and children.  
Abram, by Benjamin and Chalkly Albertson; carried to South Carolina from his wife and children.  
Joan, by William Albertson.  
Tom, Jem, Jacob, and Harry, by John Anderson.  
Cæsar and Jupiter, by Elihu Albertson.  
Dublin and Cuffee, by Jeremiah Cannon.  
Candace, by Samuel Charles.  
Jack, by Isaac Elliott.  
Pleasant and three children, by James Elliott and wife; carried into the back country.  
Tom, by William Griffin.  
Mingo and Juda, by John Haskitt.  
Rose, by Joseph Jones.  
Sarah, by Josiah Jordan.  
Dick, by Isaac Lamb.

Candace, by George and Sarah Metcalfe.  
Anna and child, by Samuel Moore; said child born after its mother was manumitted.  
David, by Charles Morgan.  
Esther and child, Rebekah and children, Joab and Penny, by Aaron Morris, Jun.  
Ben, by Zachariah Newby.  
Sam, by Thomas Newby, of Pasquotank.  
Hannah, by Kezia Nixon.  
Glasgow, Jack, Cudgo, Tom and wife, Susanna, Patience, Hannah, and Priscilla, by Thomas Newby, of Perquimons; Glasgow and Jack carried a very considerable distance from their wives and children; Tom and wife sold from their children.  
David, Peggy, Priscilla, and Jenny, by Robert Newby.  
Jem, Zango, Ned, and Phœbe, by Mark Newby.  
Samuel, Ann, and Hagar, by Mary Nixon.

Francis, by Zachariah Nixon.  
 Charity, Francis, Sarah, Richard, and Pompey, by Thomas Nicholson; Richard carried into the back country from his children.  
 Dill and child, and Jenny, by Nicholas Nicholson; Jenny carried into the back country from her children.  
 Rose, by Thomas Newby, of Pasquotank.  
 Jonas, by Christopher Nicholson.  
 Bosor, Job, and Hagar, by Charles Overman; Hagar carried to South Carolina from her husband and children.  
 Toby, by Matthew Pritchard.  
 Tamar and child, by Henry Palin.  
 Hagar, Fanny, and Job, by William Robinson.  
 Dick, by Samuel Smith.  
 Patience, by John Saunders.  
 Dick, Lemuel, Frank, Ruth and child, and Dorcas, by John Smith.  
 Easter, by Jesse Symons.  
 Ephraim and Hagar, by Elizabeth Symons.  
 Jenny and child, by William Townshend.  
 Aaron, by Joseph Thornton.

Judah, by John Trueblood.  
 Sampson and Nero, by Josiah Trueblood.  
 Moses, Charles, and Benjamin, by Caleb Trueblood.  
 Sawney, by Aaron Trueblood.  
 Jacob, William, Sibba, and Hagar, by Benjamin White.  
 Cuffee, Hannah, Rose, Jane, Ruth, and Candace, by Thomas White.  
 Luke, Zilpha, Nancy, Priscilla, and Mingo, by Caleb White.  
 Lyddai, Peter, Robin, and Patience, by William White.  
 Cancer, by Margaret White.  
 Ned, Violet, Fanny, and Quea, by Josiah White.  
 Rebeka, by Benjamin Winslow.  
 Jane and Rose, by Matthew White.  
 Robin and Dinah, by Jacob Wilson.  
 Dick and Judah, by Lydia White.  
 Dick, by Rachel Williams.  
 Dol, by Caleb Winslow.  
 Nancy, by Jacob Winslow.  
 Rose, by Joshua White.  
 Dinah, by George Walton.  
 Jenny and child, by Matthew White.

PERQUIMONS COUNTY, *July term, at Hereford, A. D. 1777.*

These may certify, that it was then and there ordered, that the sheriff of this county, to-morrow morning, at 10 o'clock, expose to sale to the highest bidder, for ready money, at the court-house door, the several negroes taken up as free, and in his custody, agreeable to law.

Test: W. SKINNER, *Clerk pro tem.*

A true copy: 25th August, 1791.

Test: J. HARVEY, *Clerk.*

PASQUOTANK COUNTY, *September County Court, &c. 1777.*

Present, the worshipful Thomas Boyd, Timothy Hixon, John Pailin, Edmund Chancy, Joseph Reding, and Thomas Reese, esquires, justices.

It was then and there ordered that Thomas Reding, Esquire, take the free negroes taken up under an act to prevent domestic insurrection and other purposes, and expose the same to the best bidder at public vendue, for ready money, and be accountable for the same, agreeable to the aforesaid act, and make return to this or the next succeeding court of his proceedings.

A copy: ENOCH REEFE, C. C.

STATE OF NORTH CAROLINA:

At a superior court of law, begun and held at the court-house in Edenton, for the district of Edenton, the first day of May, in the year of our Lord one thousand seven hundred and seventy-eight, before the honorable Samuel Ashe, Samuel Spence, and James Iredell, esquires, justices.

On motion of William Hooper, esquire, attorney at law, in behalf of the following negroes, viz: Glasgow, Tom, Susanna, Jack, Cudgo, Patience, Hannah, Silla, James, Ned, Langa, Phoebe, Jacob, Will, Sibb, Cuff, Rose, Hannah, Peter, Rose, Dick, Jane, Richard, Jane, Pompey, David, Zilpha, Violet, Fanny, Dick, Abraham, Judy, Rose, Hannah, David, Charles, Toby, Nero, Priscilla, Rose, Judith, Jane, Samuel, Hagar, Ann, Sarah, on a suggestion that the said persons, though free subjects of the State, were sold and enslaved, by order of the county courts of Perquimons and Pasquotank, in express violation of the constitution of this State, and contrary to natural justice, and that there are manifest errors and irregularities in the said proceedings: *Ordered*, That a *certiorari* issue, unless sufficient cause to the contrary be shown within the three first days of the next term.

And at the superior court of law, begun and held at Edenton court-house, for the district of Edenton, on the second day of November, one thousand seven hundred and seventy-eight, before the honorable Samuel Spence, esquire, one of the justices of the said court:

On motion that the rule to show cause, granted last term, why a writ of *certiorari* should not issue, directed to the justices of Perquimons county, to remove all the orders and proceedings of the court of the said county, relating to the sale and enslaving of the following negroes, to wit: Glasgow, Tom, Susanna, Jack, Cudgo, Patience, Hannah, Silla, James, Ned, Langa, Phoebe, Jacob, Will, Sibb, Peter, Cuff, Rose, Hannah, Rose, Dick, Jane, Richard, James, Pompey, David, Zilpha, Violet, Fanny, Dick, Abraham, Judy, Rose, might be made absolute, affidavit having been made of the due service of the said rule upon the said justices in open court, and they failing to show cause; and it is further ordered, that a writ of *certiorari* issue, *instanter*, directed to the clerk of the said county court, commanding him to certify a transcript of the said orders and proceedings immediately: *Ordered*, That such a writ of *certiorari* issue to the said clerk accordingly.

On motion that a writ of *certiorari* should issue to the justices of Pasquotank county, to remove all the orders and proceedings of the court of the said county relating to the sale and enslaving of the following persons, or either of them, viz: Hannah, David, Charles, Toby, Pritchard, Nero, and Priscilla, Rose, Judith, Jane, Albertson, Samuel, Hagar, Ann, and Sarah, on a suggestion that the said persons, though free subjects of the State, were sold and enslaved by order of the said court, in express violation of the constitution of this State, and contrary to natural justice, and that there are manifest errors and irregularities in the said proceedings: *Ordered*, That a *certiorari* issue accordingly, unless sufficient cause to the contrary be shown within the three first days of the next term.

On motion that a writ of *certiorari* should issue to the justices of Perquimons county, to remove all the orders and proceedings of the court of the said county, relating to the sale and enslaving of the following persons, or either of them, viz: Dinah, Robin, Luke, and Nancy, on a suggestion that the said persons, though free subjects of the State, were sold and enslaved by order of the said court, in express violation of the constitution of this State, and contrary to natural justice, and that there are manifest errors and irregularities in the said proceedings:

In obedience to a *certiorari* issued from this court, by order thereof, to the clerk of the county of Perquimons, directing him to certify certain proceedings had in the said court of Perquimons, relative to the sale of certain negroes manumitted by divers persons of the sect called Quakers, the said proceedings being duly returned and certified, and arguments having been offered and fully heard, the court, for divers and manifest irregularities in the face of the record certified, and because it appears to them that the said county court in such their proceedings have exceeded their jurisdiction, violated the rights of the subjects, and acted in direct opposition to the bill of rights of this State, considered justly as part of the constitution thereof, by giving a law, not intended to affect this case, a retrospective operation, thereby to deprive free men of this state of their liberty, contrary to the law of the land.\*

I, William Blair, clerk of the superior court of law for the district of Edenton, do hereby certify the above and subjoined to be a true copy from the records of the said court. Given under my hand and seal of office, at Edenton, the fourteenth day of October, A. D. 1796.

WILLIAM BLAIR, *Clerk.*

I, Spruce Macay, esquire, senior judge attending the superior court of law for the district of Edenton, do hereby certify that the above attestation of William Blair, clerk of the said court, is in due form. Given under my hand, at Edenton, the fourteenth day of October, A. D. 1796.

SPRUCE MACAY, *J. S. C. D. E.*

5th CONGRESS.]

No. 103.

2d SESSION.

BREACH OF PRIVILEGES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 2, 1798.

Mr. VENABLE, from the Committee of Privileges, to whom was referred a resolution of the 30th January, charging Matthew Lyon with disorderly behavior, with instructions to inquire into the whole matter thereof, and to report the same, with their opinion thereon, to the House, having examined several witnesses on oath, touching the subject, reported:

That, during the sitting of the House of Representatives, on the 30th day of January, 1798, the tellers of the House being engaged in counting the ballots for managers of the impeachment against William Blount, the Speaker had left his chair, and many members their seats, as is usual on such occasions; the Speaker was sitting in one of the members' seats, next to the bar of the House, and several members near him, of whom Mr. Griswold was one.

Mr. Lyon was standing without the bar of the House, leaning on the same, and holding a conversation with the Speaker; he spoke loud enough to be heard by all those who were near him, as if he intended to be heard by them. The subject of his conversation was the conduct of the Representatives of the State of Connecticut, (of whom Mr. Griswold was one.) Mr. Lyon declared that they acted in opposition to the interest and opinions of nine-tenths of their constituents; that they were pursuing their own private views, without regarding the interests of the people of that State; that they were seeking offices, which they were willing to accept, whether yielding nine thousand or one thousand dollars. He further observed that the people of that State were blinded and deceived by those Representatives; that they were permitted to see but one side of the question in politics, being lulled asleep by the opiates which the members from that State administered to them; with other expressions, equally tending to derogate from the political integrity of the Representatives of the State of Connecticut.

On Mr. Lyon's observing, that if he should go into Connecticut, and manage a press there six months, although the people of that State were not fond of revolutionary principles, he could effect a revolution, and turn out the present Representatives. Mr. Griswold replied to these remarks, and, among other things, said, "If you go into Connecticut, you had better wear your wooden sword," or words to that effect, alluding to Mr. Lyon's having been cashiered in the army.

Mr. Lyon did not notice this allusion at this time, but continued the conversation on the same subject. Mr. Griswold then left his seat, and stood next to Mr. Lyon, leaning on the bar, being outside of the same.

On Mr. Lyon's saying that he knew the people of Connecticut well, having lived among them many years, that he had frequently had occasion to fight them in his own district, and that he never failed to convince them, Mr. Griswold asked if he fought them with his wooden sword; on which Mr. Lyon spat in his face.

The committee, having attentively considered the foregoing state of facts, and having heard Mr. Lyon in his defence, are of opinion that his conduct in this transaction was highly indecorous, and unworthy of a member of this House.

They therefore recommend the adoption of the resolution submitted to their consideration by the House, in the words following, to wit:

*Resolved*, That Matthew Lyon, a member of this House, for a violent attack and gross indecency committed upon the person of Roger Griswold, another member, in the presence of this House, while sitting, be, for this disorderly behavior, expelled therefrom.

[During the consideration of this report, in Committee of the Whole, the following testimony was taken and reported to the House of Representatives, February 12, 1798.]

The Speaker, JONATHAN DAYTON, Esq. one of the Representatives from the State of New Jersey, being duly sworn, this fifth day of February, one thousand seven hundred and ninety-eight, before the Committee of the whole House, to whom was committed the report of the Committee of Privileges of the second instant, proposing the following resolution for the adoption of the House, to wit: "*Resolved*, That Matthew Lyon, a member

\* That part of the record which expresses the reversal of the judgment of the lower court is by mistake omitted in the transcript.



of this House, for a violent attack and gross indecency committed upon the person of Roger Griswold, another member, in the presence of this House, while sitting, be, for this disorderly behavior, expelled therefrom," by the Honorable Richard Peters, Esq., judge of the district court of the United States for the district of Pennsylvania, to declare the truth, the whole truth, and nothing but the truth, touching the subject-matter of the report so referred to the said committee, deposed as follows:

When the ballots of the House for managers of the impeachment against Mr. Blount were brought to the table to be counted, and the committee who were named as tellers were actually engaged in that business, I walked forth from the chair, without adjourning the House, in order to take a little exercise about the room, as had not unfrequently been the case in reading lengthy communications. I placed myself by the side of a member from New York, and in the chair, usually occupied by Mr. Dana, when I soon heard some expressions rather warmer than usual at the fire, behind me, and, turning, observed that they passed between Mr. Lyon of Vermont, and Mr. Dana of Connecticut. I addressed myself immediately to them, and said, "Gentlemen, keep yourselves cool;" and afterwards added, "if you proceed much further you will want seconds." Upon this, Mr. Lyon addressed himself to me, and said, among other things, that he had, in his own mind, designated the embassy to Cayenne for Mr. Dana; upon which, in order to give a turn of pleasantry to the conversation, I asked Mr. Lyon whether he had reserved for himself the mission to Kamschatka among the furred tribes. Upon my asking whether he was meant by the "Lyon of Fairhaven," charged in the public papers with being active to incite the people in his district to hold meetings, and to clamor against the stamp act, he replied that he supposed he was the person meant, but that this charge, as well as many others of a like nature made against him, was unfounded. After a few other remarks, Mr. Lyon began some animadversions upon the temper of the people of Connecticut, and the conduct of their Representatives in Congress. He said he had good reason to know and declare that the members of that State were acting in direct opposition to the opinions of nine-tenths of their constituents; that, regardless of the public good, they were seeking their own private interests; that their object was to obtain offices for themselves; that if they could not obtain the most lucrative, they would not refuse those which were less so, (mentioning two sums, which I think were nine thousand dollars and one thousand dollars;) that he, Mr. Lyon, had a good right to know the people of Connecticut, for he had to fight with them in his own district. Upon this Mr. Griswold, who was sitting in Mr. Harper's seat, asked whether he had fought them with a wooden sword, or with his wooden sword. Mr. Lyon, either not hearing this question, or affecting not to have heard it, continued his remarks to me, and added, that when the Connecticut people came into his district on visits to their relations, they came with strong prejudices against him and his politics; but after conversing with them freely, he had always succeeded in bringing them over to his side; that if he should go into that State and talk with the people, he could open their eyes, and effect an entire change there. Upon which Mr. Griswold, laying his hand gently upon Mr. Lyon's arm, in order to attract his attention, said, "If you were to enter into Connecticut, for the purpose you mention, you could not alter the opinion of the meanest hostler." Mr. Lyon replied that he knew better, he knew the people of Connecticut well; that he had no doubt that, if he were to remove thither, and establish or direct a press there for six, nine, or twelve months, he could effect a revolution there, and induce them to turn out all their present members. Upon my observing that this afforded another instance of the influence which men's wishes had over their belief, and upon my asking, if this were true, how he could account for the people of Connecticut having uniformly selected for their Representatives, ever since the commencement of the present Government, gentlemen of the same political principles, he answered that they (the Representatives) had blinded the eyes of their constituents, were constantly administering opiates to them, and would only permit one side of the question to be made known. Mr. Lyon further added that he thought, upon the whole, that there was one, and only one, of the delegation which he might spare, and allow to come again; that he had serious thoughts of moving into the State, and fighting them on their own ground. Upon which Mr. Griswold repeated the substance of a former question, and asked whether, when he should come, he would take with him his wooden sword? Upon which followed the indecency which has given rise to this reference.

The said deponent being interrogated by Matthew Lyon, Esq., and other members of the House, further deposed as follows:

As Mr. Lyon leaned on the bar, near me, and spoke louder than was necessary for me to hear, I concluded it was intended by him to be heard by those who were near.

The conversation was carried on with good humor; Mr. Griswold, when he spoke, certainly had a smile on his countenance.

At the first conversation between Mr. Dana and Mr. Lyon, something had been said on the opposition to the stamp act in Vermont, and a meeting therein, on that subject.

I believe the words spoken by Mr. Lyon did not allude to any vote of the members of Connecticut on any particular question, but generally to their political conduct.

Mr. Lyon said that the people of Connecticut were deceived by their Representatives, who were constantly administering opiates to them; and it was only afterwards, on my asking why those persons were sent as Representatives, that he replied, the people were permitted to hear but on one side.

I take it that Mr. Lyon, although not in warmth, intended that his assertions should be believed by those who heard him.

After Mr. Griswold had received the insult, I saw him draw back his arm, and expected a blow would be given; afterwards, I saw from his countenance that he had changed his mind, and he then wiped his face.

The conversation appeared to be conducted in good humor.

The conversation respecting Connecticut came voluntarily from Mr. Lyon, and unsuggested by any body else.

Mr. Lyon received my question as to the mission to Kamschatka in a pleasant way. In another part of the conversation, Mr. Lyon was comparing the information of the people of his district with that of the people of Connecticut, alluding to the light he had conveyed among them. Mr. Brooks observed, that the extraordinary light appeared from the extraordinary *luminary* they sent to represent them.

I did not hear a syllable from any member of Connecticut of insult or remark on the conduct of the people of Vermont.

Mr. Griswold, in laying his hand on Mr. Lyon, did it gently, and apparently for the purpose of calling his attention merely.

The Speaker, at the time of the conversation, knew that the wooden sword had relation to Mr. Lyon's having been cashiered in the army. I knew it from a previous conversation with Mr. Lyon, and my having been in the army at Canada at the time. The only reason for my supposing that Mr. Lyon did not hear what Mr. Griswold said was, that it produced no change in Mr. Lyon's countenance, though spoken loud enough for him to hear; and I heard the words distinctly. Mr. Lyon and myself were at equal distance from Mr. Griswold. I did not observe the cause of Mr. Griswold's leaving his chair and going to Mr. Lyon; but on turning round I perceived him then listening to Mr. Lyon. During the conversation between Mr. Griswold and Mr. Lyon, I did not observe any collection of members round the fire. Mr. Dana was passing and repassing before the fire.

Mr. Lyon seemed to insinuate that there was somebody influencing the printers, who permitted them to publish only one side.

I had a conversation with Mr. Lyon some days before, at the fire in the House. A gentleman from New York being present, with others, (Mr. Cochran, Mr. Hosmer, and Mr. Harper,) asked him what was the meaning of a newspaper paragraph, viz: "that he had outgrown two things?" He said it alluded to his having been cashiered at Ticonderoga. I asked if he was one of those who had been cashiered with infamy, for deserting an advanced post? He said he was; but attempted to show he was not so culpable as the rest. Said I, "did you know you were execrated by the whole army?" He said he did. I then asked whether he was in company with the officer who came to General Gates's head-quarters, and reported the desertion of the men, and whom the general called a d—d scoundrel and coward, and ordered to be put under guard; upon which Mr. Lyon replied, that he himself was the very officer, but that he told General Gates that, being an officer, he might be arrested, but was not to be put under guard. In the same conversation I observed, that application had been made to the commander-in-chief for leave to turn out the drums and fifes of the army, to beat a certain disgraceful march upon the departure of those officers from the garrison, who, it was said, had persuaded their men to desert; and that I recollected their beating the march upon the heights of Ticonderoga.

Upon being questioned by one of the gentlemen standing in the circle, whether it was a part of the sentence of the court-martial that the cashiered should wear wooden swords, I answered that I had not heard it to be a part of the sentence in this case, nor ever in any other.

Mr. Lyon appeared always to me to be willing to attend to inquiries respecting this business, and to give a calm reply.

The paymasters, although only staff officers, ranked as captains in the line. It was only that in case of insults from any of the men they might put them under arrest; but when they went into action they placed themselves in the ranks. They would take command in case all the officers of a garrison were killed, in preference to a sergeant, but not of any commissioned officer. A person under disgrace as a coward would not be associated with by the officers of the army, or permitted to hold a staff commission for any length of time. I never heard in the army that Mr. Lyon had received any new appointment after his disgrace, but only since, from him, and also then heard he was not allowed long to remain in it. But I did not stay in the army until the retreat.

Mr. Lyon, when cashiered, was in the rank of a subaltern, as I understood.

The said deponent, being further interrogated on the 8th day of February, 1798, on his oath aforesaid, answered to the several interrogatories so put to him, as follows, to wit:

Question. Did you observe Mr. Griswold in Mr. Harper's chair, when the conversation commenced between Mr. Lyon and yourself?

Answer. I do not recollect to have seen him at the first instant, but did see him there during the earlier part of the conversation.

Question. Did you see Mr. Griswold until about the time he put the first question to Mr. Lyon about the wooden sword?

Answer. About the time.

Question. Can you say with certainty what part of the conversation with Mr. Lyon Mr. Griswold heard?

Answer. I cannot.

Question. Was it the first time when Mr. Griswold made the observation of the wooden sword, that he laid his hand on Mr. Lyon's arm?

Answer. It was not, but at the second time; and I recollect his first laying his hand there when he made the observation as to Mr. Lyon's not being able to change the opinion of the meanest hostler.

SAMUEL SMITH, Esq. one of the Representatives from the State of Maryland, being duly sworn, as aforesaid, on the 5th day of February, 1798, deposed as follows:

On the day on which the ballot was taken for the choice of managers, on the part of this House, to conduct the impeachment against William Blount, the Speaker being out of the chair, the members out of their places, engaged in common conversation, and the committee counting the ballots; having taken my letters from the box, returning to my seat, I passed Mr. Lyon, who was engaged in a jesting conversation with other members, such as gentlemen frequently amuse themselves with when the House is not in actual business. While reading my letters, that kind of amusing conversation continued, and I think I heard some person, but whom I know not, mention an expected opposition to the stamp act in the State of Vermont, tell Mr. Lyon, (one of its Representatives,) that petitions against it were expected, and ask him, jestingly, whether he brought any such with him. Not thinking the conversation interesting, my attention was particularly directed to my letters, when I heard Mr. Lyon directing his conversation to the Speaker, who sat in the next seat behind me, generally occupied by Mr. Dana; Mr. Griswold in that of Mr. Harper; there being between them only two chairs, occupied by Mr. Hosmer and Mr. Brooks. Mr. Lyon, leaning on the outside of the bar, seemed to be giving the Speaker an account of the political sentiments of the people of Connecticut, nine-tenths of whom he declared were of different sentiments from their Representatives; that they only wanted their eyes to be opened, and they would change the whole delegation. The Speaker said, jestingly, you would spare one? To which Mr. Lyon, in the same style, answered, yes, for he goes nearest the sentiments of the people of any of them. He said he had to fight with the Connecticut men when they came into his district to see their relations, and although they censured his politics at first, yet they always were convinced on hearing his reasons. Mr. Griswold then said something which created a loud laugh, which I did not hear, but which I have since understood related to the wooden sword. I turned, and observed that Mr. Lyon still continued his conversation, directed to the Speaker, and in the same style of jocularly; indeed, all the gentlemen appeared to be in perfect good humor, and to consider the conversation as amusing; in the course of which, Mr. Lyon remarking on what had been said in debate by two or three gentlemen from Connecticut, respecting the nine thousand dollars paid to ministers plenipotentiary being such an insignificant thing as to be scarcely worth accepting, said that he knew better; that whether the salary was one thousand or nine thousand dollars, it would always be acceptable; private interest being more their view than public good: observing that he knew the people of Connecticut well, having lived there formerly, and having lately passed through that State. Mr. Brooks, of New York, then asked, if he had passed through his district? Mr. Lyon said he had passed through certain towns. Mr. Brooks remarked, you were in the back ground there, as you frequently are. Mr. Lyon having remarked that, for want of proper information being received in Connecticut, he considered the knowledge of the people of his own district as superior. To which Mr. Brooks jestingly replied, that they had shown it by the great luminary they had sent. Which stroke of wit was received pleasantly by Mr. Lyon, as it appears to have been intended.

Mr. Griswold had removed outside of the bar to where Mr. Lyon stood. At this time, having left my seat with the intention to leave the House, I leaned on the bar next to Mr. Lyon, and fronting Mr. Griswold. Mr. Lyon having observed, (still directing himself to the Speaker,) that could he have the same opportunity of explanation that he had in his own district, he did not doubt he could change the opinion of the people in Connecticut. Mr. Griswold then said, "If you, Mr. Lyon, should go into Connecticut, you could not change the opinion of the meanest hostler in the State." To which Mr. Lyon then said, that may be your opinion, but I think differently; and if I was to go into Connecticut, I am sure I could produce the effect I have mentioned. Mr. Griswold then said, Colonel Lyon, when you do go into Connecticut, you had better take with you the wooden sword that was attached to you at the camp at ——. On which, Mr. Lyon spat in Mr. Griswold's face, who coolly took his handkerchief out of his pocket and wiped his face. Believing that the quarrel would go no further, I left the House.

DAVID BROOKS, Esq. one of the Representatives from the State of New York, being duly sworn as aforesaid, on the fifth day of February, one thousand seven hundred and ninety-eight, deposed as follows, to wit:

At the time which has been mentioned, I was sitting in my seat, and the Speaker in Mr. Dana's. I had heard a part of the conversation which passed between Mr. Lyon and Mr. Dana. The subject of the conversation, as well as I recollect, was the amendment of the gentleman from Virginia, to the bill for regulating foreign intercourse. The conversation was loud, and the Speaker spoke to them as he has stated. Mr. Dana then broke off the conversation, and went away, and walked backwards and forwards in the passage. The Speaker then entered into conversation with Mr. Lyon. About this time Mr. Griswold came and set himself in Mr. Harper's seat. Mr. Lyon, speaking of the conduct of the members from Connecticut, stated, that on his passage home or back, he passed through part of the State, and heard the opinion of the people. Said that nine-tenths of the people of Connecticut differed in sentiments with their Representatives in the House; that the members from the State did not fairly represent the sentiments of their constituents; that they were seeking their own interest; they were looking for offices; it was immaterial what salaries were annexed, whether nine thousand or one thousand dollars, they thought either worthy of their attention; he had lived many years in the State of Connecticut, and was well acquainted with the disposition of the people. He had occasion, frequently, in his own district, to contend with them, when they came there upon visits to their relations, and had often convinced them they were wrong. He had no doubt that, if he were to set up a press in Connecticut, he could turn out all the present Representatives. I did not hear the exception of one, as mentioned by others: it appeared to be all done in a bragging bantering manner. I then asked if he had not been in my district? He said he had, but there was nothing to be done there; meaning they were incorrigible, and not to be convinced. He then compared the situation of the people of the two States, as to information, and said the people in his district were far the most enlightened. I then made the observation stated by the gentleman examined before me.

When he talked of contending or fighting with the people of Connecticut, Mr. Griswold asked if he had not better take his wooden sword. I thought he did not hear it, as I looked at him, thinking it a pressing question, and he did not change countenance, but continued his conversation with the Speaker. Mr. Griswold then said, he does not hear me, or I said he does not hear you, I do not recollect which. Mr. Griswold afterwards went on the outside of the bar, and standing by Mr. Lyon, laid his hand on his arm and said, you could not change the opinion of a single hostler in the State of Connecticut. Mr. Lyon then talked of setting up a press in Connecticut, and fighting them on their own ground. Mr. Griswold then said, you will fight them with your wooden sword. Mr. Lyon then spat in his face. Upon this, Mr. Griswold stepped back with his right foot, looked steadfastly at Mr. Lyon, and stiffened his arm, as if going to strike. Mr. Dana then observed, they would consider this matter; and I said, this is not the place, there is a time and place for every thing. Mr. Griswold then wiped his face with his handkerchief, and went out with his colleague. I think the Speaker immediately arose from the chair he had been in, as, on looking round, I saw the chair empty.

I have not been so particular as I might have been, if Mr. Speaker had not stated the facts so fully and correctly in his testimony, from which mine only differs as a part differs from the whole.

The said deponent being interrogated by several members, answered to the interrogatories so put to him as follows, to wit:

Question. Did Mr. Lyon say that the printers deceived the people?

Answer. He said the Representatives deceived the people, blinded or hoodwinked them, and administered opiates to them; that in Connecticut, it was permitted to publish only one side of the question.

Question. Did Mr. Griswold appear to be angry, or in good humor in this conversation?

Answer. Mr. Griswold spoke with his usual easiness and good humor.

Question. Do you suppose the publications about the wooden sword were calculated to throw disgrace on the member from Vermont?

Answer. I cannot consider them in any favorable light; they must certainly be reckoned disgraceful.

The said deponent being further interrogated by the said Matthew Lyon and other members, on the eighth day of February, one thousand seven hundred and ninety-eight, answered to the several interrogatories so put to him as follows, to wit:

Question. Had not Mr. Griswold joined the groupe and taken the seat of Mr. Harper, next to the seat occupied by you, before Mr. Lyon made the observations relative to the Representatives from the State of Connecticut, mentioned in your deposition?

Answer. I think he had. I recollect, perfectly, that it was in an early stage of the conversation that Mr. Griswold took that seat, and he must have heard a principal part of the conversation. I believe Mr. Griswold took the seat of Mr. Harper, immediately after Mr. Dana left off conversing with Mr. Lyon.

Question. Did he take this seat time enough to hear the observations of Mr. Lyon, with respect to the Representatives from Connecticut seeking offices, and pursuing their own interests, regardless of the public good?

Answer. It appears to me he did. I have no doubt he did.

Question. Have you any reason to suppose that Mr. Lyon saw Mr. Griswold in Mr. Harper's seat, previous to his observation respecting the wooden sword?

Answer. I do not know that he did. When I directed my discourse to Mr. Lyon, he turned to me, and Mr. Griswold was sitting at my left hand.

Question. Have you any particular recollection of Mr. Griswold's being in your seat, till about the time when he made the first observation respecting the wooden sword?

Answer. He was in the seat some time before that observation was made by him. I cannot possibly say how long.

Question. Was it not apparent to you, from the course of the conversation, that the sarcasm used by Mr. Griswold, respecting the wooden sword, was by way of retort to Mr. Lyon's observation with respect to the Representatives of the people of Connecticut?

Answer. It appears to me that it was. Mr. Lyon, in speaking of the people of Connecticut, said he would fight them on their own ground, and I think what was said of the wooden sword was a retort to the observation.

HEZEKIAH HOSMER, Esq., one of the Representatives from the State of New York, being duly sworn as aforesaid, on the sixth day of February, one thousand seven hundred and ninety-eight, deposed as follows:

During the canvassing of the votes for managers, the Speaker left the chair, and seated himself by my side, in the seat usually occupied by Mr. Dana, of Connecticut. We heard a conversation carried on with some warmth between Mr. Dana, of Connecticut, and Mr. Lyon, of Vermont. The Speaker spoke to them, and checked them, and they immediately separated. Mr. Lyon then came to the bar, leaned on it, and a conversation took place between him and the Speaker. It commenced, as nearly as I can recollect, with something relative to the stamp act, but I cannot recollect what. Mr. Lyon mentioned that, in the course of his journey hither or home, he had passed through part of Connecticut, and conversed with some of the people, and found their sentiments opposite to those of their Representatives in this House. Some general conversation then took place, in which we all took a part, but it was of little consequence, and it is not forcibly impressed on my mind. Mr. Lyon then addressing himself to the Speaker, and speaking of the conduct of the members of Connecticut, said that he believed nine-tenths of the people of Connecticut differed from the sentiments advanced by the Representatives of that State on this floor; they were pursuing their own interest; that they were influenced by a desire to obtain offices, and it was immaterial how lucrative those offices were; that they would be equally influenced by an office of one thousand dollars as one of nine thousand dollars. On the Speaker's asking him how the people came to send such Representatives as they had from the establishment of the constitution, he said that the Representatives blinded the eyes of their constituents, and it was only necessary for the people to be informed to induce them to oppose them. If he were to remove into Connecticut, and set on foot a printing press, he had no doubt he could bring about a revolution in the sentiments of the people. He was well acquainted with the people of Connecticut, as the first part of his life in this country had been passed in that State. Several persons from Connecticut had been in Vermont to visit their friends; that he had attacked them in that quarter, and convinced them their opinions were erroneous. At this time Mr. Griswold was sitting in the seat usually occupied by Mr. Harper, and Mr. Griswold said something, which I cannot precisely recollect, about his fighting them with his wooden sword: Mr. Lyon appeared to pay no attention to the remark, and I thought at the time did not hear it. Immediately after this, Mr. Griswold quitted his seat, and went behind the bar. I left mine nearly at the same time, and did not see the insult which is said to have been offered. This is generally all that I know relative to this affair. I was present at the commencement only of the dispute, and they are only general facts which have impressed themselves on my mind. I attended to the examination of the Speaker yesterday, and could agree generally with him in the statement, though my recollection is not so particular.

The said deponent being interrogated by Matthew Lyon, and other members of the House, further deposed as follows, to wit:

I did not hear any observations from the members from Connecticut respecting the people of Vermont.

The conversation from Mr. Lyon respecting the members of Connecticut was not connected; questions were asked, and some observations were made by the Speaker, which, perhaps, induced Mr. Lyon to say more than he originally intended.

I did not suppose there was any thing said which would provoke Mr. Lyon, and he appeared to be desirous of impressing the observations with respect to the members from Connecticut, as true, upon all who heard him.

The said deponent being further interrogated, on his oath aforesaid, on the 8th day of February, 1798, answered to the several interrogatories so put to him, as follows, to wit:

Question. Do you recollect the time when Mr. Griswold moved from his own seat to that of Mr. Harper?

Answer. I do not recollect the time when Mr. Griswold came to Mr. Harper's seat. It was, however, soon after Mr. Lyon took his station behind the bar, and during the general conversation which had taken place between us all.

Question. Have you any certain recollection of Mr. Griswold's being present until about the time he made the observation respecting the wooden sword?

Answer. I recollect having seen Mr. Griswold in the seat before that time; how long I cannot say, as I do not recollect seeing him seat himself there.

Question. Did you see Mr. Griswold in the seat soon enough for him to have heard the observations of Mr. Lyon respecting the conduct of the members of Connecticut?

Answer. I believe I did. I recollect looking round two or three times to see what effect Mr. Lyon's observations had upon Mr. Griswold.

Question. Have you any reason to suppose that Mr. Lyon noticed Mr. Griswold to be in Mr. Harper's seat previous to what Mr. Griswold said about the wooden sword?

Answer. I never heard any thing till this morning to raise a doubt of it in my mind. I have no recollection of any particular conversation between Mr. Griswold and Mr. Lyon, previous to the question of Mr. Griswold.

Question. Do you doubt it now?

Answer. I cannot say I do.

SAMUEL W. DANA, one of the Representatives from the State of Connecticut, being duly sworn, as aforesaid, on the 6th day of February, 1798, deposed as follows, to wit:

On Tuesday of last week, during the examination of the ballots for managers of the impeachment against William Blount, I had left my seat, and was standing before the fire, near the eastern door of the hall, when Mr. Williams, of the State of New York, entered into conversation with me, and mentioned that Mr. Lyon, who had lately returned from Vermont, had been saying "that the Representatives of Connecticut would all be turned out if they voted against Mr. Nicholas's amendment." Very soon after this, the member from Vermont came to the place where we were, and, in Mr. Williams's presence, I asked him if he had said what had been mentioned to me. His answer, as precisely as I can recollect, was in these words: "I did not say so; but that you would all be turned out if you carried the point you wished to carry." I then asked, what that point was; and his answer represented it as being "that the President should appoint to offices where no such appointments were authorized by law." I told him, "that was not the question on Mr. Nicholas's amendment." He answered, "it is;" and I replied, "it is not." There was a variety of further conversation, all of which I do not particularly recollect. I think that I remarked on the improbability of his being acquainted with the people of Connecticut better than their Representatives. I remember that, in the course of this conversation, he spoke of the disagreeable reception which we might expect on returning to Connecticut; and made other observations of an irritating nature. I felt some disdain at what he said; and, as his conversation was by no means pleasing to me, I believe that my irritation was manifested from the manner in which I answered him. The Speaker being near, and addressing us with an air of civility,

interposed the caution which he has mentioned. After this nothing further passed between myself and the member from Vermont. My reflection told me to have no more conversation with him. As we separated from each other, I walked from the place, and took no further part in any of his conversation.

Not long after, as I passed within the bar, by the seat which Mr. Harper usually occupies, I observed my colleague, Mr. Griswold, sitting in that seat. I mentioned to him the substance of my conversation with the member from Vermont, and observed that I had felt some irritation, although, on reflection, I was rather ashamed of myself for being irritated at what that member could say.

Afterwards, walking without the bar, I saw the member from Vermont leaning on the bar, in conversation with the Speaker and other gentlemen in their seats. Mr. Griswold was then standing near him. I heard the member from Vermont speaking of the Representatives from Connecticut as being in pursuit of their own interest, without regarding that of the public. I also heard him mention a particular mission as proper for one of them. To this, however, I gave but little attention, and made no reply; for the observations were addressed to others, and I desired no further acquaintance with the member from Vermont.

A very short time before the commission of the outrage now under consideration, I stepped within the bar, and stood near the end of the desk which is in front of the seat usually occupied by myself, the Speaker being then in that seat. From the tenor of the conversation, I judged that the member from Vermont had been speaking of his ability to effect some great object in Connecticut, when Mr. Griswold replied, according to my present recollection, to this effect: "You could not, if you should go into Connecticut, with your wooden sword and candle," alluding, as I then apprehended, to a report in circulation, which, as also that of the sword, I knew to have been heard by Mr. Griswold and by the member from Vermont. On this, the member from Vermont spat in Mr. Griswold's face.

Considering the observations of some gentlemen of the committee, perhaps, in justice to the member from Vermont, I ought to mention that, while Mr. Griswold was in Mr. Harper's seat, I was in the passage leading from the eastern door of the hall to the Speaker's table, and conversed for a short time with Mr. Griswold and Mr. Brooks, when I was informed that Mr. Griswold had spoken to the member from Vermont, and alluded to the report of the wooden sword. On inquiring what answer was made to this by the member from Vermont, Mr. Griswold observed, that he believed it was not heard by the member from Vermont, as he made no answer to it. This was before the conversation which immediately preceded the personal outrage offered to Mr. Griswold, and, I think, at a different time from any which I have before mentioned.

At the present time, nothing further occurs to my recollection as material to the inquiry before the committee.

On his being asked, what was the conduct of Mr. Griswold after the outrage committed by the member from Vermont?

The said deponent answered: I was then standing where I could look my colleague, Mr. Griswold, fully in the face. I marked him particularly: for I then felt particularly interested in his conduct, and determining how I should conduct myself. Mr. Griswold turned towards the member from Vermont, fixed his eye upon him, and was slowly drawing back his right arm in a constrained manner, when, from his change of countenance and the cast of his eye, I apprehended that my colleague recollected where he was; he then took out his handkerchief and wiped his face. I stepped to him, touched his arm, and said, "This must be considered of." I also heard the caution mentioned by Mr. Brooks. Mr. Griswold made no reply. I proposed to him to walk out of the hall; he assented, and we both immediately left the hall.

The said deponent, upon a further examination of the 7th February, 1798, further deposed, on his oath aforesaid, as follows: There has been published an incorrect account of part of the testimony which I delivered yesterday before the Committee of the Whole; I, therefore, owe it to myself to observe, that on Tuesday of last week, in his conversation with me, the member from Vermont made various observations relative to the conduct in Congress of the Representatives from Connecticut, and, among other observations respecting them, spoke to the following import: that they would vote their own damnation; that they would be spurned at on their return home; and that he would be damned if he wanted to talk with me. Such language provoked from me an answer, which, I presume, attracted the notice of the Speaker.

In my testimony yesterday, I used some general expressions referring to this part of the conversation; but I did not mention the particulars, because I did not consider them material to the inquiry, and I did not wish to repeat, in public, such improper language as having been spoken by a member of this House.

I arose to state these particulars in my own vindication; but, since a gentleman from Massachusetts, on hearing the present statement, has said that he considers these circumstances as of some importance, they are now testified before the present committee.

JOSHUA COIT, Esq., one of the Representatives from the State of Connecticut, being duly sworn, as aforesaid, on the 6th day of February, one thousand seven hundred and ninety-eight, deposed as follows, to wit:

I was not present when the incident which is the subject of inquiry before the committee took place, and do not know that any thing within my knowledge can throw any light upon it. A few moments before, I was passing from my seat out of the bar where Mr. Lyon was standing; he was addressing a kind of ranting braggart conversation to the Speaker, respecting the State of Connecticut. Whether I had noticed this conversation before I left my seat, I do not recollect; my recollection is probably the more imperfect on the subject, from the circumstance that I had heard a similar conversation from Mr. Lyon a little while before, at one of the fireplaces, before the House formed. As I was passing, or before I left my seat, I cannot with certainty tell which, some observation was addressed particularly to me, with allusion to the subject of the conversation, either by the Speaker or Mr. Lyon. Mr. Lyon, at the time, was stating a comparative view of the number of votes given for a Representative in the State of Connecticut, with the number of votes given for himself in the State of Vermont; and I put some questions to him respecting his knowledge of the mode of voting in Connecticut. The answer not leading to any thing interesting, I passed on to the south part of the House; I recollect, as I passed, my colleague, Mr. Griswold, was sitting in the seat occupied by Mr. Harper, or standing behind it.

Being interrogated by one of the members of the House, he further deposed, in answer to the said interrogatory, as follows, to wit:

Question. What was the tenor, and what were the particulars of the conversation which the witness heard from the member from Vermont respecting the Connecticut representation, in the morning, before the House was formed?

Answer. I mentioned the terms ranting and braggart, as relative to the conversation I heard. I used these terms not with a view of saying any thing which should appear to bear uncomfortably on the member from Vermont. Were I disposed to say any thing uncivil to him, this would be a very improper time and place. I used the terms only for my own justification—my justification, in not remembering more of the conversation than other

gentlemen present appear to have done; although, from the subject, it should seem that I should have paid attention, have felt it, and remembered it. Had I heard such conversation from any other person, it is probable I should; but I had been used to pay very little attention to any thing I heard from Mr. Lyon. As to the conversation in the morning, I can recollect no particulars. It was generally to the effect that the sentiments of the people in Connecticut were different from what they were represented here. I do not recollect that any thing particular in that conversation was applied to the conduct of the members of Connecticut.

CHAUNCEY GOODRICH, Esq., one of the Representatives from the State of Connecticut, being duly sworn, as aforesaid, on the 6th day of February, one thousand seven hundred and ninety-eight, deposed as follows, to wit:

The only information I have on the subject relates to a conversation with Mr. Lyon, relative to his having been cashiered in the army. I came from New York to this place, this session, in a stage taken by Mr. Champlin, together with him, Mr. Otis, and Mr. Lyon. We were the only persons in the stage for a considerable part of the way. I had had but little personal acquaintance with Mr. Lyon before this time. Mr. Lyon, on the way, seemed to be disposed to give us the history of his life. It was filled up, according to the account he gave us, with many singular and ludicrous anecdotes. The ludicrous anecdotes that he told of himself, in a jocular manner, produced from the gentlemen with him a kind of pleasantry, if not something more, towards Mr. Lyon. I mention these circumstances for the purpose of introducing, in a proper manner, to the committee, the account he gave us with respect to his being cashiered. How it was introduced, whether entirely voluntary on his part, or induced by remarks from some one of the company, I have not a perfect recollection. I think, however, either immediately, or some time before Mr. Lyon adverted to the subject, something was said of Mr. Lyon's having been in the army. I cannot be very minute in the account he gave. I recollect his saying that allusions to his being cashiered had been in the public papers; that it was a matter of great mortification; that he could not bear to hear of the affair; that it happened when he was young. He said that he was a subaltern officer of a corps stationed on the frontier, at a great distance from the main army, and without support; that the officers and men were uneasy, and discontented with their situation; that they considered it as being too exposed; that he, at a certain time, was out with a party of the men; that, when he returned, he found the corps to which he belonged either had abandoned, or were abandoning, (I cannot say certainly which,) their post; that they went to some distance, where they made a halt; that he endeavored to persuade them to return; they refused; the officers insisted that he should go to head-quarters to General Gates, and make a representation of their situation. He went; upon being introduced to General Gates, and introducing the subject, General Gates damned him for a coward, and ordered that he should go into the custody of a guard; that he, Mr. Lyon, insisted on his rights as an officer not to be put under guard. That the adjutant general, or an aid of General Gates, said something on the subject, and Mr. Lyon was finally arrested, tried with the rest of the officers by a court-martial, and sentenced to be cashiered from the army. He said the charge was, that the officers, as they themselves could not without disgrace and punishment abandon the post, had excited the men to run away. He further said, as it respected himself, that the charge and the sentence were unjust. I think Mr. Otis asked him if he had worn a wooden sword. He said not. Mr. Champlin, if I am not mistaken, made this remark, that if he saw it in poetry he should consider it as being a figurative expression for being cashiered. Mr. Lyon told us he had wiped off this stain; that he had held an office in the army, if I do not misrecollect, of a paymaster. I think he mentioned, however, that he did not continue long as a paymaster, owing to some other person having been appointed, with whom he had a dispute about it; yet in that dispute, while in the army, the circumstance of his being cashiered had not been mentioned to his dishonor; that he had been appointed, and for many years commanded as colonel, a regiment of militia in Vermont. I recollect nothing further of importance to the present inquiry. I have had little or no conversation with Mr. Lyon since that time.

On being interrogated by one of the members, he further deposed as follows, to wit:

I do not recollect having mentioned this conversation to Mr. Grisvold, my colleague, though I have to others, not considering it as confidential.

CHRISTOPHER G. CHAMPLIN, Esq., one of the Representatives from the State of Rhode Island, being duly sworn, as aforesaid, on the 6th day of February, one thousand seven hundred and ninety-eight, deposed as follows, to wit:

I have attentively considered the evidence given to the Committee of the Whole by Mr. Goodrich, and, to the best of my recollection, it is correct.

NATHANIEL CHIPMAN, Esq., one of the members of the Senate of the United States, from the State of Vermont, being duly sworn, as aforesaid, on the 6th day of February, one thousand seven hundred and ninety-eight, deposed as follows, to wit:

I do not know that I ever heard any conversation, in presence of Mr. Lyon, relative to his having been cashiered, until the last summer. I had before heard it, as a subject of conversation in Vermont. Soon after Mr. Lyon returned from the last session of Congress, he was at Rutland; about that time there appeared in the Weekly Museum, a parody on his speech, in the last session of Congress, on the subject of waiting on the President with the address. I was in company with Mr. Lyon and two or three others, and I asked him whether he did not, at the time, expect that what he had said would bring up the subject of the wooden sword. He replied that nothing was there said, which could give any one a right to bring up that business, for he had expressed himself guardedly, on purpose to avoid any thing of that kind; that he had not mentioned any thing of his having fought or been a soldier; but that he had been at his post, or stood firm at his post during the war. I replied, that amounted to the same thing; to say a man stood firm at his post, was saying he was a soldier. He immediately observed, with seeming anxiety, that he was not to blame in the affair for which he had been cashiered. I then repeated to him how the circumstances of the affair had been related by a person who belonged to the corps; who had said that, in the summer of one thousand seven hundred and seventy-six, being stationed somewhere near Onion river, at Jericho, I believe, the officers thought themselves in a very dangerous situation, and first suggested it to the soldiers under their command; they suggested that they (the officers) could not desert the post, without subjecting themselves to disgrace or punishment, but that the soldiers might mutiny and march off. In that case the officers would not be obliged to tarry without men. That the soldiers marched off, and that the officers followed them. Mr. Lyon observed that it was true so far as it related to the commanding officer, and one or more of the others; and that he had himself opposed, as soon as he learned what was intended, any such proceeding; but that he was overruled, and finally went off with the rest. Mr. Lyon related this matter more particularly than I have done; but I suppose it is not necessary to enter into a minute detail. He then mentioned the circumstances of his arrest on his arrival at Ticonderoga, and some circumstances relating to the trial. He did not mention the particulars of the sentence of the court-martial, nor did I ask him. He further said that the next year, (in the year one thousand seven hundred and

seventy-seven,) General St. Clair, who commanded in the Northern Department, had reversed the sentence of the court-martial. The circumstance relative to the business I had before heard, and therefore made no inquiry of Mr. Lyon respecting it, that I recollect. The conversation above mentioned, with other similar conversations, passed between Colonel Lyon, myself, and two other judges of the Supreme Court, (a session of which was, at the time, held at Rutland,) and some gentlemen of the bar, at our private quarters, in the course of the two or three days which Colonel Lyon then spent at Rutland. One evening there were a number of people together; a Mr. Smith, if I recollect right, was conversing upon the subject with Mr. Lyon. What occasioned the observation I cannot say, but Colonel Lyon observed that he should take no notice of any thing that should be said upon that subject (referring to the former subject of conversation) in that part of the country; but that if any one at Philadelphia, or if any member of Congress, (I cannot recollect the precise expression he made use of,) should insult him with it, or pretend to mention it to him, it should not pass with impunity, or expressions conveying the same idea.

On being interrogated by Matthew Lyon, Esquire, and other members of the House, he further deposed:

Mr. Lyon, I take it, has had a colonel's commission in the militia; I think in 1781. It was during the time of a dispute between Vermont and New York, as to their jurisdiction. The neighborhood of Colonel Lyon's regiment at that time, which was Abingdon, where he then lived, was about seventy miles from where he was cashiered. He now lives, and ever since 1783 or 1784 has lived, about twenty-five or thirty miles from that place, (Ticonderoga.) Militia field-officers in Vermont, I believe, at that time were appointed by the militia of the several regiments.

I did not discover that my question with respect to the wooden sword was taken by Mr. Lyon as an affront, but Mr. Lyon discovered an anxiety to clear himself of censure.

In the conversation I mentioned above, between Mr. Lyon and myself, my expression was, if he did not expect that his ridiculous speech in Congress relative to the address would bring up the wooden sword. The first time I saw him was in 1775. I did not then reside in that country. In 1779 I went to reside there, and soon became acquainted with Mr. Lyon.

I cannot say what reasons Mr. Lyon gave for not resenting a mentioning of the wooden sword in Vermont.

I cannot say whether the story of the wooden sword arose from a figurative expression, or was literally true. I first heard the story previous to 1779, and before my acquaintance with Mr. Lyon.

Mr. Lyon and I have never been much in habits of political friendship. If I remember rightly, I mentioned in Philadelphia the conversation with Mr. Lyon as above related, in a company one evening; I cannot say with certainty, but I believe Mr. Griswold was present. I think it probable I have also related the conversation which I had with Mr. Lyon at Rutland more than once in this city, but not out of the house where I reside, to my present recollection.

THOMAS SUMTER, Esq. one of the Representatives from the State of South Carolina, being duly sworn, as aforesaid, on the 6th day of February, 1798, and interrogated by several members of the House, answered, upon his said oath, to the interrogatories so put to him as follows, to wit:

Question. Did Mr. Lyon come across the House to where you were at the fire, immediately after the dispute, and say that he had twice heard Mr. Griswold use the expression respecting the wooden sword?

Answer. Mr. Lyon did come to the fire, on the right of the Speaker's chair where I was, and say that he heard Mr. Griswold use the expression; but that he did not then attend to it, but turned from him and took no notice of it; and that Mr. Griswold touched him on the arm and repeated it.

Question. Do you know the precise length of time between the termination of the dispute and Mr. Lyon's so coming to you and making the observations as before stated?

Answer. I do not know the precise time, but suppose it to have been but a short time, from the state of agitation in which Mr. Lyon appeared.

Question. Do you know that he might not have spoken to some member before he so came to you at the fire?

Answer. I do not know that Mr. Lyon had spoken to any member between the termination of the dispute and his coming to the fire.

Question. Do you know the precise time when the dispute took place?

Answer. I do not know any thing of it till Mr. Lyon came to me.

JOSEPH B. VARNUM, Esq. one of the Representatives from the State of Massachusetts, being duly sworn, as aforesaid, on the 7th day of February, 1798, deposed as follows:

I do not know the precise time when the *fracas* took place, and cannot, therefore, exactly tell how long it was before I saw Mr. Lyon. On the day on which the House were balloting for managers of the impeachment of William Blount, the ballots being collected, and the tellers counting them, I was standing at the fire in the west part of the House in company with other gentlemen; the Speaker having left his chair, and the members generally their seats. Mr. Lyon came up to the exterior of the circle round the fire, and observed that he imagined there would be a bustle; that he had spit in Griswold's face. I observed to him that I was exceedingly sorry for it; and asked him how a thing of the kind could possibly take place. Mr. Lyon then told me the circumstances which he said provoked him to do the act.

On being interrogated by Matthew Lyon, Esq., and other members of the House, the said deponent answered to the interrogatories so put to him as follows, to wit:

Question. Were there any circumstances which induced you to believe that Mr. Lyon came to you at the fire immediately after the affray took place?

Answer. Yes.

Question. Did you not hear Mr. Thatcher mention the dispute before you heard it elsewhere?

Answer. No.

Question. What were the circumstances which induced you to believe that Mr. Lyon came to you at the fire immediately after the affray?

Answer. When Mr. Lyon came up to the fire he appeared to be in a considerable agitation of mind. The information I first received of the affray having taken place was from Mr. Lyon. Pretty soon after Mr. Lyon and I had ceased conversation on the subject, some other gentlemen observed that Mr. Griswold had armed himself, or had gone out to arm himself; and shortly after, I saw Mr. Griswold come in with a stick. These, with the observations which Mr. Lyon made to me at that time, and which the Committee of the Whole have not thought proper for me to relate, were the circumstances which induced me to believe that Mr. Lyon came to me at the fire immediately after the affray took place.

Question. Did Mr. Lyon tell you that he heard Mr. Griswold twice use the expression respecting the wooden sword?

Answer. Yes.



5th CONGRESS.]

No. 104.

[2d SESSION.]

## BREACH OF PRIVILEGES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 20, 1798.

Mr. VENABLE made the following report:

The Committee of Privileges, to whom was referred a resolution in the following words, to wit:

"Resolved, That Roger Griswold and Matthew Lyon, members of this House, for riotous and disorderly behavior committed in the House, be expelled therefrom," with instructions to report the evidence, in writing, have, according to the order of the House, proceeded to take the evidence which they herewith report; and they report, further, that it is their opinion that the said resolution be disagreed to.

*Mr. Sitgreaves's testimony.*

Having been requested by the Committee of Privileges to communicate my recollection of the affair which occurred between Mr. Griswold and Mr. Lyon, on Thursday last, I depose as follows:

I do not recollect to have observed at what time either Mr. Griswold or Mr. Lyon came into the House, nor did I see the commencement of the fracas. I was in my seat, engaged in writing, when my attention was excited by the sound or report of a heavy blow. I looked to the quarter from whence the sound seemed to proceed, and saw Mr. Lyon, on his feet, in the place where he usually sits, and Mr. Griswold in the area in front of him, beating him over the head and shoulders with a cane or walking stick. Mr. Lyon appeared to be endeavoring at once to evade the blows, and to extricate himself from the chairs and desks of the row in which he stood. He soon was in the area, and Mr. Griswold continued to beat him, keeping him at such a distance that the blows could take effect, until Mr. Lyon turned and fled behind the partition in the rear of the Speaker's chair, whither he was pursued by Mr. Griswold, still beating him. As I remained in my place, they were for a moment out of my sight, which was intercepted by the partition; but they almost immediately appeared again. Mr. Lyon holding in his hand the tongs, which he grasped by one leg. Mr. Griswold seized with his left hand the arm by which Mr. Lyon held the tongs, and closed in with him; and shortly afterwards I saw them come to the ground together, Mr. Lyon falling under Mr. Griswold; I then left my place; the members gathered round them, and they continued on the floor for a few moments. Mr. Lyon being still under Mr. Griswold, until they were parted by one member separating their arms and shoulders, while two others seized each one of Mr. Griswold's legs, and in that manner dragged him off. When they were separated, I went to Mr. Griswold, and observing that he had not his cane, advised him to get it again, lest he should be assailed by Mr. Lyon, who was now on his feet. Mr. Griswold desired the assistant doorkeeper to find his cane, and then went, at my instance, to take a draught of water; my attention was then diverted from them for a short time, until it was again excited by a new alarm in the lobby at the south end of the Hall; on looking towards that quarter, I saw both Mr. Griswold and Mr. Lyon in the lobby, but at the distance of six or eight feet from each other. Mr. Lyon held a cane in his hand; and as I hastened towards that end of the room, I was met by the assistant doorkeeper, who handed me Mr. Griswold's cane, and, appearing unwilling to interpose, requested me to give it to him; I did so, and Mr. Griswold immediately advanced apparently to renew the attack on Mr. Lyon, when the Speaker called the House to order; upon which Mr. Griswold directly relinquished his design, turned round, and went to his seat, as I did to mine.

S. SITGREAVES.

Sworn and subscribed the 17th of February, 1798, *coram* REYNOLD KEEN.*Mr. Sprague's testimony.*

I, Peleg Sprague, depose, that on Thursday morning, February 15, 1798, I was in Congress Hall before the usual hour of meeting: that after prayers were read, I saw Roger Griswold come into the Hall with a hickory-stick in his hand; he came near to the fire-place, behind the Speaker's chair, hung up his cloak, and (I think) set his stick by it, and placed himself in the seat usually occupied by Mr. Dennis, or Mr. Evans, and employed himself in reading some letters: soon after, I saw Matthew Lyon come into the Hall, with a stick or cane in his hand; he went directly to his place, put his stick behind his chair, and sat down; after sitting a short time, I observed him to cast his eyes earnestly at Mr. Griswold; then he directed his attention to some papers before him, on his table, and seemed to be revising and folding them; I looked at both alternately, and thought that Mr. Griswold eyed Lyon, but did not intend any person should observe it. While Mr. Lyon was examining his papers, as aforesaid, I saw Mr. Griswold rise from his seat, and advance towards Lyon with his usual pace, having his stick in his hand: I believe that Lyon did not see Mr. Griswold until he was within reach of him: Griswold immediately struck Lyon over the shoulders, with the little end of the cane or hickory aforesaid: it seemed to me that when Griswold first struck, Lyon was partly raised, or in the attitude of rising hastily; Griswold repeated the blows, until Lyon got clear of the seats. Then Lyon advanced towards Griswold as if to close in with him, Griswold retreated as if to avoid it, still repeating the blows, until they got to the fire-place behind the Speaker's chair: then Lyon took up the tongs, and they both closed; Griswold threw Lyon on the floor, and fell upon him; I then went away, and saw no more of the affray: I do not recollect that I heard one word pass between them during the whole time. And further the deponent saith not.

PELEG SPRAGUE.

Sworn and subscribed the 17th of February, 1798, *coram* REYNOLD KEEN.*Mr. William C. C. Claiborne's testimony.*

SATURDAY, February 17.

On Thursday last, after prayers had been delivered, the Speaker, I believe, in his chair, but the House not called to order, I was standing near to the letter-box, and, I think, reading of a letter, when my attention was taken off by a loud cry of "part them." Upon changing my position, I saw Mr. Griswold and Mr. Lyon engaged near to the clerk's seat, the former with a large walking-stick, which he apparently used with all his force, and



the latter making his defence, by holding up his arms, (without any weapon at that period) and endeavoring to close in with his antagonist. Soon afterwards the *combatants* fell upon the floor, near the stove, to the left of the Speaker's chair; when I ran forward and assisted in parting them. I remember seeing a member of the House take from Mr. Lyon a pair of fire-tongs, after he had fallen on the floor.

I did not observe the commencement of the fracas, nor did I notice the attack which is said afterwards to have been made by Mr. Lyon on Mr. Griswold outside of the bar.

WILLIAM C. C. CLAIBORNE.

Sworn and subscribed the 17th of February, 1798, *coram* REYNOLD KEEN.

*Mr. Imlay's testimony.*

James H. Imlay, being requested by the Committee of Privileges to communicate his recollection of the affair between Mr. Lyon and Mr. Griswold, says, that he came to the hall on Thursday morning, the 15th instant, a few minutes after 11 o'clock; found Mr. Griswold in the hall, sitting in the chair usually occupied by Mr. Hindman, apparently engaged in reading a letter. Mr. Lyon came into the hall about three minutes after this deponent, with a cane in his hand, and took the seat he usually occupies, or the one next to it, on the north side. After casting his eyes around the hall for a few seconds, he appeared to be employed in looking over some papers lying on his desk. During this time, which perhaps might have been the space of between three and four minutes, Mr. Griswold continued reading his letter. At length he appeared to have finished the reading, and was about folding it up, when he discovered Mr. Lyon. At this time this deponent was standing within a yard, or thereabouts, of Mr. Griswold, who immediately, on observing Mr. Lyon, walked to the recess under the window on the north side of the Speaker's chair, where he had placed his cane; taking this in his hand, he walked to the opposite side of the hall, directly in front of the Speaker's seat, to the place where the member from Vermont was sitting, and when in front of Mr. Lyon struck him with his cane. Mr. Lyon appeared to discover Mr. Griswold about the instant his arm was raised to strike, and at the utterance of some expression by Mr. Griswold, which this deponent did not distinctly hear, but supposed to be "you rascal." Mr. Lyon, when he received the blow, appeared to be in the act of rising. Mr. Griswold repeated his blow. Mr. Lyon rose, came out from his seat without his cane, advanced towards Mr. Griswold, as if with an endeavor to close in with him, which Mr. G. avoided by striking him, or pushing him off with his left hand, and repeated his blows with his cane, as often as ten or eleven times, sometimes striking on the head, and sometimes over the shoulders. Mr. Lyon appeared now to desist from attempting to close in with Mr. Griswold, and endeavored to gain the northwest side or corner of the Speaker's seat. This he did, Mr. Griswold repeating his blows. Mr. Lyon being now near the stove, on the same side of the chair as just mentioned, seized the tongs standing by the stove. Mr. Griswold then immediately closed with him, and, after a short scuffle or contest, Mr. Lyon was thrown by Mr. Griswold, who fell with him, and with one hand endeavored to prevent Mr. Lyon from using the tongs to his injury, and with the other struck him once or twice in the face. They were then separated by the interference of several members. What happened without the bar, at the west end of the hall, this deponent did not see.

J. H. IMLAY.

Sworn and subscribed this 17th February, 1798, *coram* REYNOLD KEEN.

*Mr. James Gillespie's testimony.*

James Gillespie, being sworn, saith, that, on Thursday morning, the 15th instant, he came into the House of Representatives after prayers, and the Speaker had taken the chair; that, whilst he was warming himself at the fire next on the right of the door, he saw Matthew Lyon, the member from Vermont, come to the letter-bag, and was putting in some letters as he, this deponent, passed him going into the House; that he also saw Roger Griswold sitting in a chair, a small distance from the Speaker's seat, with a large walking-stick standing near him; that I went immediately to the alphabet and made search for my letters, and, as I turned to my seat to read them, I heard a noise of blows, &c.; on looking that way, I saw Roger Griswold strike Matthew Lyon, who was in his place near the centre of the front desk opposite to the Speaker's seat, where he was then sitting; that, as Mr. Lyon was getting round the desk, he received two or three blows, and, on attempting to close in with Mr. Griswold, he, Mr. Lyon, received several severe strokes with the stick from Mr. Griswold; that the deponent conceiving, from the complexion of the affair, that it was a preconcerted plan, did not interfere, but asked the Speaker to call to order, which he declined, although the call was loud from different parts of the House; that, as Mr. Lyon advanced on Mr. Griswold, he retreated back towards the window near the Speaker's seat, by which Mr. Lyon became possessed of a pair of tongs, and struck at Mr. Griswold; on which Mr. Griswold closed with him, and they fell, and in a little time were parted; that Mr. Lyon expressed a disapprobation at being parted, and said, as he was rising, I wish I had been let alone awhile; that the deponent recollects that, as he turned to his seat, he saw Mr. Sewall, from Massachusetts, and on he, the deponent, expressing his disapprobation of such conduct, Mr. Sewall replied it was right, for we ought to have done them justice, and expelled Mr. Lyon; to which I answered, take to yourselves all the justice and credit that appertains to it, and went and read my letters, and heard no more for some time, when, looking up, I saw Mr. Sitgreaves going out of the south passage with a walkingstick, I believe, for Mr. Griswold; and then, and not before, the House was called to order, when this deponent thinks it was more than half-past eleven o'clock.

JAMES GILLESPIE.

Sworn and subscribed, the 17th of February, 1798, *coram* REYNOLD KEEN.

*Questions by Mr. Sewall.*

Question. Did not the conversation you suppose to have happened with me take place when you were, and I appeared to be, agitated with the confusion of the scene?

Answer. It did. I returned to my desk to read my letters from the first scene, and I presume somewhat agitated.

Question. Are you in any degree positive of the words you state to have heard from me?

Answer. To the best of my recollection these were the words used, or they were words to the same effect.

*Mr. Shepard's testimony.*

On Thursday morning last I went into the Hall a little before eleven o'clock. After prayers were over, Mr. Griswold came into the hall, with a cane in his hand; he went and set his cane up near the window, by the northwest part of the hall, and sat down near the end of the seat next the floor, and took out a letter (as I supposed) and went to reading it; whilst he was reading it, soon after Mr. Lyon came into the house with a cane in his hand, went and took his seat, and went to writing, setting his cane beside him. I looked at Mr. Griswold, and thought that he did not see or observe Mr. Lyon; I then turned my eye off from them, and spoke to a gentleman who was a stranger to them both, and said that they were both now in the House; turned my face towards them, and saw Mr. Griswold, then with his cane up, right before Mr. Lyon, and he struck him a blow across his (Mr. Lyon's) shoulder; Mr. Lyon appeared to be about half-way between sitting and standing; Mr. Griswold repeated the blow; Mr. Lyon soon got out on the floor of the hall, and made several attempts to get hold of Mr. Griswold, but he failed in his attempts, as Mr. Griswold kept out of his reach, and continued the blows until Mr. Lyon retreated behind the Speaker's chair; the members then huddled round them so thick that I saw no more of the transaction until they were separated; after which Mr. Griswold came across the floor of the hall, and went through the passage by the door at which we enter the hall, and went without the bar to the southeast end of the hall, and drank some water. When standing near the place where the water is kept, without any thing in his hand, Mr. Lyon came through the floor of the hall, with his cane in his hand, and came without the bar; I thought Mr. Griswold did not see him, until Mr. Lyon had his hand up to strike him, when he sprang, as I thought, to get out of the reach of his stick, but Mr. Lyon struck Mr. Griswold on his arm and shoulder, as I thought, slightly; Mr. Griswold then turned upon Mr. Lyon, when the doorkeeper sprang in between them. The Speaker then called the House to order, Mr. Griswold turned and went into his seat, and Mr. Lyon took a chair, and sat by the water and washed himself, and remained there until after the House was adjourned.

WILLIAM SHEPARD.

The foregoing sworn to and subscribed, the 17th of February, 1798, *coram* REYNOLD KEEN.

*Mr. Haven's testimony concerning the assault which Mr. Griswold made upon Mr. Lyon in the House of Representatives, on the morning of the 15th day of February, 1798.*

The hour at which the House were to meet, according to their adjournment on the preceding day, was eleven o'clock in the forenoon, and I went into the hall a little before this hour; some short time after eleven o'clock, the House attended on prayer; after this was over, I was walking in the south end of the hall, without the bar, and saw Mr. Lyon come in, with his cloak on, and go to his seat, which is the fourth from the end of that front row of seats which is on the left side of the passage leading up to the Speaker's chair; I saw him pull off his cloak, and take his seat, and perceived that he had a small cane in his hand, which he either put between his legs, or leaned against a chair beside him, in such manner that the end of it was under the long desk that was before him; after he sat down, he appeared to be engaged either in writing, or in reading the papers that were before him; it was then about one-half after eleven, and the Speaker was sitting in his chair, but had not called the House to order, and I then saw Mr. Griswold coming from the north end of the hall, across the area in front of the Speaker's chair, with a large yellow hickory cane in his hand. Although I was looking that way, as I was walking, I did not notice him much until he came within about six or eight feet of Mr. Lyon; he was then walking across the floor in a sidelong manner towards Mr. Lyon, and Mr. Lyon was sitting with his face down, looking on his papers, and, as I presume, did not perceive the approach of Mr. Griswold, and, if my memory serves me right, I think he was sitting with his hat on. As soon as Mr. Griswold had come in front of Mr. Lyon, he struck him with all his force over his head and shoulders with the smallest end of his hickory cane, repeating his blows as fast as possible; Mr. Lyon, I think, received three blows in this posture, before he rose to disengage himself from the desk that was before him, and the chairs that were on each side of him; he appeared to be then trying to recover his cane, which was under his desk, but could not do it by reason of the violence of Mr. Griswold's blows over his head and shoulders; he then rose from his seat, and got out at the end of the desk, defending himself with his arms against the blows of Mr. Griswold, and then rushed towards Mr. Griswold, and Mr. Griswold retreated towards the front of the Speaker's chair, and endeavored to keep Mr. Lyon at a distance from him, that he might strike him more conveniently with his cane; there was no person sitting on the same row of seats with Mr. Lyon when this assault began; the Speaker was in his chair, and, as soon as the assault commenced, I expected he would cry out *order* with a loud voice, but he did not; I was induced to suppose this, because I always understood that the rule of the House gave the Speaker a right to call the members to order after the hour to which the House stood adjourned, although there might not be a sufficient number of members present to proceed to business; Mr. Lyon then retreated round the clerk's table, the right hand of the Speaker's chair, and Mr. Griswold still pursued him; they then went into the narrow passage which is between the wall of the House and the Speaker's chair, and I then heard a rattling noise as if it were made with a pair of tongs, but could not see the parties, because the Speaker's chair was in the way, and I was myself then passing in front of the chair, to come up to the parties engaged, as they might go through the passage on the left hand side of the chair; as soon as they had got through the passage, Mr. Griswold either pushed Mr. Lyon down on his back in the northwest corner of the area by his own strength, or Mr. Lyon stumbled backwards over some chairs that stood in his way; from the situation in which I stood, I could not well perceive how this happened, but I saw Mr. Lyon on the floor with Mr. Griswold's head and shoulders on his breast, and Mr. Griswold's legs were directed towards me as I came from the other end of the room; Mr. Lyon was then endeavoring to disengage himself from Mr. Griswold, and had raised himself partly up, and then I perceived that he had a black eye; I then seized hold of Mr. Griswold's left leg to pull him away from Mr. Lyon, and another member, whom I afterwards noticed to be my colleague, Mr. Elmendorf, seized, at the same time, hold of Mr. Griswold's right leg with the same view. As soon as we had done this, Mr. Speaker cried out to me, and said, "That is not a proper way to take hold of him;" I asked him why? He replied, "you ought to take hold of him by the shoulders;" I said it would not hurt him to pull him a foot or two on the carpet. We, then, in this manner, pulled Mr. Griswold from off Mr. Lyon, and, by this time, a number of other members had gathered round, and the affray appeared to be over. I then walked back to the south end of the hall, to the place where I stood when the assault began; Mr. Griswold then passed by me, and went to the easternmost shelf on which water stands for the use of the members, and was drinking, when Mr. Lyon passed by me with his small cane in his hand, and went to the same shelf to drink with Mr. Griswold; as soon as Mr. Lyon had drunk a little, he looked up, and perceiving that it was Mr. Griswold who stood close by him, he said, "Is it you?" and struck at him with his cane, and hit him on his left shoulder or cheek; I observed that Mr. Lyon's blow was but a feeble one, and Mr. Griswold then retreated from him six or eight feet, and I then noticed that Mr. Griswold had no cane in his hand; I then saw Mr. Sitgreaves run to the southeast corner of the room and get a large hickory cane, and

passing by Mr. Lyon, with a good deal of animation in his countenance, he put the cane in Mr. Griswold's hand Mr. Lyon then put himself in a posture of defence, and said "Come on!" I then cried out "order," and Mr. Thompson, from New Jersey, then stepping up, and looking me full in the face, said, "What is the matter?" I replied I would have no more fighting here. Mr. Griswold then retired, and Mr. Speaker called the House to order; and so the affray ended.

JONATHAN N. HAVENS.

Sworn and subscribed, the 17th of February, 1798, *coram* REYNOLD KEEN.

*Mr. Gordon's testimony.*

I, William Gordon, do testify and say, that, on the morning of the 15th of February instant, about the hour of 11, I went to the hall of the House of Representatives. Very soon after I had entered, I observed Mr. Griswold come in with a cane in his hand. In the course of a few minutes afterwards Mr. Lyon also came into the House, and immediately went and placed himself in the seat which he has usually occupied, nearly opposite to the chair of the Speaker. He had in his hand a cane which, as he seated himself, he placed behind him. On seeing him, I immediately threw my eyes upon Mr. Griswold, but could not discover that he saw or took notice of him. At this time the Speaker was in his chair and writing, as is usually the case at that hour of the day, but the House had not come nor had it been called to order. Few members, comparatively speaking, were within the bar. In the course of a very few minutes after Mr. Lyon had seated himself, I saw Mr. Griswold, with his cane in his hand, advancing from the floor to the left of the chair of the Speaker, with a very quick and strong step towards Mr. Lyon. As he advanced he raised his cane, and uttered an exclamation of rascal, or scoundrel, or of the like import. Before Mr. Griswold reached him, Mr. Lyon, according to the best of my recollection, had partly risen up, from which I conclude he had discovered Mr. Griswold approaching him. As soon as Mr. Griswold was within such a distance from Mr. Lyon as to reach him with effect, he instantly applied his cane with great force to his back and shoulders. As soon as Mr. Lyon was able to effect it, he made his way from the seats into the floor, on the inner side of the seats, then quickly advanced towards Mr. Griswold, apparently with intent either to catch hold of his cane, or to close with him. Mr. Griswold seemed to be aware of his intentions, stepping backwards in such a manner as to keep Mr. Lyon at a proper distance for the use of his cane, rapidly applied it to his back and shoulders. As soon as Mr. Lyon had got to the line of the passage, behind the Speaker's chair, he instantly attempted to escape that way to the opposite side of the house. Mr. Griswold pursuing him, gave him three or four blows across the back. At this time I observed Mr. Lyon turning, it appearing to me that he was prevented from passing any further in that direction by the crowd that was advancing towards the scene of action. After he turned, he seized the tongs by the fire-side, and Mr. Griswold then being very near to him, struck him with them. Mr. Griswold laid hold of them, and immediately they closed in with each other. After a short struggle, Mr. Griswold threw Mr. Lyon on the floor, and fell upon him. They lay some little time in this situation, Mr. Griswold attempting to disentangle himself from the grasp of Mr. Lyon, in order to pursue his chastisement further, and had nearly effected it, and placed himself in a situation proper for that purpose, when two or three persons laid hold of him, and drew him off from Mr. Lyon. While down, he gave Mr. Lyon one blow in the face, and wrested the tongs from his hands. When separated, I saw Mr. Griswold go towards the outside of the bar, I suppose with a view to take some water. Shortly afterwards I saw Mr. Lyon making towards that part of the house where Mr. Griswold was. He approached Mr. Griswold, who was standing at the entrance of the bar, and struck him with a cane. Mr. Griswold's cane was instantly handed him, and he was making again towards Mr. Lyon, when there was a loud call to order for the first time; this was instantly repeated by the Speaker. I laid hold of Mr. Griswold; sundry persons threw themselves between him and Mr. Lyon; and Mr. Griswold instantly retired and took his seat.

WILLIAM GORDON.

The foregoing sworn to and subscribed the 17th of February, 1798, *coram* REYNOLD KEEN.

*Mr. Elmendorf's testimony.*

On Thursday morning last, having been engaged in writing in my room until I thought it very late, I entered the House of Representatives with some surprise at not finding it engaged in business. The Speaker sat, I think, writing in his chair, as I crossed the floor to the letter-box; and, on returning to my seat, I saw Mr. Lyon in his seat, in the posture of writing, or reading papers lying on his desk before him, having his hat on, and not appearing to perceive me to pass him, although very near him. From my seat, which is the second in the third row, almost directly behind his, which is the middle seat in the front row, I observed him in the same posture immediately before I heard the first blow of a cane; upon hearing which, I observed him still sitting, with one arm in the position of covering his head and warding off blows, and the other in feeling, as I thought, for a cane on the floor, beside or before him. I saw Mr. Griswold at this time on the open floor, directly before him, beating him with all the strength and dexterity apparently in his power, with a cane of the stoutest kind of American made hickory, and repeating his blows as fast as I thought he could make them. Under this pressure, Mr. Lyon, in a defenceless state, made out of his seat side-way, being hemmed in before and behind by the desks and seats, so that it was wholly out of his power to escape a single blow, or to interrupt Mr. Griswold in the act of beating him. Immediately I, myself, for one, rose in my seat, and loudly and repeatedly called out to the Chair for order. I heard the same call from different parts of the House; but I did not observe or hear any effort from the Speaker to restore it, or any personal attempt by any one near to interfere and prevent the attack. On the contrary, I think I distinctly heard the Speaker reply, that the House had not yet been called to order, as a reason for not interfering at all. As soon as Mr. Lyon had got out of the row of seats, he made towards Mr. Griswold, and made every effort to close with him (as it appeared to me;) Mr. Griswold, on his part, avoided this, by holding him off with his left arm, stepping back, and continuing to beat Mr. Lyon with his cane, as before, until in this way they both got to the fire-place, to the left of the Speaker's chair. I then heard the noise of the tongs, and immediately after saw them have hold of each other, and Mr. Griswold's cane falling out of his hand. Soon after they both fell, having hold of each other, Mr. Griswold partly upon Mr. Lyon. At this time I got to the place where they were engaged, and called out to part them. I heard the same cry from behind the chair, and I also heard the opposite cry from others, *not to part them*. Mr. Havens and myself each took hold of Mr. Griswold's legs, and, I think, together drew him off from Mr. Lyon. At the same time, I think, I saw others having hold of Mr. Lyon. When the Speaker observed Mr. Havens and myself taking hold of Mr. Griswold, he, with apparent warmth, as if thereby to prevent our interfering, called out, in substance, as nearly as I can recollect, *What! take hold of a man by the*

*legs! that is no way to take hold of him.* Notwithstanding, I persevered, and, I think, Mr. Havens assisted me, in drawing Mr. Griswold apart from Mr. Lyon. Mr. Lyon went direct from that place to his seat, where he got a small cane, and went from thence south of the bar, where I saw him and Mr. Griswold soon after meeting, and Mr. Lyon making up to him; Mr. Griswold retiring from Mr. Lyon, and Mr. Lyon making a blow at him with his cane, which Mr. Griswold, I think, received on his arm or shoulder.

The loud cry of "order" from all parts of the House, and from the Chair, here put an end to the affray. Mr. Griswold's cane was delivered to him by Mr. Sitgreaves, I think, just as he stepped within the bar, which he took from thence, I think, direct to his seat. Mr. Lyon remained without the bar, and thus the affray ended, and the House proceeded to business.

LUCAS ELMENDORF.

Sworn and subscribed the 17th of February, 1798, *coram* REYNOLD KEEN.

*Mr. Stanford's testimony.*

When the riot commenced in the hall of Congress, on the morning of the 15th instant, between Mr. Griswold and Mr. Lyon, it was about twenty or thirty minutes after 11 o'clock. Prayers were over, but the House not called to order. Sitting in my chair, I was attentively reading some letters I had just received. In an instant the sudden bustle arrested my notice. Not having observed either of the parties enter the hall, I then saw Mr. Griswold on the area of the floor, with an apparently heavy stick, making a blow (perhaps not the first) at Mr. Lyon, who was between his desk and chair, in a half-rising position. This blow, I think, he received on his left arm and shoulder, and a second as he was disengaging himself from among the desks and chairs. Once possessing the floor, he essayed to join Mr. Griswold, who evaded him by a retrograde step, and a third blow, which fell upon Mr. Lyon's head, his hat being off. Then beating back a little to the left of the Speaker's desk, as Mr. Griswold approached, repeating his strokes, Mr. Lyon again attempted to close in with him, but failed, and made suddenly behind the Speaker's desk, which, with the crowding members, for a moment, intercepted my view. Then instantly again I saw Mr. Lyon with a pair of tongs elevated for a stroke at Mr. Griswold, which seemed to be somehow parried, so as not to be fully made. A collision, I think, of the stick, tongs, and persons, now took place; Mr. Griswold about this time lost his stick; thus clung, they came down both together; the fall, I rather think, I did not see, from the intervening members; but when down they appeared to be grappled about the head and shoulders, and Mr. Griswold rather uppermost. The confusion of the House was great, and the cry "part them" pretty general. Thus, while some gentlemen were disentangling their hands, others had Mr. Griswold by the legs, and were pulling him away, which was effected. The Speaker, standing on the steps of his desk, said that it was either unfair or ungentlemanly to take a man thus by the legs. General McDowel then observed, that he (the Speaker) had acted his part in the business; and the Speaker asking what he said, General McDowel repeated his observation, and the Speaker answered, what could he do? the House was not called to order; he could not help the event. The general replied, he supposed he could not.

The parties having been separated, and left at large, they casually met again, after a small space, at the south water-stand, without the bar, when Mr. Lyon, as soon as he appeared to discover who it was, raised his stick, which he had got hold of in the interval, and struck Mr. Griswold on the shoulder or arm. The stroke was quite light, being hastily made, and with a stick not very large. Mr. Griswold then beat back to the entrance of the bar, where some one, I think Mr. Sitgreaves, ran, and met him with a similar or the same stick which he had lost in the first rencounter. Mr. Lyon, also, after striking, stepped back from the water-stand, elevated his stick, and stood in an attitude of defence. Now it was that the Speaker called to order, and no other conflict ensued. Mr. Griswold presently returned to his seat, and Mr. Lyon remained at the water-stand. The above detail is as correct, as my memory serves me, to give of so unexpected a *fracas* within the walls of the House.

R. STANFORD.

Sworn to and subscribed, the 17th of February, 1798, *coram* REYNOLD KEEN.

5th CONGRESS.]

No. 105.

[2d SESSION.]

BOUNDARIES OF GEORGIA AND WEST FLORIDA.

COMMUNICATED TO THE SENATE, FEBRUARY 23, 1798.

Mr. Ross made the following report:

The committee, to whom was referred the motion of the 17th of January last, respecting the territory of the United States southward and westward of the State of Georgia, together with the message of the President of the 23d of January, transmitting the report of the Secretary of State, respecting affairs in the territories situate on the Mississippi river, and also the representation and remonstrance of the State of Georgia, beg leave to report a bill, authorizing the establishment of a Government in part of the territory westward of Georgia, and to adjust amicably the interposing territorial claims of the United States and that State: They also lay before the Senate a copy of the commission of Governor Wright, dated 20th of January, 1764, and a copy of the instructions given to Governor Chester, on the 2d of March, 1770; which documents are believed to be genuine, and have a tendency to explain the boundaries of Georgia and West Florida.

GEORGE THE THIRD, *by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c. to our trusty and well-beloved James Wright, Esquire, greeting:*

Whereas we did, by our letters patent, under our great seal of Great Britain, bearing date at Westminster, the fourth day of May, in the first year of our reign, constitute and appoint you, the said James Wright, esquire, to be

our Captain-general and Governor-in-chief in and over our colony of Georgia, in America, lying from the most northern stream of a river commonly called Savannah, all along the sea-coast to the southward, unto the most southern stream of a certain other great water or river called Altamaha, and westward, from the heads of the said rivers, respectively, in direct line, to the South Seas; and of all that space, circuit, and precinct of lands lying within the said boundaries, with the islands in the sea lying opposite to the eastern coast of the said lands, within twenty leagues of the same, for and during our pleasure; as by the said recited letters patent, relation being thereunto had, may more fully and at large appear: *Now know you*, That we have revoked and determined, and by these presents do revoke and determine, such part and so much of the said recited letters patent, and every clause, article, and thing therein contained, which doth any way relate to or concern the limits and bounds of our said province as above described: *And further know you*, That we, reposing especial trust and confidence, courage and loyalty, of you, the said James Wright, of our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint you, the said James Wright, to be our Captain-general and Governor-in-chief, in and over our colony of Georgia, in America, bounded on the north by the most northern stream of a river there commonly called Savannah river, as far as the head of the said river, and from thence, westward, as far as our territories extend on the east of the sea-coast from the said river Savannah, to the most southern stream of a certain other river called Saint Mary, including all islands within twenty leagues of the coast, lying between the said rivers Savannah and Saint Mary; and on the south by the said river Saint Mary, as far as the head thereof; and from thence, westward, as far as our territories extend by the north boundary line of our province of East and West Florida: And we do hereby declare, ordain, and appoint, that you, the said James Wright, shall and may hold, execute, and enjoy the office and place of our Captain-general and Governor-in-chief, in and over our colony of Georgia, limited and bounded as above described; together with all and singular the powers and authorities contained in our said recited letters patent, under our great seal of Great Britain, bearing date at Westminster, the fourth day of May, in the first year of our reign, except as are herein excepted, for and during our will and pleasure.

In witness whereof, we have caused these our letters to be made patent: Witness our seal, at Westminster, the twentieth day of January, in the fourth year of our reign.

YORK & YORK.

By writ of Privy Seal.

GEORGIA, SECRETARY'S OFFICE, April 14, 1797.

The foregoing contains a true copy from commission book B, folio 140.

HORATIO MARBURY, for JOHN MILTON, *Secretary*.

GEORGE R.

*Instructions to our trusty and well-beloved Peter Chester, esquire, our Captain-general and Commander-in-chief in and over our province of West Florida, in America, and all other our territories dependent thereupon. Given at our court at Saint James's, the 2d day of March, 1770, in the tenth year of our reign.*

With these our instructions you will receive our commission under our great seal of Great Britain, constituting you our Captain-general and Governor-in-chief in and over our province of West Florida, in America, bounded to the southward by the Gulf of Mexico, including all islands within six leagues of the coast, from the river Apalachicola to Lake Pontchartrain; to the westward by the said lake, the Lake Maurepas, and the river Mississippi; to the northward by a line drawn due east from the mouth of the river Yazoo, where it unites with the Mississippi, due east, to the river Apalachicola.

You are therefore to fit yourself with all convenient speed, and repair to your said Government; and, being arrived at Pensacola, which we do for the present appoint to be the place of your residence, and the principal seat of Government, you are to take upon you the execution of the office and trust we have reposed in you, and the administration of Government: and to do and execute all things in due manner that shall belong to your command, according to the several powers and authorities of our said commission under our great seal of Great Britain, and these our instructions to you; or according to such further powers and instructions as shall, at any time hereafter, be granted or appointed you under our signet and sign-manual, or by our order in our privy council.

REVISION OF THE ACT FOR THE RELIEF OF PERSONS IMPRISONED FOR DEBT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 26, 1798.

Mr. NATHANIEL SMITH from the committee appointed to inquire into the expediency of making alterations in the act for the relief of persons imprisoned for debt, made the following report:

That, in their opinion, the said act ought to be so amended, as to extend its provisions, in express terms, to persons imprisoned in civil causes at the suit of the United States; also that the several district judges ought to be authorized to issue their warrants, commanding the jailers to bring the prisoners before them at such time and place as they shall think proper to appoint, for the purpose of executing the business assigned them by the said act; and in case of prisoners confined in the cities of Philadelphia, New York, Boston, Baltimore, and Charleston, the judges ought to be empowered to appoint two commissioners to do the business under the said act, when it shall be inconvenient for the judges to attend on the said business, by reason of other judicial duties, absence, sickness, or inability. Your committee are also of opinion that provision ought to be made, by law, for the support of poor prisoners during their confinement, previous to taking the oath provided for them by the said act.

[5th CONGRESS.]

[No. 107.]

[2d SESSION.]

REVISION OF THE ACTS "FOR THE RELIEF OF PERSONS IMPRISONED FOR DEBT,"  
AND "FOR MITIGATING OR REMITTING THE FORFEITURES, PENALTIES, AND  
DISABILITIES, ACCRUING IN CERTAIN CASES."

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 25, 1798.

Mr. OTIS, from the committee, to whom were referred two resolutions of the 27th of March last, to consider if any, and what, alterations ought to be made in an act entitled "An act for the relief of persons imprisoned for debt;" and also in an act entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned," made the following report:

That, in the opinion of the committee, the relief afforded by law to persons imprisoned for debt, at the suit of individuals, should be extended to those who may be imprisoned for debts due to the United States; and, accordingly, submit the bill accompanying this report.

Upon the second resolution, the committee are of opinion that no debtor to the United States should be discharged from imprisonment upon any judgment, but with the approbation of the Secretary of the Treasury; and they have inserted in the aforesaid bill a provision for this object.

This bill, if adopted, will embrace all the private petitions that were submitted to the committee, except that of James Greenleaf; this petitioner is confined upon mesne process, and prays that the benefit of the act for the relief of persons imprisoned for debt may be extended to such persons prior to the recovery of final judgment; but the committee are of opinion that an innovation of this nature cannot be made with propriety or convenience, unless by means of a uniform system of bankruptcy; they therefore recommend that said Greenleaf have leave to withdraw his petition.

[5th CONGRESS.]

[No. 108.]

[2d SESSION.]

REVISION OF THE NATURALIZATION ACT, AND PRESCRIBING REGULATIONS RE-  
SPECTING ALIENS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 1, 1798.

Mr. SEWALL, from the committee appointed to inquire and report whether any, and what, alterations may be necessary in the act "to establish a uniform rule of naturalization, and to repeal the act heretofore passed on that subject;" and further, to consider and report upon the expediency of establishing, by law, regulations respecting aliens arriving or residing within the United States, made the following report:

That, by force of the act entitled "An act to establish a uniform rule of naturalization, and to repeal the act heretofore passed on that subject," aliens are permitted to become citizens of the United States, when, in the opinion of this committee, there is not sufficient evidence of their attachment to the laws and welfare of this country to entitle them to such privilege; and that, for this purpose, a longer residence within the United States, before admission, than the act provides, is essential and ought to be required. The committee are also of opinion that some precautions against the promiscuous reception and residence of aliens, which may be thought, at all times, advisable, are, at this time, more apparently necessary and important, especially for the securing or removal of those who may be suspected of hostile intentions.

On these subjects, respectively, the committee beg leave to recommend the following resolutions:

1. *Resolved*, That provision ought to be made, by law, to prolong the term of residence within the United States, which shall be proved by an alien, before he shall be admitted to become a citizen of the United States, or of any State.

2. *Resolved*, That provision be made, by law, for a report and registry of all aliens who shall continue residents, or shall hereafter arrive within the United States, with suitable descriptions of their places of birth and citizenship, and places of arrival and residence within the United States.

3. *Resolved*, That provision be made, by law, for the apprehending, securing, or removal, as the case may require, of all aliens, being males, of the age of fourteen years and upwards, who shall continue to reside, or shall arrive within the United States, being natives, citizens, or subjects of any country, the Government whereof shall declare war against the United States, or shall threaten, attempt, or perpetrate any invasion or predatory incursions upon their territory, as soon as may be, after the President of the United States shall make proclamation of such event. Providing, in all cases where such aliens are not chargeable with actual hostility, that the period settled by any treaty with such hostile nation, or other reasonable period, according to the usage of nations, and the duties of humanity, shall be allowed for the departure of such aliens, with all their effects, from the territory of the United States; and excepting all cases of such aliens to whom passports, or licenses of residents may be granted, consistently with the public safety.

5th CONGRESS.]

No. 109.

[2d SESSION.

## GENERAL WASHINGTON'S ACCEPTANCE OF THE COMMAND OF THE ARMY IN 1798.

COMMUNICATED TO THE SENATE, JULY 18, 1798.

*Gentlemen of the Senate:*

UNITED STATES, July 17, 1798.

Believing that the letter received this morning from General Washington will give high satisfaction to the Senate, I transmit them a copy of it, and congratulate them and the public on this great event, the general's acceptance of his appointment as lieutenant general and commander-in-chief of the army.

JOHN ADAMS.

DEAR SIR:

MOUNT VERNON, July 13, 1798.

I had the honor, on the evening of the 11th instant, to receive from the hands of the Secretary of War, your favor of the 7th, announcing that you had, with the advice and consent of the Senate, appointed me "lieutenant general and commander-in-chief of all the armies raised or to be raised for the service of the United States."

I cannot express how greatly affected I am at this new proof of public confidence, and the highly flattering manner in which you have been pleased to make the communication; at the same time I must not conceal from you my earnest wish that the choice had fallen upon a man less declined in years, and better qualified to encounter the usual vicissitudes of war.

You know, sir, what calculation I had made relative to the probable course of events on my retiring from office, and the determination I had consoled myself with, of closing the remnant of my days in my present peaceful abode: you will therefore be at no loss to conceive and appreciate the sensations I must have experienced to bring my mind to any conclusion that would pledge me, at so late a period of life, to leave scenes I sincerely love to enter upon the boundless field of public action, incessant trouble, and high responsibility.

It was not possible for me to remain ignorant of, or indifferent to, recent transactions. The conduct of the Directory of France towards our country; their insidious hostility to its Government; their various practices to withdraw the affections of the people from it; the evident tendency of their acts and those of their agents to countenance and invigorate opposition; their disregard of solemn treaties and the laws of nations; their war upon our defenceless commerce; their treatment of our ministers of peace; and their demands, amounting to tribute, could not fail to excite in me corresponding sentiments with those my countrymen have so generally expressed in their affectionate addresses to you. Believe me, sir, no one can more cordially approve of the wise and prudent measures of your administration. They ought to inspire universal confidence; and will, no doubt, combined with the state of things, call from Congress such laws and means as will enable you to meet the full force and extent of the crisis.

Satisfied, therefore, that you have sincerely wished and endeavored to avert war, and exhausted, to the last drop, the cup of reconciliation, we can with pure hearts appeal to Heaven for the justice of our cause; and may confidently trust the final result to that kind Providence who has heretofore, and so often, signally favored the people of these United States.

Thinking in this manner, and feeling how incumbent it is upon every person, of every description, to contribute at all times to his country's welfare, and especially in a moment like the present, when every thing we hold dear and sacred is so seriously threatened, I have finally determined to accept the commission of commander-in-chief of the armies of the United States, with the reserve, only, that I shall not be called into the field until the army is in a situation to require my presence, or it becomes indispensable by the urgency of circumstances.

In making this reservation, I beg it to be understood that I do not mean to withhold any assistance to arrange and organize the army, which you may think I can afford. I take the liberty also to mention, that I must decline having my acceptance considered as drawing after it any immediate charge upon the public, or that I can receive any emoluments annexed to the appointment before entering into a situation to incur expense.

The Secretary of War being anxious to return to the seat of Government, I have detained him no longer than was necessary to a full communication upon the several points he had in charge.

With very great respect and consideration, I have the honor to be, dear sir,  
your most obedient and humble servant,

GEO. WASHINGTON.

JOHN ADAMS, *President of the United States.*

5th CONGRESS.]

No. 110.

[3d SESSION.

## REPEAL OF THE ALIEN AND SEDITION LAWS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 21, 1799.

The committee to whom were referred the memorials of sundry inhabitants of the counties of Suffolk and Queen, in the State of New York; of Essex county, in New Jersey; of the counties of Philadelphia, York, Northampton, Mifflin, Dauphin, Washington, and Cumberland, in Pennsylvania; and of the county of Amelia, in Virginia, complaining of the act entitled "An act concerning aliens," and other late acts of Congress, submit the following report:

It is the professed object of these petitions to solicit a repeal of two acts passed during the last session of Congress, the one "An act concerning aliens," the other "An act in addition to an act for the punishment of certain crimes against the United States," on the ground of their being unconstitutional, oppressive, and impolitic.



The committee cannot, however, forbear to notice that the principal measures hitherto adopted for repelling the aggressions and insults of France have not escaped animadversion.

Complaints are particularly directed against the laws providing for a navy; for augmenting the army; authorizing a provisional army and corps of volunteers; for laying a duty on stamped vellum, parchment, and paper; assessing and collecting direct taxes; and authorizing loans for the public service.

With these topics of complaint, in some of the petitions, are intermingled invectives against the policy of the Government from an early period, and insinuations derogatory to the character of the Legislature and of the administration.

While the committee regret that the public councils should ever be invited to listen to other than expressions of respect; they trust that they have impartially considered the questions referred to their examination, and formed their opinions on a just appreciation of their merits, with a due regard to the authority of Government and the dispassionate judgment of the American people.

The act concerning aliens, and the act in addition to the act entitled an act for the punishment of certain crimes, shall be first considered.

Their *constitutionality* is impeached. It is contended that Congress have no power to pass a law for removing aliens.

To this it is answered, that the asylum given by a nation to foreigners is mere matter of favor, resumable at the public will. On this point abundant authorities might be adduced, but the common practice of nations attests the principle.

The right of removing aliens, as an incident to the power of war and peace, according to the theory of the constitution, belongs to the Government of the United States. By the fourth section of the fourth article of the constitution, Congress is required to protect each State from invasion; and is vested by the eighth section of the fifth article with power to make all laws which shall be proper to carry into effect all powers vested by the constitution in the Government of the United States, or in any department or officer thereof; and to remove from the country, in times of hostility, dangerous aliens, who may be employed in preparing the way for invasion, is a measure necessary for the purpose of preventing invasion, and, of course, a measure that Congress is empowered to adopt.

The act is said to be unconstitutional, because to remove aliens is a direct breach of the constitution, which provides, "by the ninth section of the first article, that the migration or importation of such persons as any of the States shall think proper to admit shall not be prohibited by the Congress prior to the year 1808."

To this it is answered, first, that this section in the constitution was enacted solely in order to prevent Congress from prohibiting, until after a fit period, the importation of slaves, which appears from two considerations: First, that the restriction is confined to the States which were in existence at the time of establishing the constitution; and, secondly, that it is to continue only twenty years; for neither of which modifications could there have been the least reason, had the restriction been intended to apply, not to slaves particularly, but to all emigrants in general.

Secondly, It is answered, that to prevent emigration in general, is a very different thing from sending off, after their arrival, such emigrants as might abuse the indulgence, by rendering themselves dangerous to the peace or safety of the country; and that if the constitution in this particular should be so construed, it would prevent Congress from driving a body of armed men from the country, who might land with views evidently hostile.

Thirdly, that as the constitution has given to the States no power to remove aliens during the period of their limitation under consideration, in the mean time, on the construction assumed, there would be no authority in the country empowered to send away dangerous aliens, which cannot be admitted; and that on a supposition that the aforesaid restrictive clause included every description of emigrants, the different sections must receive such a construction as shall reconcile them with each other; and, according to a fair interpretation of the different parts of the constitution, the section cannot be considered as restrictive on the power of Congress to send away dangerous foreigners in times of threatened or actual hostility. And though the United States, at the time of passing this act, were not in a state of declared war, they were in a state of partial hostility, and had the power, by law, to provide, as by this act they have done, for removing dangerous aliens.

This law is said to violate that part of the constitution which provides that the trial of all crimes, except in cases of impeachment, shall be by jury; whereas, this act invests the President with power to send away aliens on his own suspicion, and thus to inflict punishment without trial by jury.

It is answered, in the first place, that the constitution was made for citizens, not for aliens, who of consequence have no rights under it, but remain in the country, and enjoy the benefit of the laws, not as matter of right, but merely as matter of favor and permission; which favor and permission may be withdrawn, whenever the Government charged with the general welfare shall judge their further continuance dangerous.

It is answered, in the second place, that the provisions in the constitution relative to presentment and trial of offences by juries, do not apply to the revocation of an asylum given to aliens. Those provisions solely respect crimes, and the alien may be removed without having committed any offence, merely from motives of policy or security. The citizen, being a member of society, has a right to remain in the country, of which he cannot be disfranchised, except for offences first ascertained, on presentment and trial by jury.

It is answered, thirdly, that the removal of aliens, though it may be inconvenient to them, cannot be considered as a punishment inflicted for an offence, but, as before remarked, merely the removal from motives of general safety, of an indulgence which there is danger of their abusing, and which we are in no manner bound to grant or continue.

The "Act in addition to an act entitled an act for the punishment of certain crimes against the United States," commonly called the "sedition act," contains provisions of a two-fold nature: first, against seditious acts; and, second, against libellous and seditious writings. The first have never been complained of, nor has any objection been made to its validity. The objection applies solely to the second; and on the ground, in the first place, that Congress have no power by the constitution to pass any act for punishing libels, no such power being expressly given; and all powers not given to Congress being reserved to the States, respectively, or the people thereof.

To this objection it is answered, that a law to punish false, scandalous, and malicious writings against the Government, with intent to stir up sedition, is a law necessary for carrying into effect the power vested by the constitution in the Government of the United States and in the Departments and officers thereof, and, consequently, such a law as Congress may pass; because the direct tendency of such writings is to obstruct the acts of the Government by exciting opposition to them, to endanger its existence, by rendering it odious and contemptible in the eyes of the people, and to produce seditious combinations against the laws, the power to punish which has never been questioned; because it would be manifestly absurd to suppose that a Government might punish sedition, and yet be void of power to prevent it by punishing those acts which plainly and necessarily lead to it; and because, under the general power to make all laws proper and necessary for carrying into effect the powers vested by the consti-



tution in the Government of the United States, Congress has passed many laws for which no express provision can be found in the constitution, and the constitutionality of which has never been questioned; such as the first section of the act now under consideration, for punishing seditious combinations; the act passed during the present session for punishing persons who, without authority from the Government, shall carry on any correspondence relative to foreign affairs with any foreign Government; the act for the punishment of certain crimes against the United States, which defines and punishes misprision of treason; the tenth and twelfth sections, which declare the punishment of accessaries to piracy, and of persons who shall confederate to become pirates themselves, or to induce others to become so; the fifteenth section, which inflicts a penalty on those who steal or falsify the record of any court of the United States; the eighteenth and twenty-first sections, which provide for the punishment of persons committing perjury in any court of the United States, or attempting to bribe any of their judges; the twenty-second section, which punishes those who obstruct or resist the process of any court of the United States; and the twenty-third, against rescuing offenders who have been convicted of any capital offence before those courts; provisions, none of which are expressly authorized, but which have been considered as constitutional, because they are necessary and proper for carrying into effect certain powers expressly given to Congress.

It is objected to this act, in the second place, that it is expressly contrary to that part of the constitution which declares that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the liberty of the press." The act in question is said to be an abridgment of the liberty of the press, and therefore unconstitutional.

To this it is answered, in the first place, that the liberty of the press consists, not in a license for every man to publish what he pleases, without being liable to punishment if he should abuse this license to the injury of others, but in a permission to publish, without previous restraint, whatever he may think proper, being answerable to the public and individuals for any abuse of this permission to their prejudice; in like manner as the liberty of speech does not authorize a man to speak malicious slanders against his neighbor, nor the liberty of action justify him in going by violence into another man's house, or in assaulting any person whom he may meet in the streets. In the several States the liberty of the press has always been understood in this manner, and no other; and the constitution of every State, which has been framed and adopted since the declaration of independence, asserts "the liberty of the press;" while in several, if not all, their laws provide for the punishment of libellous publications, which would be a manifest absurdity and contradiction, if the liberty of the press meant to publish any and every thing, without being amenable to the laws for the abuse of this license. According to this just, legal, and universally admitted definition of "the liberty of the press," a law to restrain its licentiousness, in publishing false, scandalous, and malicious libels against the Government, cannot be considered as an "abridgment" of its "liberty."

It is answered, in the second place, that the liberty of the press did never extend, according to the laws of any State, or of the United States, or of England, from whence our laws are derived, to the publication of false, scandalous, and malicious writings against the Government, written or published with intent to do mischief, such publications being unlawful and punishable in every State; from whence it follows, undeniably, that a law to punish seditious and malicious publications is not an abridgment of the "liberty of the press;" for it would be a manifest absurdity to say that a man's liberty was abridged by punishing him for doing that which he never had a liberty to do.

It is answered, thirdly, that the act in question cannot be unconstitutional, because it makes nothing penal that was not penal before, and gives no new powers to the court, but is merely declaratory of the common law, and useful for rendering that law more generally known and more easily understood. This cannot be denied, if it be admitted, as it must be, that false, scandalous, and malicious libels against the Government of the country, published with intent to do mischief, are punishable by the common law; for, by the second section of the third article of the constitution, the judicial power of the United States is expressly extended to all offences arising under the constitution. By the constitution, the Government of the United States is established, for many important objects, as *the Government of the country*; and libels against that Government, therefore, are offences arising under the constitution, and consequently are punishable at common law by the courts of the United States. The act, indeed, is so far from having *extended* the law, and the power of the court, that it has abridged both, and has enlarged instead of abridging the "liberty of the press;" for, at common law, libels against the Government might be punished with fine and imprisonment at the discretion of the court, whereas the act limits the fine to two thousand dollars, and the imprisonment to two years; and it also allows the party accused to give the *truth* in evidence for his justification, which, by the common law, was expressly forbidden.

And lastly, it is answered, that had the constitution intended to prohibit Congress from legislating at all on the subject of the press, which is the construction whereon the objections to this law are founded, it would have used the same expressions as in that part of the clause which relates to religion and religious tests; whereas the words are wholly different: "Congress," says the constitution, amendment 3rd, "shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or the press." Here it is manifest that the constitution intended to prohibit Congress from legislating at all on the subject of *religious establishments*, and the prohibition is made in the most express terms. Had the same intention prevailed respecting the press, the same expressions would have been used, and Congress would have been "prohibited from passing any law respecting the press." They are not, however, "prohibited" from legislating at all on the subject, but merely from *abridging* the liberty of the press. It is evident they may legislate respecting the press, may pass laws for its regulation, and to punish those who pervert it into an engine of mischief, provided those laws do not "abridge" its "liberty." Its *liberty*, according to the well-known and universally admitted definition, consists in permission to publish, without previous restraint upon the press, but subject to punishment afterwards for improper publications. A law, therefore, to impose previous restraint upon the press, and not one to inflict punishment on wicked and malicious publications, would be a law to abridge the liberty of the press, and, as such, unconstitutional.

The foregoing reasoning is submitted as vindicating the validity of the laws in question.

Although the committee believe that each of the measures adopted by Congress during the last session is susceptible of an analytical justification on the principles of the constitution, and national policy, yet they prefer to rest their vindication on the true ground of considering them as parts of a general system of defence, adapted to a crisis of extraordinary difficulty and danger.

It cannot be denied that the power to declare war, to raise and support armies, to provide and maintain a navy, to suppress insurrections, and repel invasions, and also the power to defray the necessary expense by loans or taxes, is vested in Congress. Unfortunately for the present generation of mankind, a contest has arisen, and rages with unabated ferocity, which has desolated the fairest portions of Europe, and shaken the fabric of society through the civilized world. From the nature and effects of this contest, as developed in the experience of nations, melancholy inferences must be drawn, that it is unsusceptible of the restraints which have either designated the objects, limited the duration, or mitigated the horrors of national contentions. In the internal history of France, and in the conduct of her forces and partisans in the countries which have fallen under her power, the public councils of our country were required to discern the dangers which threatened the United States, and to guard not only against the

usual consequences of war, but also against the effects of an unprecedented combination to establish new principles of social action, on the subversion of religion, morality, law, and government. Will it be said, that the raising of a small army, and an eventual provision for drawing into the public service a considerable proportion of the whole force of the country was, in such a crisis, unwise or improvident?

If such should be the assertion, let it be candidly considered whether some of our fertile and flourishing States did not, six months since, present as alluring objects for the gratification of ambition or cupidity as the inhospitable climate of Egypt. What then appeared to be the comparative difficulties between invading America and subverting the British power in the East Indies? If this was a professed, not real object of the enterprise, let it be asked, if the Sultan of the Ottoman empire was not really the friend of France, at the time when his unsuspecting dependencies were invaded; and whether the United States were not, at the same time, loaded with insults and assailed with hostility? If, however, it be asserted that the system of France is hostile only to despotic or monarchical Governments, and that our security arises from the form of our constitution, let Switzerland, first divided and disarmed by perfidious seductions, now agonized by relentless power, illustrate the consequences of similar credulity. Is it necessary at this time to vindicate the naval armament? Rather may not the inquiry be boldly made, whether the guardians of the public weal would not have deserved and received the reproaches of every patriotic American, if a contemptible naval force had been longer permitted to intercept our necessary supplies, destroy our principal source of revenue, and seize, at the entrance of our harbors and rivers, the products of our industry destined to our foreign markets? If such injuries were at all to be repelled, is not the restriction which confined captures by our ships solely to armed vessels of France a sufficient proof of our moderation?

If, therefore, naval and military preparations were necessary, a provision of funds to defray the consequent expenses was of course indispensable; a review of all the measures that have been adopted since the establishment of the Government will prove that Congress have not been unmindful of the wishes of the American people, to avoid an accumulation of the public debt; and the success which has attended these measures affords conclusive evidence of the sincerity of their intentions. But to purchase sufficient quantities of military supplies to establish a navy, and provide for all the contingencies of an army, without recourse to new taxes and loans, was impracticable; both measures were, in fact, adopted. In devising a mode of taxation, the convenience and ease of the least wealthy class of the people were consulted as much as possible; and, although the expenses of assessment have furnished a topic of complaint, it is found that the allowances are barely sufficient to ensure the execution of the law, even aided as they are by the disinterested and patriotic exertions of worthy citizens; besides, it ought to be remembered that the expenses of organizing a new system should not, on any principle, be regarded as a permanent burden on the public.

In authorizing a loan of money, Congress have not been inattentive to prevent a permanent debt; in this particular, also, the public opinion and interest have been consulted. On considering the law, as well as the manner in which it is proposed to be carried into execution, the committee are well satisfied in finding any excess in the immediate charge upon the revenue is likely to be compensated by the facility of redemption which is secured to the Government.

The alien and sedition acts, so called, form a part, and in the opinion of the committee an essential part, in these precautionary and protective measures adopted for our security.

France appears to have an organized system of conduct towards foreign nations, to bring them within the sphere and under the dominion of her influence and control. It has been unremittingly pursued under all the changes of her internal polity. Her means are in wonderful coincidence with her ends: among these, and not least successful, is the direction and employment of the active and versatile talents of her citizens abroad as emissaries and spies. With a numerous body of French citizens and other foreigners, and admonished by the passing scenes in other countries, as well as by aspects in our own, knowing they had the power, and believing it to be their duty, Congress passed the law respecting aliens, directing the *dangerous* and *suspected* to be removed, and leaving to the *inoffensive* and *peaceable* a safe asylum.

The principles of the sedition law, so called, are among the most ancient principles of our Governments. They have been ingrafted into statutes, or practised upon as maxims of the common law, according as occasion required. They were often and justly applied in the revolutionary war. Is it not strange that now they should first be denounced as oppressive, when they have long been recognised in the jurisprudence of these States?

The necessity that dictated these acts, in the opinion of the committee, still exists.

So eccentric are the movements of the French Government, that we can form no opinion of their future designs towards our country. They may recede from the tone of menace and insolence to employ the arts of seduction, before they astonish us with their ultimate designs. Our safety consists in the wisdom of the public councils, a co-operation on the part of the people with the Government, by supporting the measures provided for repelling aggressions, and an obedience to the social laws.

After a particular and general review of the whole subject referred to their consideration, the committee see no ground for rescinding these acts of the Legislature. The complaints preferred by some of the petitioners may be fairly attributed to a diversity of sentiment naturally to be expected among a people of various habits and education, widely dispersed over an extensive country; the innocent misconceptions of the American people will, however, yield to reflection and argument, and from *them* no danger is to be apprehended.

In such of the petitions as are conceived in a style of vehement and acrimonious remonstrance, the committee perceive too plain indications of the principles of that exotic system which convulses the civilized world. With this system, however organized, the public councils cannot safely parley or temporize, whether it assumes the guise of patriotism to mislead the affections of the people; whether it be employed in forming projects of local and eccentric ambition, or shall appear in the more generous form of open hostility, it ought to be regarded as the bane of public as well as private tranquillity and order.

Those to whom the management of public affairs is now confided, cannot be justified in yielding any established principles of law or government to the suggestions of modern theory; their duty requires them to respect the lessons of experience, and transmit to posterity the civil and religious privileges which are the birthright of our country, and which it was the great object of our happy constitution to secure and perpetuate.

Impressed with these sentiments, the committee beg leave to report the following resolutions:

*Resolved*, That it is inexpedient to repeal the act passed the last session, entitled "An act concerning aliens."

*Resolved*, That it is inexpedient to repeal the act passed the last session, entitled "An act in addition to the act entitled 'An act for the punishment of certain crimes against the United States.'"

*Resolved*, That it is inexpedient to repeal any of the laws respecting the navy, military establishment, or revenue of the United States.

5th CONGRESS.]

No. 111.

[3d SESSION.

## REPRINT OF THE JOURNALS OF CONGRESS UNDER THE CONFEDERATION, AND OF OTHER PUBLIC DOCUMENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 26, 1799.

Mr. RUTLEDGE, from the committee to whom was referred a motion relative to the printing of the journals of Congress under the confederation, together with such reports of heads of Departments, and of committees of both Houses of Congress under the present constitution, as are out of print, or are of importance for explaining and understanding the acts of Government, made the following report, in part:

That, upon inquiry, they find the journals of Congress under the confederation are out of print, and that a subscription has been opened in this city for the publication of them. In the opinion of your committee the reprinting of so valuable a record is highly desirable, and, as it will be greatly facilitated by some legislative aid, they therefore recommend the following resolution:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Senate and the Clerk of the House of Representatives be authorized and directed to subscribe, on such terms as they may deem eligible, for the use of the Senate and House of Representatives, for four hundred copies of the journals of Congress, which are proposed to be published by Richard Folwell.*

6th CONGRESS.]

No. 112.

[1st SESSION.

## INSURRECTION IN PENNSYLVANIA.

COMMUNICATED TO CONGRESS, DEC. 5, 1799, BY MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

*Letter from the District Judge of Pennsylvania.*

Sir:

PHILADELPHIA, March 11, 1799.

I cannot longer omit transmitting to you some documents which are enclosed, showing that a daring combination, and treasonable opposition to the laws of the United States, has recently been brought to a crisis, in Northampton county, in this district. I had some time ago issued my warrants against sundry offenders in that county who had been charged, on oath, with misdemeanors in entering into unlawful combinations to resist the law commonly called the house-tax law, and rendering it unsafe for the officers appointed under that act to perform their duties. The marshal endeavored to execute my warrants, and had proceeded in the business as far as is related in the papers enclosed. The result may be gathered from these papers. But I have directed the marshal to make a more accurate statement, which, with other proofs I daily expect, I will transmit. I shall proceed, when furnished with the necessary testimony, to issue warrants against those who took up arms and rescued the prisoners. But I fear the process cannot be executed without a military force: this, at least, seems to be probable from the opinions given in the enclosed papers, and from the facts therein stated. The same spirit exists in some parts of Montgomery and Bucks counties, though it has not yet arrived to the violent extreme exhibited in Northampton. I shall issue a number of warrants against offenders in those latter counties forthwith; and if any resistance should there happen, I will duly inform you, that you may lay the information before the President, to whom, I pray you, to transmit that herein given.

I have the honor to be, very respectfully, your obedient servant,

RICHARD PETERS,

*Judge of the Pennsylvania district of the United States.*Colonel TIMOTHY PICKERING, *Secretary of State.**Report of the Marshal of the district of Pennsylvania.*

Sir:

PHILADELPHIA, March 11, 1799.

On the 20th of February last the honorable Richard Peters, Esq. issued warrants against sundry persons residing in the county of Northampton, who had given opposition to the execution of the law of the United States laying a tax on lands and houses, and a number of subpoenas for witnesses there and in the county of Montgomery. The writs were put into my hands on the 23d; on the 26th I set out, and got to Norristown that night; on the next morning (the 27th) I set out from thence, and on that day served all my subpoenas in Montgomery, and on the 28th got to Emaus in Northampton county. I was informed there that an express had arrived from Philadelphia with despatches informing them of my business, which created some alarm amongst the people in opposition in Millerstown and its vicinity. A meeting of a troop of horse was called there, of which a Mr. Jarret, a justice of the peace, was the captain. Messengers were sent to sundry places for purposes of which I was unacquainted. Next day I proceeded to Nazareth, saw Judge Henry and Mr. Eyerly, and on Saturday morning, the 2d instant, Mr. Eyerly and I rode into Lehigh township, where I arrested eleven persons, and on the next day took security from them that they would appear at Bethlehem, at the public inn, on Thursday morning, the 7th instant, to march with me to the city of Philadelphia, there to enter into recognizance to appear at the next circuit court to answer, &c. Five others came in and signed the obligation. This being accomplished, we came to Bethlehem, set out for Macungy township in company with Colonel Stephen Balliot. We lodged that night at Emaus; next morning, the 5th instant, we set out for Millerstown; on our way I stopped at the house of George Seider to serve a subpoena on him as a witness on the part of the United States. His wife came to the door; on being asked for her husband, she abused me and the gentlemen with me. He came to the door, (with a club in his hand of green oak, which seemed to have been procured for the occasion,) and called us every abusive name the German language can afford,

refusing at the same time the subpoena. I gave it into the hands of a person present, who afterwards gave it to him, and rode on. When we got near Millerstown, we observed people assembling from all quarters; in some instances two men riding on one horse. This, from the conduct of Seider, led to a belief that an opposition was intended to be made to the arresting of any of the offenders against the laws of the United States in that place. We left our horses at Mr. Buskirk's, (a German clergyman near the town,) and walked in. We went first to the house of George Schaffer, one of the worst offenders. We were there informed that he had gone the day before to Philadelphia. We then went to the house of Henry Shankweiler, where we found upwards of fifty men (chiefly armed with clubs) prepared to prevent the execution of the law. Shankweiler was shown to me; as I advanced towards him, he retreated into the midst of the crowd. I, however, arrested him; he refused to submit to the arrest; the mob swore that, before he should be taken, they would, *to a man*, fight till they died; that he should not submit; he swore he never would; he would die first. I explained to them the consequence of resisting; he swore he did not care if it cost him his life and all his property, even to the destruction of his family, he would not. Upon which Jacob and Daniel Schaffer, brothers of the aforementioned Henry Schaffer, a young man of the name of Schwartz, who tore the cockade from Colonel Balliot's hat, and many others whom I did not know, nor could find any person who would furnish me with their names, rushed on in the most violent torrent of abuse, threatening vengeance, particularly against Eyerly and Balliot, calling to each other "strike, strike," all desirous that some one might begin the affray. I desired Shankweiler to quiet those people, to keep them off. He desired them not to hurt the marshal; but Eyerly and Balliot, he said, were damned rascals. I informed him and his people that those gentlemen were under my protection; that I would protect them; and showed some little resolution, which seemed to strike terror into them; upon which they gave way, and the gentlemen got out of the house. It is my opinion that if one single blow had been struck the whole of the rascals would have fallen on, and we three should have been killed. Shankweiler, however, before I left him, promised to meet me on Thursday morning at Bethlehem, but without a promise of a submission. We went from thence to Jeremiah Trexlers, lodged there that night. Next morning I hired a constable to go with and show me the persons of Daniel Harvey, Adam Stephen, and Herman Hortman, whom I arrested, and obtained their promise to meet me on the morning after at Bethlehem. Hortman was insolent, disputed my authority, but submitted. I returned to Trexlers; was there informed that a rescue of the prisoners, as soon as I had them assembled, was intended. Mr. Eyerly, Mr. Balliot, and I, returned to Bethlehem, where Judge Henry gave us the same information. I then called a *posse comitatus* of about fourteen men to my aid in support of the authority of the United States, who attended unarmed. About 11 o'clock in the forenoon of Thursday, two men came into the yard of the public inn. One had a large duck gun, and the other a rifle. After some conversation with them I disarmed and confined them, concluding that if all the rescuers came in that scattered and unmilitary manner, a good account might be given of them.

After some time, up came Shankweiler, of Millerstown, with William Desh, Jacob Cline, and David Scheffer, three of Captain Jarrett's troop of horse; I asked him if he had come to surrender himself to me, and submit to the laws of the United States? He impertinently answered, no, and kept rather behind the horsemen. I asked him for what purpose he came? He answered, to see his partner, (meaning his accuser.) I commanded him to submit; he refused in the most positive manner. After some time a person came up, informing us that, a large body of men, horse and foot, were assembled, armed with guns, swords, and pistols, at the Lehigh bridge, in a hostile manner; on which information, I sent down John Mulhallon, Esq., Major William Burnet, Isaac Hartzell, and Christian Rhodt, two of whom were supposed to be in the confidence of the people in arms, to ask of them their object, whether it was a rescue, and to warn them of the danger of such an attempt. They went down, spoke with them, and returned with reports unfavorable, which were that a rescue was intended, that I must submit to their will, and release the prisoners, or the consequences would be such as they would not be answerable for. I absolutely refused, and showed them the writs. They then offered to give bail to me to attend the court. I informed them that I was an executive officer only, that I must strictly obey the commands of the writs, that I could not take bail, desired them to go back and state this to their people in arms, that if they attempted a rescue, it would be punished severely. This they treated with contempt, and boasted of their strength. I asked them if they knew the power and strength of the United States, and the danger of resisting the authority thereof; that punishment would most assuredly follow any indignity offered to them. They went off, and returned with three of the insurgents, who came to demand of me a surrender of the prisoners, but who were too ignorant to inform me of the object they had in view. I informed them of my determination; then the whole body of them marched up immediately, the horsemen and officers of the infantry with swords drawn; the infantry marched with trailed arms and surrounded the house; the horse were drawn up in front of the house, and seemed to be without an officer of their own corps to command them. The whole troops seemed to be under the command of a Captain Fries, of Bucks county. Fries made himself conspicuous on the occasion; he said he was the commanding officer, the oldest captain; he insisted on all the prisoners being set at large. This I refused, and continued to refuse, notwithstanding their threats, till I was informed that their resentment against Judge Henry, Colonel Balliot, and Mr. Eyerly, was great, that their lives were in danger unless an immediate surrender was made; I then informed the prisoners that I could not resist longer the force against me, but that I dared not give up the prisoners. I desired the prisoners to march with me for Philadelphia; and added, that if those people chose to rescue them, they might, and take the consequence. The prisoners of Lehigh township refused to march, declaring that, if I would suffer them to go home for the present, they would meet me at Philadelphia, on the Monday and Tuesday next following, and submit to the laws. Previous to this, I had entreated Captain Jarrett, who was present and armed with pistols, to use his influence to prevent their doing a thing so improper and dangerous to themselves. He answered, that he could do nothing with them, till he saw all the prisoners were given up to them. He then said, Now I will take away my people, which he did in perfect order. Fries prepared his, returned and asked for Eyerly, the priest; he said he must be given up, that his people would not march without him. I assured him, he had been surrendered with the other prisoners; on which assurance he went out, found the priest, and then marched. By this time night was fast approaching. I feared that these ungovernable men might do things in the dark which they would avoid in the light; therefore agreed, for the safety of the gentlemen, to give the prisoners up. Upon the whole of my observations, I am well satisfied, in my own mind, that the laws of the United States cannot be executed by the officers of the Government throughout the county of Northampton, without military aid; the people are determined to resist; they calculate largely on their strength in this State, and the aid they will have from the neighboring States, and particularly that of Virginia.

I have the honor, sir, to be your most obedient, humble servant,

WILLIAM NICHOLS.

TIMOTHY PICKERING, Esq., *Secretary of State.*

*Deposition of Valentine Führer.*STATE OF PENNSYLVANIA, *Northampton county, ss:*

Before me, Joseph Horsfield, Esq., one of the justices of the peace, personally appeared, Valentine Führer, of Bethlehem, in the said county, toll receiver of the bridge across Lehigh, who, on his solemn affirmation, duly administered according to law, doth declare and say, that on the 7th day of March, about noon, a number of men, unknown to affirmant, came to the bridge gate and told affirmant, that a party of armed men would come soon; that they were much enraged; that they advised him to leave the bridge gate open, otherwise they would break through. Affirmant, on seeing the armed horse and footmen, opened the gate, and left the passage free till evening. Affirmant thinks about eighty horsemen, some armed and some unarmed, passed over the bridge; and about eighty footmen all armed either with guns or clubs, also passed across; that after all the horse and foot had passed the bridge, Mr. Henry Jarrett also crossed. In about four or five hours all the horse and foot returned, without paying any toll, except Mr. Henry Jarrett, who offered to pay for himself and the red coats, which were about ten or twelve horsemen, and paid three quarters of a dollar to affirmant; and further he saith not.

VALENTINE FUHRER, his X mark.

Affirmed before me, on the 9th March, 1799.

JOSEPH HORSFIELD.

*Deposition of Jacob Eyerly and Stephen Balliot.*PENNSYLVANIA, *Northampton County, ss:*

Before the subscriber, one of the judges of the court of common pleas, in and for said county, on the 8th day of March, A. D., 1799, personally came Jacob Eyerly, Esq., one of the commissioners of the direct tax, and Stephen Balliot, Esq., collector of the revenue, &c; the said Jacob Eyerly having made solemn affirmation according to law, and the said Stephen Balliot having made solemn oath according to law, do depose, declare, and say, that they set out from Bethlehem on the 5th instant, in company with Colonel William Nichols, marshal of the United States for the district of Pennsylvania, who intended to serve several subpoenas and warrants issued by the judge of the district court; that the marshal, upon the road to Millerstown, served a subpoena upon a certain George Seider, who, when he was called upon, came to the door with a club, and called the marshal and these deponents highway robbers, thieves, rascals, and scoundrels, and spoke other very abusive language, and would not receive the copy of the subpoena; that the marshal handed the copy to a certain Daniel Schwartz, who was present with the said Seider; that we rode on from there to Millerstown, where the marshal and these deponents entered the house of Henry Shankweiller to serve a warrant upon him; here we found at least fifty men collected in his bar-room, among others the abovenamed George Seider, with a club; that, upon the arrestation of said Shankweiller, Jacob Shaeffer and David Shaeffer, with others whom the deponents do not know, came in the most violent and threatening manner close up to the deponents and the marshal, and in a most violent manner threatened to beat and otherwise did abuse the deponents, and declared, that if the marshal dared to take off said Shankweiller, they would fight to the last. And further, that said Shankweiller did declare he would not submit; but, upon the marshal's representing to him the consequences, he said that whatever Jarrett (meaning Henry Jarrett) did he would do; that the marshal endeavored to get a man from the neighborhood who should know the persons so collected, but could procure nobody else to accompany him; that the people of the neighborhood consider themselves in imminent danger of their lives by appearing in favor of the Government; that previous to the return of the deponents with the marshal to Bethlehem, they had received information which induced them to believe there would some attempts be made to rescue the prisoners either at Bethlehem or on the road.

That yesterday, the 7th day of March, the marshal having collected about eighteen of the prisoners in a quiet and peaceable manner at the house of Abraham Levering, tavern keeper, in the town of Bethlehem, during morning of said day, a number of men, partly horsemen and foot, collected at the said house; the first few that came within reach were disarmed, but the prisoners who had been arrested in and about Millerstown, in Macungy township, came up to the said house in company with a number of horsemen, armed with pistols and swords; that, in a short time after, a number of other horsemen, well armed, partly in uniform, came up; about half an hour after came up also to the said house two parties of men on foot, well armed upon the whole; we suppose, to the amount of about or between eighty and one hundred; that there were various and numerous threats made that if the prisoners were not released they would proceed to violence. And further, that your deponents are fully assured that the laws of the United States cannot be executed under the present circumstances, as it is every day becoming more and more dangerous throughout all that part of the county of Northampton called Macungy, and Upper Milford, and several other places. And further saith not.

JACOB EYERLY,  
STEPHEN BALLIOT.

Affirmed by the said Jacob Eyerly, and sworn by said Stephen Balliot, and subscribed before me,

WILLIAM HENRY.

*By the President of the United States of America.*

## A PROCLAMATION.

Whereas, combinations to defeat the execution of the laws for the valuation of lands and dwelling-houses, within the United States, have existed in the counties of Northampton, Montgomery, and Bucks, in the State of Pennsylvania, and have proceeded in a manner subversive of the just authority of the Government, by misrepresentations to render the laws odious by deterring the public officers of the United States to forbear the execution of their functions, and by openly threatening their lives: And whereas, the endeavors of the well-affected citizens, as well as of the executive officers, to conciliate a compliance with those laws have failed of success; and certain persons in the county of Northampton aforesaid have been hardy enough to perpetrate certain acts, which I am advised amount to treason, being overt acts of levying war against the United States, the said persons exceeding one hundred in number, and armed and arrayed in a warlike manner, having, on the 7th day of this present month of March, proceeded to the house of Abraham Levering, in the town of Bethlehem, and there compelled William

Nichols, marshal of the United States in and for the district of Pennsylvania, to desist from the execution of certain legal process in his hands to be executed, and having compelled him to discharge and set at liberty certain persons whom he had arrested by virtue of criminal process, duly issued for offences against the United States, and having impeded and prevented the commissioner and the assessors, appointed in conformity with the laws aforesaid, in the county of Northampton aforesaid, by threats and personal injury, from executing the said laws; avowing, as the motives of these illegal and treasonable proceedings, an intention to prevent, by force of arms, the execution of the said laws, and to withstand, by open violence, the lawful authority of the Government of the United States: And whereas, by the constitution and laws of the United States, I am authorized, whenever the laws of the United States shall be opposed, or the execution thereof obstructed in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals, to call forth military force to suppress such combinations, and to cause the laws to be duly executed: And whereas, it is, in my judgment, necessary to call forth military force, in order to suppress the combinations aforesaid, and to cause the laws aforesaid to be duly executed; and I have accordingly determined so to do, under the solemn conviction that the essential interests of the United States demand it: Wherefore, I, John Adams, President of the United States, do hereby command all persons, being insurgents as aforesaid, and all others whom it may concern, on or before Monday next, being the 18th day of this present month, to disperse and retire peaceably to their respective abodes; and I do moreover warn all persons whomsoever against aiding, abetting, or comforting the perpetrators of the aforesaid treasonable acts; and I do require all officers and others, good and faithful citizens, according to their respective duties and the laws of the land, to exert their utmost endeavors to prevent and suppress such dangerous and unlawful proceedings.

[L. s.] In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the city of Philadelphia, the 12th day of March, in the year of our Lord 1799, and of the independence of the said United States of America the twenty-third.

By the President:

JOHN ADAMS.  
TIMOTHY PICKERING, *Secretary of State.*

*Letter from the Secretary of War to the Governor of Pennsylvania.*

SIR:

WAR DEPARTMENT, *March 20, 1799.*

To suppress the insurrection now existing in the counties of Northampton, Bucks, and Montgomery, in the State of Pennsylvania, in opposition to the laws of the United States, the President has thought it necessary to employ a military force, to be composed, in part, of such of the militia of Pennsylvania, whose situation and state of preparation will enable them to march with promptitude. The corps of militia first desired on this occasion are the troops of cavalry belonging to this city, and one troop from each of the counties of Philadelphia, Bucks, Chester, Montgomery, and Lancaster. These troops I have the honor to request your excellency will order to hold themselves in readiness to march on or before the 28th instant, under the command of Brigadier General McPherson.

I have the honor to be, with great respect, sir, your obedient servant,

JAMES McHENRY.

His Excellency GOVERNOR MIFFLIN.

*Instructions to General McPherson.*

SIR:

WAR DEPARTMENT, *March 21, 1799.*

In pursuance of the President's proclamation, bearing date the 12th day of this month, it has become indispensable to determine upon and put in motion the military force proper to be employed for suppressing the insurrection in the counties of Northampton, Montgomery, and Bucks, in this State.

You will therefore be pleased to form a detachment from the volunteers, who have associated in the State of Pennsylvania, and been accepted by the President, as a part of the provisional army, to consist of the two volunteer companies of cavalry of the city of Philadelphia, to which you will add two or more of the troops of militia cavalry of the same city, now under orders to hold themselves in readiness to march, so as to compose a body of two hundred and forty horse, including non-commissioned officers, and proceed with the detachment, without delay, to the theatre of insurrection.

You will forthwith make returns of such articles as may yet be wanted for this detachment, that the necessary orders may be given for their delivery.

A paymaster for the volunteers and militia that may be employed ought to be appointed. You will please to name one who will be advanced a sum, on account, equal to one month's pay, for the companies now called into service.

You will cause correct muster and pay-rolls for the volunteers and militia called into actual service, in the usual forms, to be made out, with the view of rendering the settlement of the accounts for their services prompt and easy.

The quartermaster of the detachment, who will be appointed by the quartermaster general, will receive in advance from the quartermaster general a sum on account, which may be conceived adequate to the expenditure that may be incurred in this particular department.

Rations will be furnished by the contractor for supplying the same to the military within the State of Pennsylvania. It is presumed he will employ a proper agent or agents, and execute your orders with precision respecting provisions.

Doctor Joseph Strong will attend the expedition, in quality of surgeon, furnished with a competent supply of medicines and instruments.

As one object of the expedition is to assist the marshal of the district to make prisoners of, and hold amenable to justice, persons who have either resisted the service of legal process, or been concerned in rescuing from him those who were in his lawful custody, or for whom he may have process on other charges, and to conduct the prisoners to Philadelphia, you will perceive the propriety of applying your cavalry, in the manner best calculated, consistently with the safety of the detachment, to secure as many of the offenders at the same moment as possible.

You will inform the quartermaster general and the contractor of the precise time you design to put the detachment in motion, and make them acquainted with whatever it may be necessary for them to know, previously, in order to insure, as much as possible, no failure in your operations, from the want of means in either of their departments.

The marshal of the district of Pennsylvania will move with you, and give you the names of the offenders, their descriptions, and respective places of abode, who are to be made prisoners under criminal process. You will be particularly careful that the most criminal, or the ringleaders, be attended to, and in preference secured, and to prevent, by the most pointed orders, any insults to the inhabitants, or unnecessary rigor towards the prisoners taken.

It is left entirely to your discretion to determine upon your place or places of rendezvous, which should be such as are best calculated to enable the troops that may be stationary to defend themselves in case of attack, and also to aid as effectually as possible your parties of horse in their transit to and from their points of departure.

You will have observed that it is designed to give to the volunteer and militia cavalry selected by you a principal agency in suppressing the existing combinations against the laws, and of quelling an insurrection and rebellion against the Government and rightful authority of their country, at a time when its sovereignty and liberties are threatened by a powerful, implacable, and insidious nation, who have been accustomed to divide and conquer other nations. It is not doubted, therefore, but that they will exhibit a useful example upon this service of military promptitude, spirit, vigilance, discipline, and obedience of orders.

To be prepared for adverse contingencies, it will be proper that you continue the orders for holding themselves in readiness to march, at the shortest notice, to the volunteer companies and militia not immediately called into actual service.

To cover the active operations of the volunteer and militia cavalry, a company of infantry, under Captain Shoemaker, and a company of artillerists under Captain Irwin, from Carlisle, Pennsylvania, have been ordered to march and rendezvous at Reading; and a company of artillerists at Fort Mifflin, intended to rendezvous at the same place, is under orders to march at the shortest notice. Two companies of artillerists, from New York, and a party of infantry, recruits under Lieutenant Boote, supposed about thirty from New Brunswick, New Jersey, have been ordered to march to Newtown, Pennsylvania: these latter troops are on the establishment of the United States; expected to arrive at their first places of rendezvous on or about the 23d instant, and subject to your orders, to be stationed where their presence can produce the best effects, and employed in case circumstances should require their actual co-operation with the volunteers and militia.

If rebellion should acquire a strength demanding further force, you are, using a sound discretion, and keeping economy in view, fully authorized by the President to call into actual service the whole or any part of the volunteer and militia companies that have been ordered to be held in readiness in the States of Pennsylvania and New Jersey.

It is expected that the detachment of volunteers and militia will be pushed forward, as rapidly as the season and roads will permit, to the point or points you may think proper to occupy with the regular troops, and to which your capturing parties may be instructed to conduct their prisoners.

You are earnestly requested to employ every moment of your time in accomplishing the objects of your command, conformably to these orders, and to keep constantly in mind that, if the offenders against the laws can be suddenly and unexpectedly secured, before they have time to prepare general resistance, it may extinguish the insurrection, without further expense to the United States, or call upon the patriotism or fortitude of our fellow-citizens. That you may have sufficient assistance in your own family to meet the eventual business the service may impose upon you, it is permitted to you to appoint a volunteer aid-de-camp, (should you conceive one to be necessary,) in addition to the aid allowed you by law, and to draw for him and his servant rations and forage.

You will be able to judge accurately upon the spot when opposition to the laws, and the spirit of revolt and insurrection, are so far suppressed in the disaffected counties as to admit the whole or part of the volunteers and militia to return to their homes and civil occupations. This will be ascertained when the inhabitants shall quietly permit the commissioners and assessors of the tax on land and houses to perform their respective duties according to law. Until this shall be the state of those counties, it will be proper to continue the military force there in convenient positions to produce a perfect submission to the authority of the United States.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

JAMES MCHENRY.

WM. MACPHERSON, Esq., *Brigadier General.*

6th CONGRESS.]

No. 113.

[1st SESSION.]

DEATH OF GENERAL WASHINGTON.

COMMUNICATED TO CONGRESS, DECEMBER 19, 1799.

UNITED STATES, December 19, 1799.

*Gentlemen of the Senate and Gentlemen of the House of Representatives:*

The letter herewith transmitted will inform you that it has pleased Divine Providence to remove from this life our excellent fellow-citizen George Washington, by the purity of his character, and a long series of services to his country, rendered illustrious through the world. It remains for an affectionate and grateful people, in whose hearts he can never die, to pay suitable honors to his memory.

JOHN ADAMS.

SIR:

MOUNT VERNON, December 15, 1799.

It is with inexpressible grief that I have to announce to you the death of the great and the good General Washington. He died last evening, between ten and eleven o'clock, after a short illness of about twenty hours. His disorder was an inflammatory sore throat, which proceeded from a cold, of which he made but little complaint on Friday. On Saturday morning, about three o'clock, he became ill. Doctor Craik attended him in the morning, and Doctor Dick, of Alexandria, and Doctor Brown, of Port Tobacco, were soon after called in. Every



medical assistance was offered, but without the desired effect. His last scene corresponded with the whole tenor of his life; not a groan, nor a complaint, escaped him in extreme distress. With perfect resignation, and in full possession of his reason, he closed his well-spent life.

I have the honor to be, with the highest respect, sir, your most obedient and very humble servant,  
TOBIAS LEAR.

The PRESIDENT OF THE UNITED STATES.

The Speaker, attended by the House of Representatives, withdrew to the house of the President of the United States; when Mr. Speaker addressed the President as follows:

SIR:

The House of Representatives, penetrated with a sense of the irreparable loss sustained by the nation in the death of that great and good man, the illustrious and beloved Washington, wait on you, sir, to express their condolence on this melancholy and distressing event.

To which the President replied as follows:

*Gentlemen of the House of Representatives:*

I receive, with great respect and affection, the condolence of the House of Representatives on the melancholy and affecting event, in the death of the most illustrious and beloved personage which this country ever produced. I sympathize with you, with the nation, and with good men through the world, in this irreparable loss sustained by us all.

JOHN ADAMS.

6th CONGRESS.]

No. 114.

[1st SESSION.]

## DEATH OF GENERAL WASHINGTON.

COMMUNICATED TO THE SENATE, DECEMBER 23, 1799.

Mr. DEXTER, from the committee appointed for the purpose on the 18th instant, reported the draught of an address to the President of the United States, on the death of General George Washington, as follows:

*To the President of the United States:*

The Senate of the United States respectfully take leave, sir, to express to you their deep regret for the loss their country sustains in the death of General George Washington. This event, so distressing to all our fellow-citizens, must be peculiarly heavy to you, who have long been associated with him in deeds of patriotism. Permit us, sir, to mingle our tears with yours: on this occasion it is manly to weep. To lose such a man at such a crisis is no common calamity to the world. Our country mourns her father. The Almighty Disposer of human events has taken from us our greatest benefactor and ornament. It becomes us to submit with reverence to Him who "maketh darkness his pavilion."

With patriotic pride we review the life of our Washington, and compare him with those of other countries who have been pre-eminent in fame. Ancient and modern names are diminished before him. Greatness and guilt have too often been allied; but his fame is whiter than it is brilliant. The destroyers of nations stood abashed at the majesty of his virtue. It reproveth the intemperance of their ambition, and darkened the splendor of victory. The scene is closed, and we are no longer anxious lest misfortune should sully his glory; he has travelled on to the end of his journey, and carried with him an increasing weight of honor; he has deposited it safely, where misfortune cannot tarnish it, where malice cannot blast it. Favored of Heaven, he departed without exhibiting the weakness of humanity: magnanimous in death, the darkness of the grave could not obscure his brightness.

Such was the man whom we deplore. Thanks to God, his glory is consummated: Washington yet lives—on earth in his spotless example—his spirit is in heaven. Let his countrymen consecrate the memory of the heroic general, the patriotic statesman, and the virtuous sage. Let them teach their children never to forget that the fruit of his labors and his example are their inheritance.

[The Senate having agreed to the address, as reported by the committee, it was signed by "SAMUEL LIVERMORE, President of the Senate, *pro tempore*," and delivered by Mr. DEXTER to the President of the United States, to which the President made the following reply:]

*Gentlemen of the Senate:*

UNITED STATES, December 23, 1799.

I receive with the most respectful and affectionate sentiments, in this impressive address, the obliging expressions of your regret for the loss our country has sustained in the death of her most esteemed, beloved, and admired citizen.

In the multitude of my thoughts and recollections on this melancholy event, you will permit me only to say that I have seen him in the days of adversity, in some of the scenes of his deepest distress and most trying perplexities; I have also attended him in his highest elevation and most prosperous felicity, with uniform admiration of his wisdom, moderation, and constancy.

Among all our original associates in that memorable league of the continent in 1774, which first expressed the sovereign will of a free nation in America, he was the only one remaining in the General Government. Although with a constitution more enfeebled than his, at an age when he thought it necessary to prepare for retirement, I feel myself alone, bereaved of my last brother; yet I derive a strong consolation from the unanimous disposition which appears, in all ages and classes, to mingle their sorrows with mine on this common calamity to the world.



The life of our Washington cannot suffer by a comparison with those of other countries who have been most celebrated and exalted by fame. The attributes and decorations of royalty could have only served to eclipse the majesty of those virtues which made him, from being a modest citizen, a more resplendent luminary. Misfortune, had he lived, could hereafter have sullied his glory only with those superficial minds who, believing that characters and actions are marked by success alone, rarely deserve to enjoy it. Malice could never blast his honor, and envy made him a singular exception to her universal rule. For himself, he had lived enough to life and to glory. For his fellow-citizens, if their prayers could have been answered, he would have been immortal. For me, his departure is at a most unfortunate moment. Trusting, however, in the wise and righteous dominion of Providence over the passions of men, and the results of their counsels and actions, as well as over their lives, nothing remains for me but humble resignation.

His example is now complete, and it will teach wisdom and virtue to magistrates, citizens, and men, not only in the present age, but in future generations, as long as our history shall be read. If a Trajan found a Pliny, a Marcus Aurelius can never want biographers, eulogists, or historians.

JOHN ADAMS.

6th CONGRESS.]

No. 115.

[1st SESSION.]

OBSEQUIES OF GENERAL WASHINGTON.

COMMUNICATED TO THE SENATE, DECEMBER 23, 1799.

Mr. DAYTON, from the joint committee appointed by the two Houses, on the 19th instant, to report measures suitable to the occasion, and expressive of the profound sorrow with which Congress is penetrated on the loss of their highly esteemed fellow-citizen, George Washington, reported the following resolutions:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That a marble monument be erected by the United States in the Capitol, at the city of Washington; and that the family of General Washington be requested to permit his body to be deposited under it; and that the monument be so designed as to commemorate the great events of his military and political life.

*And be it further resolved,* That there be a funeral procession from Congress Hall to the German Lutheran church, in honor of the memory of General George Washington, on Thursday the 26th instant, and that an oration be prepared, at the request of Congress, to be delivered before both Houses on that day; and that the President of the Senate and Speaker of the House of Representatives be desired to request one of the members of Congress to prepare and deliver the same.

*And be it further resolved,* That it be recommended to the people of the United States to wear crape on the left arm, as mourning, for thirty days.

*And be it further resolved,* That the President of the United States be requested to direct a copy of these resolutions to be transmitted to Mrs. Washington, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence on the late afflicting dispensation of Providence, and entreating her assent to the interment of the remains of General George Washington, in the manner expressed in the first resolution.

*Resolved,* That the President of the United States be requested to issue a proclamation, notifying to the people throughout the United States the recommendation contained in the third resolution.

[The committee, on the part of the Senate, consisted of Messrs. Dayton, Bingham, Dexter, Gunn, Laurence, Tracy, and Read; and on the part of the House of Representatives, of Messrs. Marshall, Craik, Henry Lee, Eggleston, Smith, Stone, Rutledge, Abiel Foster, Muhlenberg, Van Cortlandt, Dwight Foster, Franklin Davenport, Claiborne, Morris, John Brown, and Taliaferro.]

6th CONGRESS.]

No. 116.

[1st SESSION.]

FRENCH OFFICERS IMPRISONED AT BURLINGTON, NEW JERSEY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 27, 1799.

NAVY DEPARTMENT, *December 24, 1799.*

The SECRETARY OF THE NAVY has the honor to report, on the reference made to him on the 18th instant, by the House of Representatives of the United States, of the petition of sundry French officers, prisoners at Burlington:

That the person to whose charge the said prisoners were committed has been instructed, and has long since obeyed the instructions, to admit to the privileges of parole, within reasonable limits, such of them as could produce satisfactory evidence of being commissioned officers, and that in no instance where application has been made

under proper circumstances, has permission to depart from the United States been refused to prisoners of this description.

That no specific provision having been made by law for the sustenance of French prisoners, they have been allowed, in some instances, more, but never less than one pound of bread, half a pound of meat, and one pound of vegetables each per day. That, deeming this allowance sufficient, no discrimination has been made between the officers and privates, except that the former have been permitted to draw either the provisions, or the value in money; and that, besides provisions, the prisoners have been furnished with coarse but comfortable clothing and blankets; and, when the season required it, with fuel.

The Secretary begs leave further to report, that it is a fact not to be doubted, that the American citizens, who have fallen into the hands of the agents of the French Government in the West Indies, have experienced treatment less indulgent than that of which the prisoners at Burlington complain; and that, in his opinion, neither humanity nor policy requires any change in the conduct heretofore observed towards French prisoners.

All which is respectfully submitted.

BEN. STODDERT, *Secretary of the Navy.*

6th CONGRESS.]

No. 117.

[1st Session.]

ORATION ON THE DEATH OF GENERAL WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 30, 1799.

DEAR SIR:

PHILADELPHIA, *December 27, 1799.*

The enclosed resolutions, which unanimously passed the House of Representatives this day, will make known to you how highly they have been gratified with the manner in which you have performed the service assigned to you, in preparing and delivering a funeral oration on the death of General Washington. That our constituents may participate in the gratification we have received, from your having so well expressed those sentiments of respect for the character, of gratitude for the services, and of grief for the death of that illustrious personage, I flatter myself you will not hesitate to comply with the request of the House, by furnishing a copy of your oration, to be taken for publication.

Allow me, while performing this pleasing task of official duty, in communicating an act of the Representatives of the people, so just to you and so honorable to themselves, to embrace the opportunity to declare that

I am, personally, with great esteem and sincere regard,

Dear sir, your friend and obedient servant,

THEODORE SEDGWICK.

The Honorable Major Gen. LEE.

DEAR SIR:

FRANKLIN COURT, *December 28, 1799.*

I owe to the goodness of the House of Representatives the honor which their resolutions confer on my humble efforts to execute their wish.

I can never disobey their will, and therefore will furnish a copy of the oration delivered on the late afflicting occasion, much as I had flattered myself with a different disposition of it.

Sincerely reciprocating the personal considerations with which you honor me,

I am, very respectfully, sir, your friend and obedient servant,

HENRY LEE.

The SPEAKER of the *House of Representatives.*

In obedience to your\* will, I rise your humble organ, with the hope of executing a part of the system of public mourning which you have been pleased to adopt, commemorative of the death of the most illustrious and most beloved personage this country has ever produced; and which, while it transmits to posterity your sense of the awful event, faintly represents your knowledge of the consummate excellence you so cordially honor.

Desperate indeed is any attempt on earth to meet correspondently this dispensation of Heaven; for, while with pious resignation we submit to the will of an all-gracious Providence, we can never cease lamenting in our finite view of Omnipotent Wisdom, the heart-rending privation for which our nation weeps. When the civilized world shakes to its centre; when every moment gives birth to strange and momentous changes; when our peaceful quarter of the globe, exempt as it happily has been from any share in the slaughter of the human race, may yet be compelled to abandon her pacific policy, and to risk the doleful casualties of war, what limit is there to the extent of our loss? None within the reach of my words to express; none which your feelings will not disavow.

The founder of our federate republic, our bulwark in war, our guide in peace, is no more. Oh that this was but questionable! Hope, the comforter of the wretched, would pour into our agonized hearts its balmy dew. But, alas! there is no hope for us: our Washington is removed forever. Possessing the stoutest frame, and purest mind, he had passed nearly to his sixty-eighth year, in the enjoyment of high health; when, habituated by his care of us to neglect himself, a slight cold, disregarded, became inconvenient on Friday, oppressive on Saturday, and, defying every medical interposition, before the morning of Sunday put an end to the best of men. An end did I say?—his fame survives! bounded only by the limits of the earth, and by the extent of the human mind. He survives in our hearts, in the growing knowledge of our children, in the affection of the good throughout the world; and when our monuments shall be done away, when nations now existing shall be no more, when even our young and far-spreading empire shall have perished, still will our Washington's glory unfaded shine, and die not, until love of virtue cease on earth, or earth itself sink into chaos.

\* The two Houses of Congress.

How, my fellow-citizens, shall I single to your grateful hearts his pre-eminent worth! Where shall I begin in opening to your view a character throughout sublime? Shall I speak of his warlike achievements, all springing from obedience to his country's will—all directed to his country's good?

Will you go with me to the banks of the Monongahela, to see your youthful Washington, supporting, in the dismal hour of Indian victory, the ill-fated Braddock, and saving, by his judgment and by his valor, the remains of a defeated army, pressed by the conquering savage foe? Or, when oppressed America, nobly resolving to risk her all in defence of her violated rights, he was elevated by the unanimous voice of Congress to the command of her armies? Will you follow him to the high grounds of Boston, where to an undisciplined, courageous, and virtuous yeomanry, his presence gave the stability of system, and infused the invincibility of love of country? Or shall I carry you to the painful scenes of Long Island, York Island, and New Jersey; when, combating superior and gallant armies, aided by powerful fleets, and led by chiefs high in the roll of fame, he stood the bulwark of our safety; undismayed by disaster; unchanged by change of fortune? Or will you view him in the precarious fields of Trenton, where deep gloom unnerving every arm, reigned triumphant through our thinned, worn down, unaided ranks, himself unmoved? Dreadful was the night—it was about this time of winter—the storm raged—the Delaware, rolling furiously with floating ice, forbade the approach of man. Washington, self-collected, viewed the tremendous scene; his country called; unappalled by surrounding dangers, he passed to the hostile shore: he fought; he conquered. The morning sun cheered the American world. Our country rose on the event; and her dauntless chief, pursuing his blow, completed in the lawns of Princeton what his vast soul had conceived on the shores of Delaware.

Thence to the strong ground of Morristown he led his small but gallant band; and through an eventful winter, by the high efforts of his genius, whose matchless force was measurable only by the growth of difficulties, he held in check formidable hostile legions, conducted by a chief experienced in the art of war, and famed for his valor on the ever-memorable Heights of Abraham, where fell Wolfe, Montcalm, and since our much-lamented Montgomery, all covered with glory. In this fortunate interval, produced by his masterly conduct, our fathers, ourselves, animated by his resistless example, rallied around our country's standard, and continued to follow her beloved chief through the various and trying scenes to which the destinies of our Union led.

Who is there that has forgotten the vales of Brandywine, the fields of Germantown, or the plains of Monmouth? Every where present, wants of every kind obstructing, numerous and valiant armies encountering, himself a host, he assuaged our sufferings, limited our privations, and upheld our tottering republic. Shall I display to you the spread of the fire of his soul, by rehearsing the praises of the hero of Saratoga, and his much-loved compeer of the Carolinas? No; our Washington wears not borrowed glory. To Gates—to Green—he gave without reserve the applause due to their eminent merit; and long may the chiefs of Saratoga and of Eutaw receive the grateful respect of a grateful people.

Moving in his own orbit, he imparted heat and light to his most distant satellites; and combining the physical and moral force of all within his sphere; with irresistible weight he took his course, commiserating folly, disdaining vice, dismaying treason, and invigorating despondency, until the auspicious hour arrived; when, united with the intrepid forces of a potent and magnanimous ally, he brought to submission the since conqueror of India; thus finishing his long career of military glory with a lustre corresponding to his great name, and in this his last act of war affixing the seal of fate to our nation's birth.

To the horrid din of battle sweet peace succeeded; and our virtuous chief, mindful only of the common good, in a moment tempting personal aggrandizement, hushed the discontents of growing sedition, and surrendering his power into the hands from which he had received it, converted his sword into a ploughshare, teaching an admiring world that to be truly great you must be truly good.

Were I to stop here, the picture would be incomplete, and the task imposed unfinished. Great as was our Washington in war, and much as did that greatness contribute to produce the American republic, it is not in war alone his pre-eminence stands conspicuous: his various talents combining all the capacities of the statesman with those of the soldier, fitted him alike to guide the councils and the armies of our nation. Scarcely had he rested from his martial toils, while his invaluable parental advice was still sounding in our ears, when he who had been our shield and our sword was called forth to act a less splendid but a more important part.

Possessing a clear and penetrating mind, a strong and a sound judgment, calmness and temper for deliberation, with invincible firmness and perseverance in resolutions maturely formed, drawing information from all, acting from himself, with incorruptible integrity and unvarying patriotism; his own superiority and the public confidence alike marked him as the man designed by Heaven to lead in the great political as well as military events which have distinguished the era of his life.

The finger of an overruling Providence, pointing at Washington, was neither mistaken nor unobserved; when, to realize the vast hopes to which our revolution had given birth, a change of political system became indispensable.

How novel—how grand the spectacle! independent States stretched over an immense territory, and known only by common difficulty, clinging to their Union as the rock of their safety, deciding by frank comparison of their relative condition, to rear on that rock, under the guidance of reason, a common Government, through whose commanding protection, liberty and order, with their long train of blessings, should be safe to themselves, and the sure inheritance of their posterity.

This arduous task devolved on citizens selected by the people, from knowledge of their wisdom and confidence in their virtue. In this august assembly of sages and of patriots, Washington of course was found; and, as if acknowledged to be most wise, where all were wise, with one voice he was declared their chief. How well he merited this rare distinction, how faithful were the labors of himself and his compatriots, the work of their hands and our Union, strength and prosperity, the fruits of that work, best attest.

But to have essentially aided in presenting to his country this consummation of her hopes, neither satisfied the claims of his fellow-citizens on his talents, nor those duties which the possession of those talents imposed. Heaven had not infused into his mind such an uncommon share of its ethereal spirit to remain unemployed, nor bestowed on him his genius unaccompanied with the corresponding duty of devoting it to the common good. To have framed a constitution, was showing only, without realizing, the general happiness. This great work remained to be done, and America, steadfast in her preference, with one voice summoned her beloved Washington, unpractised as he was in the duties of civil administration, to execute this last act in the completion of the national felicity. Obedient to her call, he assumed the high office with that self-distrust peculiar to his innate modesty, the constant attendant of pre-eminent virtue. What was the burst of joy through our anxious land on this exhilarating event is known to us all. The aged, the young, the brave, the fair, rivalled each other in demonstrations of their gratitude; and this high-wrought delightful scene was heightened in its effect, by the singular contest between the zeal of the bestowers, and the avoidance of the receiver of the honors bestowed. Commencing his administration, what heart is not charmed with the recollection of the pure and wise principles announced by himself, as the basis of his political life. He best understood the indissoluble union between virtue and happiness, between duty and advantage,

between the genuine maxims of an honest and magnanimous policy, and the solid rewards of public prosperity and individual felicity: watching with an equal and comprehensive eye over this great assemblage of communities and interests, he laid the foundation of our national policy in the unerring immutable principles of morality, based on religion, exemplifying the pre-eminence of free Government, by all the attributes which win the affections of its citizens, or command the respect of the world.

“ O fortunatos nimium, sua si bona norint! ”

Leading through the complicated difficulties produced by previous obligations and conflicting interests, seconded by succeeding Houses of Congress, enlightened and patriotic, he surmounted all original obstructions, and brightened the path of our national felicity.

The Presidential term expiring, his solicitude to exchange exaltation for humility returned with a force increased with increase of age, and he had prepared his farewell address to his countrymen, proclaiming his intention, when the united interposition of all around him, enforced by the eventful prospects of the epoch, produced a further sacrifice of inclination to duty. The election of President followed; and Washington, by the unanimous vote of the nation, was called to resume the Chief Magistracy. What a wonderful fixture of confidence! Which attracts most our admiration—a people so correct, or a citizen combining an assemblage of talents forbidding rivalry, and stifling even envy itself? Such a nation ought to be happy; such a chief must be forever revered.

War, long menaced by the Indian tribes, now broke out; and the terrible conflict, deluging Europe with blood, began to shed its baneful influence over our happy land. To the first, outstretching his invincible arm, under the orders of the gallant Wayne, the American eagle soared triumphant through distant forests. Peace followed victory, and the melioration of the condition of the enemy followed peace. Godlike virtue, which uplifts even the subdued savage.

To the second he opposed himself. New and delicate was the conjuncture, and great was the stake. Soon did his penetrating mind discern and seize the only course; continuing to us all the felicity enjoyed. He issued his proclamation of neutrality. This index to his whole subsequent conduct was sanctioned by the approbation of both Houses of Congress, and by the approving voice of the people.

To this sublime policy he inviolably adhered, unmoved by foreign intrusion, unshaken by domestic turbulence.

“ Justum et tenacem propositi virum  
 “ Non civium ardor prava jubentium,  
 “ Non vultus instantis tyranni  
 “ Mente quatit solida.”

Maintaining his pacific system at the expense of no duty, America, faithful to herself and unstained in her honor, continued to enjoy the delights of peace, while afflicted Europe mourns in every quarter, under the accumulated miseries of an unexampled war; miseries in which our happy country must have shared, had not our pre-eminent Washington been as firm in council as he was brave in the field.

Pursuing steadfastly his course, he held safe the public happiness, preventing foreign war, and quelling internal discord, till the revolving period of a third election approached, when he executed his interrupted but inextinguishable desire of returning to the humble walks of private life.

The promulgation of his fixed resolution stopped the anxious wishes of an affectionate people from adding a third unanimous testimonial of their unabated confidence in the man so long enthroned in their hearts. When, before, was affection like this exhibited on earth? Turn over the records of ancient Greece—review the annals of mighty Rome—examine the volumes of modern Europe—you search in vain. America and her Washington only afford the dignified exemplification.

The illustrious personage called by the national voice in succession to the arduous office of guiding a free people, had new difficulties to encounter; the amicable effort of settling our difficulties with France, begun by Washington, and pursued by his successor in virtue as in station, proving abortive, America took measures of self-defence. No sooner was the public mind roused by prospect of danger, than every eye was turned to the friend of all, though secluded from public view, and grey in public service; the virtuous veteran, following his plough,\* received the unexpected summons with mingled emotions of indignation at the unmerited ill-treatment of his country, and of a determination once more to risk his all in her defence.

The annunciation of these feelings, in his affecting letter to the President accepting the command of the army, concludes his official conduct.

First in war—first in peace—and first in the hearts of his countrymen, he was second to none in the humble and endearing scenes of private life; pious, just, humane, temperate, and sincere; uniform, dignified, and commanding; his example was as edifying to all around him, as were the effects of that example lasting.

To his equals he was condescending, to his inferiors kind, and to the dear object of his affections exemplarily tender; correct throughout, vice shuddered in his presence, and virtue always felt his fostering hand; the purity of his private character gave effulgence to his public virtues.

His last scene comported with the whole tenor of his life. Although in extreme pain, not a sigh, not a groan escaped him; and with undisturbed serenity he closed his well-spent life. Such was the man America has lost—such was the man for whom our nation mourns.

Methinks I see his august image, and hear falling from his venerable lips these deep sinking words:

“ Cease, sons of America, lamenting our separation: go on, and confirm by your wisdom the fruits of our joint councils, joint efforts, and common dangers; reverence religion, diffuse knowledge throughout your land, patronize the arts and sciences; let liberty and order be inseparable companions; control party spirit, the bane of free Governments; observe good faith to, and cultivate peace with, all nations; shut up every avenue to foreign influence; contract rather than extend national connexion; rely on yourselves only; be American in thought, word, and deed: thus will you give immortality to that Union, which was the constant object of my terrestrial labors; thus will you preserve, undisturbed, to the latest posterity, the felicity of a people to me most dear; and thus will you supply (if my happiness is now aught to you) the only vacancy in the round of pure bliss high Heaven bestows.”

\* General Washington, though opulent, gave much of his time and attention to practical agriculture.

6th CONGRESS.]

No. 118.

[1st Session.

## REMOVAL OF THE REMAINS OF GENERAL GEORGE WASHINGTON TO THE CITY OF WASHINGTON.

COMMUNICATED TO CONGRESS, JANUARY 8, 1800.

UNITED STATES, January 6, 1800.

*Gentlemen of the Senate and Gentlemen of the House of Representatives:*

In compliance with the request in one of the resolutions of Congress, of the 21st of December last, I transmitted a copy of those resolutions by my Secretary, Mr. Shaw, to Mrs. Washington, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence in the late afflicting dispensation of Providence, and entreating her assent to the interment of the remains of General George Washington, in the manner expressed in the first resolution. As the sentiments of that virtuous lady, not less beloved by this nation than she is at present greatly afflicted, can never be so well expressed as in her own words, I transmit to Congress her original letter.

It would be an attempt of too much delicacy to make any comments upon it; but there can be no doubt that the nation at large, as well as all the branches of the Government, will be highly gratified by any arrangement which may diminish the sacrifice she makes of her individual feelings.

JOHN ADAMS.

SIR:

MOUNT VERNON, December 31, 1799.

While I feel with keenest anguish the late dispensation of Divine Providence, I cannot be insensible to the mournful tributes of respect and veneration which are paid to the memory of my dear deceased husband; and as his best services and most anxious wishes were always devoted to the welfare and happiness of his country, to know that they were truly appreciated and gratefully remembered affords no inconsiderable consolation.

Taught by the great example which I have so long had before me, never to oppose my private wishes to the public will, I must consent to the request made by Congress, which you have had the goodness to transmit to me; and in doing this, I need not, I cannot, say what a sacrifice of individual feeling I make to a sense of public duty.

With grateful acknowledgments, and unfeigned thanks for the personal respect and evidences of condolence expressed by Congress and yourself,

I remain, very respectfully, sir, your most obedient humble servant,

MARTHA WASHINGTON.

6th CONGRESS.]

No. 119.

[1st Session.

## BREACH OF PRIVILEGES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 14, 1800.

*Gentlemen of the House of Representatives:*

UNITED STATES, January 14, 1800.

As the enclosed letter, from a member of your House, received by me on the night of Saturday, the 11th instant, relates to the privileges of the House, which, in my opinion, ought to be inquired into in the House itself, if any where, I have thought proper to submit the whole letter and its tendencies to your consideration, without any other comment on its matter or style.

But as no gross impropriety of conduct on the part of persons holding commissions in the army or navy of the United States ought to pass without due animadversion, I have directed the Secretary of War and the Secretary of the Navy to investigate the conduct complained of, and to report to me, without delay, such a statement of facts as will enable me to decide on the course which duty and justice shall appear to prescribe.

JOHN ADAMS.

CHAMBER OF THE REPRESENTATIVES OF THE U. S.

SIR:

11th January, 24th of Independence.

Known to you only as holding, in common with yourself, the honorable station of servant to the same sovereign people, and disclaiming all pretensions to make to you any application which, in the general estimation of men, requires the preface of apology, I shall, without the circumlocution of compliment, proceed to state the cause which induces this address.

For words of a general nature, uttered on the floor of this House, and addressed, in my official capacity, to the chairman of the Committee of the Whole, and urged with a view to effect the reduction of a military establishment, I have been grossly and publicly insulted, by two officers of the army or navy, I know not which, with evident intention to provoke me to a conduct which, in some sort, might justify the hostile designs which they manifestly entertained towards me, and from the execution of which, I believe, they were only deterred by the presence of several of my friends, (members of this House,) who felt themselves implicated in an insult, which, although more particularly offered to one, was certainly levelled at all.

I am acquainted with the name of one only of these unfortunate young men, who appear to have made so false an estimate of true dignity of character, who seem to have mistaken brutality for spirit, and an armed combination against the person of an individual for an indication of courage. He was called, I think, McKnight; rank unknown; and, to my best recollection, of the navy. Mr. Christie, a member of this House, appeared to know him; and that gentleman, with Captain Campbell Smith, who, as I understood, endeavored to deter those rash youths from their scheme, and whose conduct would evince, if indeed there were any need of proof, that the character of the man and the citizen is not incompatible with the profession of the soldier, can give an account of the various instances of misconduct which were exhibited by the parties. Mr. Van Rensselaer, the Lieutenant Governor of New York, Mr. Nicholson, Mr. Glen, and Mr. Macon, of the House of Representatives, were likewise present at these transactions.

Having stated the fact, it would be derogatory to your character, sir, for me to point out the remedy, which it is your province to provide; nor shall I descend from the respect which I owe myself to declare what *are not* the considerations which govern my conduct on this occasion. So far as they relate to this application addressed to you in a public capacity, they can only be supposed by you to be of a public nature; and it is enough for me to state that the independence of the Legislature has been attacked; the majesty of the people, of which you are the principal representative, insulted; and your authority contemned. In their name, I demand that a provision commensurate with the evil be made, and which will be calculated to deter others from any future attempt to introduce the reign of terror into our country. In addressing you in the plain language of man, I give you, sir, the best proof that I can afford of the estimation in which I hold your office and your understanding; and I assure you, with truth, that I am, with respect,

Your fellow-citizen,

JOHN RANDOLPH, JUN.

The PRESIDENT OF THE UNITED STATES.

6th CONGRESS.]

No. 120.

[1st SESSION.]

### BREACH OF PRIVILEGES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 20, 1800.

Mr. CHAUNCEY GOODRICH, from the committee to whom was referred the message of the President of the United States of the 14th instant, together with a letter from John Randolph, Jun., a member of the House, accompanying the same, made the following report:

In executing the task assigned to them, it is with peculiar satisfaction your committee notice the respect shown in his message by the President of the United States to the rights and privileges of the House.

On the style of the letter to the President referred to the consideration of the committee, they forbear any other remark than to express their regret that a member of this House has conceived himself justified in deviating from the forms of decorum customary in official communications to the Chief Magistrate of the United States, justly due to his office and character, and essential to that harmony between the different branches of the Government which should be circumspectly cherished by their respective members.

In Mr. Randolph's letter he states, that for words of a general nature, uttered in debate, in the House of Representatives, on a proposition for reducing the army, he had been publicly and grossly insulted by several persons, officers of the army or navy, and demands of the Executive authority redress for an attack on his independence and rights as a legislator.

Your committee being of opinion that the matter of complaint respects the privileges of the House, inherent in its own body and there exclusively cognizable, cannot but consider the appeal in this instance to the Executive authority, however otherwise intended, as derogating from those rights of the House with which are intimately connected both its honor and independence, and the inviolability of its members.

Your committee further report that, on inquiry, they found James McKnight, captain, and Michael Reynolds, lieutenant of marines, to be the persons implicated in Mr. Randolph's charge. They, on notice, appeared before the committee, and denied the truth of the allegations. The committee have collected all the evidence they could find to be material in the case, and heard the parties accused with their witnesses; and although they believe a series of circumstances to have taken place at the theatre on the evening of Friday, the 10th instant, which appeared to Mr. Randolph and others present to evince premeditated insult towards him, yet as some of those circumstances have been satisfactorily explained, and others are of a nature too equivocal to justify reprehension and punishment, your committee are of opinion that sufficient cause does not appear for the interference of the House on the ground of a breach of their privileges.

Your committee have taken the evidence in writing, which they submit to the consideration of the House, with the following resolutions:

*Resolved*, That this House entertain a respectful sense of the regard which the President of the United States has shown to its rights and privileges in his message of the 14th instant, accompanied by a letter addressed to him by John Randolph, Jun., a member of this House.

*Resolved*, That in respect to the charge alleged by John Randolph, Jun., a member of the House, in his letter addressed to the President of the United States on the 11th instant, and by him submitted to the consideration of the House, that sufficient cause does not appear for the interposition of this House on the ground of a breach of its privileges.

*Mr. Randolph, Junior's, statement to the committee.*

SIR:

JANUARY 18, 1800, 24th year of independence.

A mature consideration of the subject induces me to suspect that a refusal on my part to communicate the information requested by you a few days ago could only have originated in a false delicacy, under the impulse of which I am determined never to act. I shall, therefore, proceed to state some instances of the misconduct of Captain McKnight and Lieutenant Reynolds, on the night of Friday, the 10th instant.

Exclusive of repeated allusions to what passed in the House of Representatives during the debate of the preceding day, and a frequent repetition of some words which fell from me during that discussion, in a manner so marked as to leave no doubt on my mind or that of Messrs. Van Rensselaer, Christie, or Macon, of their intention to insult me personally; finding me determined to take no notice of their words, they adopted a conduct which placed their designs beyond every possibility of doubt, and which they probably conceived to be calculated to force me into their measures. Mr. Christie had left his seat between me and the partition of the box; after which Mr. Van Rensselaer, who sat on the other side of me, lay down, so as to occupy a more than ordinary portion of room, and occasioned my removal to a part of Mr. Christie's former seat, leaving a very small vacancy between myself and the partition; into this Lieutenant Reynolds suddenly, and without requesting or giving time for room to be made for him, dropped with such violence as to bring our hips into contact; the shock was sufficient to occasion a slight degree of pain on my part, and for which it is probable he would in some degree have apologized had not the act been intentional.

Just before I left the box, one of them, I believe McKnight, gave me a sudden and violent pull by the cape of my coat; upon my demanding who it was, (this was the first instance in which I noticed their proceedings,) no answer was given; I then added, that I had long perceived an intention to insult me, and that the person offering it was a puppy. No reply that I heard was given.

It will be impossible for me, sir, to specify the various minute actions of these persons and their associates which tended to the same point. Suffice it to say that their whole deportment exhibited an insolence, and their every act betokened a bold defiance, which can neither be *defined* nor *mistaken*; and which, according to the general received opinions of the world, would not only have *justified* but *demand*ed chastisement.

Referring the committee to the numerous and authentic accounts of this transaction, which the gentlemen present are so well calculated to give, I remain, with respect, sir, your fellow-citizen,

JOHN RANDOLPH, JUN.

*The chairman of the committee to whom was referred the President's letter,  
accompanying one from John Randolph, Jun.*

*Mr. Christie's affidavit.*

On the 17th January, 1800, came the subscriber before the Hon. C. Goodrich, chairman of a committee of Congress, and being sworn, deposed and saith, that, on Friday evening, the 10th of January, I was sitting in a box of the theatre; I was shortly after joined by Mr. Randolph, Mr. Nicholson, Mr. Macon, Mr. Baer, Mr. Glen, General Van Cortlandt, and Mr. Van Rensselaer, of New York; they all took seats near me; shortly after Mr. Baer went out of the box; the others remained; after the play was over, and about the time that the farce was beginning, I discovered in an adjoining box Captain McKnight and a gentleman, whose name I have since found to be Reynolds, both officers of the navy; I saw also in company with them Captain George Taylor, of this city; I saw them repeatedly look towards our box, and whispering to each other. When the procession came forward on the stage, Captain McKnight called out that they were well-looking mercenaries; I then began to discover, what I had before suspected, that some of these gentlemen intended to offer Mr. Randolph or some of us an insult, on account of the part we took in the House of Representatives respecting the army. It was my intention to have left the theatre early, but I remained, fearing a disturbance would take place between Mr. Randolph and these gentlemen, who manifestly evinced an intention of insulting him; Mr. Randolph took no notice of any thing that was said; and I overheard a person (who it was I know not) say to Captain McKnight and Mr. Reynolds, "He does not hear you, go nearer to him;" Captain McKnight and Mr. Reynolds then left the box they were in, and came round into that in which we were, and got as close to Mr. Randolph as they could; so near as to touch him; Captain Taylor did not leave the box at the time they did, but remained behind; Captain McKnight called out to Captain Taylor, what do you think of these ragamuffins—these ragamuffins are not Pennsylvanians, they are black Virginia ragamuffins; Captain Taylor laughed, but made no reply; Captain McKnight and Mr. Reynolds afterwards repeated the words mercenaries and ragamuffins, and said that they were not well drilled, but would be better at the next session of Congress. Finding that none of us took any notice of what was said, Mr. Reynolds stepped with his feet on the seat on which Mr. Randolph was sitting, and sat down, although there was little or no room for a seat; he crowded Mr. Randolph in sitting down, and I believe sat upon his thigh; Mr. Randolph moved, to give as much room as he could. Mr. Reynolds remained for about fifteen minutes, and stepped back, upon which Captain McKnight came forward and took his place, observing the same conduct as Mr. Reynolds had done in sitting down. Captain McKnight spoke to me, and I gave him my hand; Captain George Taylor then came round to our box, and took his place at the back of Captain McKnight, and used once or twice the word mercenaries, and appeared to me to understand fully the intentions of Captain McKnight and Mr. Reynolds, and appeared to be desirous of forwarding their views; they all three remained in the box until the farce was over, and as Mr. Randolph got up to go out, I heard him call out "who was that that pulled me by the coat?" I looked, and saw Captain McKnight, Mr. Reynolds, and Captain Taylor, at his back; I got before them, and walked with Mr. Randolph; in going out of the lobby, a gentleman, whose name I do not know, told me not to leave that gentleman, (meaning Mr. Randolph,) for it was the intention of these persons to use him ill; I therefore walked with him to the head of the stairs, and in going down was pressed on so closely by Captain McKnight and others, that it was with difficulty I could keep on my feet; I looked back and called out to them not to crowd me, and they desisted; in going out of the house, Captain Taylor and Captain McKnight came arm in arm and pushed by us, and would hardly get out of our way, but walked slowly before us to the corner of Fifth street, when we turned off; Captain McKnight called to me and wished me good night, which compliment I returned. From the whole of the conduct, it appeared to me evidently the intention of the whole three to provoke Mr. Randolph to reply to their observations, so as to bring on a quarrel; that Captain McKnight and Mr. Reynolds did jostle Mr. Randolph on his seat, and used many expressions that fell from Mr. Randolph in the House of Representatives in the debate on the reduction of the army; and it appeared to me that they had taken offence at these expressions, and were determined to provoke him to a quarrel.

G. CHRISTIE.

Sworn to, on the 18th day of January, A. D. 1800, before me,

CHAUNCEY GOODRICH,

*Chairman of a committee of the House of Representatives of the U. S.*

*Mr. Nicholson's affidavit.*

On the evening of Friday, the 10th instant, I went to the theatre, in company with Mr. Nicholas, Mr. Stone, Mr. Macon, and Mr. Randolph. When we reached the theatre, our company accidentally separated; Mr. Macon, Mr. Randolph, and myself going into one box. After remaining there some time, we were joined by Mr. Van Rensselaer, the Lieutenant Governor of New York, and General Cortlandt, of the House of Representatives. General Cortlandt and myself were seated on one of the front benches, and, as I was attending to the play, I did not hear the remarks which are said to have been made with the view of insulting Mr. Randolph. During the performance of the afterpiece, I was called out by Captain Campbell Smith, who informed me that he had understood Mr. Randolph had been insulted by some officers, and inquired if I had heard any thing of it; at the same time stating the cause to be Mr. Randolph's observations of that day or the day before in Congress. I told Captain Smith I had heard nothing of it, and asked him about the kind of insult which had been offered; he answered that he was not present himself, but from what he had heard he was apprehensive of some disagreeable consequences. I remained in the upper part of the box, where I could see every thing passing in front, and observed with attention the two officers who had been pointed out to me; they were in conversation, but I was not near enough to hear it distinctly. Their names, I am told, are McKnight and Reynolds; the one dressed in plain clothes, or perhaps his coat might have been trimmed with a light edging of buff cloth; the other in a blue and red uniform, with a sword. At the conclusion of the entertainment, I stepped forward, with the intention of protecting Mr. Randolph from any injury, and at the same time called to him to know if he would walk. He, with Mr. Macon and a number of others, had risen from their seats, and were going out of the box. As one, if not both, of the officers remained behind, I suffered Mr. Randolph to pass me, designing to follow closely after him. At that time I saw Mr. McKnight throw himself forward, with one arm extended, and at the same moment heard Mr. Randolph call out "*who was that that jerked my coat!*"—Mr. McKnight passing by him just then. Mr. Randolph made the same exclamation a second time, and added that the person was a damned puppy, let him be who he might. Upon reaching the large passage, Mr. Macon, Mr. Christie, with several others, surrounded Mr. Randolph, and, in going down stairs, I felt myself pushed with great violence, as I thought for the purpose of throwing me upon Mr. Randolph. I found it necessary to resist the pressure, which I believe would have been impossible if I had not been a very heavy man. Whether Mr. McKnight was the person who jerked Mr. Randolph's coat, or whether those two officers were concerned in attempting to push him down stairs, I will not pretend to say. I have stated the facts as nearly as I can recollect them, and from those facts the committee will draw their own inferences.

It is necessary to add, that when Mr. McKnight threw himself forward in the box, as above stated, there were two persons passing between him and me, which prevented me from seeing whether he took hold of Mr. Randolph or not. The staircase was darker than usual, owing, I believe, to the lamps having burnt out, the hour being later than common; and this prevented me from seeing those persons who were passing forward with so much violence.

JOSEPH H. NICHOLSON.

Sworn to, on the 18th day of January, A. D. 1800, before me,

CHAUNCEY GOODRICH,

Chairman of a committee of House of Rep's U. S.

*Mr. Macon's affidavit.*

I was at the play last Friday night, and in the same box with Mr. Randolph and others. Some time after the play had been begun, the door of the box in which we were was opened so often that I turned towards the door to see who opened it, and what it could be for, but did not then discover any one going out or coming in, though I saw several people who had come into the box and taken seats behind us. Still looking towards the door, I saw a young man, with a blue coat, go out. Soon afterwards the door was opened again; I looked back, and saw him behind us, in company with a man who had on a uniform coat; others were also behind us. These men were frequently going out of the box, and, after a little time, returning again. I do not recollect to have heard either of them say a single word until the farce was begun, when the man dressed in blue said, these ragamuffins march very well, (the players were then marching.) At this time, I think, a third person was with them, who had on a great coat; if he was not, he was with them very soon after. The same words were quickly repeated by the same person standing near Mr. Randolph, who was sitting. Mr. Van Rensselaer, who sat by Mr. Randolph, and nearly behind me, then said to me, these men intend to insult Mr. Randolph; I answered, it appeared much like it. The word ragamuffin was afterwards used, though I do not know by which of the three. After this, when some of the players appeared in a different dress, words were spoken by one of these three men, which I do not know, nor could I hear them plain enough to understand clearly what they said. At another time, when the players were marching, one of these men, I know not which, said, these ragamuffins march badly; they want drilling, and will do better by another session. The man with the great coat did not, I think, stay long in the box, nor am I certain that he was there when these last words were spoken. The one with the uniform coat staid more in the box after the farce was begun than either of the others. The one with the blue coat continued to go out and to return. Both these men were in the box, I think, at the time we got up to go out. During the farce, and when the scenery was changing, Mr. Randolph stood up before his seat; as soon as he rose, the man who had on the uniform coat (and at this time I saw that he had a sword) stepped on his seat, and stood on it, until Mr. Randolph sat down; he then stepped off the seat, and immediately crowded in between Mr. Randolph and the side of the box, where there did not appear to be room for him to sit either with pleasure or ease. Mr. Randolph instantly made what room he could for him; he did not continue long in his new seat, but got up again, and stood behind us, where he had room either to stand or sit.

As we were going out of the box, about the time the farce was finishing, Mr. Randolph being near the door and before me, I heard him ask who had taken hold of him, and said that whoever he was must be a puppy. I got to him as quick as I could, and before he went out of the box; several people were near him when I got to him; he went out of the box; we followed him; as soon as we had got clear of the box, a man said to Mr. Christie, keep near to that man, meaning, as I understood, Mr. Randolph; we walked to the stairs; Mr. Randolph went down before me; as I stepped on the stairs, I took hold of the hand of the man next to me, (I think it was General Van Cortlandt,) and supported myself with the other as well as I could, and it was with great difficulty that I was able to prevent being pushed down; some person behind me (I think it was Mr. Christie) said to those behind him, do not push so hard. Messrs. Van Rensselaer, Glen, and Christie were nearer these men than myself, and may have heard their expressions more distinctly than I did.



Sir:

The above is a statement of the facts you asked for. I have endeavored to keep it clear of the impressions that were made on me at the time.

NATHANIEL MACON.

Mr. CHAUNCEY GOODRICH, *Chairman of the committee.*

Sworn to, on the 18th day of January, A. D. 1800, before me,

CHAUNCEY GOODRICH,  
*Chairman of a committee of House of Rep's U. S.*

*H. Glen's affidavit.*

PHILADELPHIA, January 14, 1800.

HENRY GLEN, a member of the House of Representatives of the United States, saith:

That in the evening of Friday, the 10th of this month, he went, in company with the Hon. Stephen Van Rensselaer, Lieutenant Governor of the State of New York, to the theatre in this city. Finding vacant seats, we placed ourselves in a front box, where were Mr. Macon and Mr. Randolph, both members of the House of Representatives. I seated myself by the side of Mr. Macon, and the Lieutenant Governor took a seat by the side of Mr. Randolph. Looking round, I found Messrs. Baer, Christie, and Nicholson, all members of the House, were behind, not far from us.

After a very short time, two gentlemen in uniform, whom I took to be marine officers, came near, and were with us in the same box. In course of the entertainments nothing happened, to my knowledge, to interrupt the cheerfulness and good-humor which prevailed amongst us.

When the afterpiece was performing, a number of men, with a drum, pikes, &c., appeared on the stage; upon a view of this scene, one of the gentlemen in uniform, addressing himself, as I supposed, to his companion, said, "I think our ragamuffins would make a better appearance than those men," or words to that effect. No particular notice appeared to be taken of the expression, and, as soon as the curtain was dropped, the officers back of us went out; so did the other gentlemen who were with us.

The Lieutenant Governor and I remained a little time in the box till the crowd had passed, and I saw none of the gentlemen before mentioned afterwards. This statement is made according to my best recollection.

HENRY GLEN.

Sworn to, on the 18th day of January, A. D. 1800, before me,

CHAUNCEY GOODRICH,  
*Chairman of a committee of House of Reps. U. S.*

*Captain Campbell Smith's deposition.*

PHILADELPHIA, January 15, 1800.

In obedience to the request of the committee to whom was referred the message of the President of the United States, with the letter of Mr. Randolph, a member of your House, complaining of his having been insulted by two officers of the army or navy, as signified in the note of the honorable Mr. Goodrich to me of this day, I have only to state that I was not present or within hearing when the abuse, as alleged, took place; that I went into the theatre at a late period of the exhibition, and but a very little time before the first part was completed, and was sitting, in company with Colonel Butler, in one of the lower boxes, when a gentleman of our acquaintance came and informed me of what had happened above, relative to Mr. Randolph and the officers, but whose expressions I do not now recollect; that immediately, aware in my own mind of the imprudence of such conduct in such a place, and apprehensive that some of my military acquaintances might be there, I went up stairs to the door of the box in which Mr. Randolph and some other members of Congress were sitting; at the door of the box, I met a gentleman of this city whom I knew, and of whom I asked the question, "Who is that gentleman in uniform?" looking at an officer in the box, and received for answer that he did not know, but if I wished to be acquainted with him, he would introduce me to Captain McKnight who was there, and who would introduce him to me; this, however, did not take place at this time. I afterwards discovered a member from Maryland, of my acquaintance, in the adjoining box, of whom I inquired if he knew what had happened? He answered in the negative; I told him what I had heard, and that I was apprehensive a fracas might ensue; in moving through the house, I met an officer of the army, to whom I mentioned my information and apprehensions; he accorded with me in opinion, and we went to the door of the box in which Mr. Randolph was. Here a tender was again made to me, by the same gentleman, of an introduction to Captain McKnight, which did not, however, occur; we went to another part of the house, and returned some little time afterwards, when, something being said which I do not now remember, the gentleman before alluded to called out Captain McKnight, and introduced me to him; the captain called out the gentleman in uniform, whose name I had inquired, and introduced him to me as Lieutenant Reynolds. Just after the usual salutes had occurred, our attention was called to the stage, and the captain and lieutenant returned (as I supposed) to their seats in the box, and I went to an opposite quarter of the house.

When the entertainments closed, I went out amongst the first, and stood on the pavement above the theatre, till I saw Mr. Randolph come out with several members of Congress; in their rear were the captain and lieutenant. They all moved down Chestnut street, I followed them to the corner of Sixth, and turned up and retired to my quarters.

The next evening I was in company with Mr. Randolph and several other members of Congress, when the occurrence at the theatre on the night before was talked of; from which company, as I retired, Mr. Randolph followed me into the entry of the house, and observed to me that he had taken the liberty to mention my name in a letter which he had that morning written to the President of the United States, requiring an investigation into what had happened the night before at the theatre; to which I replied that I had no objection to attest what I knew, and we parted.

CAMPBELL SMITH.

Question. Did you observe any acts or expressions of Captain McKnight, or of any other person, which you apprehended designed to insult Mr. Randolph?

Answer. I did not.

Question. Were you present at any time when Captain McKnight and Lieutenant Reynolds were in the box with Mr. Randolph?

Answer. I was several times at the door of the box in which those gentlemen were.

Question. Did you at any of those times observe any exceptionable conduct on the part of those gentlemen?

Answer. I did not; they were sitting perfectly quiet.

CAMPBELL SMITH.

Sworn to on the 16th day of January, A. D. 1800, before me,

CHAUNCEY GOODRICH,

*Chairman of a committee of House of Reps. U. S.*

*Captain James McKnight's statement.*

On Thursday, the 9th instant, I returned to Philadelphia after having guarded fifty-four French prisoners to Fredericktown, Md.; on the evening of my arrival I obtained permission to be absent until the day following; the night I spent with my family at Captain Decatur's seat, fourteen miles from the city, and I did not return until twelve o'clock on Friday, at which hour I was ordered on a court-martial, which did not adjourn until three o'clock; I did not quit my quarters until six o'clock, at which hour I went to the theatre alone, in an undress, and without arms; after remaining in the theatre for some time, I was joined by several acquaintances. On my return to the theatre, I went by accident into the box, where the person sat that I now know as Mr. Randolph; on the appearance of a number of persons in the garb of Turks, I remarked that our ragamuffins would make a better appearance, and, several times during the evening, I repeated the words ragamuffins and mercenaries. A very interesting piece of scenery being introduced, most of the persons in the box rose up; finding my view obstructed, I stepped on a vacant bench; a person soon after sat on my feet; I desired him to rise, which he did, without any appearance or expression of anger; I soon after stepped behind, where (except for eight or ten minutes) I remained during the performance, but I am positive I never sat beside Mr. Randolph during the evening. At the time of quitting the box I had hold of Captain Taylor's right arm; the crowd was great; at the box door Captain Taylor was jostled, and I put out my arm (but without any violence,) to make room; Captain Taylor and myself then went out before Mr. Randolph and his friends. We walked down Chestnut to Fifth street, at which place I wished Major Christie good night, and he returned the compliment, and I am certain that I never mentioned Mr. Randolph's name during the evening, nor did I know Mr. Randolph was to be at the theatre, or do I ever recollect seeing him previous to Friday evening, and, from his youthful appearance and dress, I had no idea of his being a member of the House of Representatives; and I trust it will not be supposed I would do an act that would be an infringement of the privileges of Congress, for whom I have the highest respect.

JAMES MCKNIGHT, *Captain of Marines.*

*Michael Reynolds's statement.*

PHILADELPHIA, January 16, 1800.

On Friday evening, the 10th instant, Lieutenant Thompson and myself went to the theatre, and, after some time being seated, were joined by Captain McKnight; during the performance of Blue Beard, there appeared on the stage a number of strange figures, when some one of the gentlemen present made use of the expression that the ragamuffins would make a much better appearance; to which I replied, that could not be doubted; but as to my knowing of Mr. Randolph's being in the adjoining box, I did not, until I heard some one behind me mention it; and as to our having any previous conversation relative to our going to the play to insult him, or any other gentleman, never entered my head; I went to the playhouse in uniform and with my side-arms, and am confident that none of the other gentlemen in the box with us had either uniform or side-arms.

MICHAEL REYNOLDS, JUN., *Lieut. Marines.*

*James Thompson's statement.*

On Friday, the 10th instant, Lieutenant Reynolds and myself attended the theatre, and, after being some time in the house, were joined by Captain McKnight; I neither knew nor expected to meet Mr. Randolph, although it so happened that we got into a box adjoining (without design) the one in which he, with other members of the House of Representatives, was seated; soon after Captain McKnight's coming over to us, which was not until long after our having been in the house, some remarks were made on the performance and performers, in which the words ragamuffins and mercenaries were used; although Captain McKnight was in the same box behind Mr. Randolph, yet I neither saw nor heard him address himself to that gentleman; and, while I was present, nothing like a personal insult appeared to me to be offered, unless his repeating the words above can be so construed.

JAMES THOMPSON, *Lieut. Marines.*

*Questions by Captain McKnight.*

Question. Did you see me seat myself by Mr. Randolph in the course of the evening?

Answer. I did not; but it might have happened without my observing it.

Question. Were we constantly together during the performance of the farce?

Answer. We were either in the adjoining boxes, or, it may be, for a little time, in the same box; but in full view of each other, and within speaking distance the whole time.

Question. Was I not in an undress and without any weapon that evening?

Answer. You were in an undress, and without any weapon which I knew of.

Question. Did you leave the theatre with Lieutenant Reynolds, and when?

Answer. I stayed in the box, and Lieutenant Reynolds was with me there, after Mr. Randolph left it; and we came away together, and did not see Mr. Randolph after he left the box. Captain McKnight left the box before Mr. Randolph, and I did not see him afterwards that evening.

Question. Did you hear me mention Mr. Randolph's name that evening at the playhouse?

Answer. I did not, that I recollect.

Questions by the committee. Did Captain McKnight use the expressions mentioned by you of ragamuffins and mercenaries, or by whom were those expressions used?

Answer. I think by Captain McKnight. He asked Lieutenant Reynolds if he did not think the ragamuffins would perform better than those on the stage; alluding, as I understood, to a procession in the farce; to which Lieutenant Reynolds answered he thought they would.

Question. Did you know of any particular application those expressions were intended to have?

Answer. I do not know Captain McKnight's intention; nothing was ever said by him, or any other person, in my presence, of any intention of insulting Mr. Randolph or any other person.

Question. Did you hear any person say to Captain McKnight or Lieutenant Reynolds, he does not hear you, go nearer to him?

Answer. I did not.

Question. When did Captain McKnight leave the box where he first came to you, and in what manner?

Answer. I do not recollect whether Captain McKnight left that box before the conclusion of the play, but, in the interval between that and the farce, Captain McKnight, with several other gentlemen and myself, went together to a public-house in the neighborhood of the playhouse and supped together, and on our return to the playhouse Captain McKnight went into the box where Mr. Randolph was, and remained there during the farce, or was there the most of the time.

Question. Did you see any person take hold of Mr. Randolph, or pull his coat?

Answer. I did not; but I heard Mr. Randolph, as he left the box, say that some person had taken him by the shoulder, evidently to insult him, or words to that effect.

Question. Have you any knowledge where Captain McKnight was at the time Mr. Randolph made that observation?

Answer. At the time Mr. Randolph made the observation I have mentioned, Captain McKnight had left the box and was forward of Mr. Randolph.

Question. Did Captain McKnight, in going out of the box, pass Mr. Randolph, and in what manner?

Answer. We passed Mr. Randolph immediately before he made the observation I have mentioned; but I did not see Captain McKnight touch Mr. Randolph.

JAMES THOMPSON, *Lieutenant of Marines.*

Sworn to on the 17th of January, Anno Domini, 1800, before me,

CHAUNCEY GOODRICH,

*Chairman of a committee of the House of Representatives of the United States.*

*William W. Burrows's affidavit.*

PHILADELPHIA, January 18, 1800.

I, WILLIAM W. BURROWS, do solemnly swear, on the Holy Evangelists of Almighty God, that I ordered Captain James McKnight to march on the 18th December last, with a detachment of marines, to guard some French prisoners to Fredericktown, in Maryland.

On Thursday, 9th January, at three o'clock in the afternoon, he arrived here, after a fatiguing march; and after reporting his arrival to me, he asked leave to go that evening to see his family, about eight miles from the city. He accordingly went, and returned about twelve o'clock the next day, when he was immediately ordered to sit on a court-martial, which did not break up till near three o'clock. He then went to his dinner, and, as I have understood since, from thence to the theatre.

WILLIAM W. BURROWS, *Major Commandant of the marine corps.*

Sworn to on the 18th of January, Anno Domini, 1800, before me,

CHAUNCEY GOODRICH,

*Chairman of a committee of the House of Representatives of the United States.*

*Jonathan H. Hurst's deposition.*

JONATHAN H. HURST, of the city of Philadelphia, maketh oath that, on the evening of the 10th instant, he was present at the theatre, and for some time in a box adjoining that in which was seated Mr. Randolph, member of the House of Representatives of the United States, from the State of Virginia; that he saw in the same box Captain McKnight, of the United States' marine corps, standing immediately behind Mr. Randolph; that he heard the chief part of the conversation which passed between Captain McKnight and several gentlemen who were near him during the performance of the opera or entertainment of Blue Beard; that he (J. H. Hurst) looked frequently to that part of the box where Captain McKnight stood; that he did not see any violence offered to Mr. Randolph by Captain McKnight, nor did he see Captain McKnight at any time crowd, jostle, or touch Mr. Randolph; nor did he (the said J. H. Hurst) hear Captain McKnight utter any word or words insulting or disrespectful to Mr. Randolph. And he further saith that Captain McKnight was not in uniform, nor was he armed, nor was there any visible or audible interference on the part of any person near Mr. Randolph to deter Captain McKnight or his acquaintance present from any apprehended ill treatment to Mr. Randolph.

JONATHAN H. HURST.

Question by the committee. Did you hear Captain McKnight or Lieutenant Reynolds use the expressions "mercenaries, ragamuffins," and in what manner?

Answer. I heard Captain McKnight ask of one of his acquaintances present, of whom I do not recollect, whether he thought that band, alluding to some of the performers in the farce then acting, as I understood it, could stand against our ragamuffins, alluding, as I understood, to the army of the United States. There was no pointed answer given, as I recollect, and the question appeared to me to be a matter of common conversation; and though at first I was not sensible of its being intended for Mr. Randolph, yet, looking upon him soon after, I thought he smiled as if he had heard it.

Question by Captain McKnight. Did you, in the course of the evening, hear me or Lieutenant Reynolds speak of Mr. Randolph, or mention his name?

Answer. I heard some gentlemen in the box speak of Mr. Randolph, as pointing him out to others, but I cannot say that this was to or by Captain McKnight or Lieutenant Reynolds.

JONATHAN H. HURST.

The foregoing deposition was sworn to on the 18th day of January, Anno Domini, 1800.

CHAUNCEY GOODRICH,

*Chairman of a committee of the House of Representatives of the United States.*

*George Taylor's deposition.*

Some time during the performance on Friday evening, the 10th instant, at the theatre, I was called by Captain McKnight, to inform me of the marriage of an officer who had been on a detachment under his command, and from which he had that day returned. After some time we were joined by other persons, when a general conversation took place respecting the ragamuffins on the stage. There were a number of comparisons made, but they were general, and no names were mentioned. Of the persons in the box with myself there was but one in uniform, or with side-arms. In a part of Blue Beard, interesting as to scenery, the persons in the same box with me generally rose. I was on the right of Captain McKnight, and saw that those before him were taller than himself. It appears to me that he stepped on the seat before him to have a fair view of the scenery or stage. My attention was, for an instant, taken from the performance by hearing Captain McKnight say to some one, "Sir, you are sitting on my feet;" that person rose, and made a slight inclination of his head. Captain McKnight resumed his former situation, as did the one before him. After what is above related, Lieutenant Campbell Smith, from the door of the box, called me, and asked the name of an officer, then sitting in the box, the only one in uniform, except himself, there present, to whom I had never been introduced, or, to my knowledge, seen before that night. From my knowledge of Mr. Smith I did not feel myself disposed to satisfy his mere curiosity, or mention a name I had heard accidentally, and scarcely recollected; I therefore asked him if he had any reason or particular object for knowing it. His reply was, that he saw a great many strange faces in uniform, and, wearing one himself, he wished to know the names of others who did. I then told him I would make him known to Captain McKnight, who would introduce him. Mr. Smith then used an expression which I considered as in nowise averse to the introduction of himself to Captain McKnight, which was done in the lobby. After some slight commonplace observations I saw no more of Lieutenant Smith. I had accepted an invitation from Captain McKnight to go home with him after the performance of the theatre. We were anxious to get out before the crowd from the upper part of the house would fill the lobby. To accomplish this, we passed a number of persons, one of whom, not known to me, caught my left arm; I took it for granted that it was to assist himself either to rise from the floor to the seat, or to prevent him from falling.

Captain McKnight had hold of my right arm. The tug I received from the left must have affected him, I think; at any rate it separated us. I am inclined to believe Captain McKnight put his hand on the shoulder of some person and passed on. I did not overtake him until he was out of the box, when we, by his request, looked for some gentlemen to be of our party to his house, which we did, there and in the street, but could not find them.

GEORGE TAYLOR.

Question by Captain McKnight. During the performance of the farce, were we not so near each other, and to Lieutenant Reynolds, that if any violence had been offered by him or me to Mr. Randolph, you must have observed it?

Answer. I think I was near Captain McKnight and Lieutenant Reynolds the whole time, and must have observed any unusual conduct by them.

Questions by the committee. Did you, in the evening in question, either before you went to the theatre, there, or at any time afterwards, know of any intention on the part of Captain McKnight or Lieutenant Reynolds to affront Mr. Randolph?

Answer. I did not.

Question. Did you observe Mr. Randolph at the time of your leaving the box, or hear any words from him respecting his being insulted?

Answer. I did not observe Mr. Randolph at that time, nor hear any words from him. Captain McKnight and I were going out of the box together, and I was separated from him by some person giving me a pull by the arm with some violence; but we joined again soon after in the lobby.

GEORGE TAYLOR.

Sworn to on the 18th day of January, Anno Domini, 1800, before me,

CHAUNCEY GOODRICH,

*Chairman of a committee of the House of Representatives of the United States.*

6th CONGRESS.]

No. 121.

[1st SESSION.]

CENSUS.

COMMUNICATED TO THE SENATE, JANUARY 23, 1800.

*To the honorable the Senate and House of Representatives of the United States: The memorial of the American Philosophical Society respectfully sheweth:*

That this society, instituted for the promotion of useful knowledge, understanding that the Legislature of the Union have under their consideration a bill for taking a new census of the inhabitants of the United States, consider it as offering an occasion of great value, and not otherwise to be obtained, of ascertaining sundry facts highly interesting and important to society. Under this impression, they beg leave respectfully to submit to the wisdom of the Legislature the expediency of requiring from their officers, in addition to the table in the former act for the same purpose, others presenting a more detailed view of the inhabitants of the United States, under several different aspects.

They consider it as important to determine the effect of the soil and climate of the United States on the inhabitants thereof; and, for this purpose, dividing life into certain epochs, to ascertain the existing numbers within each epoch, from whence may be calculated the ordinary duration of life in these States, the chances of life for every epoch thereof, and the ratio of the increase of their population; firmly believing that the result will be sensibly different from what is presented by the tables of other countries, by which we are, from necessity, in the habit of estimating the probabilities of life here. And they humbly suggest, as proper for these purposes, the intervals

between the following epochs, to wit: births, two, five, ten, sixteen, twenty-one, and twenty-five years of age, and every term of five years from thence to one hundred.

For the purpose also of more exactly distinguishing the increase of population by birth and by emigration, they propose that another table shall present, in separate columns, the respective numbers of native citizens, citizens of foreign birth, and of aliens.

In order to ascertain more completely the causes which influence life and health, and to furnish a curious and useful document of the distribution of society in these States, and of the conditions and vocations of our fellow-citizens, they propose that still another table shall be formed, specifying, in different columns, the number of free male inhabitants, of all ages, engaged in business, under the following, or such other descriptions, as the greater wisdom of the Legislature shall approve, to wit: 1. Men of the learned professions, including clergymen, lawyers, physicians, those employed in the fine arts, teachers, and scribes, in general; 2. Merchants and traders, including bankers, insurers, brokers, and dealers of every kind; 3. Mariners; 4. Handicraftsmen; 5. Laborers in agriculture; 6. Laborers of other descriptions; 7. Domestic servants; 8. Paupers; 9. Persons of no particular calling living on their income: care being taken that every person be noted but once in this table, and that under the description to which he principally belongs.

They flatter themselves, that, from these data, truth will result very satisfactory to our citizens; that under the joint influence of soil, climate, and occupation, the duration of human life, in this portion of the earth, will be found at least equal to what it is in any other; and that its population increases with a rapidity unequalled in all others.

What other views may be advantageously taken, they submit, with those above suggested, to the superior wisdom of Congress, in whose decision they will acquiesce with unqualified respect.

By order of the society:

THOMAS JEFFERSON, *President.*

6th CONGRESS.]

No. 122.

[1st SESSION.

#### APPLICATION FOR ALTERATIONS IN THE POLITICAL SYSTEM ESTABLISHED FOR THE GOVERNMENT OF THE MISSISSIPPI TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 18, 1800.

Mr. CLAIBORNE, from the committee, to whom was referred the petition of Cato West and others, styling themselves "a committee, regularly chosen by the inhabitants of the Mississippi Territory, for the purpose of petitioning for a redress of grievances," made, in part, the following report:

The petitioners state, that, from the vast interval which separates the Territory from the seat of the General Government, a knowledge of their interest and wishes being difficult to be ascertained, impartial and inaccurate statements were too apt to acquire credit, and that of this stamp were the representations which have been made, in the name of the people, soliciting a *Government* similar to the *one* which had been established in the Territory northwest of the river Ohio.

That the Government which Congress had enacted for the Mississippi Territory was bad in theory and still worse in practice; that executive, legislative and judicial authorities, so carefully separated and limited by the constitutions of the elder States, are here mingled together in the hands of three or four individuals, who have but a partial interest in common with the people; and further, that the immense power thus conceded had neither been exercised with liberality nor beneficence, and that in some instances the provisions of the ordinance had been unattended to, and the constitution of the United States violated.

To remedy these inconveniences, and to extend the fundamental principles of civil liberty, the petitioners solicit an amelioration of their present political system, and that Congress will enact that the ordinance of one thousand seven hundred and eighty-seven may immediately operate in its second grade in the *Mississippi Territory*, meaning that the people thereof may be allowed a Legislative Assembly.

Upon mature consideration of the premises, the committee are of opinion that an amelioration of the present existing Government is dictated by justice and policy.

That the political maxim so generally practised upon in the United States, "that the citizen should have a voice by himself, or his representative, in the framing of laws, and imposing of taxes," ought to be extended to the Mississippi Territory.

The committee find that, by an act of Congress, passed on the seventh of April, one thousand seven hundred and ninety-eight, entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory," the boundaries of the said Territory were defined, and the President of the United States authorized to establish therein a Government in all respects similar to that now exercised in the Territory northwest of the river Ohio, excepting and excluding the last article of the ordinance made for the Government thereof, by the late Congress, on the thirteenth of July, one thousand seven hundred and eighty-seven.

That the President, soon after the passage of the act aforesaid, by and with the advice and consent of the Senate of the United States, appointed a Governor, Secretary, and three judges for the Mississippi district, who have entered upon the duties of their respective offices, and proceeded to the organization of the Government.

That in the ordinance referred to, in the before-mentioned act of Congress, the committee find the following provisions:

*Be it ordained by the authority aforesaid,* That there shall be appointed, from time to time, by Congress, a Governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed, from time to time, by Congress, a Secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the Legislature and the public records of the district, and the proceedings of the Governor in his executive department, and transmit authentic copies of such acts and proceedings, every six months, to the Secretary of Congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior. The Governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress, from time to time; which laws shall be in force in the district, until the organization of the General Assembly therein, unless disapproved of by Congress, but afterwards the Legislature shall have authority to alter them, as they shall think fit. The Governor for the time being shall be commander-in-chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress, previous to the organization of the General Assembly; the Governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same; after the General Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly, but all magistrates and other civil officers not herein otherwise directed shall, during the continuance of this temporary Government, be appointed by the Governor. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district; and for the execution of process, criminal and civil, the Governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships; subject, however, to such alterations as may thereafter be made by the Legislature.

So soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the Governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the General Assembly, provided that for every five hundred free male inhabitants there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the Legislature: *Provided*, That no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and in either case, shall likewise hold in his own right in fee simple, two hundred acres of land within the same: *Provided, also*, That a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district or the like freehold, and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the Governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

The General Assembly, or Legislature, shall consist of the Governor, Legislative Council, and a House of Representatives. The Legislative Council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum; and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the Governor shall appoint a time and place for them to meet together, and, when met, they shall nominate ten persons, resident in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the Council, by death or removal from office, the House of Representatives shall nominate two persons qualified as aforesaid for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of Council, the said House shall nominate ten persons, qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the Council five years, unless sooner removed. And the Governor, Legislative Council, and House of Representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the House, and by a majority in the Council, shall be referred to the Governor for his assent; but no bill or legislative act whatever shall be of any force without his assent. The Governor shall have power to convene, prorogue, and dissolve the General Assembly, when in his opinion it shall be expedient.

The committee further report, that they have not been enabled to ascertain with certainty the number of citizens residing within the limits of the Mississippi district, but there are supposed to be about six thousand free people of all descriptions; that the free male inhabitants of full age, not being sufficient in number (under the ordinance) to authorize a General Assembly, the Legislative authority (subject to certain prescribed restrictions) is at this time vested in and exercised by the Governor and judges.

A Legislative Assembly organized upon the plan contemplated by the ordinance, when the number of free male inhabitants of full age amounted to five thousand, would, it is presumed, remove the principal cause of uneasiness, and be promotive of the general good.

For information as to the extent of population in the Mississippi Territory, the quality, quantity, and value of the exports, the wishes of the people for a change of Government, and their supposed ability to meet the expense incident to a General Assembly, the committee beg leave to refer the House to two letters from Mr. N. Hunter, hereto subjoined, (Nos. 1 and 2;) the petitioners prayed that Mr. Hunter might be accredited as their agent, and viewed as a character in whom entire confidence may be placed.

From a desire to attach the citizens of the Mississippi Territory permanently to the United States, to promote their political welfare and happiness, and to extend to them more ample security against political oppression, the committee submit the following resolutions:

1st. *Resolved*, That so much of the ordinance for the government of the Territory of the United States north-west of the river Ohio, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall forthwith operate and be in force in the Mississippi Territory: *Provided*, That until the number of free male inhabitants of full age, in the said Territory, shall amount to five thousand, there shall not be returned to the General Assembly more than nine representatives.

2d. *Resolved*, That until the number of free male inhabitants of full age in the Mississippi Territory shall amount to five thousand, the county of Adams shall be entitled to choose five representatives to the General Assembly, and the county of Pickering four.

3d. *Resolved*, That the first election for representatives to the General Assembly shall be on the —— day of ——, and that all subsequent elections shall be regulated by the Legislature.

4th. *Resolved*, That it shall be the duty of the Governor of the Mississippi Territory to cause the said election to be holden on the day aforesaid, at the most convenient place in the counties aforesaid, and to nominate a proper officer or officers to preside at and conduct the same, and to return to him the names of the persons who may have been duly elected.

5th. *Resolved*, That the representatives shall be convened by the Governor on the —— day of ——.

6th. *Resolved*, That so soon as the number of free male inhabitants, of full age, shall amount to or exceed five thousand, the number of representatives to the General Assembly shall be determined, and the apportionment made in the way prescribed in the ordinance.

No. 1.

DEAR SIR:

PHILADELPHIA, *February 4, 1800.*

In your communication of the 26th of January, you inquire—

1st. "By what authority were Cato West and others chosen a committee; if by the people, at what period, in what manner, and for what purpose?"

A meeting was held by a number of the principal inhabitants, on the 6th day of July last, in order to confer upon the unhappy situation of the country, and, if possible, to devise a remedy. The result of this meeting was a circular letter drawn up by the conference, recommending to the several districts the scheme of a committee, which was to meet with written instructions from their constituents, in order to inform the Governor of the true situation of the country, and petition for a redress of grievances. I have a copy of the circular letter, and the letters of instructions from the several districts.

2d. You inquire "what is the aggregate number of the free inhabitants of the Mississippi Territory, what proportion are natives of the United States, and what the number of our militia?"

Our Governor has never taken a census of the people, nor has he been able to organize the militia, so that we are much at a loss with respect to our numbers; I think, however, that we cannot have less than six thousand free inhabitants, and about two thousand capable of bearing arms: our people are mostly natives of the United States; there is not, perhaps, one-tenth of any other description.

3d. You inquire "whether the emigration to the territory is great, and whether any of the citizens have lately removed to the Spanish dominions, and, if any, what seem to have been the inducements?"

The emigration to our country is at this time extremely limited; the impossibility of procuring lands by any other way than by purchase from individuals, and the facility with which lands are acquired in the Spanish dominions, forms an insuperable bar to the increase of our population; though men of property who have lately descended the river seem rather inclined to sacrifice a part of their property in the purchase of lands whereon to settle, than to avail themselves of the easy terms offered by the Spanish Government; but the poorer classes are impelled to go below.

An alarming depopulation took place last winter under the patronage of Doctor White; we could never learn the exact number of families, but they were sufficiently numerous to form a considerable settlement below the line of which Doctor White is commandant. A number of the inhabitants have been selling out this summer, and preparing to remove below at the end of the year. Various circumstances may have combined in producing this dereliction, but we do not hesitate to say that the morose, arbitrary contumacy of Governor Sargent are among the primary causes.

4th. You would know "the particular culture which occupies the attention of the planter of the Mississippi Territory, what are our articles of exportation, and what the supposed quantity and value?"

Cotton is at present the staple of the Territory, and is cultivated with singular advantage to the planter. We get one quarter of a dollar per pound for clean cotton, and an active planter will make from five to eight hundred pounds weight to a hand; and, as I conceive we have as many black as white inhabitants, we cannot make much less than three millions of pounds of merchantable cotton, equal to seven hundred and fifty thousand dollars.

We are able to raise, at a small expense, great quantities of pork; but the price, for three or four years' past, has not been more than three and a half dollars; consequently, little has been raised. Our soil and climate seems peculiarly adapted to the growth of indigo, as well as cotton; and the sugar-cane thrives well in the lower part of the Territory.

I am, dear sir, with great esteem, yours,

N. HUNTER, *Agent Mississippi Territory.*

No. 2.

DEAR SIR:

FEBRUARY 8, 1800.

I received your obliging note of the 3d instant; and while you have my sincere and hearty thanks for your vigilance and attention to the business of the Natchez, I shall make every exertion in my power to elucidate such parts of our petition and documents as may appear vague or ambiguous.

The estimate annexed to the petition of Cato West and others (mentioned in your note) is not "the amount of the tax laid on the county of Adams by a law of the Territory;" but it appears to be the sum which the Governor thought necessary to be raised in that county for the service of the last year; and it was sent by him to the first court of general quarter sessions in order to receive the sanction of that court. This would give it immediate currency, and necessarily operate in aid of his future projects of taxation.

But such a manifest prodigality of the public resources appeared upon the face of it, together with so marked an opposition to the public opinion, with regard to the place whereon the public buildings were to be erected, that it received the immediate disapprobation of the court; and I believe a similar instrument was never presented to the county of Pickering.

I would here beg leave to call your attention to the first address of the committee, to Governor Sargent, of the 26th of August. It is there stated that he had adopted and pursued improper measures; that he had given an exclusive confidence to a party; that his measures were calculated to give confidence to the insolence of faction, and to suffocate the germ of public virtue in the upright citizen. He was also told that most of the perplexities which had embarrassed him in his administration had undoubtedly flowed from this source; but anxious for a general accommodation, and animated with a hope of inspiring a system of measures capable of embracing that object, the committee was ready to admit that the Governor had been surprised into those measures by partial or designing statements. To this address, however, the Governor avoided to return an answer; for the fact is, the charges were too true to be denied, and his conduct too improper to be justified.

I must also solicit the attention of the committee of the House of Representatives to the address of Cato West and others, to the Governor and judges, upon the subject of the laws, and the answer to that address. The committee charges the Legislature with making laws in express contradiction to the letter of the ordinance of 1787, which authorizes them only to adopt laws already made in the original States. The Governor and judges, in their answer, confess that they have made laws which have not been derived from any one of the State codes; but they say they have been in favor of the citizen, by lessening fines and penalties. But the committee, in their reply to that answer, which concludes their correspondence, assert that the lessening of fines and penalties was not the object of their legislative efforts; and the code of laws which, it is presumed, has by this time been transmitted to Colonel Pickering's office, will, I am fully persuaded, justify the assertion.

At the time of my departure from the Territory the discontents of the people were great indeed; the whole country was influenced by an idea that the ordinance for our Government had been wantonly abused, and the constitution of the United States as wantonly violated at a time, and under circumstances, which required no such sacrifice.

But the Governor's appointments, civil and military, as they stand at present, have been a more abundant source of discontent than any that has arisen under his administration. All the principal officers that possessed the confidence of the people have uniformly resigned their appointments, and it will be impossible that the Governor can ever be able to organize the militia, notwithstanding his extraordinary fines, in order to force his appointments upon the people.

Can it be possible that an administration, which, from its earliest operations, have proved so repugnant to the public will, and so fatal to the happiness of society, can ever be able to restore harmony, attach public confidence, and promote the general good. The thing is impossible.

There is yet another source of uneasiness, excited by the conduct of our Governor, which I feel it a duty incumbent on me to suggest to the committee of the House of Representatives. He has heretofore been in the habit of exacting and receiving fees for passports granted to citizens travelling from the Territory to the United States, and also for tavern and marriage licenses. It is believed that his perquisites in these instances have not been inconsiderable; and if the practice were forbidden by a law of Congress, it is presumed that the burdens of the people would be somewhat lessened, and a great incentive to abuse entirely removed.

My state of health will now admit of my personal attendance on the committee of the House of Representatives, and I shall take much pleasure in making such further explanation as may be desired.

The people of the Mississippi Territory are extremely anxious for a Legislative Assembly; and there is no doubt existing, in my mind, as to the entire competency of their resources.

The power of making laws, through their immediate representatives, in whom they have a confidence, and who have a common interest with themselves, is a privilege which cannot but be grateful to every American, and produce the best effects in that country.

I am, dear sir, with all possible esteem, your very humble servant,

N. HUNTER, *Agent Mississippi Territory.*

The Hon. W. C. C. CLAIBORNE, *Chairman Mississippi Committee.*

[NOTE.—See further report, No. 124.]

## DIVISION OF THE NORTHWESTERN TERRITORY INTO TWO GOVERNMENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 3, 1800.

Mr. CRAIK, from the committee, to whom it was referred to consider and report, whether any, and, if any, what alteration is necessary in the judiciary establishment of the Territory northwest of the Ohio, and who were directed to report their opinion of the expediency of dividing said Territory into two distinct and separate Governments, do, in obedience to such direction, make the following report:

That parts of said Territory are subject to several serious inconveniences, which require redress from the General Government; most of the evils which they at present experience are, in the opinion of this committee, to be imputed to the very great extent of country at present comprised under their imperfect Government. The Territory northwest of the Ohio from southeast to northwest fifteen hundred miles, and the actual distance of travelling from the places of holding courts the most remote from each other is thirteen hundred miles, and in a country so sparsely peopled, and so little reclaimed from its native wildness, this distance alone seems to present barriers almost insuperable against the exercise of the functions of Government, which always presupposes a knowledge of the condition of the several parts and the practicability of seasonable communication among the several organs.

In the three western countries there has been but one court having cognizance of crimes in five years; and the immunity which offenders experience attracts, as to an asylum, the most vile and abandoned criminals, and at the same time deters useful and virtuous persons from making settlements in such society. The extreme necessity of judiciary attention and assistance is experienced in civil as well as criminal cases. The supplying to vacant places such necessary officers as may be wanted, such as clerks, recorders, and others of like kind, is, from the impossibility of correct notice and information, utterly neglected. This Territory is exposed, as a frontier, to foreign nations, whose agents can find sufficient interest in exciting or fomenting insurrection and discontent, as thereby they can more easily divert a valuable trade in furs from the United States, and also have a part thereof on which they border, which feels so little the cherishing hand of their proper Government, or so little dread of its energy, as to render their attachment perfectly uncertain and ambiguous. The committee would further suggest that the law of the 3d of March, 1791, granting land to certain persons in the western part of said Territory, and directing the laying out of the same, remains inexecuted; that great discontent, in consequence of such neglect, is excited in those who were



interested in the provision of said law, and which require the immediate attention of this Legislature. To administer a remedy to these evils, it occurs to this committee that it is expedient that a division of said Territory into two distinct and separate Governments should be made; and that such division be made, by a line beginning at the mouth of the great Miami river, running directly north, until it intersects the boundary between the United States and Canada.

In which case it is conceived, that the western part may be permitted to go into the same stage of Government as is now in use in said Territory, as the same is supposed to contain at the present time fifteen thousand inhabitants.

Your committee therefore recommend to the House the adoption of the following resolution, viz:

*Resolved*, That the Territory northwest of the river Ohio be divided into two distinct and separate Governments, by a line beginning at the mouth of the Great Miami river, and running through a north course, until it intersects the boundary line between the United States and Canada.

6th CONGRESS.]

No. 124.

[1st Session.]

### APPLICATION FOR ALTERATIONS IN THE POLITICAL SYSTEM ESTABLISHED FOR THE GOVERNMENT OF THE MISSISSIPPI TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 13, 1800.

Mr. CLAIBORNE made the following report:

The committee to whom was recommitted the report upon the petition of Cato West and others, together with certain resolutions submitted to the House on the 10th instant, proposing an abridgment of the powers granted to the Governor of the Mississippi Territory, are of opinion that it would be inexpedient to adopt the said resolutions, for the following reasons:

1st. That from the infancy of the Mississippi settlements, and their remote situation from the seat of the Federal Government, it is advisable that the Government of the United States should possess a control over the proceedings of the Territorial Legislature, which can alone be effected through the medium of the territorial Governor, whose responsibility, it is presumed, will prevent an improper use of any powers granted.

2d. That the Territorial Government will only be temporary; and if, in the progress of the administration thereof, the system should prove defective, the necessary alterations will, no doubt, be made by Congress.

3d. That the petitioners solicited *only* the benefits of the ordinance in its *second* grade, which, in the report heretofore made on the petition of Cato West and others, the House was advised immediately to extend to the Mississippi Territory; this measure the committee still think is dictated by policy and justice, and again recommend the adoption of the resolutions contained in the said report.

*Resolved*, That from and after the organization of the Territorial Assembly of the Mississippi Territory, the Governor shall nominate, and by and with the advice and consent of the Legislative Council, shall appoint all officers, both civil and military, of the Territory, whose appointments are not particularly vested in Congress by the ordinance: *Provided*, That the Governor shall have power to fill up all vacancies which may happen during the recess of the Legislative Council, by granting commissions, which shall expire at the end of their next session.

*Resolved*, That every bill which shall have passed the House of Representatives and the Legislative Council, shall, before it become a law, be presented to the Governor of the Territory; if he approve it, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of that House, it shall become a law. If any bill shall not be returned by the Governor within six days (Sundays excepted,) after it shall have been presented to him, the same shall be a law, in like manner, as if he had signed it, unless the General Assembly, by their adjournment, prevent its return; in which case, it shall not be a law.

*Resolved*, That every order, resolution, or vote, to which the concurrence of the Legislative Council and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the Governor of the Territory, and before the same shall take effect, shall be approved by him; or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

*Resolved*, That the General Assembly meet at least once in every year, and such meeting shall be on the — day of —, unless they shall by law appoint a different day: *Provided*, That the Governor shall have power, on extraordinary occasions, to convene both Houses of the General Assembly, or either of them.

*Resolved*, That neither House, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

[NOTE.—See No. 122.]

6th CONGRESS.]

No. 125.

[1st SESSION.]

## NATURALIZATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 14, 1800.

Mr. GRISWOLD, from the committee to whom was referred the petition of sundry aliens residing at Mount Pleasant, in the State of New York, made the following report:

That these petitioners state, that they came into the United States before the passing of the law of June, 1798, respecting the naturalization of aliens, and might have made the declarations required by the law of January, 1795, and brought themselves within the proviso of the law first mentioned, and secured the right of naturalization after a residence of five years within the United States; but having omitted to make the declaration required, they are obliged to reside fourteen years within the United States before they can become citizens thereof. They request that the Legislature will pass an act which shall secure to them the same rights which they would have received had they made the declaration required by the law of January, 1795.

The committee can see nothing in this case which can warrant a deviation from the general rule.

They believe the law of June, 1798, to be founded on fair and just principles, and that a probation of fourteen years is not generally more than sufficient to conciliate the feelings of aliens to the manners, laws, and Government of a country into which they remove as strangers; and that the attachment which every honest mind feels to the country which gave him birth, and in which he has formed his early attachments, will not, probably, in the short space of five years, be so far obliterated as to make it safe or prudent for this Government to repose that confidence in him which it must place in its own citizens. The committee are therefore of opinion that the prayer of this petition ought not to be granted.

6th CONGRESS.]

No. 126.

[1st SESSION.]

## BREACH OF PRIVILEGES.

COMMUNICATED TO THE SENATE, MARCH 14, 1800.

Mr. DAYTON made the following report:

The Committee of Privileges, to whom it was referred, by a resolution of the Senate of the 8th instant, to consider and report what measures it will be proper to adopt in relation to a publication in the newspaper printed in the city of Philadelphia, on Wednesday morning, the 19th of February last, called the General Advertiser, or Aurora, have had the same under investigation, and have agreed to report, as the result of their deliberations, that it would be proper for the Senate to adopt the following resolutions, viz:

Whereas, on the 19th day of February, now last past, the Senate of the United States being in session, in the city of Philadelphia, the following publication was made in the newspaper printed in the said city of Philadelphia, called the General Advertiser, or Aurora, viz:

"In our paper of the 27th ultimo, we noticed the introduction of a measure into the Senate of the United States, by Mr. Ross, calculated to *influence* and *affect* the approaching Presidential election, and to frustrate in a particular manner the wishes and interests of the people of the commonwealth of Pennsylvania.

"We this day lay before the public a copy of that bill, as it has passed the Senate. Some curious facts are connected with this measure, and the people of the Union at large are intermediately, and the people of this State immediately, interested to consider the *movements*, the mode of operation, and the effects.

"We noticed, a few days ago, the *caucusses* (or secret consultations) held in the Senate chamber. An attempt was made, in an evening paper, to give a *counteraction* (for these people are admirable at the system of intrigue) to the developments of the Aurora, and to call those meetings *jacobinical*: we most cordially assent to the jacobinism of those meetings; they were in the perfect spirit of a *jacobinical conclave*.

"The plain facts we stated are, however, unquestionable; but we have additional *information* to give on the subject of those meetings. We stated that intrigues for the Presidential election were among the objects. We now state it as a fact, that cannot be disputed upon fair ground, that the bill we this day present was discussed at the *caucus* on *Wednesday* evening last.

"It is worthy of remark how this bill grew into existence. The opponents of independence and republican government, who supported Mr. Ross in the contest against Governor McKean, are well known by the *indecenty*, the *slander*, and the *falsehood* of the measures they pursued; and it is well known that they are all devoted to the *federal party*, which we *dissected* on Monday. Mr. Ross proposed this bill in the federal Senate, (how consistently with the decency of his friends will be seen;) a committee of five was appointed to prepare a bill on the subject; on this committee Mr. Pinckney, of South Carolina, was appointed; on Thursday morning last (the caucus held the preceding evening) Mr. Ross informed Mr. Pinckney that the committee had drawn up a bill on the subject, when, in fact, Mr. Pinckney had never been consulted on the subject, though a member of the committee! The bill was introduced and passed as below.

"On this occasion it may not be impertinent to introduce an *anecdote* which will illustrate the nature of *caucusses*, and show that our popular Government may, in the hands of a faction, be as completely abused as the French constitution has been by the self-created *consuls*.

"In the summer session of 1798, when federal *thunder* and *violence* were belched from the pestiferous lungs of more than one despotic minion, a *caucus* was held at the house of Mr. Bingham, in this city. It was composed of members of the Senate, and there were present seventeen members. The Senate consisting of thirty-two members, this number was, of course, a majority, and the session was a full one.

"Prior to deliberation on the measures of *war, army, navy*, democratic proscriptions, &c. &c. it was proposed, and agreed to, that all the members present should solemnly pledge themselves to *act firmly* upon the measures to be agreed upon by the majority of the persons present at the caucus.

"The measures were perfectly in the *high tone* of that extraordinary session; but, upon a division of the caucus, it was found that they were divided *nine* against *eight*. This majority, however, held the minority to their engagement, and the whole seventeen voted in Senate upon all the measures discussed at the caucus.

"Thus, it is seen, that a *secret, self-appointed* meeting of seventeen persons dictated laws to the United States, and not only that nine of that seventeen had the full command and power over the consciences and votes of the other *eight*, but that nine possessed, by the turpitude of the eight, actually all the power which the constitution declares shall be invested in the majority only. In other words, a minority of nine members of the Senate ruled the other twenty-three members.

"It is easily conceivable, as in the recent changes in France, that this spirit of *caucussing* may be conducted in progression down to two or three persons; thus, three leading characters may agree to act upon measures approved by any two of them; these three may add two others, and they would be a majority of five; and those adding four others would be a majority of nine; and these nine possess all the power of a majority of twenty-three! Yet such is the way we are treated by those who call themselves federalists.

"The following bill is an offspring of the spirit of faction secretly working; and it will be found to be in perfect accord with the outrageous proceedings of the same party in our State Legislature, who are bent on depriving this State of its share in an election that may involve the fate of the country and posterity."

*Resolved*, That the said publication contains assertions and pretended information respecting the Senate, and the committee of the Senate, and their proceedings, which are false, defamatory, scandalous, and malicious, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States; and that the said publication is a daring and high-handed breach of the privileges of this House.

*Resolved*, That William Duane, now residing in the city of Philadelphia, the editor of the said newspaper, called the *General Advertiser*, or *Aurora*, be, and he is hereby, ordered to attend at the bar of this House on \_\_\_\_\_, the \_\_\_\_\_ day of March instant, at \_\_\_\_\_, at which time he will have opportunity to make any proper defence for his conduct in publishing the aforesaid false, defamatory, scandalous, and malicious assertions and pretended information; and the Senate will then proceed to take further order on the subject; and a copy of this and the foregoing resolution, under the authentication of the Secretary of the Senate of the United States, and attested as a true copy by James Mathers, sergeant-at-arms for the said Senate, and left by the said sergeant-at-arms with the said William Duane, or at the office of the *Aurora*, on or before the \_\_\_\_\_ day of March instant, shall be deemed sufficient notice for the said Duane to attend in obedience to this resolution.

6th CONGRESS.]

No. 127.

[1st Session.]

## BREACH OF PRIVILEGES.

COMMUNICATED TO THE SENATE, MARCH 22, 1800.

Mr. DAYTON made the following report:

The Committee of Privileges, who were directed to prepare and lay before the Senate a form of proceedings, in the case of William Duane, having had the subject under consideration, report, in part, the following, viz:

When William Duane shall present himself at the bar of the House, in obedience to the order of the 20th instant, the President of the Senate is to address him as follows:

1. WILLIAM DUANE: You stand charged by the Senate of the United States, as editor of the newspaper called the *General Advertiser*, or *Aurora*, of having published in the same on the 19th of February now last past, false, scandalous, defamatory, and malicious assertions, and pretended information, respecting the said Senate, and committee of the Senate, and their proceedings, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States; and therein to have been guilty of a high breach of the privileges of this House.

Then the Secretary shall read the resolutions of the Senate passed the 20th instant, with the preamble;\* after which the President is to proceed as follows, viz:

Have you any thing to say in excuse or extenuation for said publication?

2. If he shall make no answer, the sergeant-at-arms shall take him into custody, and retire with him from the Senate chamber, until the Senate shall be ready for a decision, at which time the sergeant-at-arms shall again set him at the bar of the House, and the President of the Senate is to pronounce to him the decision.

3. If he shall answer, he is to continue at the bar of the House until the testimony (if any be adduced) shall be closed; and then he shall retire while the Senate are deliberating on the case, and when a decision is agreed upon, the said Duane, being notified of the time, by the sergeant-at-arms, verbally, or by a written notice left at his office, shall appear at the bar of the House, and the President of the Senate is to pronounce to him the decision.

\* See No. 126.

6th CONGRESS.]

No. 128.

[1st SESSION.]

## BREACH OF PRIVILEGES.

COMMUNICATED TO THE SENATE, MARCH 24, 1800.

Sir: AURORA OFFICE, *March 24, 1800.*

A copy of the proceedings of the Senate of the United States, in relation to a publication in "the Aurora," and ascribing guilt to me in that publication, and a breach of their privileges, has been left at my office.

It is with pleasure I observe that the justice of the Senate provides, as the constitution prescribes, that I shall "have an opportunity to make any *proper defence*" for the conduct which has been imputed to me; and as such defence will necessarily involve points of law as well as of fact, I pray you, sir, to submit to the Senate a respectful request on my behalf, that I may be heard by counsel, and have process awarded to compel the attendance of witnesses in my behalf.

I am, sir, with perfect respect,

WM. DUANE.

To the VICE PRESIDENT of the United States.

6th CONGRESS.]

No. 129.

[1st SESSION.]

## BREACH OF PRIVILEGES.

COMMUNICATED TO THE SENATE, MARCH 25, 1800.

Mr. DAYTON, from the Committee of Privileges, who were ordered to prepare and lay before the Senate a form of proceedings in the case of William Duane, reported, in part, the following resolutions:

1. *Resolved*, That all testimony shall be taken by a committee, to be authorized by the Senate for that purpose, with powers to send for persons, papers, and records, and to compel the attendance of witnesses, which may become requisite for the execution of their commission.

2. *Resolved*, That William Duane, on application to the chairman of said committee, shall be furnished with process to call before said committee his witnesses, specifying the time and place of taking the testimony, which shall be committed to writing, and subscribed by the witnesses, respectively.

3. *Resolved*, That said committee shall procure all testimony against said Duane which, in their opinions, may be proper, notifying said Duane, who may attend, by himself or attorney, to hear and cross-examine; which testimony shall be in writing, and subscribed by the witnesses, respectively.

4. *Resolved*, That all testimony taken by said committee shall be reported to the Senate, and kept on file by the secretary.

5. *Resolved*, That ——— be the committee to perform the services mentioned in the foregoing resolutions; and they are hereby authorized and empowered to send for persons, papers, and records, and to compel the attendance of witnesses, which may become requisite for the execution of their commission.

6th CONGRESS.]

No. 130.

[1st SESSION.]

## FORFEITURES UNDER THE ACT PROHIBITING THE EXPORTATION OF ARMS AND AMMUNITION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 25, 1800.

Mr. SAMUEL SMITH, from the committee appointed to inquire into the expediency of authorizing the Secretary of the Treasury to remit any forfeitures which shall occur, or may have occurred, under the law of the United States prohibiting the exportation of arms and ammunition, on the same principles on which the Secretary is authorized to remit forfeitures incurred under the revenue laws, made the following report:

That the power heretofore vested in the Secretary of the Treasury to mitigate or remit fines, forfeitures, and penalties, incurred under the revenue laws of the United States, was, by the express tenor thereof, limited to objects of a *fiscal* nature only, the management and superintendence of which were committed to that Department of which he is the head.

That the act of the United States prohibiting, for a limited time, the exportation of arms and ammunition, though in that act it is declared to be the duty of the custom-house officers, and of all persons employed in the collection of the revenue, to attend to the execution thereof; and though all forfeitures and penalties incurred under

the said act, and not otherwise directed to be prosecuted and recovered, were to be sued for, prosecuted, adjudged, and distributed, in like manner as is provided in the act entitled "An act to provide more effectually for the collection of the duties imposed by law on goods, wares, and merchandise imported into the United States, and on the tonnage of ships and vessels," was yet essentially a political, and not a fiscal measure and regulation.

That the object contemplated by said act was of great importance, both as it related to the supplies of arms and ammunition to the United States, and as it related to the deprivation of similar supplies to those who practised hostilities against the United States.

That the power of remitting fines, forfeitures, and penalties incurred under the said act seems to be involved in the general "power of granting pardons for offences against the United States," vested by the constitution in the President of the United States, to whom alone, according to the nature of our Government, it must pertain to judge of the extent of the mischiefs flowing from the violations of such political measures and regulations, and how far considerations for the remission of fines, forfeitures, and penalties incurred by such violations may be listened to consistently with the public safety in relation to that power. If cases of unintentional violation have occurred, the inconvenience of making special application to the Executive (where, upon due representation, it is not to be doubted but that every attention would at all times be paid which reason and propriety could require) cannot justify a departure from the ordinary course to be observed on similar occasions.

Your committee are therefore of opinion that it is inexpedient "to authorize the Secretary of the Treasury to remit any forfeitures which shall occur, or may have occurred, under the law of the United States prohibiting the exportation of arms and ammunition, on the same principles on which the Secretary is authorized to remit forfeitures incurred under the revenue laws."

6th CONGRESS.]

No. 131.

[1st SESSION.

## BREACH OF PRIVILEGES.

COMMUNICATED TO THE SENATE, MARCH 26, 1800.

SIR:

AURORA OFFICE, *March 26, 1800.*

I beg you to lay before the Senate this acknowledgment of my having received an authenticated copy of the resolutions of Monday last in my case.

Copies of those resolutions I transmitted to Messrs. Dallas and Cooper, my intended counsel, soliciting their professional aid. A copy of my letter to each of those gentlemen is enclosed, marked A. Their answers I have also the pleasure to enclose, marked B and C.

I find myself, in consequence of these answers, deprived of all professional assistance, under the restrictions which the Senate have thought fit to adopt. I therefore think myself bound by the most sacred duties to decline any further voluntary attendance upon that body, and leave them to pursue such measures in this case as in their *wisdom* they may deem meet.

I am, sir, with perfect respect,

WM. DUANE.

To the PRESIDENT of the Senate.

A.

SIR:

AURORA OFFICE, *March 25, 1800.*

I enclose you a copy of the resolution of the Senate passed yesterday, and must request you would favor me by appearing, with Mr. Cooper,\* as my counsel to-morrow, at twelve o'clock.

You know that it was not from a conviction of their possessing constitutional authority to order my attendance that I appeared yesterday, but from a sense of delicacy towards a branch of the Legislature, which would not permit me to carry even an appearance of disrespect towards them, however well satisfied of their acting under error.

I fear the resolution enclosed will prevent me from deriving all the benefit from your assistance which I had a right to expect from your acknowledged abilities and the justice of my cause.

I am, sir, with respect and esteem,

WM. DUANE.

A. J. DALLAS, Esq.

B.

SIR:

PHILADELPHIA, *March 25, 1800.*

As it is my general rule to render professional services whenever they are required, I think it proper to state explicitly the reason of a departure from that rule in the case now depending before the Senate of the United States.

The Senate having, as I understand, charged you with the publication of a libel, proceeded, without hearing you, or notifying you of the charge, to decide that you were the editor of the publication; that the publication was false, malicious, &c.; and that it amounted to a breach of the legislative privileges of the body. Before, however, any punishment shall be inflicted, or any sentence pronounced, the Senate has been pleased to summon you to the bar, and, upon your application, to allow you the assistance of counsel, "who may be heard in denial of any facts charged against you, or in excuse or extenuation of your offence."

Though I mean not to question the wisdom and justice of the Senate in any part of the proceeding, I cannot consent to act as counsel under so limited an authority; for you will at once perceive that it excludes any inquiry into the jurisdiction of the Senate to take cognizance of offences of the nature imputed to you, as well as any justification

\*A similar letter was addressed to Thomas Cooper, Esq.

of the obnoxious publication, by proving the truth of the facts which it contains. As to the rest, I cannot suppose that either you or your counsel would find it practicable to deny the existence of any fact which the Senate has already (doubtless, upon sufficient evidence) examined and established; and the language of excuse or extenuation must always proceed with better grace and more advantage from the penitent offender than from a professional advocate.

Under these circumstances, I do not think that I could render you any service by accompanying you to the bar of the Senate, while I confess that I should feel the situation degrading to the profession as well as to myself.

I am, sir, your most obedient, humble servant,

A. J. DALLAS.

Mr. DUANE.

C.

DEAR SIR:

PHILADELPHIA, *March 25, 1800.*

I have every inclination to render service to you and to your cause, but I will not degrade myself by submitting to appear before the Senate with *their gag in my mouth*. The resolutions you have transmitted to me preclude all hope of my doing any good to you or to the public, or any credit to myself, by complying with your request.

I heard sufficient of the debate yesterday to understand (before I saw your letter) that the intent and meaning of the resolution is to preclude all argument on the jurisdiction of the Senate, and all proof that might be offered in justification of the assertions complained of. Indeed, I do not much wonder at the latter preclusion; for I cannot help thinking, from the evidences you stated to me, that, had we been allowed to have given proof of the facts in justification, the public would have been well instructed in the doctrine and practice of caucusses, from the very best and most unexceptionable authority.

But to appear before a tribunal which, in a new and most important case, has prejudged the most material questions between you; which, in the capacity of accuser, has claimed a right to dictate the mode of defence to the person accused; which has forbidden us to enter upon what I cannot but regard as the *unanswerable* part of your vindication, and left you no ground to take worth contending for; which, as a tribunal in *this* country of unknown, unprecedented, and undefined authority, will hear no objection to its jurisdiction, and admit of no proof of the facts it controverts—under *such* circumstances, to attend at the bar of that tribunal, an advocate interdicted from defence, a tame and manacled assistant, might serve, indeed, to excite a malignant smile among the enemies of liberty, but would certainly tend to disgrace your cause and my character.

I cannot think you will be able to procure any professional assistance on such strange and unusual terms; nor can I see of what use any professional assistance could be to you, under the restrictions which the Senate have thought fit to impose; nor do I see (if you appear before them unattended by legal friends) with what prudence or propriety you can reply one word to any question they may choose to put.

Where rights are undefined, and power is unlimited; where the freedom of the press is actually attacked, under whatever intention of curbing its licentiousness, the melancholy period cannot be far distant when the citizen will be converted into a subject.

I am, dear sir, your friend and servant,

THOMAS COOPER.

[6th CONGRESS.]

No. 132.

[1st SESSION.]

### BREACH OF PRIVILEGES.

COMMUNICATED TO THE SENATE, MARCH 27, 1800.

Mr. DAYTON, from the Committee of Privileges, to whom was referred a letter of William Duane to the President of the Senate, and communicated on the 26th day of March inst., reported the following resolutions, viz:

1. *Resolved*, That William Duane, editor of the General Advertiser, or Aurora, having neglected and refused to appear at the bar of this House, at 12 o'clock, on the 26th day of March instant, pursuant to the order of the 24th instant, of which order he had been duly notified, and having sent the following letter to the President of the Senate, which has been communicated to the Senate, viz:

SIR: I beg of you to lay before the Senate this acknowledgment of my having received an authenticated copy of their resolutions on Monday last in my case. Copies of those resolutions I transmitted to Messrs. Dallas and Cooper, my intended counsel, soliciting their professional aid; a copy of my letter is enclosed, marked A. Their answers I have also the pleasure to enclose, marked B and C. I find myself, in consequence of these answers, deprived of all professional assistance, under the restrictions which the Senate have thought fit to adopt. I therefore think myself bound, by the most sacred duties, to decline any further voluntary attendance upon that body, and leave them to pursue such measures, in this case, as in their wisdom they may deem meet.

I am, sir, with perfect respect,

WILLIAM DUANE.

To the PRESIDENT of the Senate:

Is guilty of a contempt of said order, and of this House; and that, for said contempt, he, the said William Duane, be taken into the custody of the serjeant-at-arms attending this House, to be kept subject to the further orders of the Senate.

2. *Resolved*, That a warrant issue, signed by the President of the Senate, in the following form, viz:

UNITED STATES, ss: the — day of March, 1800.

Whereas, the Senate of the United States, on the 18th day of March, 1800, then being in session in the city of Philadelphia, did resolve that a publication in the General Advertiser, or Aurora, a newspaper printed in the

said city of Philadelphia, on Wednesday, the 19th day of February then last past, contained assertions and pretended informations, respecting the Senate, and committee of the Senate, and their proceedings, which were false, defamatory, scandalous, and malicious, tending to defame the Senate of the United States, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States; and that the said publication was a high breach of the privileges of the House:

And whereas the said Senate did then further resolve and order that said William Duane, resident in said city, and editor of said newspaper, should appear at the bar of the House on Monday, the 24th day of March instant, that he might then have opportunity to make any proper defence for his conduct in publishing the aforesaid false, defamatory, scandalous, and malicious assertions and pretended informations:

And whereas the said William Duane did appear on said day at the bar of the House, pursuant to said order, and requested counsel, and the Senate, by their resolution of the 24th day of March instant, resolved that William Duane, having appeared at the bar of the Senate, and requested to be heard by counsel, on the charge against him for a breach of privileges of the Senate, he be allowed the assistance of counsel, while personally attending at the bar of the Senate, who might be heard in denial of any facts charged against said Duane, or in excuse and extenuation of his offence; and that said William Duane should attend at the bar of the Senate on Wednesday, then next, at 12 o'clock, of which the said Duane had due notice:

And whereas said William Duane, in contempt of the said last-mentioned order, did neglect and refuse to appear at the bar of the said Senate, at the time specified therein; and the Senate of the United States, on the 27th day of March instant, did thereupon resolve that the said William Duane was guilty of a contempt of said order and of the Senate, and that for said contempt he, the said William should be taken into the custody of the sergeant-at-arms attending the Senate, to be kept for their further orders; all which appears by the journals of the Senate of the United States, now in session in the said city of Philadelphia:

These are, therefore, to require you, James Mathers, sergeant-at-arms for the Senate of the United States, forthwith to take into your custody the body of the said William Duane, now resident in the said city of Philadelphia, and him safely to keep, subject to the further order of the Senate; and all marshals and deputy marshals, and civil officers of the United States, and every other person, are hereby required to be aiding and assisting you in the execution thereof, for which this shall be your sufficient warrant.

Given under my hand this \_\_\_\_ day of \_\_\_\_.

6th CONGRESS.]

No. 133.

[1st SESSION.]

### RELIEF OF INSOLVENT DEBTORS TO THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 28, 1800.

Mr. STONE, from the committee appointed to consider whether it be expedient to make any, and, if any, what provision for the relief of persons imprisoned for debt; to which committee was also referred the petition of Lawrence Erb and Samuel Selby, made the following report:

That they were respectively appointed, and have acted for several years, as collectors of the revenue of the United States in places where their duty was considerable and profit small; that they unfortunately placed confidence in the notes of Messrs. Morris & Nicholson, who, it seems, are insolvent, and the petitioners thereby unable to pay the United States the sums collected; that suits have been brought against them by their superior officers in the revenue; that they are now confined in prison, and entirely unable to pay; that they have wives and families to whom they are prevented from being useful by their confinement. Neither of them has stated the amount of his deficit.

The committee think provision should be made for the personal enlargement of all debtors of the United States, who, without any improper conduct of their own, become defaulters, and make an honest surrender of their estates, but discover no ground for special interference in the cases submitted.

In order, therefore, that the sense of the Legislature may be generally expressed upon the subject, they respectfully submit to the consideration of the House the following resolution:

*Resolved*, That provision ought to be made, bylaw, for the personal discharge from prison of insolvent debtors to the United States.

6th CONGRESS.]

No. 134.

[1st SESSION.]

### SLAVES FROM FOREIGN PORTS OR PLACES ADMITTED INTO THE MISSISSIPPI TERRITORY IN CERTAIN CASES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 1, 1800.

Mr. SEWALL, from the committee to whom was referred the petition of Cato West and others, made the following report:

That the petitioners complain of the operation of the act, entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory," which

prohibits the importation, from any port or place without the limits of the United States, of any slave or slaves into that Territory; that many citizens of the United States have been surprised and injured by this sudden prohibition, which took effect upon their property without any previous notice; that thereby several persons occasionally absent, or employed on plantations, which, since the establishment of the line of demarcation, are found to be within the Spanish territory, are prevented from returning within the United States, or condemned to lose their servants; and that, in some instances, slaves holden within the Spanish territory fall, by inheritance, to persons who are inhabitants within the United States, who desire to be secured in their property.

The committee are of opinion that, in the instances complained of, the said prohibition has operated injuriously, and submit the following resolution, viz:

*Resolved*, That the Governor of the Mississippi Territory be authorized, by law, for the term of one year, to permit, by his special license, to be granted after examination of each case in which it shall be requested, any slave or slaves *bona fide* the property of a citizen of the United States, or owned by any person resident within the Mississippi Territory at the period when the Government of the United States was established over the same, to be brought by such proprietor into the said Territory.

6th CONGRESS.]

No. 135.

[1st SESSION.]

### STATUE AND MONUMENT TO THE MEMORY OF GENERAL WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 8, 1800.

Mr. HENRY LEE, from the joint committee appointed to prepare and report measures in honor of the memory of General George Washington, reported the following resolutions:

*Resolved*, That the resolution of Congress, passed in 1783, respecting an equestrian statue of General Washington, be carried into immediate execution; and that the statue be placed in the centre of an area to be formed in front of the Capitol.

*Resolved*, That a marble monument be erected by the United States in the Capitol at the City of Washington, in honor of General Washington, to commemorate his services, and to express the regrets of the American people for their irreparable loss.

*Resolved*, That the President of the United States be requested to give such directions as may appear to him proper for carrying into effect the preceding resolutions; and that, for the present, the sum of one hundred thousand dollars be appropriated for these purposes.

6th CONGRESS.]

No. 136.

[1st SESSION.]

### OBJECTIONS TO CERTAIN LAWS PASSED BY THE GOVERNOR AND JUDGES OF THE MISSISSIPPI TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MAY 8, 1800.

Mr. CLAIBORNE, from the committee to whom were referred the laws passed by the Governor and judges of the Mississippi Territory, made the following report:

That among the said laws are two containing provisions which, to this committee, seem highly improper; the one entitled "A law to regulate taverns and retailers of liquors, and concerning Indians," the other entitled "A law establishing and regulating the fees of the several officers and persons therein named." That, under the first act, the Governor is entitled to demand eight dollars for every tavern license he signs in his official capacity; and, by a second act, the judges are entitled to receive fees for a variety of judicial services therein enumerated.

The committee further report, that a law of Congress gives the Governor, as such, a salary of two thousand dollars per annum, and each of the judges a salary of eight hundred dollars per annum; which seems to have been intended as a full compensation for all their official services.

The committee therefore recommend to the House the following resolution:

*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled*, That so much of the law enacted by the Governor and judges of the Mississippi Territory, entitled "A law to regulate taverns and retailers of liquors, and concerning Indians," as authorizes the Governor to demand eight dollars for every tavern license by him signed; and that so much of the law passed by the same authority, entitled "A law establishing and regulating the fees of the several officers and persons therein named," as entitle the judges of the supreme court to receive fees for certain services therein enumerated, be, and the same are, hereby disapproved of and declared to be no longer in force in the said Mississippi Territory.



6th CONGRESS.]

No. 137.

[1st SESSION.

## BREACH OF PRIVILEGES.

COMMUNICATED TO THE SENATE, ON THE 10TH OF MAY, 1800.

*To the Senate of the United States: The remonstrance and petition of the undersigned, citizens of the republic of America, resident in the city and county of Philadelphia, respectfully sheweth:*

That we, the undersigned citizens of the American republic, deeply impressed by the proceedings now pending before the Senate on the subject of privileges in the case of William Duane, are anxious to call the attention of this honorable House to what they deem the real and inevitable tendency of those proceedings.

We are fully persuaded that the surest safeguard of the rights and liberties of the people is the freedom of the press; and friends as we are to a republican Government, we cannot view, without strong emotions of surprise and regret, the doctrines and practices of the privileged bodies of Europe about to be adopted in this free country against that sacred bulwark of republican liberty.

Relying on the constitution, we *had* thought that no law could be made by Congress abridging the freedom of the press. But we find, by the proceedings of the Senate, that the privileges of one House may effect what the constitution has forbidden to the three branches of our Legislature united.

We *had* thought that the constitution had secured to the citizens of the United States the right of a trial by jury; but the proceedings of the Senate have convinced us that we are liable to be tried and punished for new and unknown offences, without recourse to that constitutional tribunal.

We have long viewed with silent horror the baneful progress of the sedition law; but patiently submitted to evils we could not but feel, in hopes that the *juries* of our country might palliate, if not cure them; but with unfeigned sorrow and surprise we observe, in the proceedings of the Senate, another sedition law rising up to appal us; a sedition law that defies the counteraction of the laws of our land or the juries of our country.

We *had* thought that the constitution provided against the dangerous intermixture of judicial, legislative, and executive authorities; but the proceedings of the Senate have shown us that the constitution has not yet sufficiently guarded this most important principle, which the doctrine of privilege is so well calculated to destroy.

We *had* thought that the three branches of our Legislature were unitedly, but not severally, competent to the enactment of those laws which bind the persons and properties of the citizens; but we now find that penal ordinances may be enacted and enforced by the Senate alone! and we contemplate a speedy and alarming extension of our criminal code, if the present example should unhappily be pursued by similar claims of representative privilege.

We *had* thought that the rights and authorities of the respective branches of our Federal Government had been expressly defined by the federal constitution, and that the constitution itself was drawn up and sanctioned by the public voice for this *express* purpose; but we now see that rights may be claimed, and privileges assumed, which we seek for in vain among the declarations and provisions of that supreme law of our land.

We *had* thought that the constitution had provided that, in every criminal case, an accused person should be confronted with his accusers, have process for his witnesses, and be *fully* heard by himself or counsel in his defence; but the proceedings in question have convinced us that these rights are very imperfectly secured, while an accusing Senate can dictate to a defendant the defence on which he must rely, and arbitrarily confine him to the weakest part of it.

We *had* thought that the plain and acknowledged principle of natural justice would have prevented the accusers from being also the judges, the jury, and the punishers; but the proceedings of the Senate have satisfied us that these inconsistent characters *may* be mingled, and this plain and acknowledged principle of natural justice be completely forgotten or boldly renounced.

We dread the introduction of rights unlimited and power unbounded, whether under the name of privilege, or prerogative, or implied authorities, or constructive powers; and we speak with solemn and profound regret that the late proceedings of the Senate have strongly excited in us this dread.

Our hearts are full upon this subject; we could accumulate our reasons of apprehension from these proceedings far beyond the common bounds of a petition and remonstrance; but we forbear. If the objections we have already assigned are unfelt and unnoticed, we must patiently contemplate the gloomy prospect before us, and calmly wait the approaching period when we shall no longer boast of being citizens of the American *republic*.

We reverence the constituted authorities of our country too much to dictate to them the line of their duty, or to reflect improperly on their conduct, or to occupy unnecessarily their time. But on great public occasions, when our liberties are essentially involved, we *will* practise and maintain our acknowledged right to petition and remonstrate for redress of grievances; and therefore we do, with sincere deference for the honorable body we now address, but at the same time anxiously impressed with the danger of the present proceedings, respectfully call upon the Senate to reconsider the resolutions by them adopted on the subject of privilege, in the case of William Duane.

6th CONGRESS.]

No. 138.

[2d SESSION.

## MAUSOLEUM TO GENERAL WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 19, 1800.

Mr. HENRY LEE made the following report:

The committee to whom was recommended the bill, directing the erection of a mausoleum to George Washington, together with the resolve of Congress, passed the 7th of August, 1783, ordering an equestrian statue of bronze to be

erected to General Washington; and also a resolution of Congress, of the 24th day of December, 1799, directing that a marble monument be erected in the Capitol, in the city of Washington, have had the same under consideration; and while they recognise with entire co-operation the highly gratifying testimonial of the national estimation of their commander-in-chief, cannot but consider it as an incomplete exemplification of the national feeling at this day, it having in view only the celebration of his military services. To connect with this the erection of an [appropriate monument in the dome of the Capitol, on a scale commensurate with the virtue and ability of the character thus held up as a model to all future generations, would fulfil the general expectation and complete the professions of Congress. But from the most accurate inquiry they have been able to make, your committee are of opinion, the expense attending the accomplishment of the two resolutions would exceed two hundred thousand dollars.

They cannot, therefore, but recommend an adherence to the plan heretofore adopted by the House, combining as it does every object, and that, too, at an expense not exceeding the sum necessary for an equestrian statue and marble monument, and to be erected by American artists out of American materials.

6th CONGRESS.]

No. 139.

[2d SESSION.

## BREACH OF PRIVILEGES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 6, 1801.

Mr. JOHN COTTON SMITH made the following report:

The Committee of Privileges, to whom was referred the letter from Joseph Wheaton, sergeant-at-arms, report:

That the representation made by the sergeant-at-arms contains a correct statement of facts; and that he, in the opinion of the committee, is to be commended for the promptitude and fidelity with which he executed the order of the Speaker to apprehend the person guilty of indecent and disorderly conduct in the gallery.

The committee have reason to believe, from the best information they can obtain, that the person who committed the disorder, (and who has since absconded,) was at the time intoxicated with liquor.

The magistrate, by whose warrant the sergeant-at-arms was arrested and held in custody for discharging his duty in the premises, has explained his conduct, in a letter accompanying this report. The suggestion made to him that any one member of this House was *consulted* relative to the prosecution of the sergeant-at-arms, is by the committee presumed to be wholly false; as it would imply in such member not only a disregard of all sense of personal propriety, but also an inexcusable contempt for the honor and dignity of the House.

That, although the arrest and confinement of an officer of the House of Representatives, for any act by him performed in its service, and in obedience to its orders, must be deemed a high breach of its privileges; yet as the magistrate, in the present case, seems *rather* to have been deceived by false representations than influenced by improper views, the committee cannot consider his conduct as a subject of animadversion.

They are therefore of opinion that it is not expedient for the House to take any further order on the letter from Joseph Wheaton.

NOTE.—The letter from the sergeant-at-arms, referred to in this report, sets forth, that, in consequence of his having executed the order of the Speaker, in arresting a certain James Lane, for disorderly behavior in the gallery of the House, on the 22d December, 1800, he was apprehended and conducted before a magistrate of the city of Washington, detained for a certain length of time, and finally discharged in consequence of the non-appearance of the said James Lane to prosecute his complaint.

6th CONGRESS.]

No. 140.

[2d SESSION.

## PROPOSITIONS TO AMEND THE CONSTITUTION IN RELATION TO THE ELECTIONS OF PRESIDENT AND VICE PRESIDENT, AND OF MEMBERS OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 22, 1801.

Mr. NICHOLAS made the following report:

*Resolved, by the Senate and House of Representatives of the United States, (two-thirds of both Houses concurring) The following articles be proposed to the Legislatures of the several States, as amendments to the constitution of the United States:*

“1. That after the third day of March, in the year one thousand eight hundred and one, the choice of electors of President and Vice President shall be made by dividing each State into a number of districts, equal to the number of electors to be chosen in such State, and by the persons in each of those districts, who shall have the qualifications requisite for electors of the most numerous branch of the Legislature of such State, choosing one elector in the manner which the Legislature thereof shall prescribe.

"2. That the election of Representatives to Congress, who are to serve after the third day of March, in the year one thousand eight hundred and three, shall be by dividing each State into a number of districts, equal to the number of Representatives to which such State shall be entitled, and by the people within each of those districts who shall have the qualifications requisite for electors of the most numerous branch of the Legislature of such State choosing one Representative in the manner which the Legislature thereof shall prescribe."

The committee, to whom were referred the foregoing resolutions, have had the same under their consideration, and, as the result of that consideration, beg leave to make the following report:

It is conceived that it may be assumed as one of the most indisputable maxims of American policy, that no change in the constitution of the United States be admitted, without a well-grounded assurance of the attainment of some greater good under the proposed change than under the existing provisions of the constitution.

In relation to the object of the first of the aforesaid resolutions, the existing provisions of the constitution of the United States are expressed in the following terms:

"Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

"The electors shall meet in their respective States, and vote, by ballot, for two persons, of whom one at least shall not be an inhabitant of the same State with themselves; and they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice President.

"The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States."

Under the latitude of expression used in the foregoing provisions, considerable variety of practice has been found to prevail, not only in the different States, but at different periods in the same States. The modes adopted may be considered as capable of designation under two general descriptions: the one an appointment of electors by popular vote; the other, an appointment of electors by legislative choice.

In each mode, considerable varieties have prevailed. Under the first general mode, the States have been sometimes divided into districts, in proportion to the number of electors to be appointed in each State respectively; and the inhabitants of each district, having the right of suffrage, have appointed, by vote, the elector for such district, respectively, nearly in the manner proposed by the first resolution referred to your committee. In other instances, the whole people of a State, having the right of suffrage, have appointed, by general vote, such number of electors as the State was respectively entitled to. The electors appointed under the latter modification have been sometimes taken from the body of the people at large, in other instances, they have been selected from certain districts or divisions of the State, in conformity with certain previous legislative requisitions. In cases of death, absence, or other disability of electors appointed by popular vote, provisions have been made by law, in the same States, to supply the vacancies which might be occasioned by such accidents, by means of a legislative choice.

Under the other general mode of appointment, the electors in some States have been appointed by a joint ballot of both Houses of the Legislature. In some instances, the electors appointed by legislative choice have been taken from the body of the people at large, without previous limitation; in other instances, from a restricted list, nominated in certain proportions by each House of the Legislature, respectively.

In the same States, one general mode of appointment has prevailed at one time, and another general mode at another time; the changes having been made as well from one general mode as from the other.

Such are the existing provisions of the constitution of the United States, and such has been the practice under these provisions. The modes thus used are presumed to have been within the legitimate construction of the constitution, since the votes of electors appointed under almost every variety of these modes have been admitted in former elections of President and Vice President of the United States. The latitude of expression used in those provisions, and the variety of modes practically adopted under them, seem to have been considered in the first of the resolutions referred to your committee as inconveniences which ought to be remedied.

Your committee are persuaded that the provisions of the constitution of the United States can, in no instance, be reasonably considered as mere pleonasm or inadvertencies; and, therefore, that the particular phraseology used on the above subject, was not adopted without due consideration. Your committee are equally persuaded that the varieties which have practically taken place under the terms used, are not beyond the contemplation of those who framed the constitution. These varieties, it is reasonable to suppose, were foreseen, and, being foreseen, were viewed not without favor, as the best means of enabling the people of the United States to combine the advantages of experience with the speculations of theory, in relation to this acknowledgedly the most difficult part of their government in the adjustment, so that they may ultimately settle down into one uniform mode within constitutional limits, not from constitutional restriction, but from the convictions of reason founded on experience.

The mode proposed to be exclusively established being clearly within the expressions of the constitution, if upon experience and comparison with other modes, equally within those expressions, it shall be found to possess superior advantages, or, possessing equal advantages, to be liable to fewer or less considerable inconveniences, your committee will not distrust the good sense of the people of the United States, in ultimately selecting this mode without constitutional restraint, as their uniform mode of electing the President and Vice President of the United States.

Your committee hold it foreign to their duty to enter into a comparative view of the merits and demerits of the various modes which have been or may be adopted under the existing provisions of the constitution of the United States; they hold it sufficient to authorize the rejection of any proposition for the exclusive establishment of any particular mode, if such mode shall, upon candid examination, be found liable to serious abuses of most dangerous consequence to the public peace; against which abuses, under such mode, no practicable means have been, or probably can be found, for prevention or remedy.

The liability of the mode proposed to such abuses cannot be made more manifest than by a brief review of the essential details of that mode.

To carry into effect the mode proposed to be exclusively established, every State must necessarily be divided into a number of districts, in proportion to the number of electors to be appointed in each State, respectively. These districts must, of necessity, be again sub-divided, for the convenient reception of the votes of the people. Authority must be delegated to one or more officers in every sub-division of every electoral district throughout the United States, for the purpose of receiving those votes.

Amidst so great a variety of officers thus to be intrusted, it would be against the calculations of all experience to suppose there would not be found some who might be reasonably suspected of a liability to the deviations of error, if not to those of a worse nature. No Government upon earth has, or can have, competent knowledge of so great a variety of individuals, as to ensure, through the cautiousness of appointment, against such deviation in all instances. Absolute prevention, then, is not to be expected.

The votes of some, possessing the right of suffrage, may be rejected; the votes of others, not possessing the right of suffrage, may be admitted; whether such rejection or admission proceed from error of judgment, or from design, it will equally lay the foundation of a contested or disputed election between the candidates for the electorship.

When the votes of the several sub-divisions of an electoral district have been taken, the polls, or lists of those votes must be brought together for addition and comparison; and a return must be made of the person appointed an elector. Whether that return be made by the officers (authorized originally to receive the votes) in a collective body, or whether it be made by some other authority, to which those officers may be directed to transmit the polls or lists of the votes taken by them, there may (amidst the conflict of passions, too likely to prevail on such occasions) too probably be found means of suppressing the polls, or lists of votes of some of the sub-divisions of a district, or of preventing or delaying the transmission thereof; so that one man might be returned in apparent conformity with law, the elector of a district, when, in reality, another may have been appointed by the people of that district.

The common experience of elective Governments evinces that cases, such as those above suggested, are by no means out of the course of probable occurrence. Instances of disputed elections, contested upon similar grounds, frequently occur in ordinary legislative bodies, notwithstanding the knowledge that a remedy exists within the scope of the power of those bodies. The protracted periods of their sessions give time for investigating and deciding upon the merits of such contested elections. The knowledge of the practicability of such remedy probably tends to discourage the greater frequency of such occurrences.

But the bodies of electors in each State, respectively, from the necessarily restricted periods of their sessions, are incapacitated to collect the necessary evidence, and to pursue such other steps as are essential to the investigation of and decision upon the merits of a contested election of one of their members, were they otherwise competent thereto. Those, therefore, who may be returned electors, whether duly and really appointed or not, will, in practice, exercise the important functions of electors of the President and Vice President of the United States. No practicable remedy against such abuses appears to exist in the present stage of the proposed system; a knowledge of the defect of such remedy, moreover, it is to be feared, might act as an additional temptation to the frequency of abuse.

The votes of the electors in the several States are next to be rendered by ballot, and, when so rendered, they are to be transmitted in the form of certificates, giving the result of the ballot to certain officers of the Government of the United States. When the period arrives for opening those certificates, and counting the votes in the presence of the Senate and House of Representatives of the United States, if error or abuse shall have taken place, no means exist (in case the ballot be in favor of more than two persons as President and Vice President) for discriminating between the votes of those who shall have been duly appointed and returned, and those who shall have been defectively appointed and unduly returned as electors. To set aside votes given by persons not duly appointed, and consequently wanting the competent authority of electors, no course presents itself in such case, save that of vacating the whole ballot, of which the defective vote or votes may be a component part. Thus, to deprive a State of all participation in the election of the President and Vice President of the United States, on account of the defective appointment of one or a few of its electors, would be a serious and painful duty. To vacate such ballot, and thereby to deprive those candidates for whom the sound votes of such ballot may have been given, of the aid of that ballot, in order at the same time to destroy the effect of the unsound votes, might result in giving to others a priority, to which, if effect could be given to the really sound votes, those others might not be entitled. This also presents an embarrassing consideration.

The vacation of a ballot, composed of sound and defective votes, ought to be the result of uniform principle; it ought to take place on all occasions where a discrimination cannot be made, or on none. Not to vacate such ballot, but to permit the election of a Chief Magistrate to be carried, on any occasion, by the aid of one or more defective votes, would be to hazard, in a most eminent degree, the peace of the union. It is of the last importance to the happiness of the people of the United States, that a complete conviction should prevail at all times that the person who may be elected Chief Magistrate of the Union has been really elected by electors duly and really appointed by those having competent authority for that purpose. It were painful to anticipate the consequences which would too probably attend a disputed election to the Presidency; those consequences might be more calamitous than can be foreseen.

A mode of electing the President and Vice President of the United States, which might at once combine the expression of the public sentiments of the people of the respective States, with a perfect assurance of the due appointment of the electors for that important purpose, is a discovery greatly to be desired; that such mode may be found, under the present provisions of the constitution of the United States, and will be discovered by the good sense of the American people, when aided by further experience, is confidently hoped. Under such circumstances, to adopt exclusively the mode proposed by the first resolution referred to your committee, might not only preclude the advantages of further experience and the adoption of a more eligible mode, but might tend to perpetuate, as well as to render more frequent the occurrence of those exceptional incidents which have been before suggested, and for which it is difficult, if not impracticable, to find adequate and convenient means of prevention or remedy.

These considerations induce your committee to prefer the existing provisions of the constitution of the United States to the change proposed by the first of the resolutions referred to them.

In relation to the second resolution referred to your committee, they report, that the objects directly contemplated therein are already within the limits of the legislative authority of the Government of the United States. To convert a constitutional provision for the exercise of legislative authority, to which recurrence may be had at all times, and under which such modifications may be introduced, from time to time, as the public good or convenience may require, in the ordinary forms of legislation, into a specific constitutional prescription, seems to be both superfluous and inconvenient.

The adoption of the change proposed in the second resolution would also, in the opinion of your committee, indirectly tend to withdraw from the Government of the United States its existing control over the appointment of one of its most essential branches, and to vest that authority exclusively in the State Governments. Such arrangement

might produce consequences not contemplated, and too unpleasant to be anticipated. Your committee, therefore, conceive it to be inexpedient to adopt the proposed change on this subject, and submit the following resolutions to the consideration of the House:

*Resolved*, That it is inexpedient to change the constitution of the United States, in the manner proposed by the first of the aforesaid resolutions, in relation to the election of the President and Vice President of the United States.

*Resolved*, That it is inexpedient to change the constitution of the United States, in the manner proposed by the second of the aforesaid resolutions, in relation to the election of members of the House of Representatives of the United States.

6th CONGRESS.]

No. 141.

[2d SESSION.

CITY OF WASHINGTON.

COMMUNICATED TO CONGRESS, JANUARY 30, 1801.

UNITED STATES, *January 30, 1801.*

*Gentlemen of the Senate and Gentlemen of the House of Representatives:*

I transmit to Congress, for their consideration, a letter from William Thornton, Alexander White, and William Cranch, Esquires, Commissioners of the City of Washington; with a representation of the affairs of the city, made by them to the President of the United States, dated 28th January, 1801, accompanied with a series of documents marked from A to H, inclusively.

JOHN ADAMS.

Sir:

COMMISSIONERS' OFFICE, *January 28, 1801.*

We do ourselves the honor to present to you a state of the business under our care, and of the public property belonging to the federal seat, with an estimate of its value, founded, not on mere supposition, but on the average of former sales.

This report would have been made at an earlier day, had it not been delayed by the unfortunate death of Mr. Scott.

We have the honor to be, with sentiments of the highest respect, sir, your most obedient servants,

WILLIAM THORNTON,  
ALEXANDER WHITE,  
W. CRANCH.

The PRESIDENT OF THE UNITED STATES.

*To the President of the United States:*

The commissioners appointed by virtue of the act of Congress entitled "An act for establishing the temporary and permanent seat of the Government of the United States," respectfully represent:

That the business committed to their charge having so far proceeded as to enable the Government to remove to its permanent seat, they have judged it expedient to lay before the President such a statement as will enable him to determine on the measures proper to be pursued in future.

By the act of Congress above mentioned, the commissioners appointed in the manner thereby prescribed, or any two of them, were authorized to purchase or accept such quantity of land on the eastern side of the river Potomac, within the District, in the said act mentioned, as the President should deem proper for the use of the United States; and according to such plans as the President should approve, prior to the first Monday in December, 1800, provide suitable buildings for the accommodation of Congress, and of the President, and of the public officers of the Government of the United States. That the President, in compliance with the act above mentioned, and of an act to amend the same, passed at Philadelphia, on the 3d of March, 1791, did, by his proclamation, dated 30th of the same month, locate a district within the limits prescribed by the above-mentioned acts, and which has now become the permanent seat of the Government of the United States. That the President, agreeably to the above-recited acts, appointed, and by supplying vacancies which have happened by resignation and death, has kept in appointment, three commissioners, for the purposes in the said acts declared. That the proprietors of the lands on which the city of Washington is laid out, by their several deeds, dated in or about the month of June, 1791, conveyed the said lands to Thomas Beall, of George, and John M. Gantt, and the survivor of them, and the heirs of such survivor, in trust, to be laid out in a federal city, with such streets, squares, parcels, and lots, as the President of the United States for the time being, should approve; and that the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, should convey to the commissioners, for the time being, and their successors, for the use of the United States, forever, all the streets, and such of the said squares, parcels, and lots, as the President should deem proper for the use of the United States, forever; and that as to the residue of the lots, into which the said lands should be laid off, that a fair and equal division should be made of them in the manner in the said deeds of trust specified, and that the part assigned to the public should be sold at such times and in such manner, and on such terms and conditions, as the President of the United States for the time being should direct; and that the said trustees, or the survivors of them, or the heirs of such survivors, should, on the order of the President, convey all the said lots, so sold and ordered to be conveyed, to the respective purchasers, in fee simple, according to the terms and conditions of such purchases; and the produce of the sales of the said lots, when sold as aforesaid, should in the first place be applied to the payment in money to the original proprietors for all the parts of their lands which should be laid off in lots, squares, or parcels, and appropriated to

the use of the United States, at the rate of £25 per acre, not accounting streets any part thereof; and the surplus, whether in money or securities of any kind, should be paid, assigned, transferred, and delivered over to the President for the time being, as a grant of money to be applied to the purposes mentioned in the aforesaid act. In which deeds of trust, it is further provided, that the said trustees should at any time, at the request of the President of the United States, convey all or any of the said lands, which shall not then have been conveyed in execution of the trusts aforesaid, to such person or persons as he shall appoint, in fee simple, subject to the trusts then remaining to be executed, and to the end that the same may be perfected, (A.) A very valuable property being thus placed at the disposal of the President, he pursued those measures which appeared most conducive to the great objects committed to his charge. He directed public sales of the property, and authorized, by a writing under his hand, dated 29th September, 1792, the commissioners, or any two of them to sell, or agree for the sale of any lot or lots in the said city at private sale, for such price and on such terms as they should think proper, (B.) But no sales took place deserving attention, until the 23d of December, 1793, when a contract was made with Robert Morris and James Greenleaf, for the sale of six thousand lots, averaging five thousand two hundred and sixty-five square feet each, at the rate of eighty dollars per lot, payable in seven equal annual instalments, without interest, commencing the 1st of May, 1794, and with condition of building twenty brick houses annually, two stories high, and covering twelve hundred square feet each; and with further condition that they should not sell any lots previous to the 1st of January, 1796, but on condition of erecting on every third lot one such house within four years from the time of sale, (C.) This contract was afterwards modified by an agreement of the 24th of April, 1794, by which the payment of 80,000 dollars, and the erecting the first-mentioned houses, should rest on the joint bond of the said Morris and Greenleaf, and of John Nicholson; and that one thousand lots should be conveyed to the said Morris and Greenleaf, (D.) which was accordingly done. It is proper to observe, that on the day on which the first-mentioned contract was executed, the Assembly of Maryland passed a law enacting, "that on all sales of lots in the said city, by the said commissioners, or any two of them, under terms or conditions of payment being made therefor, at any day or days after such contract entered into, if any sum of the purchase money or interest shall not be paid for the space of thirty days after the same ought to be paid, the said commissioners, or any two of them, may sell the same lots at public vendue, in the city of Washington, at any time after sixty days' notice of such sale, in some of the public newspapers of Georgetown and Baltimore town, and retain in their hands sufficient of the money produced by such new sale, to satisfy all principal and interest due on the first contract, together with the expenses of advertisement and sale; and the original purchaser, or his assigns, shall be entitled to receive from the said commissioners, at their treasury, on demand, the balance of the money which may have been actually received by them, or under their order, on the said second sale; and all lots so sold shall be freed and acquitted of all claim, legal and equitable, of the first purchaser, his heirs and assigns."

Notwithstanding the favorable prospect which this transaction for a time afforded, the scene soon changed. The purchasers not only failed to pay the instalment which became due in May, 1795, but early in that year discontinued the buildings which they had commenced under their contract, and in which very little progress has since been made. The President, however, did not think it prudent to offer for sale so large a portion of the public property as would be necessary to raise the sums requisite for carrying on the public buildings; believing, on grounds sufficiently solid to authorize the declaration of his opinion in a message to Congress, accompanying the memorial of the commissioners hereafter mentioned, that this property would be amply sufficient for the purpose, could it be reserved till after the removal of Government, or till it could be sold in small parcels to such as would purchase for their own use. It was therefore determined to solicit the patronage of Congress, which was done in the year 1796, by a memorial from the commissioners, stating the affairs of the federal seat in as clear a light as circumstances would then admit, and suggesting the propriety of authorizing a loan bottomed on the city property, and guarantied by Congress, if that property should prove deficient. Congress approved of the measure, and authorized a loan, under their guaranty, to the amount of \$300,000. It is needless to detail the fruitless attempts which were made to fill this loan with actual specie. The only loan which could be obtained was \$200,000 in United States' six per cent. stock, at par, from the State of Maryland, and for which the commissioners were obliged, in addition to the guaranty of Congress, to give bonds, in their individual capacities, agreeably to the resolutions of the Assembly of that State, passed in the years 1796 and 1797. (E.)

The moneys arising from the sales of this stock, with the interest accrued thereon previous to the respective sales, amount to \$169,873 41; and the interest paid thereon, up to the 30th of September last, inclusive, amounts to \$39,000; so that the nett sum of \$130,873 41 remained applicable to the use of the public.

The extent of these loans being thus ascertained, and the purchasers of lots still failing to pay the amount of their purchases, it became obvious that the views of Government could not be accomplished without further aid.

The commissioners, therefore, prepared a second memorial to Congress, stating the situation of the federal seat, and the resources which remained in their hands, which memorial was transmitted by the President to Congress on the 23d February, 1793, and, in consequence, an act was passed authorizing the Treasurer of the United States to advance the sum of \$100,000, at the times in the said act mentioned, which was declared to be in full of the sums previously guarantied. From the difficulty of collecting outstanding debts, as well from purchasers at public sales held by the commissioners for default of payment by the first purchasers, as from the first purchasers themselves, it became evident that the several objects considered as necessary previous to the removal of Government could not be accomplished with the means at the disposal of the commissioners; application was therefore made to the Assembly of Maryland for a loan, and a resolution of that Legislature was obtained on the 23d December, 1799, directing the trustee of the State to transfer to the commissioners of the federal buildings in the city of Washington the sum of \$50,000 of the stock of the United States, bearing a present interest of six per cent. per annum, on their giving such real and personal security as the Governor and Council should approve, for the payment of the principal sum, on or before the 1st day of November, 1802, and the punctual payment of the interest quarterly. Whereupon, Gustavus Scott and William Thornton, two of the commissioners, together with Uriah Forrest and James M. Lingan, entered into bond to the State of Maryland for payment of the principal sum of \$50,000 and interest thereon; and the said Uriah Forrest executed a mortgage on 420 acres of land, for the same purpose, agreeably to the said resolution; the above-mentioned commissioners having agreed, by letter dated 28th February, 1800, and directed to the said Uriah Forrest and James M. Lingan, in answer to their letter of the same date, that all the property in the city of Washington, before that time sold or contracted for, and where the payments had not been made, (except the property pledged by the act of Congress to secure the loan of \$300,000,) should be held as security for the payment of the said sum of \$50,000. (F.)

The trustee of the State transferred the stock accordingly, which has been sold at different times, including the interest received thereon, for the sum of \$42,738 36, and interest has been paid thereon up to the 30th September last, inclusive, to the amount of \$2,250, leaving the nett sum of \$40,488 96 to be applied to public use. The land which has been accepted, or purchased by the commissioners for the use of the United States, and which yet remains unsold, (exclusive of lots forfeited for non-payment of the purchase money, and which for that cause are

liable to be resold,) consists of 24,655,735 square feet of ground in the city of Washington, equal to 4,682 lots of 5,265 square feet each, exclusive of lots which bind on navigable water; these form fronts to the extent of 2,043 feet, and are generally sold by the foot front. It is impossible to ascertain with precision the value of this property; some idea may be formed of it by taking the average price at which similar property has heretofore been sold; in this case, a reference must be had to the different situations; 3,178½ of the city lots lie northeast of Massachusetts Avenue, in which situation only five standard lots (except 1,500, part of Morris & Greenleaf's selection of 6,000 lots) have been sold by the commissioners; but many lots (of private property) on the same side of that avenue have been sold. We have been able to ascertain the price of 355 of these, which, united with the price of the five lots sold by the commissioners, make an average of upwards of \$105 per standard lot, which rate would produce, by the sale of the whole number on that side of the avenue, the sum of \$333,747. The remaining 1,504 lots are situated to the southwest of Massachusetts Avenue; the average price of lots sold in that division of the city, since passing the guaranty law in May, 1796, is \$343, at which rate the above-mentioned 1,504 lots would produce \$515,872. The average price of lots binding on navigable water, sold during the same period, is \$12 71 per foot front. The property of this description, remaining to be sold at the same rate, would produce \$25,979 24. It is to be observed that most of these lots were sold at periods remote from the time when profit could be expected to arise from them, and many of them at reduced prices, in consequence of covenants to build thereon. Although it may be admitted that the lots heretofore sold are, on an average, better than those which remain for sale, yet the change of circumstances under which future sales may be made we hope will more than counterbalance the difference. In addition to this property four wharves have been built, at the expense of \$3,221 88, which yet remain in a useful state.

An island in Aquia creek, in the State of Virginia, was purchased, in the year 1791, for the sum of \$6,000, on account of the freestone quarries therein, which has been conveyed to the before-mentioned Thomas Beall and John M. Gantt for the use of the United States. Thus a real estate of the value of \$884,819 88, according to the best estimate we are able to form, remains at the disposal of Government. (G.)

The measures to be pursued, with regard to this property, it is not for us to determine; but we think it necessary to state some other matters which require attention. The debts due, and shortly to become due, to the city fund, and which are considered as good, amount to \$144,125 80; and the debts contracted on the credit of that fund, as nearly as can be ascertained, amount to \$360,881 05. (G.)

Although it is believed that all the debts stated to be good may ultimately be recovered, (they being due for property sold and not conveyed, or secured by notes with sufficient endorsers,) yet the difficulty of enforcing payment is such that they cannot be relied on for the punctual payment of the interest on the several loans from the State of Maryland, of the sums due to individuals, and the expenses of the commissioners' office.

We further observe, that only three squares remain undivided, owing to the original proprietors not having agreed on their respective proportions therein; and that the division of thirty-three squares has been agreed upon, but the papers respecting them are not yet signed by the parties; and that the accounts with some of the original proprietors for land appropriated to public use have not yet been settled, owing to a difference of opinion between the commissioners and them with respect to small portions of land for which they claim payment.

Thomas Beall and John M. Gantt, the trustees before named, have, at the request of the President of the United States, conveyed the building lots in the city of Washington to Gustavus Scott, William Thornton, and Alexander White, subject to the trusts remaining to be executed. Gustavus Scott has since deceased. The said trustees have been required by the President to convey the streets and grounds appropriated to public use to the commissioners, but have not complied.

Several acts of the Legislature of Maryland have vested certain powers in the commissioners, which it may be proper to notice, particularly an act passed the 19th December, 1791, entitled "An act concerning the territory of Columbia and city of Washington," a copy whereof is enclosed, (marked H;) and an act passed in December, 1793, being a further supplement to the act above mentioned; by the first paragraph of which it is enacted, "That the certificates granted, or which may be granted by the said commissioners, or any two of them, to purchasers of lots in the said city, with acknowledgment of the payment of the whole purchase money and interest, if any shall have arisen thereon, and recorded agreeably to the directions of the act concerning the territory of Columbia and city of Washington, shall be sufficient and effectual to vest the legal estate in the purchasers, their heirs, and assigns, according to the import of such certificate, without any deed or formal conveyance."

The second paragraph of the last-mentioned act, empowering the commissioners to resell lots for default in payment of the first purchase money, has been before recited.

The commissioners, having stated all the facts and observations which appear to them necessary for the information of Government respecting the business committed to their charge, with the greatest deference and respect submit the same to the consideration of the President of the United States.

WILLIAM THORNTON,  
ALEXANDER WHITE,  
W. CRANCH.

COMMISSIONERS' OFFICE, *January 28, 1801.*

A.

*Copy of a deed of trust for land in the city of Washington.*

This indenture, made this \_\_\_\_\_ day of June, in the year 1791, between Abraham Young, of the State of Maryland, of the one part, and Thomas Beall, of George, and John Mackall Gantt, of the State of Maryland, of the other part, witnesseth: That the said Abraham Young, for and in consideration of the sum of five shillings, to him in hand paid by the said Thomas Beall, of George, and John M. Gantt, before the ensembling and delivery of these presents, the receipt whereof he doth hereby acknowledge; and thereof doth, against the said Thomas Beall, of George, and John M. Gantt, their executors and administrators, and also for and in consideration of the uses and trusts hereinafter mentioned, to be performed by the said Thomas Beall, of George, and John M. Gantt, and the survivor of them, and the heirs of such survivor, according to the true intent and meaning thereof, hath granted, bargained, sold, aliened, released, and confirmed, and by these presents doth grant, bargain, sell, alien, release, and confirm, unto the said Thomas Beall and John M. Gantt, and the survivor of them, and the heirs of such survivor, all the lands of him, the said Abraham Young, lying and being within the following limits, boundaries, and lines, to wit: Beginning on the east side of Rock creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburg; thence, along the middle of the said road, to a stone standing on the east side of the Ready branch of Goose creek; thence, southeasterly, making an angle of sixty-one degrees and twenty minutes



with the meridian, to a stone standing in the road leading from Bladensburg to the Eastern Branch ferry; then, south, to a stone eighty poles north of the east and west line already drawn from the mouth of Goose creek, to the Eastern Branch; thence, east, parallel to the said east and west line, to the Eastern Branch; thence, by and with the waters of the Eastern Branch, Potomac river, and Rock creek, to the beginning, with their appurtenances, except all and every lot or lots of which the said Abraham Young is seised, or to which he is entitled, lying in Carrollsburg or Hamburg; to have and to hold the hereby bargained and sold lands, with their appurtenances, to the said Thomas Beall, of George, and John M. Gantt, and the survivor of them, and the heirs of such survivor, forever, to and for the special trusts following, and no other, that is to say: that all the said lands hereby bargained and sold, or such part thereof as may be thought necessary and proper, to be laid out, together with other lands within the said limits, for a federal city, with such streets, squares, parcels, and lots, as the President of the United States, for the time being, shall approve; and that the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, shall convey to the commissioners for the time being, appointed by virtue of the act of Congress entitled "An act for establishing the temporary and permanent seat of the Government of the United States," and their successors, for the use of the United States, forever, all the said streets, and such of the said squares, parcels, and lots as the President shall deem proper for the use of the United States; and that as to the residue of the lots, into which the lands hereby bargained and sold shall have been laid off and divided, that a fair and equal division of them shall be made; and if no other mode of division shall be agreed on by consent of the said A. Young, and the commissioners for the time being, then such residue of the said lots shall be divided, every other lot alternate to the said A. Young; and it shall, in that event, be determined by lot whether the said A. Young shall begin by the lot of the lowest number laid out on the said land, or the following number; and all the said lots which may in any manner be divided or assigned to the said Abraham Young shall thereupon, together with any part of the said bargained and sold land, if any which shall not have been laid out into the said city be conveyed by the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, to him, the said Abraham Young, his heirs or assigns; and that the said other lots shall and may be sold at such time or times, in such manner, and on such terms and conditions, as the President of the United States for the time being shall direct: And that the said Thomas Beall, of George, and John M. Gantt, or the survivor of them, or the heirs of such survivor, will, on the order or direction of the President, convey all the said lots so sold and ordered to be conveyed to the respective purchasers, in fee simple, according to the terms and conditions of such purchases; and the produce of the sales of the said lots, when sold as aforesaid, shall, in the first place, be applied to the payment in money to the said A. Young, his executors, administrators, or assigns, for all the part of the land, hereby bargained and sold, which shall have been laid off in lots, squares, or parcels, and appropriated as aforesaid to the use of the United States, at the rate of twenty-five pounds per acre, not accounting the said streets as part thereof; and the said twenty-five pounds per acre being so paid, or in any other manner satisfied, that then the produce of the same sales, or what thereof may remain as aforesaid in money, or securities of any kind, shall be paid, assigned, transferred, and delivered over to the President for the time being, as a grant of money, and to be applied for the purposes and according to the act of Congress aforesaid. But the said conveyance to the said A. Young, his heirs or assigns, as well as the conveyance to the purchasers, shall be on and subject to such terms and conditions as shall be thought reasonable by the President for the time being, for regulating the materials and manner of the buildings and improvements on the lots generally in the said city, or in particular streets or parts thereof, for common convenience, safety, and order; provided such terms and conditions be declared before the sales of any of the said lots under the direction of the President. And in trust further, and on the agreement that the said A. Young, his heirs or assigns, shall and may continue his possession and occupation of the said land hereby bargained and sold, at his and their will and pleasure, until the same shall be occupied under the said appropriations for the use of the United States as aforesaid, or by purchasers. And when any lots or parcels shall be occupied under purchase or appropriations as aforesaid, then, and not till then, shall the said A. Young relinquish his occupation thereon. And in trust, also, as to the trees, timber, and wood on the premises, that he, the said A. Young, his heirs or assigns, may freely cut down, take and use the same as his and their property, except such of the trees and wood growing, as the President or commissioners aforesaid may judge proper, and give notice, shall be left for ornament; for which the just and reasonable value shall be paid to the said A. Young, his executors, administrators, or assigns, exclusive of the twenty-five pounds per acre for the land. And in case the arrangements of the streets, lots, and the like, will conveniently admit of it, he, the said A. Young, his heirs and assigns, shall, if he so desire it, possess and retain the buildings and grave-yard, if any, on the hereby bargained and sold lands, paying to the President at the rate of twelve pounds ten shillings per acre for the lands so retained, because of such buildings and grave-yards to be applied as aforesaid; and the same shall be thereupon conveyed to the said A. Young, his heirs and assigns, with his lots; but if the arrangements of the streets, lots, and the like, will not conveniently admit of such retention, and it shall become necessary to remove such buildings, then the said A. Young, his executors, administrators, or assigns, shall be paid the reasonable value thereof, in the same manner as squares or other ground appropriated for the use of the United States are to be paid for. And because it may so happen that, by the deaths or removals of the said Thomas Beall, of George, and John M. Gantt, and from other causes, difficulties may arise in fully perfecting the said trusts by executing all the said conveyances, if no eventual provision is made; it is therefore agreed and covenanted between all the said parties, that the said Thomas Beall, of George, and John M. Gantt, or either of them, or the heirs of either of them, lawfully may, and that they at any time at the request of the President of the United States for the time being, will convey all or any of the said lands hereby bargained and sold, which shall not then have been conveyed in execution of the trusts aforesaid, to such person or persons as he shall appoint, in fee simple, subject to the trusts then remaining to be executed, and to the end that the same may be perfected. And it is further granted and agreed between all the said parties, and each of the said parties doth for himself respectively, and for his heirs, covenant and grant to and with the others of them, that he and they shall and will, if required by the President of the United States for the time being, join in and execute any further deed or deeds for carrying into effect the trusts, purposes, and true intent of this present deed.

In witness whereof, the parties to these presents have interchangeably set their hands and affixed their seals, the day and year first above written.

A. YOUNG.

Signed, sealed, &c.

R. T. HOOE,

DANIEL JENIFER, JUN.



## B.

*Copy of the President's order to the commissioners to sell at private sale.*

SEPTEMBER 29, 1792.

The President of the United States doth hereby order and direct, that any lot or lots in the city of Washington may, after the public sale, to commence on the 8th day of October, be sold and agreed for by the commissioners, or any two of them, at private sale, for such price and on such terms as they may think proper.

GEO. WASHINGTON.

## C.

*Copy of Morris and Greenleaf's contract with the Commissioners, dated 24th December, 1793.*

Articles of agreement made and indented this twenty-fourth day of December, in the year of our Lord one thousand seven hundred and ninety-three, between the commissioners for the federal buildings in the city of Washington of the one part, and Robert Morris, of the city of Philadelphia, and James Greenleaf, of the city of New York, Esquires, of the other part.

Whereas the said commissioners, on the twenty-third day of September last, did enter into an agreement, in writing, with the said James Greenleaf, for the sale of three thousand lots of ground in the said city of Washington, at the price of twenty-five pounds, current money of Maryland, for each lot, to be ascertained in the mode specified in the said agreement; and the sale to be made upon the terms and conditions therein also specified, as by the said agreement, reference being thereto had, will more fully appear: And whereas the said James Greenleaf is empowered by the said Robert Morris to enter into a contract in his name and on his behalf, as his agent, for the purchase of a like number of lots in the said city of Washington, for such price and on such terms and conditions as may be agreed upon between him and the said commissioners; and, in pursuance of such power, the said James Greenleaf hath agreed with the said commissioners for the purchase of three thousand lots of ground in the said city of Washington, fifteen hundred of them to be designated on the southwest, and fifteen hundred of them to be designated on the northeast side of Massachusetts Avenue, at the price of thirty-five pounds, current money aforesaid, for each of the said lots, payable yearly, in seven equal payments, without interest; the first of which payments to be made on the first day of May next ensuing the date of these presents, and so on the first day of May in each year succeeding thereto, until the whole of the seven payments shall have been made: And hath further agreed, in pursuance of the said power, that the said Robert Morris should build annually, for seven years next ensuing, ten brick houses, of two stories each, and each of them covering twelve hundred square feet, making in the whole seventy houses: And that the said Robert Morris, or his heirs, should not, before the first day of January, in the year one thousand seven hundred and ninety-six, sell or contract for the sale of any of the said lots, but under and upon the express condition that one such house, at the least, should be built and erected on every third lot, within four years next after such sale or contract for sale. But it is understood and hereby declared to be the meaning of the parties to these presents, that the said Robert Morris and James Greenleaf may, at their pleasure, associate to them one or more persons in the whole purchase, without creating on any of them an obligation to erect on or for every third lot: And whereas it is agreed by and between the said commissioners and the said James Greenleaf, that every thing relating to a loan specified in the contract above mentioned, made between the said commissioners and the said James Greenleaf on the twenty-third day of September last, to be hereafter made by the said James Greenleaf, shall be referred to a new contract, made and entered into this day by and between the said commissioners and the said James Greenleaf, and shall have no other effect whatever than what such new contract specifies and ascertains: And whereas it is thought best, by the parties to these presents, to consolidate and join in one contract both the said agreements, and, further to prevent all disagreement concerning the size of the said lots, to fix and ascertain five thousand two hundred and sixty-five square feet as the average of the areas of the lots contracted for as aforesaid, as well as to ascertain and fix the general location of them, and to modify that part of the agreement with regard to the improvements to be made: *Now, therefore, these articles witness,* That the said commissioners had sold and contracted for the sale and conveyance, and do hereby, for themselves and their successors, in consideration of the covenants of the said Robert Morris and James Greenleaf, hereinafter expressed, being fully executed and performed on their part, sell and contract for the sale and conveyance to them, the said Robert Morris and James Greenleaf, as tenants in common, and their heirs, in fee, six thousand lots of ground in the said city of Washington, upon the average of five thousand two hundred and sixty-five square feet for each lot, so that the aggregate in lots, reckoning in the ways to the squares, as the proportion thereof to the lots to be conveyed, shall amount to thirty-one million five hundred and ninety thousand square feet, four thousand five hundred of which lots shall lie to the southwest of Massachusetts Avenue, and the remaining fifteen hundred shall lie to the northeast of the said avenue. And that, of the said four thousand five hundred lots on the southwest of the said avenue, the said Robert Morris and James Greenleaf shall have the part of the city on Notley Young's land, and in that part of Daniel Carroll's land which lies in the branches of the canal, clear of Carrollsburg. And that the said Robert Morris and James Greenleaf shall have a right to choose, to satisfy the residue of the said four thousand five hundred lots lying to the southwest of the Massachusetts Avenue aforesaid, on any part of the said southwest side of the avenue that they shall think proper, excepting such lots as shall lie in squares numbered as follow, to wit, &c. &c. and the lots lying in Carrollsburg; and also further excepting the water lots, including the water lots lying on the Eastern Branch, and also one-half of the lots lying in Hamburg; the lots in that part of the city, and belonging to it, other than water lots, being to be divided, by alternate choice, between the said commissioners and the said Robert Morris and James Greenleaf; Provided, however, and it is hereby agreed, by and between the parties to these presents, that the said Robert Morris and James Greenleaf are entitled to the lots in Notley Young's land, and, of course, to the privileges of wharfing annexed thereto; and that lots adjoining the canal are not reckoned water lots; and that the said Robert Morris and James Greenleaf shall have a right to choose the remaining fifteen hundred lots lying to the northeast of the said Massachusetts Avenue, or any part thereof they shall think proper, excepting one-half of the squares which shall adjoin the spot that may be appropriated for a national university, which is expected to be fixed on the northeast side of the said avenue. And the said Robert Morris and James Greenleaf do hereby, in consideration of the agreement on the part of the said commissioners hereinbefore set forth, for themselves, their heirs, executors, and administrators, jointly and severally agree to and with the said commissioners to pay to them or their successors thirty pounds, current money of Maryland, for each of the said six thousand lots contracted to be sold as aforesaid, amounting to one hundred and eighty thousand pounds, current money aforesaid, in seven equal annual payments, without interest, and the first payment to be made on the first day of May next ensuing the date of these presents; and that they will build and erect

yearly, on some parts of the said lots, twenty brick houses, of two stories each, and each house covering twelve hundred square feet, until the number of one hundred and forty houses shall be built and erected; and that all buildings and improvements to be made on any of the said lots shall conform to the general regulations published by the President of the United States; and that neither the said Robert Morris and James Greenleaf, nor their heirs, will sell or contract for the sale of any of the said lots before the first day of January, one thousand seven hundred and ninety-six, but upon the express condition that one such house, at least, as above described, shall be built and erected on every third lot, at the least, within four years after such sale or contract for sale. But, as it will promote the interest of the city that at least some of the said houses should be larger, and that all front houses of the size of those described should be of three stories in height, it is agreed by and between the parties aforesaid, and declared by them to be the meaning of these presents, that the area of all houses exceeding twelve hundred square feet shall be reckoned accordingly, and discount in proportion as they cover more than the twelve hundred square feet; and that all houses of three proper proportioned stories shall be reckoned and discounted at the rate of one-fourth part more than their area, so that the aggregate of houses of not less than twelve hundred square feet shall cover, with the allowance of one-fourth for three story houses, one hundred and sixty-eight thousand square feet. And it is hereby declared, that the covenants and agreements, on the part of the said Robert Morris and James Greenleaf, and the true and faithful performance of them, are the terms and conditions of the sale of the said six thousand lots. And it is further agreed, by and between the parties aforesaid, that, in the division that is hereafter to be made between the said commissioners and the present proprietors of the property of the said city of Washington, due regard shall be had by the said commissioners that such divisions shall take place, as far as consistently may be, for the interest of the said Robert Morris and James Greenleaf. And, further, it is understood and declared, that the lots already sold or contracted for by the commissioners are not to be chosen by the said Robert Morris and James Greenleaf.

In witness whereof, we have hereunto set our hands the day and year first above written.

ROBERT MORRIS, *by James Greenleaf, his agent.*

JAMES GREENLEAF.

T. JOHNSON,

D. STEUART,

D. CARROLL,

} *Commissioners.*

Witness: WILLIAM DEAKINS, JUN.

D.

*Copy of minute of 24th April, 1794.*

The Commissioners of the Federal District and Mr. Greenleaf entered on the subject of Messrs. Morris and Greenleaf's propositions of the 7th January last, communicated by the commissioners to the Secretary of State, and, being mutually disposed to accommodate in order to effect their common view of improvement of the city, have fallen on the following mode of carrying on and settling the contract of Messrs. Morris and Greenleaf:

1st. That an account shall be raised between the commissioners and Messrs. Morris and Greenleaf, charging the lots which may from time to time be conveyed to them or their assigns, and giving credit for the payments, as made.

2d. That the commissioners will grant a certificate or deed in fee for the public lots contracted for by Morris and Greenleaf, on Mr. Notley Young's land, and supposed to be about one thousand, as soon as those lots can be ascertained, or even before, if a general description will answer the purposes of Messrs. Morris and Greenleaf, on their giving bond with Mr. John Nicholson for the amount of the same, and for performing the contract made relative to improvements.

3d. And in order that Messrs. Morris and Greenleaf may have the advantage of disposing of any of their lots, amounting to six thousand, at their will, the commissioners, on their assignment or order, will grant certificates or deeds in fee to such persons as they may from time to time require, acknowledging the payment of the consideration money, and subjoining thereto the condition of improvement, (if any is to be made,) according to the contract of Messrs. Morris and Greenleaf; the commissioners being willing to rely on the condition to be inserted in the certificate, or in the responsibility of Morris, Greenleaf, and Nicholson, as the case may require, for the improvement of every third lot sold by them before the 1st day of January, 1796, agreeable to the tenor of their contract; and the commissioners are willing to allow the amount of one thousand lots, and the improvements on the whole number of lots, to rest on the joint and several bonds of Morris, Greenleaf, and Nicholson; it being intended that a credit on their personal security may at any and at all times amount to the cost of one thousand lots, as before mentioned.

[NOTE.—The above is a copy of an entry made in the minutes of the commissioners, between the 15th and 24th April, 1794.]

E—1.

*Resolutions passed in 1796 and 1797, for loans to the commissioners, by the Legislature of Maryland.*

BY THE HOUSE OF DELEGATES, December 14, 1796.

*Resolved*, That this State will loan, for the use of the city of Washington, the sum of \$100,000, agreeably to the request made by the commissioners of the said city, under the authority given by the President of the United States to them, conformably to the act of the Congress of the United States.

*Resolved*, That the said loan be paid in six per cent. stock of the United States, bearing an immediate interest of six per cent. at par; which sum the trustee of this State is authorized to transfer to the said commissioners: *Provided*, To secure the repayment of the same with interest, at the times and in the manner prescribed by the act of Congress entitled "An act authorizing a loan for the use of the city of Washington, in the District of Columbia, and for other purposes therein mentioned," Gustavus Scott, William Thornton, and Alexander White, or a majority of them, give bond to the State of Maryland conditioned for the payment of \$100,000, and punctual payment of six per cent. interest on the said sum of \$100,000, quarterly, and on the several days on which interest on the said stock is now received from the United States: *And provided, also*, That, before the transfer of the said stock, Gustavus Scott, William Thornton, and Alexander White, in their individual capacities, give bond to the State of Maryland in the penalty of \$200,000, conditioned for the repayment of the said sum of \$100,000, with interest, at the times and in the mode prescribed by the act of Congress aforesaid, as additional and collateral securities for the same.

By order:

WILLIAM HARWOOD, *Clerk.*

Assented to by the Senate, 17th of December, 1796.

## E—2.

*Resolution of the Maryland Legislature, passed December, 1797, for loan of 100,000 dollars to the city of Washington.*

BY THE HOUSE OF DELEGATES, *December 22, 1797.*

*Resolved,* That this State will loan, for the use of the city of Washington, the sum of \$100,000, agreeably to the request made by the commissioners of the said city, under the authority given by the President of the United States to them, conformably to the act of Congress of the United States.

*Resolved,* That the said loan be paid in six per cent. stock of the United States, bearing an immediate interest of six per cent., at par; which sum the trustee of this State is authorized to transfer to the said commissioners: *Provided,* To secure the repayment of the same, with interest, at the times and in the manner prescribed by the act, entitled "An act authorizing a loan for the use of the city of Washington, in the District of Columbia, and for other purposes therein mentioned," Gustavus Scott, William Thornton, and Alexander White, or a majority of them, give bond to the State of Maryland, conditioned for the payment of \$100,000, and punctual payment of six per cent. interest on the said sum of \$100,000, quarterly, and on the several days on which interest on the said stock is now receivable from the United States: *And provided, also,* That, before the transfer of the said stock, Gustavus Scott, William Thornton, and Alexander White, in their individual capacities, give bond to the State of Maryland, in the penalty of \$200,000, conditioned for the repayment of the said sum of \$100,000, with interest, at the times and in the modes prescribed by the act of Congress aforesaid, as additional and collateral security for the same.

WM. HARWOOD,  
*Clerk of the House of Delegates.*

BY THE SENATE, *December 22, 1797.*

Read the first and second time, by especial order, and assented to.

By order:

ARCH. VAN HORN,  
*Clerk of the Senate.*

## F.

*Resolution of the Assembly of Maryland, passed December, 1799, for a loan of \$50,000, to the city of Washington.*

BY THE HOUSE OF DELEGATES, *December 23, 1799.*

*Resolved,* That the trustee of this State transfer to the order of the Commissioners of the Federal Buildings, in the city of Washington, the sum of \$50,000 of the stock of the United States, bearing a present interest of six per cent. per annum, upon their giving such real and personal security as the Governor and Council shall approve for the payment of the principal sum, on or before the 1st day of November, in the year 1802, and the punctual payment of the interest thereon quarter-yearly; and if the interest is at any time thirty days in arrear, the whole principal to be sued for and recovered.

By order:

WILLIAM HARWOOD, *Clerk.*

BY THE SENATE, *December 23, 1799.*

Read the first and second time, by especial order, and assented to.

By order:

A. VAN HORN, *Clerk.*

We certify that the foregoing is a true copy taken from the original.

WILLIAM HARWOOD,  
*Clerk of the House of Delegates.*  
ARCH. VAN HORN,  
*Clerk of the Senate of Maryland.*

*Uriah Forrest and James M. Lingan's letter to the commissioners.*

GENTLEMEN:

FEBRUARY 23, 1800.

We expect that if we comply with your wish, and become sureties to the State of Maryland, you will consider that all the property in the city heretofore sold or contracted for, and where payments have not been made, (excepting the property pledged by the act of Congress, to secure the loan of \$300,000) will be held as a security for the repayment of this money (say the \$50,000) to the State; and if you should think it advisable, you will, on reasonable notice, proceed to sell the property, or such parts as may be necessary, and pay over the notes, or the money arising therefrom, to the State, in discharge of this specific debt.

We are respectfully, gentlemen, your most obedient servants,

URIAH FORREST,  
JAS. M. LINGAN.

The COMMISSIONERS OF THE FEDERAL BUILDINGS, *Washington.*

*Answer of commissioners to Messrs. Forrest and Lingan's letter of this date.*

GENTLEMEN:

FEBRUARY 28, 1800.

We are favored with your letter of this day, and think the terms asked by you perfectly just and reasonable, and have no hesitation in saying we will readily agree to them.

We are, gentlemen, your obedient servants,

GUSTAVUS SCOTT,  
WILLIAM THORNTON.

Messrs. LINGAN & FORREST.

## G—1.

COMMISSIONERS' OFFICE, WASHINGTON, January 28, 1801.

*Schedule of public property on hand belonging to the federal seat.*

1,504 building lots, southwest of Massachusetts Avenue, estimated at \$343 each,	-	-	\$515,872 00
3,178½ building lots, northeast of said avenue, estimated at \$105 each,	-	-	333,747 00
2,043 feet front of lots binding on navigable water, estimated at \$12 71 per foot front,	-	-	25,979 00
Four wharves, cost	-	-	3,221 88
Island, containing freestone quarries in Aquia creek, cost	-	-	6,000 00
			<u>\$884,819 88</u>
Debts due to the commissioners, which are deemed good,	-	-	144,125 80
			<u>\$1,028,945 68</u>
Debts contracted on the credit of the above fund,	-	-	360,881 05
			<u>\$668,064 63</u>

THOMAS MUNROE, Clerk to Commissioners.

## G—2.

*A list of balances which appear to be due to the commissioners of the city of Washington on 1st January, 1801, exclusive of interest.*

From whom due.	Amount expected to be received.	Am't doubtful, and not expected to be received.	Explanatory notes.
	Dolls. Cts.	Dolls. Cts.	
Matthew Brown, -	\$700 00	-	Due for lots purchased.
J. Hoban and P. Purcell, -	211 86	-	Due for lots purchased.
Cornelius McD. Roe, -	85 73	-	Due for lots purchased.
Cornelius McD. Roe, -	-	75 33	Due for old materials sold to him.
Charles Minifie, -	840 00	-	Due for lots purchased.
George Washington, dec. -	178 56	-	Due for lots purchased.
Walter Stewart, dec. -	6,990 75	-	Due for lots purchased.
George Blagdin, about -	300 00	-	Due for lots purchased; his account unsettled.
Ambrose Moriarty, -	118 50	-	Due for lots purchased.
Thomas S. Lee, -	-	-	-
W. Deakins, jr. dec. and } -	5,545 59	-	Due for balance of the purchase money of a parcel of ground near the mouth of Rock creek, which was heretofore assigned to the commissioners to defray the expense of making the causeway and building a bridge over the mouth of said creek. The receipt of these three sums depends on the decree of the court of chancery of Maryland, a bill having been filed and an injunction granted and served; the debts are for lots sold.
Peter Casanave, dec. } -	-	-	
James Barry, -	-	251 24	Due for lots sold to him. Mr. Walker has a claim for grounds which he thinks ought to be appropriated to public use, although omitted in the specification of public appropriations made by the late President Washington; the commissioners agreed that the payment of this sum might be postponed until the President's directions on the subject should be obtained.
James Barry, -	-	1,230 00	
Samuel Blodgett, -	-	3,092 00	
Nicholas Voss, -	210 00	-	
John Bloor, -	152 00	-	
George Walker, -	414 14	-	
William Tunncliff, -	300 00	-	Due for a lot purchased. Mr. Walker is to pay this sum, and the commissioners have agreed to postpone it on the same principles as in Mr. Walker's debt above mentioned.
G. and P. Magruder, -	303 06	-	Due on a note of hand passed for the balance of an account with them as contractors to supply Indian meal; suit commenced, judgment obtained, and removed to the Court of Appeals.
William Rutherford, -	-	962 25	Balance due from him as a contractor to supply beef and pork; suit brought, referred to arbitration, no award returned.
William Prout, -	-	1,746 40	Due for lots purchased. Mr. Prout purchased square No. 883, in February, 1796, for \$3,866, but has since relinquished it, by letter dated 18th September, 1799, on condition that property of equal value should be conveyed to him in lieu thereof, or, if the public had not water property which he should approve, then he to be paid the price he had given for said square, with interest, on or before the 1st of December then next; the Secretary of the Navy afterwards purchased the said square No. 883, together with square No. 884, for \$4,000, for a navy yard, and the said two squares were conveyed to the United States on the 17th March, 1800; Mr. Prout has purchased, at public sales of lots originally bought by Morris and Greenleaf, and resold for default in payment, to the amount of \$1,092, in part of the amount of square 883 relinquished by him as above mentioned, and is entitled to \$2,575 52, for his ground appropriated to public use; so that, in the actual state of the business, he is a creditor of the commissioners to the amount of \$1,383 dollars, after deducting \$100 52, charged to him for ground retained by him as an original proprietor, for a graveyard and improvements, agreeably to the deeds of trust.
Joseph Boone, -	578 84	-	Due for lots purchased.
William Lovell, about -	400 00	-	Due for lots purchased; has an unsettled account with the commissioners.

## LIST OF BALANCES—Continued.

From whom due.	Amount expected to be received.	Am't doubtful, and not expected to be received.	Explanatory notes.
William Thompson and John Kennedy, -	Dolls. Cts. 209 10	Dolls. Cts. -	Due for lots purchased.
Morris & Nicholson, -	115,241 43	80,000 00	Due for lots purchased by Morris and Greenleaf; see documents marked D and G—3.
Uriah Forrest, -	5,000 00	-	Due for United States' six per cent. stock sold to him.
Charles Wayman, -	537 43	-	Due for United States' six per cent. stock sold to him.
L. Harbaugh, cont'r for building public offices, -	-	2,025 66	Advanced to him more than the sum contracted for; it is however believed that, on a final settlement of accounts, Mr. Harbaugh will be a creditor of the commissioners for materials supplied, in addition to those contracted for.
John Templeman, -	440 00	-	Due for hire of the public sawyers, when not wanted at the public buildings.
Sundries, estimated at about	500 00	-	Due for old materials sold, and on sales, and for rent of temporary buildings, originally built for the public workmen.
Ruth Ann Young, -	114 40	-	} Due for ground retained by them as original proprietors, agreeably to the deeds of trust, for their graveyards and improvements.
Abraham Young, dec. -	121 63	-	
David Burns, dec. -	335 18	-	
Samuel Davidson, -	17 50	-	
James M. Lingan, -	18 23	-	
George Walker, -	168 40	-	
Notley Young, -	-	404 46*	
Notley Young, -	-	1,480 00*	
George Andrews, about -	-	193 16†	
John Emery, about -	-	149 09†	
J. Hoban and E. Williams, -	-	1,414 67†	
Samuel Brown, -	-	240 00‡	
James Blois, -	-	266 67‡	
Abner Cloud, -	-	435 00‡	
Henry Pine, -	-	251 50‡	
George Taylor, -	-	1,462 95‡	
William Wright, -	-	667 48‡	Advanced for quarrying freestone.
Thomas Freeman, -	-	900 00‡	Advanced for wages as a surveyor.
Peter C. L'Enfant, -	-	198 00	Due for three-fourths of the amount of a lot purchased.
Peter C. L'Enfant, -	-	600 00	Due for advances on account as principal engineer or surveyor although Mr. L'Enfant stands charged with these sums, yet it appears that the late Board of Commissioners, when they dismissed him from their employ, offered him 500 guineas as a compensation for his services; he rejected the offer as inadequate and has not since received it; neither has the lot, with which he is charged, been conveyed to him; both of which would have been on his application therefor.
George French, dec. -	-	184 62	Due for wharf logs.
Fendall and Hipkins, -	-	29 73	Due for wharf logs.
George Murdock, -	-	31 25	} Due for engraved plans of the city and territory, put into their hands for sale.
Augustine Davis, -	-	67 08	
Goddard and Angel, -	-	71 88	
Davis and Willett, -	-	47 91	
Hanson and Bond, -	-	8 33	
Printer at Petersburg, -	-	23 96	
Printer at Fredericksburg, -	-	8 33	
Printer at Easton, Md. -	-	28 75	
C. McD. Roe and Co. -	-	1,253 33§	Advanced for masons' work at the Capitol, since condemned and pulled down.
Richard Forrest, -	-	814 00§	Advanced for Indian meal.
James Moore, -	-	400 00§	Advanced for salted pork.
William Knowles, -	-	67 20	Due for materials purchased.
Dollars, -	140,032 33		

COMMISSIONERS' OFFICE, WASHINGTON, January 28, 1891.

THOMAS MUNROE, Clerk to Commissioners.

\* It is expected that Mr. Young's claim for his ground appropriated to public use will be equal to these two sums.

† These three accounts are unsettled; when they are adjusted it is probable that there will not be any thing due.

‡ Although these several sums stand charged in the books, (the parties not having accounted for their respective advances,) it is believed the services and supplies are equal to the advances.

§ Suits are now pending on the contracts in these three cases; in the two last, partial deliveries have been made of the articles contracted for, but the quantities are not known, the contractors not having rendered accounts.

G—3.

[List of notes referred to in Document G—2.]

A list of notes passed for the purchase money of lots sold at public sale for default in payment by Morris and Nicholson, the original purchasers thereof; the amount of the principal of which said notes is included in the balance of \$195,241 43, stated to be due from said Morris and Nicholson, in the document herewith exhibited, marked G—2. The amount of said notes, when paid, to be credited in account to said Morris and Nicholson.

Drawers' Names.	Amount now due.	Amount becoming due in Feb. 1801.	Amount becoming due in May, 1801.	Total amount.
Charles McNantz, - - -	\$66 67	\$66 67	\$66 66	\$200 00
William O'Neale, - - -	72 00	72 00	72 00	216 00
Thomas Corcoran, - - -	148 33	148 33	148 34	445 00
David Shoemaker, - - -	95 00	95 00	95 00	285 00
William Thornton, - - -	-	1,675 68	-	1,675 68
Uriah Forrest, for self, - - -	-	-	-	-
Benjamin Stoddert, - - -	-	-	-	-
Gustavus Scott, deceased, - - -	-	33,802 97	-	33,802 97
John Templeman, - - -	-	-	-	-
Cornelius McDermot Roe, and Thady Hogan, - - -	-	250 00	-	250 00
Bennett Jarboe, - - -	-	84 00	83 00	167 00
Peter Lenox, - - -	-	71 66	66 67	138 33
James Calder, - - -	-	35 00	35 00	70 00
Nathaniel Burrall, - - -	75 00	75 00	75 00	225 00
John Templeman, - - -	-	151 67	151 67	303 34
Alexander Kerr, - - -	-	500 00	531 00	1,031 00
Basil Wood, - - -	-	127 33	127 33	254 66
Thomas Wand, - - -	66 67	66 67	66 66	200 00
	\$523 67	\$37,221 98	\$1,518 33	\$39,263 98

COMMISSIONERS' OFFICE, WASHINGTON, January 28, 1801.

THOMAS MUNROE, Clerk to Commissioners.

[Errors excepted.]

G—4.

A list of debts due from the Commissioners of the city of Washington on the 1st of January, 1801, as correctly as can be ascertained.

To whom due.	For what due.	Amount due.
The State of Maryland, - - -	Loan of United States, six per cent. stock, at par, principal, - - -	\$250,000 00
The United States, - - -	Loan, - - -	100,000 00
The State of Maryland, - - -	Interest for a quarter of a year, ending the 31st ultimo, on \$250,000, - - -	3,750 00
Bank of Columbia, - - -	Loan, - - -	3,000 00
Lewis Clephane, - - -	Painting Capitol and President's house; account unsettled; balance about - - -	1,560 00
Commissioners and their officers, - - -	Balance of their salaries for the quarter ending 31st ultimo, - - -	636 46
Small accounts allowed, and not yet paid, - - -	Sundries, - - -	254 37
Joshua Johnson, - - -	Over payment for lots, 18th ultimo, - - -	180 22
Claims for which accounts have not yet been presented, estimated at - - -	- - -	1,500 00
		\$360,681 05

COMMISSIONERS' OFFICE, WASHINGTON, January 28, 1801.

THOMAS MUNROE, Clerk to Commissioners.

[Errors excepted.]

## G-5.

*A list of balances becoming due to the Commissioners of the City of Washington, in the year 1801, for lots purchased.*

From whom due.	Month due.	Amount due.
James Piercy, \$956 79,	} January, - -	\$1,118 26
William McCreery, \$161 47,		
Frederick May, - -	} February, - -	814 69
James R. Dermott, - -	} March, - -	547 27
John Crookshank and - -	} July, - -	241 68
George Thompson, - -		
Solomon Etting, - -	} August, - -	729 37
Pickett, Pollard, and Johnson, - -	} September, - -	642 20
		\$4,093 47

COMMISSIONERS' OFFICE, WASHINGTON, January 28, 1801.

THOMAS MUNROE, Clerk to Commissioners.

[Errors excepted.]

## H.

ACTS PASSED BY THE GENERAL ASSEMBLY OF MARYLAND CONCERNING THE TERRITORY OF COLUMBIA AND THE CITY OF WASHINGTON.

*An Act for the cession of ten miles square, or any less quantity of territory within this State, to the United States, in Congress assembled, for the permanent seat of the General Government.—(Passed Dec. 3, 1789.)*

Whereas the equal and common benefits resulting from the administration of the General Government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the seat of the said Government as will be most central and convenient to the citizens of the United States at large, having regard as well to population, extent of territory, and a free navigation to the Atlantic Ocean, through the Chesapeake Bay, as to the most direct and ready communication with our fellow-citizens in the western frontier: And whereas it appears to this Assembly, that a situation combining all the considerations and advantages before recited may be had on the banks of the river Potomac, above tide-water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessaries and conveniences of life, where, in a location of ten miles square, if the wisdom of Congress shall so direct, the States of Pennsylvania, Maryland, and Virginia may participate in such location.

*Be it therefore enacted by the General Assembly,* That a tract of country, not exceeding ten miles square, or any less quantity, to be located within the limits of this State, and in any part thereof as Congress may by law direct, shall be, and the same is hereby forever ceded and relinquished to the Congress and the Government of the United States, in full and absolute right, and exclusive jurisdiction as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the constitution of Government of the United States.

*Provided,* That nothing herein contained shall be construed to vest in the United States any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

*And provided, also,* That the jurisdiction of the laws of this commonwealth over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine, until Congress, having accepted the said cession, shall by law provide for the government thereof, under their jurisdiction, in manner provided by the article of the constitution before recited.

*An act concerning the territory of Columbia, and the city of Washington.—(Passed December 19, 1791.)*

Whereas the President of the United States, by virtue of several acts of Congress, and acts of the Assemblies of Virginia and Maryland, by his proclamation dated at Georgetown, on the thirtieth day of March, seventeen hundred and ninety-one, did declare and make known, that the whole of the territory of ten miles square, for the permanent seat of Government of the United States, shall be located and included within the four lines following; that is to say, beginning at Jones's Point, being the upper point of Hunting creek, in Virginia, and at an angle in the outset of forty-five degrees west of the north, and running a direct line ten miles for the first line; then beginning again at the same Jones's Point, and running another direct line at a right angle with the first, across the Potomac, ten miles for the second line; then from the terminations of the said first and second lines, running two other direct lines, ten miles each, the one crossing the Eastern Branch and the other the Potomac, and meeting each other in a point; which has since been called the territory of Columbia: and whereas Notley Young, Daniel Carroll, of Dud-dington, and many others, proprietors of the greater part of the land hereinafter mentioned to have been laid out in a city, came into an agreement, and have conveyed their lands in trust to Thomas Beall, son of George, and John Mackall Gantt, whereby they have subjected their lands to be laid out as a city, given up part to the United States, and subjected other part to be sold to raise money as a donation to be employed according to the act of Congress for establishing the temporary and permanent seat of the Government of the United States, under and upon the terms and conditions contained in each of the said deeds; and many of the proprietors of lots in Carrolls-burg and Hamburg have also come into an agreement, subjecting their lots to be laid out anew, giving up one-half of the quantity thereof to be sold, and the money thence arising to be applied as a donation as aforesaid, and they to be reinstated in one-half the quantity of their lots in the new location, or otherwise compensated in land in a different situation within the city, by agreement between the commissioners aforesaid and them; and, in case of disagreement, that then a just and full compensation shall be made in money; yet some of the proprietors of lots in Carrollsburg and Hamburg, as well as some of the proprietors of other lands, have not, from imbecility and other causes, come into any agreement concerning their lands within the limits hereinafter mentioned, but a very great proportion of the landholders having agreed on the same terms, the President of the United States directed a city to be laid out,

comprehending all the lands beginning on the east side of Rock creek, at a stone standing in the middle of the road leading from Georgetown to Bladensburg; thence along the middle of the said road, to a stone standing on the east side of the Reedy branch of Goose creek; then southeasterly, making an angle of sixty-one degrees and twenty minutes with the meridian, to a stone standing in the road leading from Bladensburg to the Eastern Branch ferry; thence south, to a stone eighty poles north of the east and west line already drawn from the mouth of Goose creek to the Eastern Branch; then east, parallel to the said east and west lines, to the Eastern Branch; then with the waters of the Eastern Branch, Potomac river, and Rock creek, to the beginning, which has since been called the City of Washington: and whereas it appears to this General Assembly highly just and expedient that all the lands within the said city should contribute, in due proportion, in the means which have already very greatly enhanced the value of the whole; that an incontrovertible title ought to be made to the purchasers, under public sanction; that allowing foreigners to hold land within the said territory will greatly contribute to the improvement and population thereof; and that many temporary provisions will be necessary, till Congress exercise the jurisdiction and government over the said territory: And whereas, in the cession of this State, heretofore made, of territory for the Government of the United States, the lines of such cession could not be particularly designated; and it being expedient and proper that the same should be recognised in the acts of this State:

2. *Be it enacted by the General Assembly of Maryland,* That all that part of the said territory, called Columbia, which lies within the limits of this State, shall be, and the same is hereby acknowledged to be forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right, and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon, pursuant to the tenor and effect of the eight section of the first article of the constitution of government of the United States: *Provided,* That nothing herein contained shall be so construed to vest in the United States any right of property in the soil, as to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States: *And provided, also,* That the jurisdiction of the laws of this State, over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine until Congress shall by law provide for the government thereof, under their jurisdiction, in manner provided by the article of the constitution before recited.

3. *And be it enacted,* That all the lands belonging to minors, persons absent out of the State, married women, or persons *non compos mentis*, or lands the property of this State, within the limits of Carrollsburg and Hamburg, shall be and are hereby subjected to the terms and conditions hereinbefore recited, as to the lots where the proprietors thereof have agreed concerning the same; and all the other lands, belonging as aforesaid, within the limits of the said city of Washington, shall be and are hereby subjected to the same terms and conditions as the said Notley Young, Daniel Carroll of Duddington, and others, have, by their said agreements and deeds, subjected their lands to; and where no conveyances have been made, the legal estate and trust are hereby invested in the said Thomas Beall, son of George, and John Mackall Gantt, in the same manner as if each proprietor had been competent to make, and had made, a legal conveyance of his or her land, according to the form of those already mentioned, with proper acknowledgments of the execution thereof, and, where necessary, of release of dower; and in every case where the proprietor is an infant, a married woman, insane, absent out of this State, or shall not attend on three months' advertisement of notice in the Maryland Journal, and Baltimore Advertiser, the Maryland Herald, and in the Georgetown and Alexandria papers, so that allotment cannot take place by agreement, the commissioners aforesaid, or any two of them, may allot and assign the portion or share of such proprietor, as near the old situation as may be, in Carrollsburg and Hamburg, and to the full value of what the party might claim under the terms before recited; and as to the other lands within the said city, the commissioners, aforesaid, or any two of them, shall make such allotment and assignment, within the lands belonging to the same person, in alternate lots, determining by lot or ballot whether the party shall begin with the lowest number: *Provided,* That in the cases of coverture and infancy, if the husband, guardian, or next friend, will agree with the commissioners, or any two of them, then an effectual division may be made by consent; and in case of contrary claims, if the claimants will not jointly agree, the commissioners may proceed as if the proprietor was absent; and all persons, to whom allotments and assignments of lands shall be made by the commissioners, or any two of them, on consent and agreement, or pursuant to this act without consent, shall hold the same in their former estate and interest, and in lieu of their former quantity, and subject in every respect to all such limitations, conditions, and incumbrances, as their former estate and interest, and in lieu of their former quantity, and subject in every respect to all such limitations, conditions, and incumbrances, as their former estate and interest were subject to, and as if the same had been actually reconveyed pursuant to the said deed in trust.

4. *And be it enacted,* That where the proprietor or proprietors, possessor or possessors, of any lands within the limits of the city of Washington, or within the limits of Carrollsburg and Hamburg, who have not already, or who shall not within three months after the passage of this act, execute deeds in trust to the aforesaid Thomas Beall and John M. Gantt, of all their lands within the limits of the said city of Washington, and on the terms and conditions mentioned in the deeds already executed by Notley Young and others, and execute deeds in trust to the said Thomas Beall and John M. Gantt, of all their lots in the towns of Carrollsburg and Hamburg, on the same terms and conditions contained in the deeds already executed by the greater part of the proprietors of lots in the said towns, the said commissioners, or any two of them, shall and may, at any time or times thereafter, issue a process, directed to the sheriff of Prince George's county, commanding him, in the name of the State, to summon five good substantial freeholders, who are not of kin to any proprietor or proprietors of the lands aforesaid, and who are not proprietors themselves, to meet on a certain day, and at a certain place, within the limits of the said city, to inquire of the value of the estate of such proprietor or proprietors, possessor or possessors; on which day and place the said sheriff shall attend, with the freeholders by him summoned; which freeholders shall take the following oath or affirmation, on the land to be by them valued, to wit: "I, A. B., do solemnly swear (or affirm) that I will, to the best of my judgment, value the lands of C. D. now to be valued, so as to do equal right and justice to the said C. D. and to the public, taking into consideration all circumstances," and shall then proceed to value the said lands; and such valuation, under their hands and seals, and under the hand and seal of the said sheriff, shall be annexed to the said process, and returned by the sheriff to the clerk appointed by virtue of this act, who shall make record of the same; and the said lands shall, on the payment of such valuation, be, and are hereby vested in the said commissioners, in trust, to be disposed of by them, or otherwise employed to the use of the said city of Washington; and the sheriff aforesaid and freeholders aforesaid shall be allowed the same fees for their trouble as are allowed to a sheriff and jurymen in executing a writ of inquiry; and in all cases where the proprietor or possessor is tenant in right of dower, or by the courtesy, the freeholders aforesaid shall ascertain the annual value of the lands and the gross value of such estate therein; and, upon paying such gross value, or securing to the possessor the payment of the annual valuation, at the option of the proprietor or possessor, the commissioners shall be, and are hereby, vested with the whole estate of such tenant, in manner and for the uses and purposes aforesaid.



5. *And be it enacted*, That all the squares, lots, pieces, and parcels of land, within the said city, which have been or shall be appropriated for the use of the United States, and also the streets, shall remain and be for the use of the United States; and all the lots and parcels which have been or shall be sold to raise money as a donation as aforesaid, shall remain and be to the purchasers, according to the terms and conditions of their respective purchases; and purchases and leases from private persons claiming to be proprietors, and having, or those under whom they claim having, been in possession of the lands purchased or leased, in their own right, five whole years next before the passing of this act, shall be good and effectual for the estate, and on the terms and conditions of such purchases and leases, respectively, without impeachment, and against any contrary title now existing; but if any person hath made a conveyance, or shall make a conveyance or lease, of any lands within the limits of the said city, not having right and title to do so, the person who might be entitled to recover the land under a contrary title now existing may, either by way of ejectment against the tenant, or in action for money had and received for his use against the bargainer or lessor, his heirs, executors, administrators, or devisees, as the case may require, recover all money received by him for the squares, pieces, or parcels, appropriated for the use of the United States, as well as for lots or parcels sold, and rents received, by the person not having title as aforesaid, with interest from the time of the receipt; and, on such recovery in ejectment, where the land is in lease, the tenant shall thereafter hold under, and pay the rent reserved to, the person making title to and recovering the land; but the possession *bona fide* acquired in none of the said cases shall be changed.

6. *And be it enacted*, That any foreigner may, by deed or will hereafter to be made, take and hold lands within that part of the said territory which lies within this State, in the same manner as if he was a citizen of this State, and the same lands may be conveyed by him, and transmitted to, and be inherited by, his heirs or relations, as if he and they were citizens of this State: *Provided*, That no foreigner shall, in virtue hereof, be entitled to any further or other privilege of a citizen.

7. *And be it enacted*, That the said commissioners, or any two of them, may appoint a clerk for recording deeds of lands within the said territory, who shall provide a proper book for the purpose, and therein record, in a strong legible hand, all deeds duly acknowledged, of lands in the said territory, delivered to him to be recorded, and in the same book make due entries of all divisions and allotments of lands and lots made by the commissioners in pursuance of this act, and certificates granted by them of sales, and the purchase money having been paid, with a proper alphabet in the same book of the deeds and entries aforesaid; and the same book shall carefully preserve, and deliver over to the commissioners aforesaid, or their successors, or such person or persons as Congress shall hereafter appoint; which clerk shall continue such during good behavior, and shall be removable only on conviction of misbehavior in a court of law; but before he acts as such, he shall take an oath, or affirmation, well and truly to execute his office, and he shall be entitled to the same fees as are or may be allowed to the clerks of the county courts for searches, copying, and recording.

8. *And be it enacted*, That acknowledgments of deeds made before a person in the manner and certified as the laws of this State direct, or made before and certified by either of the commissioners, shall be effectual; and that no deed hereafter to be made of or for lands within that part of the said territory which lies within this State, shall operate as a legal conveyance; nor shall any lease for more than seven years be effectual, unless the deed shall have been acknowledged as aforesaid, and delivered to the said clerk to be recorded within six calendar months from the date thereof.

9. *And be it enacted*, That the commissioners aforesaid, or some two of them, shall direct an entry to be made in the said record book of every allotment and assignment to the respective proprietors, in pursuance of this act.

10. *And*, for the encouragement of master builders to undertake the building and finishing houses within the said city, by securing to them a just and effectual remedy for their advances and earnings, *Be it enacted*, That for all sums due and owing, on written contracts, for building any house in said city, or the brick work, or carpenters' or joiners' work thereon, the undertaker, or workman, employed by the person for whose use the house shall be built, shall have a lien on the house and the ground on which the same is erected, as well as for the materials found by him; provided the said written contract shall have been acknowledged before one of the commissioners, a justice of the peace, or an alderman of the corporation of Georgetown, and recorded in the office of the clerk for recording deeds herein created, within six calendar months from the time of acknowledgment as aforesaid; and if, within two years after the last of the work is done, he proceeds in equity, he shall have remedy as upon a mortgage; or, if he proceeds at law within the same time, he may have execution against the house and land, in whose hands soever the same may be; but this remedy shall be considered as additional only, nor shall, as to the land, take place of any legal incumbrance made prior to the commencement of such claim.

11. *And be it enacted*, That the treasurer of the Western Shore be empowered and required to pay the seventy-two thousand dollars agreed to be advanced to the President by resolutions of the last session of Assembly, in sums as the same may come to his hands, on the appointed funds, without waiting for the day appointed for the payment thereof.

12. *And be it enacted*, That the commissioners aforesaid for the time being, or any two of them, shall, from time to time, until Congress shall exercise the jurisdiction and Government within the said territory, have power to license the building of wharves in the waters of the Potomac and the Eastern Branch, adjoining the said city, of the materials, in the manner, and of the extent, they may judge durable, convenient, and agreeing with general order; but no license shall be granted to one to build a wharf before the land of another, nor shall any wharf be built in the said waters without license as aforesaid; and if any wharf shall be built without such license, or different therefrom, the same is hereby declared a common nuisance; they may also, from time to time, make regulations for the discharge and laying of ballast from ships or vessels lying in Potomac river, above the lower line in said territory and Georgetown, and from ships and vessels lying in the Eastern Branch; they may also, from time to time, make regulations for landing and laying materials for building the said city, for disposing and laying earth which may be dug out of the wells, cellars, and foundations, and for ascertaining the thickness of the walls of houses, and to enforce the observance of all such regulations, by appointing penalties for a breach of any one of them, not exceeding ten pounds current money, which may be recovered in the name of the said commissioners, by warrant, before a justice of the peace, as in case of small debts, and disposed of as a donation for the purposes of the said act of Congress; and the said commissioners, or any two of them, may grant licenses for retailing distilled spirits within the limits of the said city, and suspend or declare the same void; and if any person shall retail or sell any distilled spirits, mixed or unmixed, in less quantity than ten gallons to the same person, or at the same time actually delivered, he or she shall forfeit for every such sale three pounds, to be recovered and applied as aforesaid.

13. *And be it enacted*, That an act of Assembly of this State, to condemn lands, if necessary, for the public buildings of the United States, be and is hereby repealed.

6th CONGRESS.]

No. 142.

[2d SESSION.]

## BOOKS AND PAPERS DESTROYED BY FIRE IN THE WAR OFFICE, IN 1800.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 17, 1801.

WAR DEPARTMENT, February 12, 1801.

The acting SECRETARY FOR THE DEPARTMENT OF WAR, in obedience to the direction of the House of Representatives, expressed in their resolution of the 2d instant, that he "communicate to the House such information as may be in his power in relation to the destruction of the books and papers in that Department by fire; designating particularly what description of books and papers has been lost thereby, and what the probable effect of such loss will be in the adjustment of the unsettled accounts of the United States," respectfully reports:

That he has very little doubt that the fire which, on the evening of the 8th of November last, entirely destroyed the house then occupied by the Department of War, was communicated from the adjoining house, as it was first discovered in the library, which was arranged against the partition wall directly behind the fire-place of that house, and at the distance of the whole width of the house (twenty-five or twenty-six feet) from the only fire-place in the apartment; in which last fire-place a fire had not been made on that day or for upwards of three weeks immediately preceding.

That the rapidity, with which a large library extended the flames, on the admission of fresh air into the room, entirely precluded the possibility of saving any books or papers that were deposited on the second or third floor; the whole of the former, and one apartment on the latter, then being occupied as the Secretary's office.

That not a book or paper of the office was saved, except one volume, in which the contracts and deeds for lands sold to the United States were recorded. This had been taken into the Accountant's apartments, on the ground floor, in the morning, for the adjustment of some accounts, and was saved, with his books and papers which were in those apartments.

That, immediately after the fire, measures were taken to secure a renewal of the most necessary and important documents in all possible cases. That the lists of invalid pensioners have already been renewed, and sundry communications of importance from the Department returned and copied. That additions to these are still making, and that the examination of the claims to land for services in the Virginia line on continental establishment, as directed by law, though now suspended, is expected soon to be in the usual state of progression.

That the library, which was entirely destroyed, was extensive, and contained many military works of celebrity, which it is scarcely expected can be replaced. In order, however, to effect so desirable an object as far as may be, the Secretary has added a proportionate sum to the estimated appropriation for the present year for the purpose.

That of the claims for continental military bounty lands, the entries of which were, by the act of 2d of March, 1799, limited to the 1st day of January, 1802, many still remain unsatisfied. That, from the manner in which the grants were made, the checks and books being all lost, a great difficulty will oppose the renewing issues of warrants for those lands. The Secretary has recommended to applicants that all claims be filed in the office before the day on which the above-mentioned limitation will take place, in order that the examination of them may thereafter be made under such regulations as may be judged most proper to secure to the claimants their lawful rights, and protect the United States as much as possible from fraud and imposition.

That it is not presumed that any consequences to affect the adjustment of unsettled accounts will follow from the loss of the papers of the Secretary's office, the original directions for expenditures being, it is supposed, to be obtained on the exhibition of the accounts growing from them; and it is not probable that any material injury will result from the losses sustained in the Accountant's office; the specification of which, with the remarks of the Accountant thereon, follows, viz:

*Relating to the accounts of the old army.*

Several cases containing muster and pay-rolls; others containing accounts and vouchers of sundry paymasters and agents for paying troops; and one case containing individual settlements made by the late paymaster general and commissioner of army accounts.

These papers could only be of use in the examination of claims for services prior to the establishment of the present Government, which, if not already settled, are all barred and foreclosed by acts of limitation. The loss will, therefore, not materially affect the unsettled accounts of the United States.

*Relating to services and supplies under the present Government.*

William Colfax's accounts, as contractor for the State of New York, from the 1st of January to the 31st of December, 1799.

Robert Ball's accounts, as contractor for North Carolina, for supplies furnished in 1799 and 1800.

These accounts had been examined, and the balances ascertained, but had not been entered on the principal books, owing to differences in the statements of the claimants and those made at this office, of which they had been informed, but had not finally removed the objections. No material inconvenience, it is thought, will arise from the loss of those accounts.

William Colfax & Co.'s accounts, as contractors for the States of New York, Massachusetts, Rhode Island, and Vermont, from the 1st of January to 31st of December, 1800.

This account had not been examined; the amounts are, therefore, only known from the claimants' own statements when they were rendered. It is therefore thought that no settlement can be made until a principle shall be fixed for the settlement of accounts in this situation.

Nathan Starr's accounts, as contractor for furnishing swords, belts, and scabbards, per contract in 1779.

This account had not been examined, owing to a want of vouchers. It is probable that duplicates of the accounts can be furnished, and that no inconvenience will arise in the settlement.

Part of the vouchers belonging to the paymaster general's accounts.

Some of the muster and pay-rolls of this account were lost, but they can all be replaced. No inconvenience but that of having copies made from duplicates in the possession of the paymaster general will arise.

All which is respectfully submitted.

SAMUEL DEXTER,  
*Acting as Secretary of War.*

6th CONGRESS.]

No. 143.

[2d Session.]

## OFFICIAL CONDUCT OF THE GOVERNOR OF THE MISSISSIPPI TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1801.

Mr. CHAUNCEY GOODRICH, from the committee appointed to inquire into the official conduct of Winthrop Sargent, Governor of the Mississippi Territory; and to whom also was referred the petition of Cato West and others, made the following report:

In the above-mentioned petition, the administration of Governor Sargent is criminated on the grounds of improper and arbitrary misbehavior; of an unconstitutional exercise of the legislative authority by the Governor and judges, and of unlawful exactions of office fees.

First. Of improper and arbitrary misbehavior.

As the particular instances and acts of improper and arbitrary misconduct imputed to Governor Sargent are not specified, nor evidence adduced whereby to verify the general charges alleged against him, your committee have not been able to investigate them. Such papers relative thereto as have come to their possession accompany this report.

Second. Of an unconstitutional exercise of legislative authority by the Governor and judges.

On this point it is alleged that the Governor and judges have *made* and *published laws not derived from the codes of the original States*.

By Governor Sargent this fact is admitted.

The President of the United States, by the act entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory," was empowered to establish there a Government, in all respects similar to that exercised in the Territory northwest of the river Ohio, excepting and excluding the last article of the ordinance made for the government thereof by the late Congress, on the 13th of July, 1787.

In the ordinance referred to in the aforesaid act, are the following clauses:

"The Governor and judges, or a majority of them, shall *adopt* and *publish* in the district, such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time; which laws shall be in force in the district until the organization of the General Assembly, unless disapproved by Congress; but afterwards, the Legislature shall have authority to alter them as they shall think fit. The Governor for the time being shall be commander-in-chief of the militia; appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress. Previous to the organization of the General Assembly, the Governor shall appoint such magistrates and other civil officers in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the General Assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said Assembly; but all magistrates and other civil officers not herein otherwise directed, shall, during the continuance of the temporary Government, be appointed by the Governor. For the prevention of crimes and injuries, the laws to be *adopted* or *made* shall have force in all parts of the district; and for the execution of process, criminal and civil, the Governor shall make proper divisions thereof; and he shall proceed, from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships; subject, however, to such alterations as may thereafter be made by the Legislature."

Your committee are of opinion that the legislative power of the Governor and judges, by virtue of the above-mentioned ordinance, is restricted to the *adopting of laws from the codes of the original States*, and cannot be extended to the *making or enacting of laws not derived from those codes*.

It appears to your committee, that the Governor and judges of the Mississippi Territory misconceived the nature and extent of their authority in this particular. Justly to appreciate their motives, it is essential to state the principles on which they have acted. By them, the ordinance appears to have been understood as vesting in the Governor and judges a plenary legislative authority. Governor Sargent justifies its exercise on the ground of construction, and of the principle being avowed and acted on by the Governor and judges, in *making laws* in the Northwestern Territory; and its being impliedly if not directly sanctioned by Congress. In his letter of the 15th of June, 1800, to the Secretary of State, he observes, "upon the subject of *making or adopting laws*, I have written you largely heretofore. It is not necessary to repeat my own opinions; many letters in your office evince my anxiety to have possessed the codes of the original States. We began by legislating, however, with the laws of the Northwestern Territory; they had been long subject to the disapprobation of the honorable Congress; and daring not to doubt their intention, we believed them good. We have uniformly continued, however, to declare our willingness to receive and respect authenticated information for the quiet and interests of this people." In another letter, of the 25th of August, 1800, to the Secretary of State, (already communicated to the House) he observes, "the honorable Mr. Davis seems to have been at much trouble to establish what the Governor and judges are very willing to admit, 'that they have made laws.' As Secretary of the Northwestern Territory, and vested with the powers of the Governor, I fully concurred with the judges that we were a complete legislative body. We never hesitated to manifest this to Congress; and the laws by Governor St. Clair, the Judges Parsons, Symmes and Varnum, enacted as early as 1788, demonstrated that such also was their opinion. I solemnly deny to have acknowledged (as Mr. Davis asserts I have) a deviation from the ordinance of Congress in the thus enacting of laws; for the ordinance, in my acceptance thereof, tolerates so doing; in strong presumptive proof of which, I shall offer, as the honorable Mr. Davis and myself seem to have so differently read the same, that the laws which were regularly transmitted to the General Government, in one solitary instance only were disapproved; thus evidencing their perfect coincidence in sentiment with us upon this very important subject. As a further proof of their will and pleasure that we should 'make laws,' they have enacted, nearly in the words following, 'that the laws of the Territory that have been, or hereafter may be enacted by the Governor and judges,' &c.; and again, that the Governor and judges shall be authorized to repeal their laws by them made, whenever the same may be found to be improper."

With respect to the practice which Governor Sargent alleges obtained with the Governor and judges of the Northwestern Territory on this point, your committee are informed, that at their first meeting in 1788, a difference of sentiment arose between the Governor and judges on this subject; they asserting, and he denying, the power of the Legislature to make laws not derived from the codes of the States. After protesting against the assumption of that power, the Governor yielded to the opinion of the judges. The subject was again resumed in 1795, when the Governor published his correspondence with the judges, showing his disapprobation of the principle of making laws; on their part, the then judges also published the reasons and grounds of their opinion and conduct in making laws.

The Governor again yielded to that opinion, and from time to time, till the second grade of Government was established, the Legislature enacted laws not derived from the codes of the States.

The laws of that Territory being voluminous, a complete set whereof is to be had for examination only, in the office of the Secretary of State, your committee have not been able, from their own inspection, to ascertain how far the practice of making laws obtained, or how constantly it was adhered to in successive periods, as the judges have succeeded to each other. They find that several of the laws passed before the year 1795 were not taken from the statutes of either of the States. Mr. Wagner, clerk in the office of the Secretary of State, who, at the request of the committee, has examined the laws of the Territory in reference to this point, certifies, "that he has examined the laws of the Northwestern Territory from the commencement of its legislation, to the 1st of August, 1792, but it does not appear, from the face of them, which, or what parts of them have been adopted from the codes of the original States, or have been originally made by the Legislature of that Territory." How far, therefore, they have been mere adoptions from those codes, can only be established by comparison. That is not the case with respect to the printed laws of the Territory, published since May, 1795, in which they are invariably stated in their titles to be *adopted* laws, except in the instance of repealing laws; to pass which, the Governor and judges were expressly authorized by the act of Congress of the 8th of May, 1792, and except a law in addition to a law, entitled a law ascertaining the fees of the several officers and persons therein named, published at Cincinnati on the 1st of May, 1798, by Winthrop Sargent, acting as Governor, and John Cleves Symmes, Joseph Gilman, and Return J. Meigs, judges, which is not stated to have been adopted. Your committee further find, that on the 21st day of January, 1794, the President of the United States laid before the two Houses of Congress a copy of such laws of the Territory of the United States northwest of the river Ohio, as had been passed from July to December, 1792, inclusive; that on the 21st day of April, 1794, they were, by order of the House of Representatives, referred to a special committee, who, on the 24th day of May, 1794, among other things, reported, that on examination of the said laws, they found many of the provisions contained in them objectionable, but that they conceived it would be immaterial for them to detail the particular objections, as one applying to the whole of said laws afforded, in their opinion, sufficient reason for disapproving them. That those laws appeared to have been passed by the secretary and judges, on the idea, that they were possessed generally of legislative power, and have not, in whole or in part, been adopted from laws of the original States; that on the 12th of February, 1795, an engrossed resolution, in the form of a concurrent resolution of the two Houses, disapproving all those laws except one, was agreed to by the House of Representatives and sent to the Senate. In the Senate, on report of a special committee, the resolution was disagreed to. The consideration of those particular laws does not appear to have been resumed.

In a letter of Governor Sargent's to the Secretary of State, dated Mississippi Territory, January 15, 1799, he writes: "the judge's arrival gives us to legislate; it was most essential, and we will set about it without delay, though with much regret on my part at the want of the laws of the several States, as we must be compelled to form our code from the volumes of the Northwestern Territory, which I by no means can be induced to believe a very good basis."

And in another letter of the 13th of March, 1799, he writes to the Secretary of State: "I have already advised you of the arrival of Judge Tilton, and, in consequence, we are at length legislating; but destitute of the laws of the several States, we necessarily *make* instead of adopting them; the right to do which has heretofore been a question. Very diffident of my own law knowledge, I feel extremely anxious for the presence of Judge McGuire, who, I am taught to believe is a great professional character."

Third. Of unlawful exactions of fees for official acts.

The fees alluded to are for passports granted to persons travelling from the Mississippi Territory to other parts of the United States, through the Indian country, and on marriage and tavern licenses.

Governor Sargent acknowledges his having received fees of the above description. He justifies the practice on the principle of those acts being extra from the duties of the Governor's office, and also of precedent in the Northwestern Territory, known, as he presumes, for a long time, to the General Government.

A law of the Mississippi Territory, entitled a law to regulate taverns and retailers of liquors, and concerning Indians, allows to the Governor a fee of eight dollars on a tavern license, which with a like fee on marriage licenses, Governor Sargent has received. The amount of the fee on passports is unknown to the committee.

By a law of that Territory, fees are allowed to the judges, on certain processes and official acts.

It is understood, that for a course of years, the Governor of the Northwestern Territory has been in the practice of receiving four dollars on marriage licenses, and one guinea on tavern licenses. Laws have also been there passed, allowing to the judges fees on processes and official acts, and compensation for travelling expenses; one of which was among the laws disapproved by the before-mentioned resolution of the House of Representatives, which was disagreed to by the Senate; the other purports, on the face thereof, to have been adopted from the New York and Pennsylvania codes. Both of those laws were passed by Governor Sargent, when secretary, and acting as Governor of the Territory.

The act of Congress, authorizing the establishment of a Government in the Mississippi Territory, provides that the officers therein shall receive the same compensation for their services, to be paid in the same manner, as is by law established for similar officers in the Territory northwest of the river Ohio, and the powers, duties, and emoluments of a Superintendent of Indian Affairs for the southern department to be united with those of Governor.

To the Governor of the Northwestern Territory, for discharging the duties of that office and those of Superintendent of Indian Affairs, is allowed an annual salary of two thousand dollars, and to each of the judges eight hundred dollars.

As the Governor and judges of the Territorial Governments are officers of the United States, with annual salaries fixed by the laws of Congress, their exacting and receiving fees, as before stated, cannot be otherwise considered than as an abuse which ought to be corrected.

Although the committee find cause to notice as irregularities, in Governor Sargent's administration, the making laws not derived from the codes of the original States, and also his receiving fees for certain official acts, yet it appears satisfactorily to them, from the circumstances under which they took place, that those irregularities originated from incorrect and misconceived opinions respecting the extent of his powers, and not from impure or criminal intentions.

They therefore respectfully submit to the consideration of the House the following resolution:

*Resolved*, That there does not appear cause for further proceedings on the matters of complaint for mal-administration against Winthrop Sargent, as Governor of the Mississippi Territory.

SIR:

MISSISSIPPI TERRITORY, August 25, 1800.

In consequence of proceedings in the national House of Representatives, tending to implicate the Governor and judges of this territory, unofficially communicated from the Department of State, I took leave to address the

then Secretary, in a long letter, bearing date the 15th June, to exculpate, defend, and justify our aspersed conduct. Since that period there has come to my view, through the medium of the public prints, a resolution of the House of Representatives, for disapproving so much of two of our laws as authorizes certain fees to myself and their honors; with notice that the consideration thereof had been postponed by the wisdom and justice of the honorable Senate.

In a public paper styled the True American, and printed at Philadelphia upon the 15th of May, we observe an extraordinary motion, and a more extraordinary preamble, to have been made on the preceding day by the honorable Mr. T. T. Davis, and such as the most rigid justice should not have dictated, but upon fullest proof of foulest deeds. To the distinguished sympathies and candor of Messrs. Harper, Craik, Nott, and Griswold, we stand indebted for reminding gentlemen that "the accused had no opportunity of answering to the very serious charges contained in the honorable Mr. Davis's preamble; that, if the censure was just, impeachment ought to be obtained by other means," more equitable, more ingenuous, and less dishonorable, they might well have added: and for impeachment, conscious we have discharged our duties according to honor and to conscience, we stand prepared; persuaded always that the tenure of public commissions, under the American Government, rests not upon their forfeiture.

Whether we may be indulged with the privilege of being heard is yet a question. Upon most of the allegations so odiously blazoned in the preamble of the honorable Mr. Davis, I have, I fondly trust, so fully expressed myself as at least to suspend sentence of public condemnation; and, ere another session of Congress, gentlemen who may seek truth, shall find fullest conviction that we have been most barbarously abused and vilified: for my own part I have already thrown the gauntlet, and defy the most insidious as well as active malice to establish—

That I have "acted under the influence of a faction, or pursued the principles of despotism, in excluding from my confidence a majority of the well-disposed citizens."

Or, that I have "indulged an unwarrantable distrust of the great body of this people, and appointed over them, to offices civil and military, persons obnoxious for their intrigues and foreign influence." I deny that I have "practised an avarice, extortion, or any oppressive measure," as has been ascribed to me by the honorable Mr. Davis.

Fees warranted by a law predicated upon long-continued practice of the Northwestern Territory, and which had received the approbation of Congress, we have sometimes demanded, with this very essential difference, however, and as is in some measure stated in my last letter: that there the Governor and Judges have actually exacted fees for services expressly required by the ordinance under which they were appointed; whilst in this Territory (as it respects myself, this is most confidently asserted) they have been received for such only as seemed extra.

Judges in the Northwestern Territory are allowed, by law, a reimbursement of all expenses of themselves and servants in going the circuits to hold the courts. They have also fees for allowing writs of error, supersedeas, for taking bail, filing bail-pieces, and all the et ceteras for which the honorable Mr. Davis has so zealously assayed to attach odium to the judicial character within this Government. The honorable Congress could not have been un-informed thereof, for the laws and records in point had been officially transmitted by myself as secretary, consequently, long ere the practice of exacting fees could have been adopted into the United States' Mississippi Territory; granting then, sir, for a moment, the exacting of fees to be wrong, should not manly candor have dictated that the example of an older colony, so long and so strongly sanctioned by the very highest authority we under God can know, might in justice have been accepted as an apology, and we humanely spared the cruel mortification of suffering the hard, the intemperate language with which we have been assailed in the face of Congress, our friends, and the world?

The privilege of gentlemen tolerating full freedom of speech does not warrant indecorum, nor can any power, I humbly conceive, command my tacit acknowledgment of the "avarice and extortion" ascribed to me by the honorable Kentucky member. Though constrained always to rigid economy by the hard service of my country, I acknowledge not to have practised "avarice or extortion."

A soldier of the revolutionary war, I retired not from the field till the close thereof; and it may be remembered by some of the veteran comrades in those days of peril, and who have witnessed the whelming calumny so unjustifiably attached to my humble name, that bread and fame were our sole reward.

In civil life, of the ten years that the Government of the Northwestern Territory had been established, ere I was commanded to this country, the arduous and complicated duties of Governor and Secretary, with the accumulated expenses of both offices, were mine to discharge, and without further public provision than the small stipend allowed the Secretary.

By statements made to the honorable Congress in 1796, for a compensation which is yet withheld, it will appear that my expenses were necessarily very considerable, the salary small, and that there were none of the operating motives for an avaricious man to have continued in office; that reputation, a good name, must have been the grand desideratum. Offices in your Western country were long acknowledgedly the posts of danger; hence, perhaps, their tenure undisturbed: but gentlemen read in the history of the sufferings and peril of those days, a just and a grateful country, cannot hastily prostrate servants grown gray in hardihood and toil.

The honorable Mr. Davis seems to have been at much trouble to establish what the Governor and judges are very willing to admit, "that they have made laws." As Secretary to the Northwestern territory, and vested with the powers of the Governor, I fully concurred with the judges that we were a complete legislative body. We never hesitated to manifest this to Congress, and the laws by Governor St. Clair, the Judges Parsons, Symmes, and Varnum, enacted as early as 1788, demonstrated that such was their opinion also; but I solemnly deny to have acknowledged (as Mr. Davis asserts I have) a deviation from the ordinance of Congress, in the thus enacting of laws; for the ordinance, in my acceptance thereof, tolerates so doing: in strong presumptive proof of which I shall offer, (as the honorable Mr. Davis and myself seem to have so differently read the same,) that the laws which were regularly transmitted to the General Government, in one solitary instance only, were never disapproved; thus evidencing their perfect coincidence in sentiment with us upon this very important subject. As a further proof of their will and pleasure that we should "make laws," they have enacted nearly in the words following:

"That the laws of the Territory that have been or hereafter may be enacted by the Governor and judges," &c.; and again, "that the Governor and judges shall be authorized to repeal their laws by them made, whenever the same may be found to be improper."

Whence we certainly may take leave to infer our most incontestable right to the so very essential and salutary measure of enacting as well as adopting laws for common good; and further, that we shall stand exonerated, in the minds of the virtuous and the wise, from even the intention of exercising that "most dangerous assumption of power," so unadvisedly ascribed to us by the honorable Kentucky member.

Amongst the rolls in the office of the territorial secretary, we are ingenuously to acknowledge a law for the punishment of arson, that seems to have escaped the watchful eye of the honorable Mr. Davis, and which, together with the statute against treason, are, in our view, alike exceptionable. No legal decision or proceedings, however,

have been had thereupon; nor will the judges, I persuade myself, ever designedly transgress the sacred rules of our more respected constitution. But so much has already been said upon this unpleasant theme, without anticipating opprobrious misconceptions of our intentions, and which appears in my address to the Legislature of the 5th of May, in your office, that no more explanation or comment can be now necessary. In any formal investigation, I hope to demonstrate that the original of the laws (our great anxiety to disseminate hastily sent to the printer) was unexceptionable in matter; but that we have been inadvertent in our signatures to the rolls cannot be denied; an act acknowledgedly hostile to the constitution, though we have the consolation to believe it has operated no evil. For my own part, however, I claim no indulgence in official transactions, and will await, in respectful submission, such censure as may be deemed proportionate to the magnitude of my transgression; but, when it shall be mercifully considered that the law for the punishment of arson in the Northwestern Territory, subject to the same constitutional objections with any of the statutes of this Government, had been ten years before Congress at the time we adopted it, (and never disapproved,) it must be received as an extenuation of our crime.

There has been transmitted to the Department of State the copy of an appeal to the justices of Adams county, made immediately upon my receiving the reports of the committee of Congress, to whom had been referred the petition of Cato West, and certain letters of Narsworthy Hunter. The only matter therein which I then deemed of consequence enough to engage my special attention, and publicly demonstrate to be false, was Mr. Hunter's so positive declaration of my usurping the powers of the court, (their duty to hold sacred,) and with most nefarious and dishonorable intention.

My appeal is annexed to the letter of the 15th of June, before mentioned, but it was not until the 4th instant that the justices were in session, which necessarily delayed their response herewith transmitted, and which I respectfully solicit may accompany the petitions of Cato West and others, "as the natural and legitimate relatives of those documents," which the honorable Mr. Davis has proposed to lay before the President.

Under any other circumstances than a base impeachment of almost all the territorial officers, I could not myself announce to Congress that the "accredited agent" of those persons, "styling themselves a committee regularly chosen by the inhabitants of the Mississippi Territory," &c., stands convicted, to every man of mind, of malice, mischief, and falsehood; and, if words have meaning, that he is recorded in the honorable court of general quarter sessions of the peace of Adams county, in their August term, to the present people and posterity, as a most infamous liar.

The character of the members of this court generally is, I believe, less exceptionable than that of any other equal number of men within the Government; but they are sufficiently known to reject or confirm my estimation by the most abundant testimony.

The presiding justice is respectable for integrity, science, and wealth; with very conciliating manners, and an independence of sentiment most happily adapted to his public station. I shall take leave to enclose unto you his charge to the grand jury, in this same August term, adding my request that it may be brought to the view of Government to illustrate the reputation of accusers and accused, and for other purposes important to this Territory, whenever proceedings shall be continued under the petition of Mr. West and committee. The name of Mr. Hugh Davis in the list of magistrates will also be found in the Mississippi committee; this, and the character which I have drawn of the former, may seem incompatible. The motives for my own appointments I can explain, but not always the conduct of officers.

This Mr. Davis is the same gentleman I have quoted in my address of the 15th of June, as the "well-meaning member of the committee, obtaining a copy of a letter of the 20th of December, 1798, to the Secretary of State," and which he believed to have been by them most basely perverted. He has since communicated to me that the representations made in that letter of the sufferings of the inhabitants from the Indians, under Spanish and American government, then complained of by almost every man of my knowledge, and late presented as a grievance by the grand inquest, would have been stated to the General Government at that time as a wicked and abominable falsehood of the Governor; and that neither injury nor inconvenience from the Indians had ever been experienced by this people, but for his special opposition to the measure, made under the fullest impression of the justice and propriety of my statements, and which the committee had been constrained reluctantly to acknowledge. Facts, produced to them by Mr. Davis, had been too strong, and of too much publicity, to have escaped the notice of many of the members, and must induce a powerful presumption of more than want of candor upon the occasion.

The clerk, sheriff, and one of the justices, have transmitted to me some documents relative to the alarming depopulation said by Mr. Hunter to have taken place under Doctor White; the site of public buildings, "so marked by opposition to general opinion," and other matter, all which I take leave to submit as proper to be brought forward in future attention to the motion and preamble of the honorable Kentucky member.

My respected friend Colonel Clark, deceased, whose eulogium and worth have been so long and so well established, and whose situation as commanding the militia, and presiding in the courts of justice, rendered him more and better conversant in the administration of the Government than almost any other man within the Territory, sensibly impressed by the insults and injury offered to the Governor, and the country, devoted the last moments of a life, passed in honor, to the bearing strong testimony against that obloquy and odium which had been produced by the unprincipled clamors of malevolence.

Mr. D. Clark, a citizen of the Territory, nephew to the colonel, and inheriting his valuable possessions in this country, a gentleman long known and respected for his spirited and successful exertions in favor of our oppressed countrymen at Orleans, has obligingly committed to me his uncle's sentiments, addressed, and intended to have been directly communicated, it seems, to the honorable Mr. C. C. Claiborne, of Congress.

Testimony from characters so endowed as to command universal credibility, and so honorable to the administration of this Government, I shall certainly avail myself of. The letter, therefore, from Colonel Clark to Mr. Claiborne, and one from his nephew, (in connexion,) I respectfully solicit may be considered by the honorable Mr. Davis as true "relative documents" to the petition of Cato West, and transmitted to the President, or otherwise, as shall be deemed best for his so censorious motion and preamble.

The same reasons, sir, which induced my last long letter, have made me at this time thus immeasurably prolix, and I have again to pray your enduring patience. Once I would have deemed it an undue condescension to have brought forward voucher or collateral aid against more respectable men, than any enrolled in the list of those who are warring upon my fame; my own declaration I should have believed enough under any circumstances but formal impeachment. Wary, however, and apprehensive from late sufferings and persecution, I would guard against wiles, wickedness, and surprise.

The precedent of censure, and other uncommon proceeding upon "ex parte" evidence and statement, demand, on our part, more than ordinary circumspection. The attentions which have been bestowed upon the representations of the smallest and the least respectable part of this community I will venture to say has excited astonishment in the mind of almost every man within the Mississippi Territory. That Mr. West and signers of the petition to Congress were not even a moiety of the committee pretended to have been duly elected, is well known to themselves, and no secret within the Government.



The circular letter which Mr. Hunter states to Congress as originating this body, was an indecorous publication, dated upon the 6th of July, 1799, requesting meetings of the inhabitants in the several districts to elect members for a general convention. This letter, to use the language of respectable characters amongst us, was evidently intended to have been communicated to those only who had been loud in disaffection to the Government; "not general, but to be whispered to a few individuals only."

If the whole people of the Mississippi Territory could have been assembled, or a due proportion of character only, the late proceeding of Cato West and others would probably have been discountenanced in all its parts. This is not mere matter of opinion; for, in the January of 1799, the same was demonstrated by analogy. In a committee, who then petitioned Congress upon the subject of these lands, were some of the leading characters of Mr. West's party, assembled with the same views which they have of late accomplished; but the members who generally had been elected upon fair and honest principles, that is, after due and diffused notice, whose names are with Congress, and who probably were a representation of the will of the majority, curbed, with strong hand, the spirit of faction and intrigue.

Fourteen days only elapsed, from the notice contained in the letter before mentioned, to the time appointed for holding the election; a short period, indeed, considering the extent of our country, and the dispersed state of its inhabitants. Many respectable persons, indeed whole settlements, Tensaw and Tombigbee (now Washington county) not included, were without notice upon this important occasion; nor can I learn that in any one of the districts there was an assembly sufficient for much less interesting purposes than constituting delegates to a general convention.

In the town of Natchez, which comprehends an important part of respectable population, forty persons only assembled; a moiety of them are represented destitute of all visible property; people of any country, but never acknowledged to have been enrolled within this Territory. They chose two delegates; in the certificate of the election, however, the qualifications of the electors are candidly stated to have been problematical. One of the delegates, it is said, never attended the committee, and that the other, after in vain combating the violence of his proceedings, withdrew himself altogether. This is certain, that neither of their names are found affixed to the representations which have been published from this committee. By unquestionable authority I am informed that the principal inhabitants of the settlements of Big Black, and Bayou Pierre, in the upper county, were without notice of the district meetings; and that out of one hundred and forty free male inhabitants, who should have voted for delegates to this committee, twenty only attended; that their most weak and most abandoned characters were elected, amongst whom was one Robert Ashley, said to have fled from the justice of some of the Southern States, and who has been indicted within the Mississippi Territory for horse-stealing.

All this, and much more anecdote, as well as public history of and in relation to Mr. West's committee, was known to the respectable citizens of the Mississippi Territory; and the natural inference, "so just, so wise, and so wary a body as Congress, will not act upon such irregular, such partial proceeding," was the general sentiment, the general expression of the most worthy characters amongst us. Experience, however, has shown us, that conclusions, founded upon the intelligence of man, are too often fallacious. Abstract of all consideration merely personal, I must, sir, continue to view it as a very great misfortune that one party only should have been heard upon decisions so momentous to us all.

Information might have been had from sources disinterested, impartial, and of confidence; less intrusion and importunity upon the important time of Congress, (for the past, present, and to come,) with more tranquillity to this restive country, would probably have been the happy consequence.

General Wilkinson, it is believed, was at Philadelphia in time to have met inquiry; as an officer of rank and confidence, he was worthy to have been consulted; he had spoken and written honorably of the administration of this Government within my knowledge; he is conversant with men whom the people should have respected, and few of whose names are enrolled amongst our accusers. His testimony must have been favorable to the Mississippi territorial officers.

He could have informed Congress that we are unprepared for any accumulation of expense; that the statement of Mr. Hunter, of the wealth and numbers in this Government, is exaggerated; that we were so involved in debt as to have rendered interposition of the Spanish Government, between us and bankruptcy, absolutely indispensable; and that in Pickering county, where discontent with the present administration had originated, there were not enough of informed men to fill the present necessary offices of Government. It is my duty, however, to endeavor to conciliate all this people to the change which has been commanded, and I shall most religiously perform it.

With the sensibilities of a man wounded in his better, his immortal part—reputation, I have, sir, written much, but I feel much more.

Assailed violently by a party in this country, from motives probably most impure, and in manner and language which, I persuade myself, no gentleman shall ever cease to abhor, some unbecoming warmth of expression, some undue consideration of self may have escaped me; but that no indecorum to characters in that honorable House, so much my duty to respect, may be found on those, or any of my future pages, is the object of my most devout prayers. The honorable Mr. T. T. Davis, of Kentucky, seems to the Governor and Judges of the Mississippi Territory to have been unnecessarily severe.

Towards the former he has practised most wanton and unwarrantable cruelty. He has given publicity to one of his letters seemingly intended only for his constituents, but which has circulated in the Northwestern Territory, where my very interesting concerns, where almost all my pecuniary affairs are afloat, calculated evidently to impress the people with such sentiments as may do me irreparable injury. He has added insult to injury, by addressing to me directly a copy of this letter, from which the following is a verbatim exscript:

"A bill to authorize the Mississippi Territory to elect a Legislature of their own, and to take from their Governor the power of dissolving and proroguing them at pleasure, has passed the House of Representatives. The numbers in this Territory did not, according to the ordinance, entitle them to a Legislature, but to curb the usurpation of their Governor, to wit, Winthrop Sargent, Secretary to the Governor of the Northwestern Territory, Congress are inclined to grant them this extraordinary privilege; and much I fear this will not be sufficient to protect the people from the insolence of this Federal Governor, as he still retains the power of putting his veto on all their legislative acts."

I will conclude this long epistle, sir, in the words of a very celebrated poet—

*"Durum! sed levius fit patientia,  
Quicquid corrigere est nefas,"*

and subscribe myself, with every sentiment of most respectful consideration,

Your obedient and Government's faithful and zealous servant,

WINTHROP SARGENT.

The Hon. SECRETARY OF STATE of the United States.

*The charge delivered to the grand jury at the opening of the court of quarter sessions for the county of Adams, on the 4th inst., by the Hon. William Dunbar, presiding justice.*

GENTLEMEN OF THE GRAND JURY:

The court expresses great satisfaction at meeting a grand jury composed of such respectable persons now assembled for the discharge of its important duties towards our country.

It is with peculiar concern that this court has to lament, in the decease of its late able and worthy presiding magistrate, a loss which at this moment will be deeply felt. Gentlemen, you will undoubtedly mingle your griefs with ours in deploring a misfortune which this country was unprepared to sustain. Of all those gentlemen who have been honored with seats upon this bench, the late Col. Clark was perhaps the only person who possessed, from the experience of his earlier years, treasured up in a mind replete with native energy, a sufficient fund of knowledge to enable him to preside over this court with conscious dignity. Long will the community have cause to lament the departure of this able magistrate, whose every moment, while he resided in this place, was dedicated not merely to the discharge of his official duty, but the ardor of his mind was perpetually occupied in seeking occasions to correct vice and repress immorality, whether of a public or private nature, and with a truly paternal care sedulously watching over the peace and happiness of this vicinity. The human mind is so constituted, that, in order to discover the true value of an object, it would seem that it must first be lost; the public, therefore, will now begin to appreciate more justly the worth of this estimable character.

It has been said, with truth, that his brother associates relied on his perseverance, and would sensibly feel his loss; but, above all, this loss is most sensibly and severely felt by myself, who am now called upon with inferior talents and very limited experience to fulfil the important duties of his station in this court. If, in the infancy of our courts, this able magistrate thought it necessary to solicit the candor of his fellow-citizens, certainly I, whose education and pursuits of life have been altogether foreign to the modes of this court, have more abundant reason to entreat the indulgence of a generous public. The court is persuaded that if any deviation from technical rule should appear in the procedure of this court, it will be ascribed by our country to its true cause, and not to any deficiency in the virtuous wishes of its members to discharge with fidelity its duties in the public service.

Gentlemen, an important change has taken place in the form of our Government since the last meeting of this court. Congress, with great wisdom, considers all new colonies as in a state of infancy; and as they are insufficient for their own protection, so also they are supposed to be unqualified for their own government. Protection and obedience must always go hand in hand. Congress, therefore, sends forth her chosen and approved servants with ample powers to guide the inexperience of her younger sons, who are not permitted to have a voice in their own Government, for the same reason that the infant is not permitted to oppose the will of the parent. The peculiarity of our situation, and our great distance from the seat of the General Government, have, no doubt, induced the honorable Congress to relax from the general rule established for the government of Territories; for it is to be recollected that the settlers of a British province, older than the revolution, form the basis of the population of this Territory. It is true that accessions have been made to it by native Americans who have removed themselves during the war of the revolution, and in a time of peace since the conquest by Spain; but the mass of our population not resembling any American colony, it is probable that this Territory has been considered as an ancient settlement, entitled to earlier privileges than young colonies just emigrating from the bosom of the United States. It would seem that, with a view to facilitate the obtaining the consent of Congress, it has been stated that our population cannot be less than 6,000 free inhabitants, and that our annual revenue in cotton, at one quarter dollar per pound, amounts to 750,000 dollars. I do not know that any evil consequences can result from this exaggerated statement, excepting that, in the course of possible events, we may be called upon by Congress for a contribution towards the general defence of the Union; which probably would be demanded in the ratio of the above statement of 750,000 dollars. There are no data which have come to my knowledge, that would justify a calculation of half the above sum; and it ought therefore to be remembered that, at this early period, we refuse our assent to the above statement.

It may not be improper to say a few words upon the subject of another statement, in which it appears to me the honor of this court is implicated. This court has been called by the Governor of the Territory to declare whether it has been truly stated, that he, the Governor, did send to the first general court of quarter sessions of Adams county, for their sanction, an estimate of upwards of 10,000 dollars, which it is said the Governor thought necessary to be raised in that county. I answer, that no such statement was ever sent to this court by Governor Sargent. I have ever been astonished how such an absurd idea could get abroad. Those who affected to believe it, must have previously admitted the turpitude of this court; for certainly, as the law exists, it is not easy to conceive how the Governor could have hazarded issuing so extraordinary a mandate, unless he were well assured that this court was predisposed to be his obsequious and servile minions. I presume that I speak the general opinion, when I say that this court is composed of men possessing sound republican principles, and of independent fortunes, who court not the smiles, nor fear the frowns of any man, however exalted may be his rank in life. The more ample reply, with the statements requested by the Governor, will be referred to the consideration of my brother associates.

Let us hope, gentlemen, that, by the virtue of our citizens and the wisdom of our legislators, our new privileges will become a source of additional happiness and prosperity to this Territory. It is a pleasing presage of our improving manners and peaceful disposition, that the late elections for this county were conducted with so much order, harmony, and decency, greatly to the honor of both candidates and people; and I do most sincerely congratulate my country on this recent proof that party spirit is retreating from our land. It is a certain truth, that the interests of the citizens of this Territory, when properly understood, are one and the same, and ought to bind us to each other in a firm bond of union. It is grievous to all good men, when the demon of party spirit stalks over the land. It will be always found to originate with men of despicable talents, who despair, by other means, of raising themselves into popular estimation. Gentlemen, you cannot do a more acceptable office to your country than by carrying to your respective homes a spirit of conciliation, endeavoring to extinguish this pernicious principle which harasses the peace of society, and keeps asunder families whose mutual happiness and interest it is to live in harmony and in the exchange of good offices. Those who take a pleasure in broils, dissensions, and tumults, will counteract your virtuous endeavors, because their importance would be destroyed by your success; but if the worthy characters of the community could at length resolve to use their exertions, the fomenters of this malignant spirit would be compelled to hide their heads in the darkness of their evil designs.

Gentlemen, you are specially returned the grand inquest of the county, to inquire of all crimes and misdemeanors committed therein, and which are within the jurisdiction of this court to determine and sentence.

A crime or misdemeanor is defined to be "an act committed or omitted in violation of a public law, either forbidding or commanding it;" and this public law that is violated may be either the written statute or the common law of the land, which prohibits all offences of a public and evil example, and contrary to good morals. The jurisdiction of this court is limited by a statute of this Territory, and extends to all crimes and misdemeanors, of





*Ways and Means.*

Surplus of the tax for highways for the year 1799,	-	-	-	-	\$500
Tax on tavern licenses for 1799,	-	-	-	-	965
Tax on tavern licenses for 1800, estimated at	-	-	-	-	965
					\$2,430
To be raised from the county of Adams, for 1800,	-	-	-	-	\$670

Certified in court, the 4th day of August, 1800.

WILLIAM DUNBAR,  
THOMAS WILKINS,  
ABRAM ELLIS,  
JOHN COLLINS,  
HUGH DAVIS,  
WILLIAM KENNER.

I, Peter Walker, clerk of the court of general quarter sessions for the county of Adams, do hereby certify, that the persons whose names are above written are justices of the peace, duly commissioned and qualified, in and for the county aforesaid; and that they signed their names unto the original, of which the foregoing is a copy, in open court, the day and year above mentioned.

In testimony whereof, I have undersigned my name, this fifteenth day of September, one thousand eight hundred.

PETER WALKER, *Clerk of the Court of General Quarter Sessions.*

*Presentment of a grand jury, at the October term of the Supreme Court, Mississippi Territory, A. D. 1800.*

At a court of oyer and terminer, held at Natchez, for the county of Adams, on the 13th of October, 1800. The grand jury for the said county present:

1st. That it will be highly expedient to make an application to the Territorial Legislature, praying them to frame or adopt laws for the more summary trial of slaves than can at present be effected by the existing statutes of the Territory; from which may result a considerable saving in expense and time to the owners, as well as the exercise of humanity towards the slaves, by the speedy termination of the trials.

2dly. We present Hugh Davis, Esquire, a magistrate of this county, for having committed a breach of the statutes of this Territory, in defacing a record of the court of quarter sessions of this county, to wit, the certification of the court in consequence of an appeal, made by his excellency the Governor of the Territory, on the subject of certain statements made to the committee of Congress, by Narsworthy Hunter, on the 8th February, 1800, and the estimate of the probable expenses of the county of Adams, for the years of 1799 and 1800, by drawing a line through four words of said record, to wit, Hugh Davis, twice written, and ordering the printer not to insert said words, contrary to the instructions of the said court.

3dly. We present that Narsworthy Hunter has been guilty of composing and uttering a malicious, scandalous, and false libel against Winthrop Sargent, Esq., Governor of this Territory, as contained in a letter purporting to be addressed to the honorable W. C. C. Claiborne, chairman of Mississippi committee, dated 8th of February, 1800, in the words following: "The estimate annexed to the petition of Cato West and others, mentioned in your note, is not the amount of the tax laid on the county of Adams by a law of the Territory; but it appears to be the sum which the Governor thought necessary to be raised in that county, for the service of the last year, and it was sent by him to the first court of general quarter sessions, in order to receive the sanction of the court. This would give it immediate currency, and necessarily operate in aid of his future projects of taxation; but such a manifest prodigality of the public resources appeared upon the face of it, together with so marked an opposition to the public opinion, with regard to the place whereupon the public buildings were to be erected, that it received the immediate disapprobation of the court; and, I believe, a similar instrument was never presented to the county of Pickering;" and, also, a malicious and scandalous libel against the Governor and judges of this Territory, in their legislative capacity, contained in the aforesaid letter, in the words following, to wit: "The whole county were influenced by an idea that the ordinance for our Government had been wantonly abused, and the constitution of the United States as wantonly violated, at a time and under the circumstances which required no such sacrifice." Which said libels have direct tendency to expose them to public hatred, contempt, and ridicule, as also to disturb, in a violent degree, the peace and good order of society, by destroying that confidence so essential to the happiness of the people, which ought ever to subsist between them and their rulers; and by breaking down that respect which all ranks owe to those who are the guardians of our laws, may be productive of the worst of all human evils, the natural result of anarchy and unbridled licentiousness. The grand jury view, with horror, the late prevailing disorders of a most alarming nature which pervades the Territory, and which will always be the consequence of such crimes as have a manifest tendency to loosen the sacred bands that cement together the laws, the people, and their magistrates; for certainly, of all the most dreadful evils, that is the greatest which points out the means by which wicked men may resist and defeat the laws of their country, the consequences of which are too shocking to be here detailed. The grand jury expect, with confidence, that by the legal powers and influence of this honorable court, vigorous measures will be adopted to check the growing evils of our country, and, by the inflexible execution of the laws, we may be once more restored to peace, harmony, good order, and mutual confidence.

4thly. The grand jury are impressed with the fullest conviction that the second grade of Territorial Government is fraught with inconveniences which the good people of this Territory are not in a situation fully to encounter; they are persuaded, in particular, that the very considerable expense which will be occasioned by the new Legislature, superadded to the county levies, already a subject of complaint, will be beyond the ability of our limited population to support, without very sensibly feeling its detrimental effects in the diminution of their small revenues; thereby procrastinating the time of extinguishing the remains of long standing debts, and of enabling their families of enjoying, at an earlier period, a few of the comforts of life. They earnestly recommend to their fellow-citizens to reflect, whether it will not meet the general wish of the Territory, that application be made to Congress to suspend the operation of the supplemental act for establishing the second grade of Territorial Government until it shall be fairly established to be the wish and desire of the majority of our citizens, this privilege will not be denied to our citizens

which has been conceded to the new Territory of Indiana, whose inhabitants, deriving wisdom from two years' experience of the second grade of government, have found it their interest to repose entire confidence in the Legislature appointed by and under the control of the General Government, the people still retaining in their hands the power, which cannot fail to have a happy influence over their government, to wit, that of assuming the second grade whenever it shall be the will of the majority of their citizens. The grand jury have strong reasons to believe that the majority of our citizens will approve of postponing the operations of the second grade, under the above stated privilege of assuming it whenever they shall find it expedient. The grand jury think it, therefore, a duty to present, as a grievance, that the sudden and unexpected alteration in the government of the Territory, has been brought about by the industry of fifteen persons, part of a committee of thirty-five, irregularly chosen, at whose election not one-half of the inhabitants are supposed to have attended; and which election was held for the express purpose, as the people were informed by a hand-bill, not to demand a change of the former Government, but to obtain a redress of grievances; and consequently this important measure has been effected with the implied consent of less than one-quarter part of the citizens; or, more properly speaking, by the unauthorized agency of fifteen persons, composing the minority of the committee. The grand jury feel themselves forcibly compelled by their duty to add, that so great an alarm exists in the minds of the people, on the subject of taxation, that they are of opinion that, if the second grade of Government is not arrested in its present stage, and postponed until the population and finances of the Territory become adequate to the increased expense of that grade, a very great depopulation will be the inevitable consequence.

The grand jury return their thanks to the court for their excellent charge; they presume to hope, that the just sentiments therein expressed will make a happy impression on the minds of the people, contributing, with other means, to attain the desirable end so much to be wished by all good men.

WILLIAM GORD FORNAN, <i>Foreman</i> ,	F. ZERBAN,
THOMAS WILKINS,	HENRY TURNER,
WILLIAM DUNBAR,	CHARLES TODD,
DAVID FERGUSON,	JOHN MINOR,
GEORGE COCHRAN,	JOHN WILSON,
GEORGE OVERAKER,	BENJAMIN OSMUN,
J. HUTCHINS,	DANIEL DOUGLASS,
WM. SCOTT,	JAMES NICHOLSON,
	PHILANDER SMITH.

*Ordered by the court*, That process issue on the second and third presentments, on application of Lyman Hardin, Esq., Attorney General.

A true copy, test:

ROBERT STARK, C. S. C.

6th CONGRESS.]

No. 144.

[2d SESSION.]

BOOKS AND PAPERS DESTROYED BY FIRE IN THE TREASURY DEPARTMENT IN 1801.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1801.

SIR:

TREASURY DEPARTMENT, *February 23, 1801.*

In obedience to the resolve of the House of Representatives of the 2d instant, I have the honor of transmitting herewith the best information it is in my power to obtain, in relation to the destruction of official books and papers by the fire in the building occupied by the Treasury Department. To the enclosed statements from the other officers of the Department, I have the pleasure to add, that the books and papers belonging immediately to my office, with the exception of a few official letters and documents which can be replaced, have been preserved. It is not probable that any great public inconvenience will be the consequence of the unfortunate accident which gave occasion to the inquiry.

I have the honor to be, very respectfully, sir, your obedient servant,

SAMUEL DEXTER.

The Hon. the SPEAKER of the *House of Representatives.*

SIR:

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, *February 19, 1801.*

In reply to your letter of the 4th instant, I have the honor to inform you, that after a careful and diligent examination, it does not appear that any records or documents appertaining to this office are missing in consequence of the late fire, from which any loss can result to the public, or to individuals. One book, in which sundry forms prescribed by this Department are recorded, has not yet appeared, though, as its destruction is highly improbable, expectations are entertained that it will eventually be found: if it should not, it can be replaced with some labor.

I have the honor to be, sir, with great respect, your obedient servant,

JOHN STEELE.

The Hon. SAMUEL DEXTER, Esq.

*A list of books and papers destroyed or lost in the Auditor's Office, in consequence of the fire which took place in the Treasury, on Tuesday, the 20th of January, 1801.*

TREASURY DEPARTMENT, AUDITOR'S OFFICE, *February 19, 1801.*

1. The books containing copies of reports on all the accounts which have been adjusted since the establishment of the present Government, excepting those on the public debt funded at the Treasury, which being entered in a

distinct set of books, and kept in another room, were preserved. With the aid and expense of an extra clerk, the lost copies may be replaced, as the originals, with the statements and vouchers belonging to them, are deposited in the Register's office.

2. The books containing copies of various statements made by the Auditor and Accountants under the late Government. The originals of these are also in the Register's office, and new copies may be made from them, if necessary.

3. The ledgers and journals in which were entered the accounts settled by the late commissioner with the officers of the old quartermaster and commissary departments. The loss of these books adds to the difficulty of adjusting such of the accounts in these departments as remained open; but from the examination which had been made, the greater part were found so defective as to leave little hope of a satisfactory statement. Some of them, however, though not passed, have been stated as far as the materials would admit. It is believed that few, if any, of the papers are lost.

4. The books in which were entered the accounts of the late secret and commercial committee. The papers being safe, no great inconvenience will result from the loss of the books, as few, if any of the transactions of this committee remain unsettled.

5. A number of claims exhibited by individuals, for services or supplies during the late war. Most of these had been presented in the first instance to the State commissioners, and turned over by them to the Treasury. They had been all examined many years ago, and judged inadmissible; but as the register or list is gone with them, it is impossible to state the particular nature of each, or the names of the respective claimants.

6. An account rendered by the Bank of the United States, for the sale of 8 per cent stock, under the last act authorizing a loan. A duplicate of this may be obtained.

7. An account of Hazen Kimball for the contingent expenses of the Office of State, which had been examined and was ready for stating. The vouchers cannot be replaced, but the particulars may be had from a book in which they were regularly entered by Mr. Kimball.

8. An account of Thomas Claxton, as agent for furnishing the Capitol. The vouchers had been all examined and found right, but the statement suspended until he should also render his account for furnishing the President's house, with which it had some connexion.

9. The accounts and vouchers of Tench Francis, late purveyor of public supplies, for purchases from July 1, 1797, to the month of September, 1798, accompanied by a general account current, stated by his executors; in which they claimed a balance. The examination of these accounts was nearly completed, but the final settlement of them suspended from a wish to bring into view the balances for or against him with the Departments of War and Navy, with which his accounts were also in a course of settlement. Duplicates of the abstracts and (it is understood) of the vouchers also, can be furnished.

10. Three partial or subordinate accounts of Israel Wheelen, the present purveyor. Duplicates of all these have been already furnished.

11. The accounts of the following gentlemen, acting as agents for the commissioners of the direct tax, in their respective States:

Joseph Israel, Delaware; Nathaniel Gilman, New Hampshire; James White, Tennessee; Stephen Bayard, New York; Paul Zantinger, Pennsylvania; Thomas Davis, Massachusetts.

All these accounts, except the last, had been examined, and some of them, particularly the two first, would have been stated and passed the next day. The others were suspended, either for want of warrants, or some further explanation on particular points. As the vouchers, though much injured, are not entirely destroyed, it is probable that when they can be more thoroughly examined and properly arranged, they may be yet found sufficiently perfect to admit of settlement with at least some of the agents.

A few other accounts were also somewhat injured; but being still, however, in a state to be settled, a detail of them is deemed superfluous.

In addition to the foregoing, it is possible, and even probable, that in the course of business some other papers may be found missing, which are not recollected at this time; but none, it is believed, of much consequence.

R. HARRISON.

TREASURY DEPARTMENT, REGISTER'S OFFICE, *February 19, 1801.*

The REGISTER OF THE TREASURY, upon the communication of the Secretary of the Treasury, of the 4th instant, transmitting a copy of the resolution of the House of Representatives of the United States, of Monday, the 2d of February, 1801, begs leave to report:

That upon the alarm of the late fire in the house occupied by the Treasury Department, all the books and records of the United States appertaining to his office, and which were deemed of primary importance, were removed from the fire-proof rooms occupied by the Register; and that, upon their being replaced, it does not appear, after a minute examination, that any of the books and records of the United States in his possession at the time of the late fire sustained either injury or loss, excepting statements Nos. 8,961, 10,919, and 11,349, with their respective vouchers, which were in a part of the building exposed to the fire. The official reports upon those three statements having been preserved, and the accounts thereof closed in the Treasury books, it is presumed no injury can possibly arise from the want of those destroyed documents.

Respectfully submitted.

JOSEPH NOURSE, *Register of the Treasury.*

TREASURY OF THE UNITED STATES, *February 19, 1801.*

SIR:

In answer to your letter of the 4th instant, I can assure you that my office has not suffered any injury of the least consequence by the late fire.

I am, with respect, sir, your most humble servant,

SAMUEL MEREDITH, *Treasurer of the United States.*

SAMUEL DEXTER, Esq., *Secretary of the Treasury.*

TREASURY DEPARTMENT, REVENUE OFFICE, *February 13, 1801.*

Sir:

I have paid due attention to a notice from the House of Representatives, which you communicated to me on the 4th instant.

I have the satisfaction of assuring you that the books are all safe, and that I know of no paper missing from this office which can impede or in any manner affect the adjustment of the public accounts.

I am, with perfect respect, sir, your obedient servant,

WILLIAM MILLER, *Commissioner of the Revenue.*

The Hon. SECRETARY OF THE TREASURY.

Sir:

GENERAL STAMP OFFICE, *February 23, 1801.*

In obedience to your request and the resolution of Congress on the 2d current, I have the honor to report, that I have been fortunate enough to reclaim all the papers belonging to the General Stamp Office, of any consideration, and that the public will sustain no material injury in this office by the unfortunate fire.

I am, with the most perfect respect and esteem, sir, your most obedient and most humble servant,

JOSHUA JOHNSON, *Superintendent of Stamps.*

SAMUEL DEXTER, Esq., *Secretary of the Treasury.*

6th CONGRESS.]

No. 145.

[2d SESSION.

CITY OF WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1801.

Mr. GRISWOLD, from the committee who were appointed to inquire into the expenditure of money made by the commissioners of the city of Washington, the disposition of public property made by them, and generally into all the transactions of the commissioners which relate to the trust confided to them by the President of the United States, made the following report:

That the short period which has elapsed since they have been possessed of the documents relating to the transactions of the commissioners, the imperfect situation of those documents in several particulars, and the complicated nature of the inquiry, will prevent the committee from presenting to the House that full view of the subject which was desired. They deem, it, however, their duty to submit the result of their inquiry, so far as the same has been made.

By a general account of receipts and expenditures, hereunto annexed, it appears that the commissioners have expended more than one million of dollars on various subjects, which are partially detailed in that statement. Whether those expenditures have been made with economy, or not, it is not necessary for the committee to decide, as the House will possess the same information which the committee possess on this point. It may, however, be proper to remark that the principal objects of expense have been the Capitol, the President's house, and the two buildings erected for the accommodation of the Executive Departments; and that the situation of those buildings, being under the eye of every member of the Legislature, cannot want a particular description.

As large as these expenditures have been, it is understood that the accounts of the commissioners have not been regularly audited by any public officer, but have rested on their own statements.

By the report made by the commissioners to the President of the United States, and by him transmitted to Congress during the present session, it appears that the site of the city of Washington was conveyed by the original proprietors to certain confidential persons, in trust, for certain uses which were defined in the deeds delivered to the trustees, a copy of which is annexed to the commissioners' report; that the trustees have conveyed to the commissioners, for the use of the United States, agreeably to the provisions of those deeds, the building lots which belonged to the public, and were laid down on the plan of the city, but that the trustees have declined to convey the streets of the city and the public squares and other grounds designed and appropriated for public uses.

The committee have thought it their duty to ascertain the causes which induced the trustees to refuse their deeds of this part of the public property; and, without pronouncing whether the trustees have conducted correctly or not, they understand that the trustees claim that they held these lands as well for the benefit of the proprietors as for the public; that the price allowed to the proprietors for those squares and public grounds being comparatively small, it was expected that these grounds should forever remain unoccupied, except by necessary public buildings; that the areas which they furnished should remain open for general convenience, and thereby increase the value of the building lots, and particularly those lots which adjoined those public grounds; that, under these impressions, and after receiving a remonstrance from some of the proprietors, they deemed it proper, in faithfulness to the parties concerned, to require that, before they made a conveyance of this property, the principle should be settled that the public grounds should not, after the same were conveyed, be converted by the commissioners into building lots; that the commissioners, however, declined establishing that principle, and claimed the right of converting such parts of the public ground into building lots as should be afterwards judged proper. The trustees further state that the plan of the city has been varied more than once, and that some of the public grounds, which are delineated upon a plan which was engraven and circulated by the commissioners as a true plan of the city, and is now in the hands of the members of the Legislature, have since been surveyed by the commissioners into building lots; that, under these circumstances, the trustees did not believe that, in justice to the proprietors, they could convey these public grounds.

The committee have likewise understood that, in consequence of the contracts entered into with Morris, Greenleaf, and Nicholson, for the sale of a large number of the building lots belonging to the public, and the failure of payment on their part, and the subsequent transactions which have grown out of that contract, some doubts have been entertained respecting the titles to a considerable part of those lots. *These doubts*, whether well or ill

founded, must necessarily embarrass the sale of those lots, and ought, in the opinion of the committee, to be removed by a law of the National Legislature to establish titles both in law and chancery, where lands shall be re-sold, under proper regulations, to raise the purchase money which shall fall due from the first purchaser.

The commissioners undoubtedly possess much better means of judging of the value of the building lots belonging to the public than the committee; but it could not escape the observation of the committee that the actual sales which have been made for cash since the board of commissioners was established cannot, in their opinion, support the estimate which the commissioners have made of this property; and, whatever may be the product of sales hereafter, the committee believe that the Government cannot rely upon that fund for completing the objects which the Legislature may deem necessary for the accommodation of the Government.

The view which the committee have taken of this subject has been necessarily imperfect, but it has satisfied them that, as the Executive Departments of the Government are now established at the city of Washington, the expense of the board of commissioners may very well be saved; that the business of that board may with propriety be transferred to the Treasury Department; and that it will be proper to require that the commissioners account with the accounting officers of the Treasury for the moneys received and expended by them.

The committee likewise believe that a plan of the city of Washington ought to be prepared, and, at the next session of Congress, to receive the sanction of the Legislature, and means taken to obtain from the trustees a deed of the streets and public grounds, conformably to such plan, for the use of the United States; and that a law ought to pass for quieting titles in the District of Columbia, by authorizing the sale of lands contracted to be sold where the purchase money shall not be paid within the time limited for payment.

Conformably to the opinions herein expressed, the committee respectfully submit to the House the following resolutions:

*Resolved*, That a committee be appointed to prepare and report a bill to abolish the board of commissioners of the city of Washington, and to direct that the business of that board be transferred to the Department of the Treasury.

*Resolved*, That a committee be appointed to prepare and report a bill directing the Secretary of the Treasury, under direction of the President of the United States, to prepare a plan of the city of Washington, delineating the streets, squares, and public grounds therein, and to report the same to Congress, in December next.

*Resolved*, That a committee be appointed to prepare and report a bill to authorize the sale of lands in the District of Columbia, under proper regulations, to raise the moneys which may at any time be due and unpaid on contracts for the sale of such lands.

Account of receipts and expenditures by the commissioners of the city of Washington, District of Columbia, from the time of their appointment to the 18th of May, 1796; since which day accounts have been rendered half yearly.

Dr.

Cr.

332	RECEIPTS.	Amount received.	EXPENDITURES.	Amount, 1791.	Amount, 1792.	Amount, 1793.	Amount, 1794.	Amount, 1795.	Amount between 1st Jan 1796, and 18th May, 1796.	Total amount.
	\$ Donation by the State of Virginia,	\$120,000 00	Capitol, - - - - -	-	-	\$8,950 71	\$25,857 86	\$61,101 16	\$9,456 20	\$105,365 93
	Donation by the State of Maryland,	72,000 00	President's house, - - - - -	-	\$4,926 30	19,716 33	37,209 16	42,230 12	8,431 66	112,513 57
	Sales of lots, - - - - -	179,109 91	City of Washington, (see note, next page,) - - - - -	-	7,427 80	5,624 88	4,930 97	5,106 81	3,007 87	26,098 33
	Loan from the Bank of Columbia,	30,000 00	Commissioners' office, - - - - -	-	-	83 78	278 36	7,645 04	3,536 37	11,543 55
	Leonard Harbaugh, refunded by him for part of the cost of the stone bridge over Rock creek, in consequence of defective work,	600 00	Surveying department, (see note, next page,) - - - - -	-	164 67	12,344 32	5,624 85	5,002 03	909 66	24,045 53
	John Dobson refunded, for part of sums advanced to him as a contractor for doing freestone work at the Capitol, - - - - -	1,810 81	Hospital for sick laborers, - - - - -	-	-	-	673 44	844 69	313 34	1,831 47
	Materials sold, which were unfit for use, or not wanted for the public buildings, - - - - -	917 62	Rafting account, (see note, next page,) - - - - -	-	-	-	251 27	1,313 25	430 66	1,995 18
	Dividends on shares in Bank of Columbia, originally subscribed for by the commissioners, - - - - -	1,823 50	Bridge over James's creek, - - - - -	-	-	-	342 04	-	-	342 04
			Bridge over Tiber creek, - - - - -	-	-	-	788 04	-	-	788 04
			Wharf at the Eastern Branch, - - - - -	-	-	-	389 42	628 09	28 67	1,046 18
			Freestone quarries at Aquia, (see note, next page,) - - - - -	-	8,054 81	9,112 98	11,955 11	294 48	-	29,417 38
			Ground appropriated to public use, - - - - -	-	1,380 38	1,766 67	-	2,000 00	3,072 16	8,219 21
			Foundation stone quarry in the city of Washington, - - - - -	-	-	-	291 56	291 56	-	573 33
			Temporary buildings for workmen, - - - - -	-	1,765 80	934 36	318 30	205 20	-	3,223 66
			Wharf account, - - - - -	-	1,334 51	523 79	-	-	-	1,858 30
			Wharf logs, - - - - -	-	6,189 12	-	-	-	-	6,189 12
			White Oak Swamp, (see note, next page,) - - - - -	-	-	217 38	945 27	786 13	-	1,948 78
			Brick buildings, - - - - -	-	-	573 33	-	-	-	573 33
			Brickmaking account, (see note, next page,) - - - - -	-	3,209 09	-	-	-	-	3,209 09
			Causeway account, - - - - -	-	-	6,297 14	-	-	-	6,297 14
			Provision account, - - - - -	-	3,708 75	3,090 60	5,009 92	-	-	11,809 27
			Stone wharf at stone bridge, - - - - -	-	-	315 73	-	-	-	315 73
			Stone bridge at the mouth of Rock creek, (see note, next page,) - - - - -	-	8,681 77	4,063 11	-	-	-	12,744 88
			Canal from Tiber creek to James's creek, - - - - -	-	-	2,133 33	1,600 00	1,241 42	-	4,974 75
			Utensils of various kinds, - - - - -	\$ 3 00	1,039 91	307 60	26 40	-	-	1,376 91
			Post road through the city of Washington, - - - - -	-	292 33	1,225 94	-	-	-	1,518 27
			Engraved plans of the city and territory, - - - - -	-	1,200 00	314 15	63 02	-	-	1,577 17
			Drawbridge over Rock creek, - - - - -	-	-	-	-	-	1,850 00	1,850 00
			Advances on account to contractors for freestone, timber, and bricks, - - - - -	-	-	-	1,000 00	8,710 85	9,498 91	19,209 76
			Shares in the Bank of Columbia, being part of 2,000 originally subscribed for, all of which have since been sold; but a part of the purchase money of those last sold was not due on the 18th of May, 1796, - - - - -	-	-	-	2,613 40	-	-	2,613 40
			Advanced on a contract for Indian meal, of which partial deliveries have been made, but the quantity is unknown, no account having been rendered by the contractor: suit depending, - - - - -	-	-	-	300 00	504 00	-	804 00
			Supposed errors and omissions, prior to the year 1795, - - - - -	-	-	-	-	-	-	356 42
			Cash in the commissioners' hands, 18th of May, 1796, - - - - -	-	-	-	-	-	-	313 89
		\$406,261 84		\$3 00	\$49,375 24	\$77,596 13	\$97,854 99	\$137,613 27	\$40,535 50	\$406,261 84

[1801.]

CITY OF WASHINGTON.

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Dr.

## Recapitulation of the foregoing account.

Cr.

RECEIPTS.	Amount received.	EXPENDITURES.	Amount from 18th May, 1796, to 18th Nov. 1796.	Amount from 18th Nov. 1796, to 18th Nov. 1797.	Amount from 18th Nov. 1797, to 18th Nov. 1798.	Amount from 18th Nov. 1798, to 18th Nov. 1799.	Amount from 18th Nov. 1799, to 18th Nov. 1800.	Total amount.
Receipts for semi-annual accounts rendered, -	\$640,905 52	Expenditures per semi-annual accounts rendered, -	\$115,836 73	\$160,847 68	\$122,798 61	\$116,157 24	\$115,304 91	\$630,945 17
Receipts per foregoing account, -	406,261 84	Expenditures per foregoing account, -	-	-	-	-	-	405,947 95
		Cash in the commissioners' hands, 18th Nov. 1800, -	-	-	-	-	-	10,274 24
	\$1,047,167 36							\$1,047,167 36

## Notes to the table on the preceding page.

*City of Washington*—Includes commissions, discounts, recording squares in the district office, salary of a principal overseer, and all expenses of persons employed for general surveys.

*Surveying department*—Includes survey of the district and city, opening and ascertaining level of streets, purchasing and planting bound-stones, and registering and calculating squares, as divided into lots.

*Rafting account*—Expense of rafting the timber for the different buildings, and other public purposes indiscriminately.

*Freestone quarries at Aquia*—Six thousand dollars paid for the island containing these quarries, and balance for quarrying the stone and incidental expenses.

*White Oak Swamp*—The commissioners purchased the timber standing, had it cut down, and prepared for public use.

*Brickmaking account*—The bricks were made and used for public purposes generally, and no particular account kept of the number used on the respective buildings.

*Stone bridge at the mouth of Rock creek*—Deducting the sums paid and secured to the public for ground ceded for the erection of this bridge twelve hundred dollars, refunded by the contractor for defective work, the real cost to the public will be only two thousand two hundred and eleven dollars and fifty-five cents.

(Errors and omissions excepted.)

COMMISSIONERS' OFFICE, WASHINGTON, February 6, 1801.

THOMAS MUNROE, Clerk Com.



6th CONGRESS.]

No. 146.

[2d Session.

## CAUSES OF THE LATE FIRES IN THE WAR AND TREASURY DEPARTMENTS'

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 28, 1801.

Mr. NICHOLAS, from the committee appointed to inquire into the causes of the late fires in the War and Treasury Departments, made the following report:

That they have taken the depositions of all the persons from whom they had reason to expect any information, and herewith report them: those marked A relate to the fire in the War-Office, and those marked B to the fire in the Treasury Department.

The committee having seen an assertion in a paper called the Cabinet, that, during the fire in the Treasury Department, persons were discovered in one of the rooms of that Department, in circumstances which excited suspicion, the committee called on the editor of that paper, and requested to be informed whether he could mention the names of any persons who were witnesses of that fact, or any other relating to the fires. By him they were referred to Lawson Pearson and Salem Roe; from whose depositions, and the deposition of John Woodsides, (among the papers marked B,) it appears that the persons thus discovered were clerks of the Department employed in taking care of the books and papers.

It having been mentioned in the depositions of some of the witnesses, from whom the committee were taught to expect material information, that Mr. Oliver Wolcott, late Secretary of the Treasury, was seen at one end of the Treasury Department, during the fire therein, loading a cart with boxes and papers, the committee considering it as a circumstance which might be made to excite suspicion, and believing it was due to Mr. Wolcott to investigate thoroughly a fact of this nature, which had been partially disclosed by their means, have taken several depositions on that subject, which are herewith reported, marked C. From these depositions no suspicion can remain that the boxes and cases were not Mr. Wolcott's private property.

The committee do not think it necessary to make a minute report of their opinion on the facts of these several cases, as the depositions themselves will afford more satisfactory information: they report, as the general result of their inquiries, that it is probable the fire in the War Department was communicated from the fire-place in the adjoining house, and that there is no evidence whatever on which to found a suspicion of its originating in negligence or design; that, as to the origin of the fire in the Treasury Department, they have obtained no evidence which enables them to form a conjecture satisfactory to themselves: it would only be in their power to make an abstract of the testimony; and, in doing this, they might add to or diminish its force; and therefore choose to report it only in the words of the witnesses themselves.

## A.

Mr. LORING, a clerk in the War Department, states, that, on the day of the 8th of November, 1800, (the evening of which the office was burnt,) he was engaged in filing and arranging the papers of the office, (which were very much deranged in consequence of removing first from Philadelphia, and afterwards from the store, commonly known by the name of Lear's store, in the city of Washington,) a business in which he had employed all his hours which were not immediately necessary for the routine of business common in the office; that, having on that day nearly finished, he had determined to continue until he had completed the work, as he was anxious to have them arranged; that, in consequence, he remained an hour or an hour and a half after the other gentlemen of the Department had left it; that when he had finished the business he was engaged in, which was after three o'clock, he locked the door of the room, and carried the key thereof into the room of the messenger, which was in the kitchen; that the day having been uncommonly warm for the season, the fire had been reduced at about 11 o'clock in the morning; and that the door which led into the room usually occupied by the Secretary was ordered by the chief clerk to be opened in order to admit fresh air, (there having been no fire in that room on that day, or for three weeks and upwards prior to it;) that no more fire was made in the room in which he was employed that day; and that, when he left the room, he doubts whether there was fire enough on the hearth to have lighted a candle; that he went home to dine, and believed every thing was perfectly secure in the office, as he looked into the Secretary's room to see if the windows were shut, and, finding them to be so, he doubted not every thing was safe; that, in the evening, about (he believes) six o'clock, or perhaps a little after, Mr. Brown, a clerk to the accountant, came over to his lodgings and informed the gentlemen that the War Office was on fire; that Mr. Wolcott, and every other man in the house immediately ran over; that, when we approached the house, we observed the light very strong from the window over the door of the entrance of the house immediately adjoining the library, which was arranged along the partition wall of that building, and the adjoining house occupied by Mr. Jackson, and against which the chimney of Mr. Jackson's house stood; that he, with Mr. Wolcott, went immediately up stairs, and he, Mr. L., being first, opened the door of the room generally occupied by the chief clerk, (viz. the room immediately in the rear of the Secretary's, the one which was on fire;) that, when he opened the door, the force of the smoke was so great as to stagger him; he, however, recovered himself, and made a second attempt, but to no purpose; finding it impossible to save any thing on that floor, he immediately left the house and went to the Treasury office for the engine, which, with assistance, he brought to the fire; but the house being in such a state, it proved ineffectual. That, on the morning after the fire, (Sunday,) he went over before breakfast to examine the partition wall; that he ventured as near as the walls, which were then tottering, would admit, and examined particularly as to the structure of the chimney; that, in viewing the partition wall, he did not doubt the fire was communicated from the chimney of the next house, as the partition-wall was very thin, and the evident appearance of wooden blocks or bricks interspersed in it; and that it appeared to him that the wall was only the thickness of the length of a brick from the first floor to the second, and the thickness of the width of a brick from the second floor up to the roof; and knowing that a large library was extended along that wall; and upon the lower shelf of the library, about eight inches from the floor, stood a number of large volumes, behind which (for convenience) many pamphlets and loose papers were thrown; and he has no hesitation in saying, that he firmly believes it was from these causes the fire was communicated.

With respect to the Treasury Department, Mr. L. has very little to say, which can give information or throw light on it; he has only to observe, that at about five o'clock in the evening of the — January, he, agreeable to an appointment he had made with Mr. Steele, left the hotel in which he lodged, directly opposite to the Treasury, to call for Mr. Steele, who was writing in his office; that, as he crossed the street, he saw large columns of smoke

issuing from the two southeast chimneys of the office; he immediately entered the east door, which led to the centre of the building, through a narrow passage; that, in passing through this passage, he observed the smoke issuing from under the two first doors on the left side of the passage; that he did not stop to open either of them, his object being to get the engine out which stood in the hall; that not more than two or three persons were with him at the time, and that with the assistance of one of them he broke open the front door and put the engine into the street. Immediately on doing this he returned into the passage, where he discovered several persons forcing the middle door (or that which led to Mr. Ferrall's room,) which they immediately succeeded in. As soon as the door was opened, the flames and smoke rushed out in a diagonal line from the back of Mr. Ferrall's room, where his cases stood, which was the part of the room opposite to his fire-place. This is all he can say respecting it, as his whole attention and exertions were to check and conquer the flames; which, with great exertions on all sides, was finally accomplished.

Sworn before me, the subscriber, one of the justices of the peace for Prince George's county, this 23d day of February, 1801.

RICHARD FORREST.

On the evening of 8th November last, about seven o'clock, P. M., I was alarmed with the cry of fire, and on inquiry it was the War Office; I immediately alarmed Mr. Hodgson and Mr. Wood, desired them to bring with them buckets, and I unhung my garden gate, that free access might be had to my pump; I gave orders to fill all the buckets and tubs that were about the house, and took with me two buckets of water; when I got to the War Office the smoke was issuing out of the front windows like a cloud; soon afterwards the flames broke out of the front window over the front door; I was then asked by Mr. Watson, a clerk, to assist him in getting a ladder, but before we could procure the ladder the fire broke out of the back side of the house. I assisted about half an hour to save the papers, but on seeing that my own house was in danger, I left the fire and went home. The next day (Sunday) I went to see Mr. Markward, to make inquiry how the fire originated, (Col. Burrows went with me;) he, Markward, could give us no satisfaction; we then went to the burnt house, and, on examining the walls, were of opinion that it had been communicated from the back of Mr. Jonathan Jackson's chimneys to the library; and on further examination we saw a number of places where wood had been let into the wall; and nearly at the back of the chimney of Mr. Jackson's house I saw a light through the wall, (and mentioned it to Col. Burrows,) which I suppose was the place that the fire got through to the library; and was further convinced, for the back part of the place is but four and a half inches thick. And further this deponent saith not.

WM. O'NEALE.

CITY OF WASHINGTON, February 25, 1800.

The above deposition was taken by the committee, this 25th February, 1801; William O'Neale being first sworn.

JOHN NICHOLAS, *Chairman*.

THOMAS Y. SPROGEL, being first sworn, deposes and saith that at about three o'clock P. M. of the day on which the War Office was consumed, he assisted in laying out the corpse of a Mr. Jackson, who died in the room adjoining to the room occupied by the Secretary of War, in which the fire appeared to originate; that at that time there was so little fire in the hearth, that he, this deponent, could with difficulty burn vinegar enough to correct the effect of the body on the air of the room. That while the house was on fire, he returned into the room where the corpse was laid, and found the fire totally extinguished to all appearance; that he was informed a fire had been kindled in the interval of his two visits to the room, and that it had been extinguished because it had a bad effect on the corpse.

THOMAS Y. SPROGEL.

Sworn to before me, this 27th day of February, 1801,

JOHN NICHOLAS, *Chairman*.

B.

*The testimony of Patrick Ferrall, principal clerk in the office of the Auditor of the Treasury, relative to the fire that took place on the 20th January last.*

Having received a letter by the mail of the 19th, from a mercantile house in Philadelphia, that required an answer by the return of post, not being enabled from the official duties of the office to write the answer during office hours of the 20th; on leaving the office between two and three o'clock, and not seeing Fogel, the messenger, in the hall, I mentioned to one of the other messengers to inform him when he came in to leave the key, as I should be back after dinner to write a letter. I returned between three and four o'clock, and found the key of the Auditor's room, which I opened and went into the room usually occupied by me, and wrote my letter; after which I locked the door, and went to the house occupied by the messenger, delivered him the key and the letter, desiring him to leave it at the post-office before five o'clock. At my going in, and during my stay in the office, I observed not the least appearance of fire, but what was in the fire-place of the room where I was writing, which at the time was very low, being the remainder of that made in the early part of the day. After delivering the key to the messenger, I went over to a house in the neighborhood where a billiard table is kept, where I remained, until the cry of fire was heard; when the whole of the persons that were there ran over to the office. On my entrance, finding the doors locked, I called on the messenger by name, who immediately appeared and delivered me the key of the Auditor's room, which I unlocked, and made to the door that opened into the room in which I had been writing; on opening which the smoke and flames gushed out with such violence, that I had nearly been suffocated. On which I returned into the entry and requested some persons that were there to break open the door; on this being done, I clearly perceived that the great body of the fire proceeded from three large cases, which were placed back of the fire-place in the room occupied by the Auditor. How or by what means this unfortunate accident took place, I do not deem myself competent to decide; but this I will say, I had neither hand nor deed in it.

P. FERRALL.

Sworn to before me, this 23d day of February, 1801,

JOHN NICHOLAS, *Chairman of the Committee*.

*The representation of Albright Fogle, messenger to the Auditor's Office, respecting the fire which took place in the Treasury Department on the 20th January, 1801.*

The Auditor left his room on that day a little before two o'clock, when the fire in his fire-place was reduced so low that the ashes covered it close up, over which I placed the fender.

Mr. P. Ferrall left his room at about half past two o'clock on the same day, when his fire was also low. I covered it immediately with the fender, and locked the doors. The key leading to Mr. Ferrall's room was then, by his request, put into a certain place where he could have access to it after dinner.

I returned to the room at about half after four o'clock, and found Mr. Ferrall writing at his desk; I inquired of him if I should put a stick on the fire, which he refused. About twenty minutes before five o'clock he called on me at my house, delivered me the key of the room and a letter, requesting me to put it in the post office; I then hastened to the office, examined the fire in the Auditor's room, raked up the remains of that in Mr. Ferrall's, covered it with the fender, and secured the windows and doors; at which time every thing appeared, as usual, very safe from fire. About dusk, and some time after my return from the post office, I heard the first cry of fire; and, on opening the door of the Auditor's room, I did not perceive any fire, but a vast quantity of smoke came out, which prevented an entry at that time; the door of Mr. Ferrall's room was then forced open, when the large cases and furniture in it, which stood close to the wall adjoining the Auditor's room, were all on fire; at that time I did not perceive any thing on fire at the other end of the room, near the fire-place.

ALBRIGHT FOGLE.

Sworn to before me, this 23d of February, 1801,

JOHN NICHOLAS, *Chairman of the Committee.*

JOHN WOODSIDE, clerk in the office of the Comptroller of the Treasury of the United States, upon his oath, deposes: That on the 20th day of January, 1801, having left the office about half past four, P. M., and gone to his place of lodging, about one hundred paces west of the building occupied by the Treasury Department, it being between sundown and dusk, approaching nearer the latter, when the deponent heard the cry of fire; upon which he immediately ran to the Treasury, from whence he saw smoke proceeding; and, upon his nearer approach, saw the smoke and flame issuing from the windows or window of the room occupied by the principal clerk in the office of the Auditor, which room is adjoining to the Auditor's, the latter being in the southeast part of the building.

The weather for the season had been moderate, as to cold, for a day or two preceding; but, in the afternoon of the said 20th day of January, the wind had changed, and blew, especially at the time of the fire, cold and violently from the northwest.

The deponent, finding that the apartment in which the fire had commenced was all in flames, seeing sundry persons engaged in getting the engine ready, and not doubting the immediate assistance of other citizens, considered it most for the interest of the people to endeavor to save the books and papers in the two apartments up stairs of the office to which he was more immediately attached, viz: the Comptroller's, and that of his principal clerk, the latter being immediately over the one in flames; and therefore proceeded to these apartments as soon as they could be opened.

Early in the morning of the 21st, the day after the fire, as soon as there was light, the deponent, living in the vicinity, attended at the Department with a view to collect what papers might be found in a scattered state; and, before sunrise, went to the apartment where the fire had begun, and found the fender in the fire-place, in such a state as to lead, from appearances, to the conclusion that the fire had been carefully covered; the fender being somewhat in the form of part of a circle, the one edge resting upon the hearth, the other edge touching the back of the fire-place.

Since the fire, it having been proposed to the deponent to take the superintendence of the building, so far as respects the prevention of accidents by fire, he undertook the business confided to him; and, having been of opinion that the fire might have been communicated by the mantel-pieces, the deponent had an examination of one of the fire-places, upon which, apprehension of the probability of fire being communicated to the building thereby was not lessened; but, from the blocks placed in the jambs, for nailing the surbase and wash-board, being exposed to the fire of the flues of the chimneys from below, by sparks passing through open joints one quarter of an inch in width between the bricks, and these open joints being only about three inches from the block to the inner part of the chimney, additional ground was given to apprehend danger; as likewise from the blocks placed in the walls, immediately back of the fire-places, in the rooms in the east and west ends of the building.

These apprehensions were communicated to the Register of the Treasury, upon which orders were given to have removed every block or piece of wood, with the mantel-pieces, which might possibly endanger the building. In the execution of these orders, it was found that the blocks back of the fire-places, in the apartment occupied by the Commissioner of the Revenue, have the appearance of being in a degree scorched. In the same room, that is, the one adjoining the Commissioner's, a wedge of pine wood was taken out of the chimney jamb, which had been driven into an open joint between the bricks, which led directly into the flue of the fire-place in the room below. To this wedge the wash-board was nailed. The wedge was found burnt to coal at the end next to the chimney, and was scorched on the under part, the board nailed thereto having been also touched with fire.

In the room occupied by the superintendent of stamps an open joint was found, which led to the block to which the wash-board was fastened into the chimney of the fire-place below; this block did not appear to be scorched, but a quantity of soot had made its way through this open joint to the board to which the wash-board was nailed. The whole of the circumstances, taken together, afford just ground for very serious apprehensions of the liability of the place being set on fire by sparks, especially if the chimney should have taken fire.

Similar facts occurred in breaking out the blocks in the jamb of the fire-place in the room occupied by the Secretary of the Treasury, and in another apartment belonging to said officer, adjoining to that of his principal clerk. Here the danger appeared to be much greater, as it did not arise from open joints leading eight or nine inches into the flues of the chimneys below, but from openings immediately from the blocks to the flues. In one instance, a hole an inch and a half in diameter was discovered, the block, &c. very much dried and smoked, if not scorched. In the other instance, several openings leading directly to the flue from the block to which the surbase was nailed, two pieces of bats lying between the block and the flue, which, not being close to each other, and having no mortar, caused the last mentioned openings, opposite to which the block and other wood appeared to be scorched, and the turpentine to have been extracted by the heat from the chimney.

In relation to the state of the room where the fire originated, the deponent saith that he made a particular examination, and finds that the mantel-piece, except upon the south side, appears to have been burnt or removed; that the blocks to which it was nailed appear to have been in part burnt on the outer surface next to the room, except one in a small degree scorched; that part of the mantel-piece on the south side of the fire-place, which remains standing, being burnt to coal upon the outside, which, if pulled down, the blocks to which it is nailed, it is supposed, will appear like those upon the other side of the fire-place, in some degree scorched or burnt.

In the said apartment, directly opposite to the fire-place in the Auditor's room, there had been placed two blocks of wood, the uppermost fourteen inches in length, with two others upon a line, the right hand block four feet, the one on the left hand three feet and a quarter distant; these blocks were placed in the wall for the purpose of nailing the surbase thereto. The place where a block had been placed for nailing the wash-board is also back

of said fire-place, and nearly under the one already mentioned, and, like that, flanked upon the right and left with blocks, at the distances above mentioned; the block, from the opening in the wall, could not have been more than nine inches in length and five inches in width; the blocks upon the right and left of those back of the fire-place do not appear to have been burnt, except one upon the outside, next to the subbase, which appears to have been touched with fire.

The block behind the fire-place, to which the subbase was nailed, was burnt on the surface next to the room in which the fire originated, but that part of said block which was within the wall had not any appearance of being scorched; the block immediately below, to which the wash-board had been nailed, the deponent did not see, as it was missing the first or second day after the fire, he having looked for it in the cellar, where he found the upper block.

The thickness of the wall back of said fire-place is thirteen inches, by measurement; and deducting five inches, the width of the block, or rather depth of the place where it would appear a block had been, leaves eight inches brick between where the block had been and the fire in the Auditor's room; the joints between the bricks in the back of said fire-place appear to have been filled with mortar, except one joint about three-sixteenths of an inch wide, into which a piece of wood of that thickness can be inserted four inches, leaving, from the inner part of the joint, and the space which had been occupied by the block upon the opposite side, a thickness of four inches brick.

This deponent, on being asked further, saith that he can discover no way in which the fire could have communicated from the fire-place in the Auditor's room to Mr. Ferrall's room, unless it was by the lower block to which the wash-board in Mr. Ferrall's room was nailed, which block was not to be found at the time this deponent examined the place.

JOHN WOODSIDE.

Sworn to before me, this 24th February, 1801,

JOHN NICHOLAS, *Chairman of the Committee.*

On a further examination, the said John Woodside says that he was employed in the first room on the left-hand side of the passage, on the second floor of the Treasury Department, which leads to the east end, at the time the door was forced open; and that he was endeavoring to remove the books and papers into the fire-proof room adjoining; that he believes several other persons were also employed in the same way with him at the time.

CITY OF WASHINGTON, *February 24, 1801.*

On the evening of the 20th January, 1801, as I was going to Dr. Cunningham's, on business, I saw a great smoke arising near the President's house. I directly called fire! Mr. Cunningham was in his yard, and asked where; I answered, on the President's square. He replied that it was shavings; I said no; then we both ran. I got to the Treasury Office first, and found it on fire; (it was between sunset and dark,) and the alarm of fire was general, and the bells were ringing. I called for buckets, and to man the pump at the north end of the building, which was soon done, and water was passed as long as there was any to be had. When the pump sucked, I went to the south side, and began to form a line to Mr. Blodget's pump; this being done, I returned to the north side, and proposed to convey water into the rooms where the fire was; after some time the fire began to abate, and I went to Mr. Ferrall's room door and began to throw water where the greatest appearance of fire was; and after some time the room got dark, I got a candle to see if I could discover where the fire originated. I felt on the floor near the fire-place, and it was not burnt; I then felt several other places, and, on feeling near the jamb of the door leading from Mr. Ferrall's room to the Auditor's, in the recess of said door, I put my hand on a hickory chunk about twelve or fifteen inches long, and about three inches in diameter; it appeared to be burnt at one end to a coal; there was bark on one end. I think it was hickory; it might not have been hickory, but I think it was. I then said that the building was set on fire by some evil-disposed person. About this time it was said that the building was on fire up stairs; I ran to give my assistance, met Mr. Wolcott, and requested him to give some directions concerning the papers; Mr. Wolcott said he had nothing to do with them, that he was not the Secretary, and it was as much as he could do to take care of his own private property. I went up stairs, and Mr. Woodside gave me a quantity of books and papers to carry down stairs, which I delivered to Mr. Dawson, and told him that I was of opinion that the building was set on fire, and that I had found a chunk in the recess of the door of Mr. Ferrall's room. On my return up stairs I met Mr. Wolcott, and said, for God's sake, Mr. Wolcott, give some directions; he told me he would introduce me to Mr. Dexter, who would give the proper directions, which he did. Shortly afterwards, an alarm of fire took place in the cellar, and I got water carried down and put it out in a short time. On examination, it was found that the fire had found its way between the floor and the counter-ceiling, and it was proposed to tear up the floor, which was done, by Mr. Dexter's orders; and further this deponent saith not.

WILLIAM O'NEALE.

On being asked, the deponent saith that the floor was burnt through about the place where he found the piece of wood which he has before mentioned.

The above deposition was given by William O'Neale, before the committee; he being first sworn, this 25th February, 1801.

JOHN NICHOLAS, *Chairman.*

THOMAS Y. SPROGEL, being first sworn, deposeseth and saith, that, after the fire in the Treasury Department, he was employed by Mr. Nourse, the Register, to watch in the office; and that about twelve o'clock at night, he discovered a wooden block behind Mr. Harrison's fire-place, in Mr. Ferrall's room, to which the wash-board had been nailed, to be on fire; that he extinguished the fire with water, and that it appeared to him to be burning from Mr. Ferrall's room, and towards Mr. Harrison's fire-place; that the block appeared to be about half consumed; that soon after he understood, from the conversation of persons present, that they had taken out the block and found the end next Mr. Harrison's fire-place untouched by fire, but did not see the block himself; that the fire in Mr. Ferrall's room appeared to have been perfectly secured, and that he is very well satisfied that the fire did not proceed from that fire-place.

THOMAS Y. SPROGEL.

Sworn to before me, this 27th day of February, 1801,

JOHN NICHOLAS, *Chairman.*

I, JONATHAN FREEMAN, testify, that I was at the Treasury Department about sunrise on the day after the fire happened at that place. In the room which was the most damaged I observed the strongest marks of fire, on the side of the room opposite to the fire-place, in the wall on this side, and directly (as it appeared to me) opposite to the

fire-place in the Auditor's room, near the floor, were two holes in the wall, in which had been placed wood for fastening; in the largest and lowest of those holes were some coals and ashes, and such marks of fire as induced me to suppose that the wood had been consumed there; and the strongest marks of the fire were at the end of the hole next the opposite room, from which I was led to believe that the fire was communicated from the fire-place in the Auditor's room, by means of a block or wooden brick, which appeared to have been in the lowest of the above-mentioned holes, and to which the wash-board or surbase of the room where the fire broke out had been fastened.

JONATHAN FREEMAN.

Sworn to before me, this 28th day of February, 1801,

JOHN NICHOLAS, *Chairman*.

LAWSON PEARSON, being first sworn, deposeseth and saith, that, he came to the Treasury Department when the fire was at its height; that after assisting an acquaintance in emptying a room, which was in danger, of the things in it, he went up stairs, and turned into the passage running to the east, and he discovered a light through the key-hole of the door of the first room on the left hand; that, supposing the room was on fire, he forced the door open, and discovered three men with a number of papers before them; that the candle was extinguished either by the sudden opening of the door or some other cause; that, on his proposing to remove the furniture, he was advised by one of the persons to throw it out of the window, which he refused, as being likely to destroy it; that the persons in the room discovered no embarrassment on its being opened. He further saith that he laid the bricks in the east end of the Treasury Department, and that after the fire he examined the wall between the Auditor's room and the room which was on fire, and could find no reason to suppose that the fire had been communicated from the Auditor's fire-place; that there was the length of the brick between the fire-place and the wroken bricks in the opposite room, and that there was no appearance whatever on the brick or mortar of the wooden brick to which the wash-board was nailed having been burnt; that the wooden brick last mentioned had been removed when he examined, which was the day after the fire. He further saith that he assisted in the examination which has taken place of the fire-places in the Treasury Department, and that a number of blocks have been taken out which were touched by fire, but that none of them were as far from the fire-places as those behind the fire-place in the Auditor's room, and that none which were touched by fire, which he has seen taken out, were more than four inches from the fire.

LAWSON PEARSON.

Sworn to before me, this 25th day of February, 1801,

JOHN NICHOLAS, *Chairman*.

SALEM ROE, being first sworn, deposeseth and saith, that he was in company with Lawson Pearson when he forced open the door mentioned in his deposition, and that he saw two or three persons sitting in the room; that they proposed to remove a case of papers, and were told they should not, unless they would throw it out of the window; that they, notwithstanding, took it up and carried it down stairs.

SALEM ROE.

Sworn to before me, this 25th day of February, 1801,

JOHN NICHOLAS, *Chairman*.

C.

Having been in Georgetown at the time the fire was discovered in the Treasury Department, I did not arrive there until it had made some progress; my immediate concern was to see after the papers, as from the appearance of the flame I thought it impossible the building could be saved. On my going to the west end of the Department, where the greatest number of boxes and cases of papers were placed, a carman came up and inquired for Captain Coyle, who he said had desired him to convey away a parcel of papers; not knowing what authority Coyle had to issue any directions concerning the removal of papers, my curiosity was excited to such a degree as to keep me on the spot where the records were; in a short time after Oliver Wolcott made his appearance, in company with Coyle, and began to load the cart which was there with chests of papers; being surprised at this conduct, and in order to aid any evidence which should in future be called for, I looked for and imparted my information to Mr. Kramer, who immediately repaired with me to the place, and expressed his astonishment at seeing Oliver Wolcott so extremely attentive to the carrying away of papers, when the Department appeared in imminent danger of being destroyed.

THOMAS WATERMAN.

Sworn to before me, this 23d February, 1801,

JOHN NICHOLAS, *Chairman*.

The night on which the fire was discovered at the Treasury Department, I was at Georgetown, in company with several friends, when a person came to the door of the house in which we were, and gave the alarm; on which we proceeded to the Treasury Department, and I joined the ranks to hand water. The night being somewhat cold I left said station, and went into the house to assist in getting out and securing the papers; when Mr. Waterman informed me that some persons were busy in taking from the Department a number of cases, &c. with papers. I went with him to the place and saw two carts, one of which had a number of cases loaded up, and Mr. Wolcott and Captain Coyle, a clerk to the Secretary of the Treasury, appeared to be busy in assisting to load one of the carts.

HENRY KRAMER.

Sworn to before me, the 23d February, 1801,

JOHN NICHOLAS, *Chairman*.

JOHN COYLE, of the city of Washington, being duly sworn on the Holy Evangelists of Almighty God, doth depose and say, that on or about the 20th day of January, 1801, at about half past five o'clock, P. M. when the alarm was given that the Treasury Office was on fire, in going towards said office he overtook Oliver Wolcott, esquire, late Secretary of the Treasury, who observed to this deponent that he was very much interested in saving his private papers, as the justification of all his official transactions depended on that circumstance, and requested his assistance to effect that purpose, if possible.

That he went with Mr. Wolcott into the northwest room of the building, where Mr. W. pointed out a chest of about four feet by one foot six inches; a trunk of about three feet four inches by one foot six inches; two boxes of about two feet by thirteen inches, and a small writing desk, (already packed and locked,) as those containing his private papers: these this deponent assisted in removing out of the house. Mr. Wolcott also requested the removal of an iron chest, as he said it contained valuable public property and documents. He also requested me particu-

larly to assist in removing Mr. Miller's books and papers generally, as they were very important; which I did, and observed Mr. Wolcott active in assisting, and appeared very anxious for their preservation.

He then observed that it was his intention to have his papers removed to his lodgings in the course of two or three days if the fire had not happened, and as they were then exposed, he wished to have them taken there.

This deponent then went to the sign of the Black Horse, where he knew carts were to be hired, and engaged one. As it did not arrive soon, he went to the front of the house and observed an empty cart, employed the owner, and brought him to where the trunks, &c. were. Mr. Wolcott then went into the house and cellar to observe the state of the fire, returned, and reported that the danger was apparently over.

Mr. O'Neale then came up and requested Mr. Wolcott's orders respecting the removal of papers. Mr. W. replied he would give no orders, but would introduce him to the Secretary of the Treasury, who was the proper person; this was done, and the orders given. Mr. O'Neale then demanded his assistance as Secretary of the Treasury; Mr. W. replied, I am not Secretary of the Treasury. Mr. O'Neale then said, you are a citizen, and I demand your assistance to save the public property; Mr. W. replied, I cannot; I must take care of my private property.

This deponent and Mr. Wolcott had previously examined the state of the fire, and concurred in opinion that the danger was all over; the fire appeared completely subdued, and any further removal we conceived to be superfluous. We then had loaded into a cart the before-mentioned chest, &c. with the addition of an iron box, which Mr. Wolcott said contained valuable public documents; and did it as a measure of safety.

The cart then drove to the house of said deponent and unloaded. The iron box was returned in safety to the Treasury Department in the course of a day or two following.

JOHN COYLE.

Sworn to before me, this 25th February, 1801.

JOHN NICHOLAS, *Chairman*.

BAZIL WOOD, of the city of Washington, doth, upon the Holy Evangelists of Almighty God, depose and say, that on the 20th of January last past, and in the evening of the same day, during the fire which commenced in the evening aforesaid in the Auditor's Office of the Treasury Department, he, this deponent, saw several chests and boxes containing books and papers belonging to Oliver Wolcott, Esq., late Secretary of the Treasury; that this deponent did not then, nor has he since seen the papers then contained in the said boxes; but for some time previous to Mr. Wolcott's resignation, he did prepare and cause to be prepared copies of various public documents and records in his office; that this deponent did several times assist the said Mr. Wolcott in removing these papers into Mr. Miller's room, which Mr. W. occupied for a few weeks, and from which the before-mentioned chests, &c. were, as before said, removed on the evening of the fire. That he verily believes there was not a single original document removed or a paper which was not recorded taken away from the office by Mr. W. This deponent asserts that the space which the papers intended to be taken away by Mr. W. could not be less than four feet square at least, and the person (to wit, Robert Jones Heath, one of the clerks, who examined the rough draughts of letters and other documents, being sick,) this deponent can only further say, that he believes the said Heath could give particular information as to the papers, &c. which he examined and delivered to Mr. Wolcott. Mr. Wolcott received from this deponent no papers, or copies of books or papers, other than the weekly state of balances, of which the records are now in this deponent's possession. The kinds of papers which Mr. W. intended, or said he intended to take were, the rough draughts of his own public letters and the copies of several reports to the various departments; printed journals of Congress; printed reports of the different Departments to the President and Congress; copies of weekly statement of balances; the annual statements of receipt and expenditures of the United States. And further this deponent saith not.

Sworn to before me, this 27th day of February 1801,

JOHN NICHOLAS, *Chairman*.

7th CONGRESS.]

No. 147.

[1st SESSION.

## RIGHT OF THE MISSISSIPPI TERRITORY TO A DELEGATE IN CONGRESS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1801.

Mr. MILLEDGE, from the Committee of Elections, to whom it was referred to report on the right of the Mississippi Territory to elect a Delegate to Congress, and also to examine the credentials of Narsworthy Hunter, the Delegate from the said Territory, made the following report:

That, by an ordinance of Congress of the 13th July, 1787, for the government of the Territory of the United States northwest of the river Ohio, it is ordained, "That so soon as a Legislature shall be formed in the district, the Council and House assembled shall have authority, by joint ballot, to elect a Delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during the temporary Government thereby erected."

That by an act of Congress passed the 7th April, 1798, entitled "An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Government in the Mississippi Territory," it is, by the 3d section thereof, enacted that the tract of country bounded as therein described shall be constituted one district, to be called the Mississippi Territory; and the President is thereby authorized to establish a Government therein, similar to that exercised in the Territory northwest of the Ohio. And by the 6th section thereof it is further enacted, "That from and after the establishment of said Government, the people of said Territory shall be entitled to and enjoy all and singular the rights, privileges, and advantages granted to the people of the Territory of the United States northwest of the river Ohio, in and by the ordinance of the 13th July, 1787, in as full and ample a manner as the same are possessed and enjoyed by the people of the said Northwestern Territory.

That by an act of Congress, passed the 10th May, 1800, entitled "An act supplemental to the act entitled An act for an amicable settlement of limits with the State of Georgia, and authorizing the establishment of a Govern-

ment in the Mississippi Territory," it is in the first section thereof enacted, "That so much of the ordinance of Congress of the 13th July, 1787, and of the act of Congress of the 7th August, 1789, providing for the Government of the Territory of the United States northwest of the Ohio, as relates to the organization of a General Assembly therein, and prescribes the powers thereof, shall forthwith operate and be in force in the Mississippi Territory."

From which said ordinance and acts, your committee are of opinion, and do report, that the Mississippi Territory is entitled to elect a Delegate to Congress, with the right to debate, but not to vote.

Your committee further report, that from an examination of the credentials of Narsworthy Hunter, it is the opinion of your committee that the said Narsworthy Hunter is duly elected by the General Assembly of the Mississippi Territory a Delegate to the seventh Congress of the United States.

7th CONGRESS.]

No. 148.

[1st SESSION.

## PRINTING FOR CONGRESS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 18, 1801.

Mr. RANDOLPH, from the committee appointed to inquire whether any, and what, measures can be devised to expedite the printing requisite for this House, made the following report:

1. That it would tend, in a great degree, to facilitate the business of the House, if the several heads of Departments were respectively authorized and enjoined to cause to be printed, under their immediate inspection, all such documents, reports, and statements, as are directed by law to be annually laid before the House.

2. That it is expedient to appoint a printer to this House, who may be responsible to it for the faithful and prompt execution of all business which may be confided to him by order of the House.

7th CONGRESS.]

No. 149.

[1st SESSION.

## LIBRARY OF CONGRESS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 21, 1801.

Mr. RANDOLPH, from the joint committee appointed to take into consideration the statement made by the Secretary of the Senate, respecting books and maps purchased pursuant to a late act of Congress, and to make report respecting the future arrangement of the same, made the following report:

That, in their opinion, the following resolutions contain the proper regulations upon the subject committed to them; they therefore present them for consideration.

1st. *Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the books and maps purchased by directions of the act of Congress passed the 24th day of April, 1800, be placed in the Capitol, in the room which was occupied by the House of Representatives during the last session of the sixth Congress; and that the books shall be numbered, labelled, and set up in portable cases with handles to them, for the purpose of easy removal, with wire-netting doors, and locks. And that the books or libraries which have heretofore been kept separately, by each House, shall be removed and set up with those lately purchased, and be numbered and labelled with them; making one library of the whole.

2d. *And it is further resolved,* That the Secretary of the Senate, and the clerk of the House of Representatives for the time being, be, and they are hereby, authorized to take charge of the room, books, and maps aforesaid; and they are hereby authorized and directed to make suitable arrangements in said room for the library and maps; to procure proper furniture for the room; to procure the cases; number and label the books, and set them up in their cases; to procure for their own use, and the use of both Houses of Congress, printed catalogues of all the books, with the labelled number of each, and of the maps; to place on each book some proper mark or marks, to designate it as belonging to the Congressional library; to procure printed blank receipts for members to sign them when they take books from the room; and to arrange and hang up the maps: all to be done under the inspection and direction of the President of the Senate and Speaker of the House of Representatives for the time being.

3d. *And it is further resolved,* That the Secretary of the Senate, and Clerk of the House of Representatives, shall be responsible for the safe-keeping of the room, furniture, books, and maps aforesaid; and shall not permit any map to be taken out of said room by any person, nor any book, except by members of the Senate and House of Representatives for the time being; and no member shall be permitted to take any book out of said room until he shall sign a receipt for the same, the form of which follows, viz:

Received this \_\_\_\_\_ day of \_\_\_\_\_ of the keepers of the Congressional library (here the book and its number are to be described,) which I promise to return within \_\_\_\_\_ days from this date, or forfeit the sum of \_\_\_\_\_ dollars, to be paid to said keepers, or either of them, or to their successors, or either of them. Witness my hand.

4th. *And it is further resolved,* That no member shall have at any one time more than three books out of said library; and a folio volume shall be returned within \_\_\_\_\_ days; a quarto within \_\_\_\_\_ days; and an octavo within \_\_\_\_\_ days after the date of the receipt, respectively; and in case of such return, the receipt shall be cancelled; but in case of forfeiture, the keepers shall immediately collect the penalty.



5th. *And it is further resolved*, That the keepers of said library shall, one of them, attend, or shall cause some proper person for whose conduct they shall be responsible, to attend in said room, from the hour of eleven in the morning until three in the afternoon, of each day, Sundays excepted, during each session of Congress, for the purpose of delivering and receiving said books. And the keepers of said library shall receive for their services, including the safe-keeping of the room, furniture, books, and maps, delivering and receiving the books, and collecting forfeitures, — dollars annually; to be paid out of the fund annually appropriated for the contingent expenses of both Houses of Congress.

6th. *And it is further resolved*, That the keepers of said library shall, at the commencement of every session of Congress, exhibit a statement to each House, of the condition of said room, furniture, books, and maps, with information of the sum of forfeitures, if any, which they have collected; and of the necessary expenses for fuel, &c. in said room, during the period next preceding each statement, which then remains unsettled, that their accounts may be liquidated and approved by Congress; and the balance shall be paid out of the fund appropriated for the contingent expenses of both Houses of Congress.

7th. *And it is further resolved*, That the keepers of said library shall cause a printed copy of the third, fourth, and fifth of the foregoing resolutions to be pasted up in some conspicuous place in said room, which shall be there at all times for the information of the members.

And the committee further report, for the consideration of Congress, the following resolutions:

*Resolved*, That the Secretary of the Senate be, and he is hereby, directed to make sale of the trunks in which the books lately purchased were imported; that he exhibit to both Houses of Congress an account of the proceeds, including a statement of the actual expenditures incurred under the act of the 24th of April, 1800, as well by the purchase of books and maps, and incidental expenses, as for the expenses of fitting up the room, procuring furniture, cases, &c., as mentioned in the second of the foregoing resolutions; and the residue of the five thousand dollars, appropriated by said act, shall be laid out by the Secretary of the Senate, and Clerk of the House of Representatives, for books and maps, or books alone, under the direction of a joint committee to be appointed for that purpose, to consist of — members from the Senate, and — members from the House of Representatives.

*Resolved*, That Congress, by law, annually appropriate the sum of — dollars to be laid out for books and maps, or books alone, by the Secretary of the Senate, and Clerk of the House of Representatives, under the direction of a joint committee to be appointed by them for that purpose.

7th CONGRESS.]

No. 150.

[1st SESSION.]

## CITY OF WASHINGTON.

COMMUNICATED TO CONGRESS, JANUARY 11, 1802.

JANUARY 11, 1802.

*Gentlemen of the Senate and of the House of Representatives:*

I now communicate to you a memorial of the commissioners for the city of Washington, together with a letter of later date, which, with their memorial of January 28, 1801, will possess the Legislature fully of the state of the public interests, and of those of the city of Washington, confided to them. The moneys now due, and soon to become due, to the State of Maryland, on the loan guarantied by the United States, call for an early attention. The lots in the city, which are chargeable with the payment of these moneys, are deemed not only equal to the indemnification of the public, but to ensure a considerable surplus to the city, to be employed for its improvement, provided they are offered for sale only in sufficient numbers to meet the existing demand: but the act of 1796 requires that they shall be positively sold in such numbers as shall be necessary for the punctual payment of the loans; 9,000 dollars of interest are lately become due; 3,000 dollars quarter-yearly will continue to become due; and 50,000 dollars, an additional loan, are reimbursable on the 1st day of November next. These sums would require sales so far beyond the actual demand of the market, that it is apprehended that the whole property may be thereby sacrificed, the public security destroyed, and the residuary interest of the city entirely lost. Under these circumstances, I have thought it my duty, before I proceed to direct a rigorous execution of the law, to submit the subject to the consideration of the Legislature. Whether the public interest will be better secured in the end, and that of the city saved, by offering sales commensurate only to the demand at market, and advancing from the Treasury, in the first instance, what these may prove deficient, to be replaced by subsequent sales, rests for the determination of the Legislature; if indulgence for the funds can be admitted, they will probably form a resource of great and permanent value; and their embarrassments have been produced only by overstrained exertions to provide accommodations for the Government of the Union.

TH: JEFFERSON.

*To the President of the United States: The memorial of the commissioners appointed by virtue of an act of Congress entitled "An act for establishing the temporary and permanent seat of Government of the United States," respectfully sheweth:*

COMMISSIONERS' OFFICE, December 4, 1801.

That, on the 28th of January last, the commissioners addressed to the late President of the United States a representation, stating such facts respecting the business committed to their charge as appeared necessary for the information of the Government; which representation was by him transmitted to Congress, and by their order referred to a committee; but no measures having taken place in consequence thereof, either by the Executive or Legislature, your memorialists deem it expedient to recapitulate the most important facts then stated, and to add such other facts and observations as may tend to enable the President to judge of the measures proper to be pursued by him, and to aid the Legislature in their deliberations, should the subject be submitted to their consideration. The act of Congress authorizing the President to locate a district for the permanent seat of the Government of the United



States; the actual location of that district; the grant of lands for a federal city; the power given by the President to the commissioners to sell that part of the land so granted, which was placed at his disposal; the sale of six thousand lots to Morris & Greenleaf, by agreement, dated 23d December, 1793; the modification of that agreement by another, entered into in April, 1794; the failure of those gentlemen to fulfil their contracts, and the various measures pursued to obtain money to carry on the public buildings, are recited in the above-mentioned representation; and copies of the legislative acts, deeds, and other writings therein referred to are annexed, and the whole printed for the use of the members of Congress. The property belonging to the public is therein stated to consist of twenty-four million six hundred and fifty-five thousand seven hundred and thirty-five square feet of ground in the city of Washington, equal to four thousand six hundred and eighty-two lots, of five thousand two hundred and sixty-five square feet each, exclusive of lots which bind on navigable water; these form fronts to the extent of two thousand and forty-three feet, and on them are four wharves in a useful state. Of the first-mentioned lots, three thousand one hundred and seventy-eight lie northeast of Massachusetts Avenue; the remainder, being one thousand five hundred and four, are situated southwest of that avenue; also, an island, containing freestone, in Aquia Creek, in the State of Virginia. The above property your memorialists consider as worthy of public attention; its value may be estimated by the prices at which lots have been heretofore sold, the cost of the wharves, and the price of the island.

Lots on the southwest side of Massachusetts Avenue, sold by the commissioners since passing the guaranty bill in 1796, average three hundred and forty-three dollars per lot; those on the northeast side of that avenue, sold by the commissioners and proprietors, average one hundred and five dollars per lot; lots binding on navigable waters, sold within the same period, average twelve dollars and seventy-one cents the foot front; the island cost six thousand dollars, and the wharves three thousand two hundred and twenty-one dollars and eighty-eight cents; the whole amounting, at the rate lots have heretofore been sold, with the original cost of the island and wharves, to eight hundred and eighty-four thousand eight hundred and nineteen dollars eighty-eight cents. The lots sold by the commissioners since the date of the above-mentioned representation, exclusive of a square sold to the United States for the site of marine barracks, average four hundred and seventy dollars and seventy-one cents per lot.

To elucidate more fully the real value of city property, they have endeavored to ascertain the prices at which proprietors have sold lots within the last eighteen months, and, so far as they have obtained information, their sales average  $579\frac{15}{100}$  dollars for cash, and on short credit, and  $921\frac{37}{100}$  dollars on a credit of four, five, and six years per lot, and their groundrents are from one to three dollars per foot front.

Your memorialists readily admit that the public property remaining for sale is not, on an average, equal in value to that which has been sold; yet as great abatement was in many instances made in the price of lots, in consideration of building contracts, and as inducements to purchase in the city have much increased, they conceive those on hand may, in the course of a few years, be disposed of, at least to as great advantage as those already sold; but if the law authorizing a loan for the use of the city of Washington should be carried strictly into effect, your memorialists are apprehensive that this property must be, in a great degree, sacrificed. It is known that two hundred thousand dollars have been borrowed of the State of Maryland, under the sanction of that law, and that the city property above mentioned is to be sold under the direction of the President of the United States, for the repayment of that sum; an arrear of interest to the amount of nine thousand dollars is now due thereon, the accruing interest of twelve thousand dollars per annum, payable quarter-yearly, and the principal, which is payable by annual instalments of forty thousand dollars after the year 1803, are sums which, your memorialists conceive, cannot be raised without frequent sales for ready money; a measure which they consider as highly injurious, if carried to the extent necessary to answer those objects, and which they have in no instance attempted, although the difficulties they have experienced in collecting debts convince them that sales on credit cannot be relied on for the punctual payment of the above mentioned interest and instalments. They, therefore, with great deference, suggest the propriety of the Government's paying the money borrowed, and reserving the property pledged for its repayment, to be sold as advantageous offers may occur; a policy which dictated the guaranty in 1796, and which has been fully justified by the sales made since that period. By pursuing a contrary policy, the property pledged will be greatly diminished by the payment of interest only, while much larger sums than are necessary to discharge both principal and interest will probably lie dead in the Treasury. Your memorialists also beg leave to state, that the sum of fifty thousand dollars, in the United States six per cent. stock, has been borrowed from the State of Maryland, to be repaid on the 1st of November, 1802, secured by the bond of the commissioners, and real and personal security given by private persons. The only fund applicable to the payment of this sum at the disposal of the President or commissioners is, the debts contracted for city lots purchased previous to passing the guaranty law; this fund is, indeed, much more than sufficient, could those debts be called in; to accomplish which, your memorialists have never ceased their exertions. They are now pursuing a measure not before attempted; a ready money sale, in which, if they fail to sell the property for as much as is due thereon to the public, the same policy should dictate to the Government to pay the sum of fifty thousand dollars likewise; the last-mentioned debts, to a much greater amount, being ultimately secure.

The commissioners have only received fifty-three thousand two hundred and eighty-one dollars and eighty-one cents from the sales of property pledged by virtue of the guaranty law; they have paid, in conformity to that law, the sum of twenty-nine thousand six hundred and eighty-seven dollars and ninety-two cents, to the original proprietors, for property appropriated to public use, and forty-two thousand dollars interest, which has accrued on money borrowed under the sanction of the same law. Thus, the sum of eighteen thousand four hundred and six dollars and eleven cents, derived from the funds applicable to the payment of debts contracted on the personal security of the commissioners, has been applied to the purposes of the guaranty, and thereby the necessity of selling at depreciated rates the property pledged to Congress has been avoided.

Your memorialists would also observe, that the debts due, and to become due, to the city fund, and which were considered as good, were stated in the last representation to the President at one hundred and forty-four thousand one hundred and twenty dollars and eighty cents. Since which, forty-six thousand and eighty-one dollars and ninety-nine cents have been received; but it may be observed, that the sum of eighty thousand dollars, which, by the agreement of April, 1794, was to rest on the bond of Morris, Greenleaf, and Nicholson, is not included in that description, although your memorialists are advised by their counsel that certain squares in the city of Washington, containing one thousand lots, are liable to the payment of that sum; the same being designated by an agreement of the 9th July, 1794, as the lots, the payment for which was to rest on the said bond; and this point is now depending for decision in the court of chancery of the State of Maryland.

To show the progress and the present state of buildings in the city, your memorialists have had the number of dwelling houses taken, and find, by an accurate report, that, on the 15th of May, 1800, there were one hundred and nine of brick, and two hundred and sixty-three of wood; and on the 15th of last month, there was an addition of eighty-four of brick, and one hundred and fifty-one of wood, besides seventy-nine of brick, and thirty-five of wood,

in an unfinished state; total amount, seven hundred and thirty-five. Their particular situations will appear from the schedule which accompanies this memorial.

The above statements of facts and observations are, with sentiments of the highest respect, submitted to the President of the United States.

WILLIAM THORNTON,  
ALEXANDER WHITE,  
TRISTRAM DALTON.

Sir: COMMISSIONERS' OFFICE, December 19, 1801.

Agreeably to the information given in our memorial of the 4th instant, we have held a sale of lots for ready money, which we kept open ten days. It has produced, by actual sales, 4,234 dollars, and by payments made by debtors, to prevent their property from being sold, 7,613 dollars, making, together, 11,847 dollars; yet our expenditures have been such as to leave at this time no more than 5,880 dollars in our hands. During the sale, we pursued our general policy of not selling any property for less than the sum due on it to the public; thinking it improper to change that system until it should be known what measures Government will take with respect to it, although (besides the interest due to the State of Maryland) the commissioners' note for 5,000 dollars discounted at the Bank of Columbia, will become due 22d (25th) January next, and we estimate the sums due for operations on the roads and buildings, expenses of the commissioners' office, and other contingencies to the end of the year, at 1,870 dollars; demands to which our present means are very inadequate.

We are, with sentiments of the highest respect, sir, your obedient servants,

WILLIAM THORNTON,  
ALEXANDER WHITE,  
TRISTRAM DALTON.

The PRESIDENT OF THE UNITED STATES.

An enumeration of the houses in the city of Washington, made November, 1801.

Houses in a habitable state on the 15th May, 1800.			Houses finished since 15th May, 1800.		Houses proposed to be finished before the 15th of November, 1801.		Houses unfinished.		Houses in a habitable state on the 15th May, 1800.			Houses finished since 15th May, 1800.		Houses proposed to be finished before the 15th November, 1801.		Houses unfinished.	
Squares.	Brick.	Wood.	Brick.	Wood.	Brick.	Wood.	Brick.	Wood.	Squares.	Brick.	Wood.	Brick.	Wood.	Brick.	Wood.	Brick.	Wood.
W. of 4	1	5							375	-	1						
	4	-	2	1	1				224	6	5	3					
	5	3							225	-	3	2				2	
	8	2							253	2	3	6	3				
	9	1	1						254	1	7	1	6			2	
	16	2	5						252	-	-	-	-				1
	22	-	2						288	-	-	-	2				
	32	-	-	1					289	-	4	2	3			1	
	33	-	2						290	-	2	-	5				1
	38	1	-	1	1	-	4	1	320	-	2	1	2				1
	74	6	-	-	-	2	-	1	321	-	-	1	2				
	75	-	-	3	1				346	-	3†	1	2				
	77	-	-	-	4				347	-	2	-	2			2	
	80	-	1						376	-	1†	-	-			2	
	78	4	3	1	3	1			377	1	3	-	3			3	1
	86	-	6	-	3				256	-	-	-	-				2
	101	1	1	-	1				291	-	1	4	-			1	
	106	1	1	-	1	1			292	-	-	-	1				1
	113	-	-	-	1				258	-	-	-	1				
	126	-	3	-					322	2	-	-	-			1	
	127	-	2	1					323	-	-	-	-				2
	105	-	-	-	1				348	-	-	-	2				2
	118	-	-	7	3	4	1		380	-	1	-	-				2
	119	-	1	3					378	-	-	-	3			2	
	121	-	-	1	1				379	-	1	-	-				
	141	-	1	-	4	-	-	1	406	-	4	-	1			1	
	142	-	1	1	2	-	1	2	430	-	-	-	-			1	
	143	2	-	-	-				431	-	-	1	2				2
	168	-	-	5	3	-	-	2	432	-	1	-	2				
	169	-	1	2	-	-	-	1	456	-	3	-	-				
	170	-	-	3	3				457	2	-	-	-				
	171	-	-	-	1				407	-	5	-	-				
S. of 173	-	-	-	-	-				460	3	-	-	-				2
	104	1	4	1	1	-	-	1	461	-	-	2	1			-	3
	122	-	-	-	1				489	-	1	-	-				
	84	-	7	-	1				490	1	2	1					
	87	-	1	-	2				523	-	1	-	-				
E. of 88	-	-	-	-	-				532	1	-	-	-				
	88	-	1	-	-				491	-	-	-	-				1
	62	-	1	-	1				533	-	-	2	-				
	63	-	-	-	1				554	-	1	-	-				
	200	2	2	-	-				575	-	-	1	-				1
	222	-	1	-	-				634	2	-	-	-				
	284	-	1	-	-				685	-	-	-	-				
	370	-	1	-	-				686	-	-	2	-	3		1	

\* A large stone warehouse.

† A church.

ENUMERATION—Continued.

Houses in a habitable state on the 15th May, 1800.	Houses finished since 15th May, 1800.		Houses proposed to be finished before the 15th November, 1801.		Houses unfinished.		Houses in a habitable state on the 15th May, 1800.	Houses finished since 15th May, 1800.		Houses proposed to be finished before the 15th November, 1800.		Houses unfinished.			
	Squares.	Brick.	Wood.	Brick.	Wood.	Brick.		Wood.	Squares.	Brick.	Wood.	Brick.	Wood.	Brick.	Wood.
E.of 725	2	2	1	1											
758	-	1	-	2			-	1							
724	-	-	-	1											
784	-	1	-												
785	-	-	-	2											
728	5	4	-	1											
759	1	2	-												
729	2	-	4	9			-	1							
688	-	1	-	-			-	1							
690	5	4	1	5			2	3							
689	4	-	-												
762	-	-	-	1											
693	-	1	7	1			3								
736	1	-	-	1											
695	1	3	1	4			-	1							
696	-	-	1	1											
738	-	7	-												
739	1	-	-	1											
737	-	1	-												
140	2														
741	3	4													
742	3	1													
N.of 743	2	4													
743	-	8													
787	-	-	-	4											
701	1														
744	1	2	-	-			-	1							
770	1	3													
771	2														
802	-	6	-	-			1								
799	-	-	-	1											
825	-	3	-	-			1	1							
S.of 825	-	-	1												
798	-	1	-												
796	-	-	2	1											
882	-	1	-	3											
881	-	1	2	1											
907	-	1	-	3			1								
906	-	2	1	2			2	1							
929	-	-	-	1											
762	-	-	-	-				1							
732	-	-	1	-											
764	-	-	-	-			1								
875	1	1													
									882	-	-	-	-	-	
									925	1	-	-	-	1	
									926	-	3	-	-		
									948	-	2	-	-		
									993	-	1	-	-		
									949	-	5	-	-		
									973	-	1	-	-		
									927	-	1*	-	-		
									905	-	2	-	3		
									928	-	1	-	-		
									974	-	-	-	1		
									975	-	-	-	1		
									951	-	4	-	-		
									953	-	3	-	-		
									977	-	-	-	1		
									1,001	-	-	-	2		
									1,000	-	-	-	2		
									E. 1,025	-	1	-	1		
									1,024	-	1	-	-		
									1,067	-	1	-	-		
									1,044	-	2	-	-		
									1,106	-	1	-	-		
									1,114	-	1	-	-		
									651	6	3	-	-	24	
									700	-	1	-	-	-	
									701	1	-	-	-	1	
									703	-	3	-	-		
									705	-	2	-	-		
									704	-	1	-	-		
									708	-	1	-	-		
									662	-	-	-	1		
									E.of 662	-	-	-	1		
									664	-	1	-	-		
									E.of 613	-	1	-	-		
									546	-	3	-	-	4	
									503	8	15	-	-	8	
									504	2	2	-	-	2	
									502	3	11	-	-		
									501	1	3	-	-		
									500	-	1	-	-		
									300	-	2	1	-		
									462	-	-	-	2		
									390	1	-	-	-		
									109	263	82	145	16	6	79
															35

\* And barracks.

Houses on public appropriations, &c. viz.

	Stone.	Brick.	Wood.
President's square, -	1	6	15
Capitol square, -	1	-	6
Navy yard, -	-	-	2
National church square, -	-	-	2
Judiciary square, -	-	-	6
Marine hospital square, -	-	-	3
Canal street, between M and N streets, -	-	-	4
	2	6	38

Copy of the original filed in the Commissioners' office.

THOMAS MUNROE, Clerk to Commissioners.

7th CONGRESS.]

No. 151.

[1st SESSION.]

## DEBT OF THE CITY OF WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 19, 1802.

TREASURY DEPARTMENT, *January 15, 1802.*

The SECRETARY OF THE TREASURY, to whom was referred a resolution of the Legislature of Maryland, offering to accept six per cent. stock, in payment of a loan obtained from that State by the commissioners of the city of Washington, respectfully reports:

That by an act passed the 6th day of May, 1796, the commissioners of the city of Washington were authorized to borrow a sum, not exceeding \$300,000 at an interest not exceeding six per cent. a year, and reimbursable in five annual instalments, to commence from and after the year 1803.

That by a subsequent act, passed the 18th day of April, 1798, the President of the United States was authorized to loan to the said commissioners one hundred thousand dollars, in part of the above-mentioned sum of three hundred thousand dollars; which loan of one hundred thousand dollars has been accordingly effected, and the amount paid out of the Treasury to the commissioners.

That by the said acts, all the city lots, not appropriated to public use, vested in either the commissioners or trustees, for the use of the United States, and remaining unsold at the time of passing the first-mentioned act, are made chargeable with the principal and interest of the loans; and the United States are made liable for the repayment only of the balance which may remain due on such loans after all the lots shall have been sold.

That under the first above-mentioned act, the commissioners obtained from the State of Maryland a loan of two hundred thousand dollars, (making, together with the one hundred thousand dollars loaned by the United States, the full sum of three hundred thousand dollars, authorized to be borrowed by the commissioners under the said act,) the amount of which they have received from the said State, in six per cent. stock, at par, which stock they have sold for specie, at its market price. This loan bears an interest of six per cent. a year, on its nominal amount, and is reimbursable in five equal annual instalments, of forty thousand dollars each, payable in the years 1804, 1805, 1806, 1807, and 1808. And that, in addition to the said loan, the commissioners have obtained another loan of fifty thousand dollars from the State of Maryland, reimbursable in November, 1802, for the payment of which they have given personal security, and pledged the proceeds of lots sold prior to the date of the above-mentioned act of the 6th of May 1796.

The propriety of repealing so much of the existing laws as compels a sale of the city lots, in order to meet the payments due on those loans, is a question, exclusively, of legislative discretion: nor are there any documents, or other information, in the Treasury Department, which would enable the Secretary to form (even if, which is not apprehended to be the case, it had been intended by the reference that he should give) an opinion on that subject.

The only question, therefore, which seems to arise under the reference, is, whether, if Congress shall think it expedient not to compel forced sales of the city lots, it will be most eligible for the United States to repay the State of Maryland, in specie, or in six per cent. stock; and to place that option in the power of Congress seems to have been the object of the commissioners, in their application to the Legislature of that State.

It is sincerely believed, and most respectfully submitted, that no act of Government can more effectually tend to increase the external force, or to strengthen the internal union of the United States than a prompt and complete extinguishment of the public debt; and that every measure should be avoided, which may lead to an unnecessary perpetuation or prolongation of any part of the same.

In this instance there can be no doubt that the resources of the United States are fully equal to discharge in specie the five annual instalments, of forty thousand dollars each, which may eventually be payable on that loan, without having recourse to the expedient of creating, for that purpose, an additional six per cent. stock, to that amount.

Under that impression, the Secretary, with submission, but without hesitation, reports, that although the resolution of the Legislature of Maryland was evidently adopted only with a view of accommodating the United States, it cannot, in his opinion, be their interest to avail themselves of the offer it contains.

All which is most respectfully submitted.

ALBERT GALLATIN.

7th CONGRESS.]

No. 152.

[1st SESSION.]

## CANAL IN THE CITY OF WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 11, 1802.

Mr. SPRIGG, from the committee to whom was referred the petition of sundry citizens of the District of Columbia, praying that Congress will pass an act, incorporating a company for the purpose of opening a canal to unite the waters of the Potomac and the Eastern Branch, through Tyber creek and the low grounds at the foot of Capitol Hill, made the following report:

That such a canal was contemplated at a period almost as early as that at which this place was selected for the permanent seat of the General Government; and a course marked out for it, of the width of eighty feet, on a plan of the city, engraved by order of President Washington. Ground was also reserved for a street, eighty feet wide on each side, throughout its whole course, under the general power given to the President, by deed from the original proprietors of the soil, to lay out, for the use of the public, such ground as he should think necessary.

Some deviations from the course designated for it on the engraved plan have, however, been since made, with the full consent and approbation of the holders of the land, the better to accommodate it to the shape of the ground. All which will more fully appear by documents with which the committee have been favored by the commissioners of the city, and which accompany this report.

The committee find, also, that the Legislature of Maryland were so fully impressed with an idea of the utility of the intended canal, that they relaxed their usual severity on the subject of lotteries, and, by an act of November session, 1795, c. 47, authorized the persons therein named to propose and carry into effect two annual lotteries for raising the sum of fifty-two thousand five hundred dollars, to be applied to the completion of the said canal; which persons so far complied with the directions of the said act as to give bond for the faithful discharge of their trust to the commissioners of the city of Washington, a copy of which bond is also annexed to this report; but for some cause, not known to the committee, no money from this source has ever been applied to carrying on the canal.

These circumstances, combined with the present appearance of the grounds through which the canal must pass, add additional weight to the opinion of the committee, that a well-constructed and well-regulated canal would be extremely beneficial to the city of Washington, both with respect to its commerce and the health of its citizens.

They therefore think that the prayer of the petition ought to be granted, with such provisions, and under such restrictions, as while they hold out to individuals sufficient pecuniary inducements to urge the completion of the work, will guard against the inconveniences which frequently result from incorporations; and they beg leave to submit the following resolution:

*Resolved*, That it is expedient to pass a law incorporating a company for the purpose of opening a navigable canal to connect the waters of Potomac river with those of the Eastern Branch thereof, through Tyber creek, and the low lands at the foot of Capitol Hill.

Sir:

COMMISSIONERS' OFFICE, *February 5, 1802.*

We have been honored with your letter of the 1st instant. The proposed canal is not, in all its parts, designated on the plan of the city usually met with; that plan was engraved by order of President Washington, and has been generally pursued in laying out the city, as far as it was found practicable on an actual survey of the ground; but some deviations were made, which appear on a plan in this office, sanctioned by the President. The bed of the canal was changed, in part of its course, in the year 1795, by direction of the President, and with the consent of the proprietors of the adjacent lots. To render this change intelligible, we have enclosed a portion of the last-mentioned plan, with the width of the canal, and the adjacent streets noted thereon. The competency of the authority by which this disposition was made cannot be doubted; the deeds from the original proprietors having empowered the President of the United States, for the time being, to lay off all the lands within the limits of the city, into such streets, squares, parcels, and lots, as he should judge proper. A copy of one of those deeds is on the files of Congress, being part of a communication from the late President, dated 30th January, 1801. With regard to the lotteries authorized by the act of the Legislature of Maryland, we have only to say that the managers gave bond to the commissioners, agreeably to that act; a copy of which bond is enclosed: that the first lottery was drawn, and that the commissioners did every thing in their power to prevail on the managers to render an account of the proceeds, and to commence their operations on the canal, but without effect. The correspondence on this subject is voluminous; but, if required, will be transmitted for your perusal. Perhaps you will not deem this necessary, the managers being all in the city.

We are, with sentiments of great respect, sir, your most obedient servants,

WILLIAM THORNTON,  
ALEXANDER WHITE,  
TRISTRAM DALTON.

RICHARD SPRIGG, Esq., *Chairman of a committee of Congress.*

Know all men by these presents, that we, Notley Young, Daniel Carroll, of Duddington, Lewis Deblois, George Walker, William Mayne Duncanson, Thomas Law, and James Barry, are jointly and severally holden, and firmly bound unto the commissioners, appointed in virtue of the act of Congress for establishing the temporary and permanent seat of the Government of the United States, and their successors, in the full and just sum of one hundred thousand dollars, to be paid to the said commissioners, or their successors; to the which payment, well and truly to be made and done, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six.

The condition of the above obligation is such, that if the above-bound Notley Young, Daniel Carroll, of Duddington, Lewis Deblois, George Walker, William Mayne Duncanson, Thomas Law, and James Barry, shall well and truly apply the moneys arising from and in virtue of the act of Assembly, entitled "An act to authorize two lotteries in the city of Washington," within two months after the drawing of said lotteries, to the payment of the prizes drawn by the fortunate adventurers in said lotteries, and the necessary expenses incurred in the management thereof, and the residue in the opening and completing the canal in the city of Washington, and rendering the same navigable under the direction and superintendence of the said commissioners and their successors, then the said obligation to be void, else to remain in full force and virtue in law.

NOTLEY YOUNG, [L. s.]  
DAN. CARROLL, of Duddington, [L. s.]  
LEWIS DEBLOIS, [L. s.]  
GEORGE WALKER, [L. s.]  
WILLIAM M. DUNCANSON, [L. s.]  
THOMAS LAW. [L. s.]

Signed, sealed, and delivered in the presence of

THOMAS MUNROE.

7th CONGRESS.]

No. 153.

[1st SESSION.]

## CITY OF WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1802.

Mr. NICHOLSON made the following report:

The committee, to whom was referred the message of the President of the United States of the 11th ultimo, transmitting a memorial of the commissioners of the city of Washington; and to whom was likewise referred a resolution of the House of Representatives of the 5th instant, directing the committee to inquire into the expediency of discontinuing the offices of the said commissioners, beg leave to report the following resolutions for the consideration of the House:

1. *Resolved*, That from and after the 1st day of March next, the offices of two of the commissioners of the city of Washington ought to be discontinued, and thereafter the powers now vested in the board of commissioners ought to be vested in one only, who ought to discharge all the duties now required to be performed by the whole number.

2. *Resolved*, That prior to the 1st day of March next, the said commissioners ought to settle their accounts with the accounting officers of the Treasury; and all debts which have been contracted by them in their capacity as commissioners, and for the payment of which no particular provision is hereinafter made, ought to be discharged in the usual manner by the commissioner retained.

3. *Resolved*, That so many of those lots in the city of Washington which are pledged for the repayment of a loan of two hundred thousand dollars, made by the State of Maryland in the years 1796 and 1797, to the commissioners of the said city, ought to be annually sold, as may be sufficient to pay the interest and instalments of the said loan, as they may respectively become due: provided, that if, in the opinion of the President of the United States, the sale of a sufficient number of the said lots, to meet the objects aforesaid, cannot be made without an unwarrantable sacrifice of the property, then so much money as may be necessary to provide for the deficiency ought to be advanced from the Treasury of the United States.

4. *Resolved*, That so many of the lots in the said city which were sold prior to the 6th day of May, in the year 1796, and have reverted to the commissioners, in consequence of a failure on the part of the purchasers to comply with their contracts, ought to be sold, as will be sufficient to pay to the State of Maryland the sum of fifty thousand dollars, with the interest thereon, on or before the 1st day of November next; which sum was loaned by the said State to the commissioners aforesaid, in the year 1799: provided that, if in the opinion of the President of the United States, the sale of a sufficient number of the said lots, to meet the objects aforesaid, cannot be made without an unwarrantable sacrifice of the property, then so much money as may be necessary to provide for the deficiency ought to be advanced out of the Treasury of the United States.

5. *Resolved*, That all moneys advanced out of the Treasury of the United States, in pursuance of these resolutions, ought to be reimbursed as soon as possible, after the debts already contracted by the commissioners have been discharged, by applying towards the reimbursement every sum of money which may be afterwards raised out of the city funds, until the whole of the money advanced shall be repaid.

7th CONGRESS.]

No. 154.

[1st SESSION.]

## ROLL OF THE OFFICERS, CIVIL, MILITARY, AND NAVAL, OF THE UNITED STATES.

COMMUNICATED TO CONGRESS, FEBRUARY 17, 1802.

*Gentlemen of the Senate and of the House of Representatives:*

FEBRUARY 16, 1802.

I now transmit a statement of the expenses incurred by the United States in their transactions with the Barbary Powers,\* and a roll of the persons having office or employment under the United States, as was proposed in my messages of December the 7th and 22d. Neither is as perfect as could have been wished; and the latter not so much so as further time and inquiry may enable us to make it.

The great volume of these communications, and the delay it would produce to make out a second copy, will, I trust, be deemed a sufficient reason for sending one of them to the one House, and the other to the other, with a request that they may be interchanged for mutual information, rather than to subject both to further delay.

TH: JEFFERSON.

SIR:

TREASURY DEPARTMENT, February 12, 1802.

I have the honor to enclose the list of the several officers of Government, with their salaries or emoluments, as compiled in this or received from the other Departments, and arranged in the following manner:

They may be considered as forming two general classes: one consists of all those who are employed in the collection of the public revenue, and receive their compensations by deducting the amount thereof from the moneys collected by them; the other embraces all the other officers who receive their compensations from moneys drawn out of the Treasury.

\* For these papers, see Foreign Relations, No. 169, page 368.

The first class is arranged under four general heads, viz: 1st. Officers employed in the collection of the external revenues; 2d. Officers employed in the collection of the internal revenues; 3d. Receivers and registers of the land offices; 4th. Deputy Postmasters.

1st. The officers employed in the collection of the external revenue are the collectors, naval officers, surveyors, masters and mates of revenue cutters, appointed by the President; and the port inspectors, measurers, weighers, and gaugers, who are appointed by the collectors, with the approbation of the Secretary of the Treasury; to which may be added the bargemen employed by collectors.

A few of the collectors, naval officers, and surveyors, all the officers of the revenue cutters, and the port inspectors, receive a yearly, monthly, or daily allowance. The greater part of the compensations received by the collectors, naval officers, and surveyors, arises, however, from commissions paid out of the revenue, and fees paid by individuals. The measurers, weighers, and gaugers, receive certain fees or allowances, determined by the specific services rendered, and paid out of the revenue.

2d. Officers employed in the collection of the internal revenues consist of supervisors, and two inspectors, whose office still subsist, appointed by the President, collectors, and auxiliary officers, appointed by the supervisors. The pay of all those officers, which consists partly of salaries, partly of fees, and partly of commissions, is paid out of the revenue. The emoluments in the enclosed list are (for both those classes) those received during the year 1800, although the names of those officers appointed by the President, who were in office on the 31st day of December, 1801, have been inserted.

3d. Receivers and registers of the land offices are appointed by the President. The receivers receive one per cent., and the registers one-half per cent., on all moneys collected; besides which the registers receive certain fees from individuals.

4th. Deputy postmasters are appointed by the Postmaster General, and paid by commissions out of the moneys collected. It must be observed that the amount of emoluments returned is the gross sum received by them, and includes the expenses of store rent and clerks.

The second class is arranged under the four heads of civil, foreign, military, and naval departments.

1. Civil establishment includes the President and Vice President, the Legislature and officers attached to the same, the Judiciary, the departments at the seat of Government, the territorial officers, and the several general establishments of commissioners of loans, purveyor of public supplies, mint, surveying, and light-houses.

2. The foreign intercourse establishment includes the diplomatic establishment, commissioners and agents under or in relation to the British treaty, and consuls.

3. The military establishment includes the officers of the army, the agents of the quartermaster's department, the superintendents and other officers of the armories, the superintendent and storekeepers of the military stores, the superintendents and other agents of the Indian department, and the agents for fortifications.

4. The naval establishment includes the officers of the navy and of the marine corps, the navy agents, and the superintendents of the navy yards.

I have the honor to be, very respectfully, sir, your most obedient servant,

ALBERT GALLATIN.

The PRESIDENT OF THE UNITED STATES.

### EXTERNAL REVENUES.

#### NEW HAMPSHIRE.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
PORTSMOUTH.				
Collector,	J. Whipple, for 1799,	\$150 00	\$1,667 33	\$1,837 33
Clerk hire,	-	-	-	500 00
Naval officer,	E. S. L. Livermore,	200 00	561 24	761 24
Clerk hire,	-	-	-	39 93
Surveyor,	Samuel Adams,	250 00	479 31	-
Revenue inspector,	Samuel Adams,	-	178 86	908 17
Port inspector,	Jacob Walden,	579 00	-	-
Weigher,	Jacob Walden,	-	106 94	-
Measurer,	Jacob Walden,	-	264 21	950 15
Port inspector,	Thomas Chadbourne,	516 00	-	-
Weigher,	Thomas Chadbourne,	-	103 65	-
Measurer,	Thomas Chadbourne,	-	354 94	974 59
Port inspector,	Samuel Daneau,	182 50	-	182 50
Port inspector,	Daniel T. Walden,	16 00	-	16 00
Port inspector,	William P. Adams,	180 00	-	-
Measurer,	William P. Adams,	-	38 76	218 76
Port inspector,	Thomas Walden,	114 00	-	114 00
Port inspector,	John Beck,	34 00	-	34 00
Port inspector,	George Frost,	45 00	-	-
Measurer,	George Frost,	-	36 56	81 56
Port inspector,	Thomas Bell,	58 00	-	-
Measurer,	Thomas Bell,	-	33 66	91 66
Port inspector,	Elijah Perkins,	30 00	-	30 00
Port inspector,	Benjamin Connor,	38 00	-	38 00
Port inspector,	James Grouard,	32 00	-	32 00
Revenue inspector,	Nathaniel Rogers,	-	72 42	72 42
Gauger,	William Harts,	-	360 74	360 74
Gauger,	A. K. Hall,	-	46 60	46 60
Master of revenue cutter,	John Adams,	195 00	-	195 00
Master of revenue cutter,	Michael Hooker,	634 01	-	634 01
Mate of revenue cutter,	Samuel Adibourne,	134 50	-	134 50
Mate of revenue cutter,	Samuel Muir,	612 60	-	612 60
Mate of revenue cutter,	G. W. Allen,	552 44	-	552 44
Mate of revenue cutter,	Daniel Joy,	299 56	-	299 56
				\$9,717 76

## EXTERNAL REVENUES—Continued.

## MASSACHUSETTS.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
NEWBURYPORT.				
Collector,	Dudley A. Tyng,	-	\$1,655 65	\$1,655 65
Clerk hire,	-	-	-	597 40
Naval officer,	Jonathan Titcomb,	\$150 00	574 80	724 80
Surveyor,	Michael Hodge,	250 00	494 77	-
Revenue inspector,	Michael Hodge,	-	29 08	773 85
Port inspector,	William Titcomb,	429 00	-	429 00
Port inspector,	William Stickney,	89 00	-	89 00
Port inspector,	William Knapp,	460 00	-	460 00
Port inspector,	Stephen Cross, Jun.	472 00	-	472 00
Port inspector,	Isaac Randall,	62 00	-	-
Measurer,	Isaac Randall,	-	12 00	74 00
Port inspector,	Wyatt S. Barbe,	181 00	-	181 00
Weigher,	John Tracy,	-	393 83	393 83
Weigher,	Amos Whittemore,	-	407 31	407 31
Measurer,	William Morland,	-	445 31	445 31
Gauger,	J. Whittemore,	-	144 00	144 00
Gauger,	David Moody,	-	121 89	121 89
				6,969 04
GLOUCESTER.				
Collector,	William Tuck,	250 00	948 42	1,198 42
Clerk hire,	-	-	-	212 00
Surveyor,	S. Whittemore,	250 00	116 73½	-
Revenue inspector,	S. Whittemore,	-	37 05	403 78½
Port inspector,	William Kinsman,	389 90	-	-
Measurer,	William Kinsman,	-	109 22	499 12
Port inspector,	James Sawyer,	156 50	-	156 50
Port inspector,	Abraham Sawyer,	162 00	-	162 00
Weigher,	William Rodgers,	-	216 96	-
Gauger,	William Rodgers,	-	88 40	305 36
				2,937 18½
SALEM AND BEVERLY.				
Collector,	Joseph Hiller,	-	4,148 10	4,148 10
Clerk hire,	-	-	-	1,262 97
Naval officer,	William Pickman,	150 00	925 36	1,075 36
Clerk hire,	-	-	-	120 00
Surveyor,	Bartholomew Putnam,	250 00	315 73	-
Revenue inspector,	Bartholomew Putnam,	-	135 42	701 15
Surveyor,	Joseph Batchelder,	150 00	155 68½	-
Revenue inspector,	Joseph Batchelder,	-	33 30	338 98½
Port inspector,	Benjamin Punchand,	268 00	-	-
Measurer,	Benjamin Punchand,	-	36 67	304 67
Port inspector,	Elijah Haskell,	236 00	-	-
Measurer,	Elijah Haskell,	-	15 08	251 08
Port inspector,	Peter Murray,	185 00	-	-
Measurer,	Peter Murray,	-	4 11	189 11
Port inspector,	John Webb,	256 00	-	256 00
Port inspector,	Samuel Cook,	275 00	-	-
Measurer,	Samuel Cook,	-	6 93	281 93
Port inspector,	John Berry,	249 00	-	-
Measurer,	John Berry,	-	4 44	253 44
Port inspector,	Daniel Adams,	295 00	-	-
Measurer,	Daniel Adams,	-	66 96	361 96
Port inspector,	Joseph Eaton,	281 00	-	-
Measurer,	Joseph Eaton,	-	30 62	311 62
Port inspector,	George Southard,	211 00	-	-
Measurer,	George Southard,	-	8 13	219 13
Port inspector,	Joseph Phippin,	32 00	-	32 00
Port inspector,	Samuel Bishop,	146 00	-	-
Measurer,	Samuel Bishop,	-	3 55	-
Boatman,	Samuel Bishop,	321 20	-	470 75
Port inspector,	John Sart,	38 50	-	-
Boatman,	John Sart,	321 20	-	359 70
Port inspector,	Joseph Smith,	224 00	-	-
Measurer,	Joseph Smith,	-	4 40	228 40
Weigher,	Samuel Ropes,	-	923 39	-
Gauger,	Samuel Ropes,	-	208 81	1,132 20
Weigher,	John Page,	-	760 23	-
Gauger,	John Page,	-	246 01	1,006 24
Weigher,	Thomas Hartshorne,	-	1,039 33	-
Gauger,	Thomas Hartshorne,	-	56 34	1,095 67
Weigher,	Gabriel Hobnor,	-	1,033 95	-
Gauger,	Gabriel Hobnor,	-	48 07	1,082 02
Port inspector,	John Ashton,	223 00	-	-
Weigher,	John Ashton,	-	295 03	-
Gauger,	John Ashton,	-	92 66	610 69
				16,093 17½



## EXTERNAL REVENUES—Continued.

MASSACHUSETTS.				
Office.	Officer.	Salary.	Fees and commission.	Total compensation.
IPSWICH.				
Collector,	Asa Andrews,	\$ 250 00	\$ 68 79	\$ 318 79
Port inspector,	Ebenezer Stamford,	62 00	-	-
Measurer,	Ebenezer Stamford,	-	9 94	71 94
Weigher,	John Stanwood,	-	4 16	-
Gauger,	John Stanwood,	-	9 84	14 00
				404 73
MARBLEHEAD.				
Collector,	Samuel R. Gerry,	150 00	687 63	-
Revenue inspector,	Samuel R. Gerry,	-	15 95	853 58
Port inspector,	John Martin,	264 00	-	-
Measurer,	John Martin,	-	75 24	339 24
Port inspector,	Thomas Grant,	254 50	-	-
Measurer,	Thomas Grant,	-	83 04	337 54
Port inspector,	Nicholas Gordon,	268 00	-	-
Measurer,	Nicholas Gordon,	-	66 86	334 86
Port inspector,	Peter Green,	118 00	-	-
Measurer,	Peter Green,	-	22 76	140 76
Weigher,	Abraham Wood,	-	345 08	-
Gauger,	Abraham Wood,	-	46 45	391 53
				2,397 51
BOSTON.				
Collector,	Benjamin Lincoln, for 1799,	-	6,755 86	6,755 86
Clerk hire,	-	-	-	4,320 00
Naval officer,	James Lovell,	-	4,613 35 $\frac{3}{4}$	4,613 35 $\frac{3}{4}$
Surveyor,	Thomas Melville,	-	3,474 60	-
Revenue inspector,	Thomas Melville,	-	494 74	3,969 34
Clerk hire,	-	-	-	300 00
Port inspector,	Samuel W. Hunt,	730 00	-	-
Revenue inspector,	Samuel W. Hunt,	-	279 72	1,009 72
Port inspector,	George Dood,	730 00	-	-
Revenue inspector,	George Dood,	-	279 74	1,009 74
Port inspector,	John Popkins,	698 00	-	-
Measurer,	John Popkins,	-	207 27	905 27
Port inspector,	John Lillie,	730 00	-	730 00
Port inspector,	Robert Duncan,	730 00	-	-
Measurer,	Robert Duncan,	-	207 72	937 27
Port inspector,	Thomas Seward,	588 00	-	-
Measurer,	Thomas Seward,	-	131 99	719 99
Port inspector,	Jonas C. Minot,	724 00	-	-
Measurer,	Jonas C. Minot,	-	207 39	931 29
Port inspector,	William Perkins,	730 00	-	-
Measurer,	William Perkins,	-	207 27	937 27
Revenue inspector,	James Davis,	-	626 00	626 00
Port inspector,	Samuel Janes,	676 00	-	-
Measurer,	Samuel Janes,	-	207 27	883 27
Port inspector,	Joseph Thaxter,	724 00	-	-
Measurer,	Joseph Thaxter,	-	207 27	931 27
Port inspector,	Benjamin Eaton,	730 00	-	-
Measurer,	Benjamin Eaton,	-	207 27	937 27
Port inspector,	Alder Bass,	726 00	-	-
Measurer,	Alder Bass,	-	207 27	933 27
Port inspector,	Thomas Edes,	730 00	-	-
Measurer,	Thomas Edes,	-	207 27	937 27
Port inspector,	James Bancroft,	730 00	-	-
Measurer,	James Bancroft,	-	207 27	937 27
Port inspector,	Beza Lincoln,	728 00	-	-
Measurer,	Beza Lincoln,	-	207 30	935 30
Port inspector,	John F. Barber,	730 00	-	-
Measurer,	John F. Barber,	-	207 27	937 27
Port inspector,	John Norton,	730 00	-	730 00
Revenue inspector,	Ebenezer Stour,	-	18 92	18 92
Port inspector,	Oliver Holyoke,	410 00	-	410 00
Port inspector,	John Williston,	406 00	-	406 00
Revenue inspector,	Jonathan Jackson,	-	667 34	667 34
Port inspector,	James S. Lovell,	106 00	-	-
Measurer,	James S. Lovell,	-	75 37	181 37
Port inspector,	Levi Bates,	16 00	-	16 00
Weigher,	Joseph Pico,	-	1,266 04	-
Gauger,	Joseph Pico,	-	651 77	1,917 81
Weigher,	Samuel Wheelwright,	-	1,266 04	-
Gauger,	Samuel Wheelwright,	-	651 77	1,917 81
Weigher,	John Bray,	-	1,266 04	-
Gauger,	John Bray,	-	651 77	1,917 81
Weigher,	Peter Dolliver,	-	1,266 09	-
Gauger,	Peter Dolliver,	-	651 86	1,917 95
Master of revenue cutter,	John F. Williams,	922 98	-	922 98
Mate of revenue cutter,	Hezekiah Welsh,	212 00	-	212 00
Mate of revenue cutter,	Nathaniel Nichols,	615 32	-	615 32

## EXTERNAL REVENUES—Continued.

## MASSACHUSETTS.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Mate of revenue cutter,	Ezekiel Lincoln,	\$ 555 32	-	\$ 555 32
Mate of revenue cutter,	John Per Kitt,	213 74	-	213 74
<b>PLYMOUTH.</b>				<b>47,817 76½</b>
Collector,	William Watson,	150 00	\$1,136 86	1,286 86
Clerk hire,	-	-	-	100 00
Port inspector,	Thomas Mathew,	184 00	-	184 00
Port inspector,	Samuel Delano,	22 00	-	-
Weigher,	Samuel Delano,	-	8 87	-
Gauger,	Samuel Delano,	-	6 16	37 03
Port inspector,	Benjamin M. Watson,	8 00	-	-
Weigher,	Benjamin M. Watson,	-	5 83	-
Gauger,	Benjamin M. Watson,	-	2 24	16 07
Revenue inspector,	William Goodwin,	-	64 30	64 30
Gauger,	Eph. Spooner,	-	99 36	-
Weigher,	Eph. Spooner,	-	36 82	136 18
Measurer,	Stephen Churchill,	-	94 71	94 71
<b>BARNSTABLE.</b>				<b>1,919 15</b>
Collector,	Joseph Otis,	150 00	504 12	654 12
Port inspector,	Joseph Doane,	271 15	-	-
Gauger,	Joseph Doane,	-	1 84	272 99
Port inspector,	Samuel Waterman,	53 32	-	-
Gauger,	Samuel Waterman,	-	2 00	55 32
Port inspector,	Thomas Thatcher,	95 42	-	95 42
Port inspector,	David Laurence,	15 95	-	15 95
Port inspector,	Joseph Palmer,	49 36	-	49 36
<b>NANTUCKET.</b>				<b>1,143 16</b>
Collector,	Stephen Hussey,	150 00	556 16	706 16
Port inspector,	William Nichols,	289 93	-	-
Gauger,	William Nichols,	-	25	-
Weigher,	William Nichols,	-	1 83	291 91
Port inspector,	Silvan Coleman,	30 00	-	-
Measurer,	Silvan Coleman,	-	111 69	-
Boatman,	Silvan Coleman,	-	20 00	161 69
Port inspector,	James Hedge,	46 00	-	-
Measurer,	James Hedge,	-	41 70	87 70
Port inspector,	Peter Macy,	12 00	-	12 00
Gauger,	Nathaniel Russell,	-	2 16	2 16
<b>EDGARTOWN.</b>				<b>1,261 62</b>
Collector,	John Pease,	150 00	25 46	175 46
Port inspector,	William Butler,	40 00	-	40 00
Port inspector,	William Mayhew,	8 00	-	-
Measurer,	William Mayhew,	-	8 49	16 49
Port inspector,	Temple P. Cooke,	6 00	-	6 00
<b>NEW BEDFORD.</b>				<b>237 95</b>
Collector,	Edward Pope,	150 00	903 13	1,053 13
Port inspector,	William Tobey,	176 00	-	-
Weigher,	William Tobey,	-	85 31	-
Measurer,	William Tobey,	-	84 03	-
Gauger,	William Tobey,	-	9 68	355 02
Port inspector,	Calvin Delano,	106 66	-	-
Measurer,	Calvin Delano,	-	93 59	-
Gauger,	Calvin Delano,	-	1 36	201 61
Port inspector,	John Longworthy,	10 00	-	-
Weigher,	John Longworthy,	-	7 55	17 55
Port inspector,	Robert Earl,	14 00	-	-
Measurer,	Robert Earl,	-	15 73	29 73
<b>DIGHTON.</b>				<b>1,657 04</b>
Collector,	Hodijah Baylies,	150 00	582 59	-
Revenue inspector,	Hodijah Baylies,	-	1 15	733 74
Port inspector,	Benjamin Davis,	24 00	-	-
Revenue inspector,	Benjamin Davis,	-	1 87	25 87
Port inspector,	James Lincoln,	68 00	-	-
Weigher,	James Lincoln,	-	3 82	-
Measurer,	James Lincoln,	-	62 16	-
Gauger,	James Lincoln,	-	9 68	143 66
Port inspector,	Theodore Shove,	16 00	-	-
Measurer,	Theodore Shove,	-	40 77	56 77
				<b>960 04</b>

## EXTERNAL REVENUES—Continued.

MASSACHUSETTS.					
Office.		Officer.	Salary.	Fees and commission.	Total compensation.
YORK.					
Collector,	-	Joseph Tucker,	\$250 00	\$150 70	\$400 70
Port inspector,	-	Samuel Bragdon,	96 00	-	-
Weigher,	-	Samuel Bragdon,	-	2 50	-
Measurer,	-	Samuel Bragdon,	-	93	-
Gauger,	-	Samuel Bragdon,	-	3 20	102 63
Port inspector,	-	Thomas Payne,	1 13	-	1 13
Port inspector,	-	Henry Bragdon,	13 46	-	13 46
Port inspector,	-	Amos Kearnsley,	25	-	25
Port inspector,	-	Mathias Bragdon,	33	-	33
					518 50
BIDDEFORD.					
Collector,	-	Jeremiah Hill,	100 00	1,621 89	-
Revenue inspector,	-	Jeremiah Hill,	-	12 48	1,734 37
Clerk hire,	-	-	-	-	130 00
Port inspector,	-	John A. Milliken,	92 00	-	92 00
Temporary port inspector,	-	William Fairfield,	18 00	-	18 00
Temporary port inspector,	-	Jacob Perkins,	42 00	-	42 00
Temporary port inspector,	-	John Kingsbury,	14 00	-	14 00
Temporary port inspector,	-	Abner Stone,	24 00	-	24 00
Temporary port inspector,	-	Stephen Perkins,	68 00	-	68 00
Port inspector,	-	Peter Hill,	252 00	-	-
Weigher,	-	Peter Hill,	-	23 35	-
Measurer,	-	Peter Hill,	-	45 77	-
Gauger,	-	Peter Hill,	-	22 49	343 61
Port inspector,	-	Batchelder Bunker,	298 00	-	-
Gauger,	-	Batchelder Bunker,	-	5 48	303 48
Port inspector,	-	Benjamin Stone,	181 00	-	-
Weigher,	-	Benjamin Stone,	-	31 83	-
Measurer,	-	Benjamin Stone,	-	22 10	-
Gauger,	-	Benjamin Stone,	-	92 08	327 01
Port inspector,	-	Benaniah Clark,	50 00	-	-
Weigher,	-	Benaniah Clark,	-	2 48	-
Measurer,	-	Benaniah Clark,	-	14 32	-
Gauger,	-	Benaniah Clark,	-	2 20	69 00
					3,165 47
PORTLAND.					
Collector,	-	Nathaniel F. Fosdick,	-	1,139 77½	1,139 77½
Clerk hire,	-	-	-	-	500 00
Surveyor,	-	Richard Hunewell, for 1799,	150 00	540 00	690 00
Port inspector,	-	William Hobby,	576 00	-	576 00
Port inspector,	-	John Veazie,	590 00	-	590 00
Port inspector,	-	Thomas Fosdick,	280 00	-	-
Weigher,	-	Thomas Fosdick,	-	112 03	-
Measurer,	-	Thomas Fosdick,	-	245 60	-
Gauger,	-	Thomas Fosdick,	-	61 70	699 33
Revenue inspector,	-	James Lunt,	-	5 89	5 89
Port inspector,	-	Stephen Waite,	314 00	-	-
Weigher,	-	Stephen Waite,	-	124 67	-
Measurer,	-	Stephen Waite,	-	303 31	-
Gauger,	-	Stephen Waite,	-	187 94	929 92
Port inspector,	-	James Flood,	155 00	-	155 00
Port inspector,	-	Samuel Mason,	154 00	-	-
Weigher,	-	Samuel Mason,	-	27 93	-
Measurer,	-	Samuel Mason,	-	16 07	-
Gauger,	-	Samuel Mason,	-	13 84	211 84
Port inspector,	-	Edward Oxnard,	8 00	-	8 00
Revenue inspector,	-	Ebenezer Mayo,	-	5 24	5 24
Weigher,	-	Abner Bagley,	-	51	-
Gauger,	-	Abner Bagley,	-	17 27	17 78
					5,528 77½
KENNEBUNK.					
Collector,	-	Jonas Clark,	-	306 15*	-
Revenue inspector,	-	Jonas Clark,	-	15 52	321 67
Clerk hire,	-	-	-	-	70 00
Port inspector,	-	Benjamin Stone,	322 00	-	-
Revenue inspector,	-	Benjamin Stone,	-	20 90	-
Weigher,	-	Benjamin Stone,	-	10 48	-
Measurer,	-	Benjamin Stone,	-	28 26	-
Gauger,	-	Benjamin Stone,	-	85 68	467 33
Port inspector,	-	Benjamin Clark,	44 00	-	-
Weigher,	-	Benjamin Clark,	-	13 37	-
Gauger,	-	Benjamin Clark,	-	2 00	59 37
					918 36

\* From 1st July to 31st December; six months.

## EXTERNAL REVENUES—Continued.

## MASSACHUSETTS.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
BATH.				
Collector,	William Webb,	\$ 100 00	\$ 699 00	\$ 809 48
Revenue inspector,	William Webb,	-	10 48	
Clerk hire,	-	-	-	96 00
Port inspector,	Moses Coullard,	112 00	-	159 53
Weigher,	Moses Coullard,	-	19 07	
Measurer,	Moses Coullard,	-	22 70	212 49
Gauger,	Moses Coullard,	-	5 76	
Port inspector,	Richard Kimball,	138 50	-	37 50
Weigher,	Richard Kimball,	-	18 97	
Measurer,	Richard Kimball,	-	42 46	37 04
Gauger,	Richard Kimball,	-	12 56	
Port inspector,	William Butler,	37 50	-	13 00
Port inspector,	Stephen Coombs,	27 00	-	
Weigher,	Stephen Coombs,	-	2 44	37 04
Gauger,	Stephen Coombs,	-	7 60	
Port inspector,	Stephen Hopkins,	13 00	-	13 00
				1,365 04
FRENCHMAN'S BAY.				
Collector,	Melathiah Jordan,	150 00	-	150 00
WISCASSET.				
Collector,	Francis Cook,	100 00	1,007 88	1,137 70
Revenue inspector,	Francis Cook,	-	29 82	
Port inspector,	Robert Reed,	132 00	-	144 00
Boatman,	Robert Reed,	-	12 00	
Port inspector,	Francis Blyth,	372 00	-	534 22
Measurer,	Francis Blyth,	-	63 66	
Gauger,	Francis Blyth,	-	82 56	277 56
Boatman,	Francis Blyth,	-	16 00	
Port inspector,	Wymen B. Sevey,	226 00	-	132 00
Weigher,	Wymen B. Sevey,	-	35 56	
Boatman,	Wymen B. Sevey,	-	16 00	132 00
Port inspector,	Jonathan Cook,	116 00	-	
Boatman,	Jonathan Cook,	-	16 00	
				2,225 48
WALDOBOROUGH.				
Collector,	Joshua Head,	no return.	-	153 00
Surveyor,	Josiah Reid,	150 00	3 00	
Port inspector,	Joseph Howard,	66 00	-	92 54
Weigher,	Joseph Howard,	-	6 06	
Gauger,	Joseph Howard,	-	10 48	240 91
Boatman,	Joseph Howard,	-	10 00	
Port inspector,	Joseph Farley,	156 00	-	240 91
Weigher,	Joseph Farley,	-	22 84	
Measurer,	Joseph Farley,	-	47 59	240 91
Gauger,	Joseph Farley,	-	14 48	
				486 45
PENOBSCOT.				
Collector,	Josiah Hook,	150 00	237 04	396 92
Revenue inspector,	Josiah Hook,	-	9 88	
Clerk hire,	-	-	-	275 00
Port inspector,	Samuel Woodman,	12 00	-	12 00
Port inspector,	Caleb Stevenson,	24 00	-	24 00
Port inspector,	William Redlead,	86 75	-	122 52
Weigher,	William Redlead,	-	2 45	
Measurer,	William Redlead,	-	21 80	72 99
Gauger,	William Redlead,	-	11 52	
Port inspector,	Samuel Lee,	39 75	-	72 99
Weigher,	Samuel Lee,	-	2 69	
Gauger,	Samuel Lee,	-	30 55	24 45
Port inspector,	Warren Hall,	16 00	-	
Weigher,	Warren Hall,	-	5 12	24 45
Measurer,	Warren Hall,	-	2 74	
Gauger,	Warren Hall,	-	59	
				927 88
MACHIAS.				
Collector,	Stephen Smith,	200 00	78 84	278 84
Port inspector,	George S. Smith,	32 00	-	137 00
Boatman,	George S. Smith,	-	105 00	
Port inspector,	Joseph Merit,	16 18	-	16 18
Port inspector,	Caleb Cooledge,	6 87	-	6 87
Port inspector,	Joseph Wallace,	20 00	-	20 00
Port inspector,	Samuel Smith,	2 00	-	

## EXTERNAL REVENUES—Continued.

## MASSACHUSETTS.

Office.	Officer.	Salary.	Fees and com- mission.	Total compen- sation.
Weigher,	Samuel Smith,	-	31	
Measurer,	Samuel Smith,	-	\$ 3 28	\$ 5 59
Port inspector,	David Prescott,	\$ 3 00	-	3 00
Port inspector,	Philip Clark,	2 00	-	2 00
				\$469 48

## VERMONT.

Collector,	David Russell,	250 00	19 25	
Port inspector,	David Russell,	68 00	-	337 25
Measurer,	Stephen Russell,	-	22 49	22 49
				\$359 74

## RHODE ISLAND.

NEWPORT.				
Collector,	William Ellery,	150 00	2,277 63	\$2,427 63
Clerk hire,	-	-	-	900 00
Naval officer,	Robert Crooke,	150 00	-	150 00
Clerk hire,	-	-	-	702 15
Surveyor,	Daniel Lyman,	200 00	476 61	
Revenue inspector,	Daniel Lyman,	-	125 44	802 05
Surveyor,	Daniel E. Updike,	200 00	-*	244 79
Surveyor,	Thomas Arnold,	250 00	-	
Revenue inspector,	Thomas Arnold,	-	1 20*	242 21
Surveyor,	Nathaniel Philips,	250 00	-	
Revenue inspector,	Nathaniel Philips,	-	1 96*	242 97
Surveyor,	Samuel Bosworth,	250 00	53 65	
Revenue inspector,	Samuel Bosworth,	-	138 49	442 14
Surveyor,	George Stillman,	150 00	1 50	151 50
Port inspector,	Edward Coddington,	478 00	-	478 00
Port inspector,	John Yeomans,	558 00	-	558 00
Port inspector,	Harrison Hall,	352 00	-	352 00
Port inspector,	William Munro,	285 75	-	
Measurer,	William Munro,	-	4 24	289 99
Port inspector,	Andrew Boyd,	18 00	-	18 00
Port inspector,	Benjamin Cole,	166 00	-	
Measurer,	Benjamin Cole,	-	9 84	175 84
Revenue inspector,	Peleg Wood,	-	107 90	107 90
Port inspector,	T. Pickham, Jun.,	129 66	-	129 66
Port inspector,	B. L. Pickham,	22 00	-	
Measurer,	B. L. Pickham,	-	7 07	29 07
Revenue inspector,	John S. Dexter,	-	84 50	84 50
Weigher,	Josiah Fenney,	-	344 66	
Gauger,	Josiah Fenney,	-	86 96	431 62
Weigher,	William Lyon,	-	953 26	953 26
Weigher,	Seneca Spencer,	-	6 62	
Gauger,	Seneca Spencer,	-	9 04	15 66
Gauger,	Bil. Coggershall,	-	267 39	267 39
Weigher,	Joseph Smith,	-	33 06	
Gauger,	Joseph Smith,	-	40 40	73 46
Measurer,	John Newton,	-	49 43	49 43
				\$10,319 22
PROVIDENCE.				
Collector,	Jeremiah Olney,	-	1,509 15	1,509 15
Clerk hire,	-	-	-	1,560 40
Naval officer,	Eben Thomson,	150 00	270 22	420 22
Clerk hire,	-	-	-	200 00
Surveyor,	William Barton,	200 00	204 02	404 02
Clerk hire,	-	-	-	119 00
Surveyor,	Joseph Aborn,	150 00	(*)	144 92
Port inspector,	Gideon Thornton,	157 00	-	157 00
Port inspector,	Joseph Massury,	586 00	-	586 00
Port inspector,	John Thompson,	552 00	-	552 00
Port inspector,	William Earl, Jun.,	560 00	-	560 00
Port inspector,	Rem. Sheldon,	16 00	-	16 00
Port inspector,	John Burrough,	70 00	-	70 00
Port inspector,	Benj. West, Jun.,	174 00	-	174 00
Port inspector,	Gabriel Allen,	150 00	-	150 00
Port inspector,	Zebedee Hunt, Jun.,	42 00	-	42 00
Port inspector,	Joseph Hunt,	240 00	-	240 00
Port inspector,	Joseph Balch,	66 00	-	66 00
Port inspector,	Jeremiah B. Howell,	126 00	-	126 00

## EXTERNAL REVENUES—Continued.

## RHODE ISLAND.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Port inspector,	Joseph Pease,	\$4 00	-	\$4 00
Weigher,	Stephen Hopkins,	-	\$161 82	-
Measurer,	Stephen Hopkins,	-	109 05	270 87
Weigher,	R. S. Burrough,	-	588 07	-
Measurer,	R. S. Burrough,	-	109 84	697 91
Gauger,	Samuel Weeden,	-	87 63	87 63
Gauger,	James Weeden,	-	95 19	95 19
				\$8,252 31

## CONNECTICUT.

NEW LONDON.				
Collector,	Jed. Huntington,	.	\$3,135 24	\$3,135 24
Clerk hire,	.	.	.	24 75
Surveyor,	Nathaniel Richards,	\$150 00	341 20½	543 80½
Revenue inspector,	Nathaniel Richards,	.	52 60	.
Surveyor,	Jonathan Palmer,	150 00	26 63	180 31
Revenue inspector,	Jonathan Palmer,	.	3 68	.
Port inspector,	Prentice Breed,	208 00	.	.
Weigher,	Prentice Breed,	.	14 01	.
Measurer,	Prentice Breed,	.	5 01	227 02
Port inspector,	David Smith,	4 00	.	4 00
Port inspector,	Henry B. Cobb,	22 00	.	22 00
Port inspector,	Peleg Palmer,	162 00	.	.
Weigher,	Peleg Palmer,	.	2 25	164 25
Port inspector,	Benajah Leffingwell,	108 00	.	.
Gauger,	Benajah Leffingwell,	.	56 72	164 72
Port inspector,	Jonathan Trott,	360 00	.	360 00
Port inspector,	Peter B. Harris,	154 00	.	154 00
Port inspector,	Ebenezer Hoddard,	406 00	.	406 00
Port inspector,	Henry Jepson,	408 00	.	408 00
Port inspector,	N. Saltonstall, Jun.	206 00	.	.
Weigher,	N. Saltonstall, Jun.	.	142 90	.
Measurer,	N. Saltonstall, Jun.	.	339 98	.
Gauger,	N. Saltonstall, Jun.	.	99 28	788 16
Port inspector,	William Higgins,	72 00	.	.
Boatman,	William Higgins,	.	264 00	336 00
Port inspector,	Samuel Whitmore,	216 00	.	216 00
Port inspector,	Ezra Lee,	12 00	.	12 00
Port inspector,	Isaac V. Crannel,	296 00	.	296 00
Port inspector,	Zabdiel Rogers,	30 00	.	.
Weigher,	Zabdiel Rogers,	.	50 75	.
Measurer,	Zabdiel Rogers,	.	25 04	105 79
Revenue inspector,	John Chester,	.	67 64	67 64
Weigher,	Archibald Robertson,	.	4 15	.
Measurer,	Archibald Robertson,	.	66 75	.
Gauger,	Archibald Robertson,	.	4 00	74 90
Gauger,	John Denison,	.	9 12	9 12
Master of revenue cutter,	Elisha Hinman,	819 00	.	819 00
Mate of revenue cutter,	George House,	566 00	.	566 00
Mate of revenue cutter,	Ebenezer Perkins,	506 00	.	506 00
Mate of revenue cutter,	Nathaniel Saltonstall,	446 00	.	446 00
				\$10,036 70½
MIDDLETOWN.				
Collector,	Alexander Wolcott,	150 00	\$2,882 98	3,032 98
Clerk hire,	.	.	.	6 00
Surveyor,	Lambert Cooper,	150 00	179 30	.
Revenue inspector,	Lambert Cooper,	.	25 40	354 70
Clerk hire,	.	.	.	37 00
Surveyor,	Richard Dickinson,	200 00	110 91	.
Revenue inspector,	Richard Dickinson,	.	8 68	.
Port inspector,	Richard Dickinson,	66 25	.	.
Weigher,	Richard Dickinson,	.	10 73	.
Measurer,	Richard Dickinson,	.	64 61	.
Gauger,	Richard Dickinson,	.	21 60	482 78
Surveyor,	Solomon Porter,	150 00	36 48	.
Port inspector,	Solomon Porter,	21 37	.	.
Revenue inspector,	Solomon Porter,	.	17 48	.
Weigher,	Solomon Porter,	.	10 61	.
Measurer,	Solomon Porter,	.	48 36	.
Gauger,	Solomon Porter,	.	44 80	329 10
Port inspector,	Richard Dickinson, Jun.	300 00	.	300 00
Port inspector,	Elias Tully,	104 00	.	104 00
Port inspector,	Aaron Eliot,	56 00	.	56 00
Port inspector,	Ezra Lee,	274 00	.	274 00
Port inspector,	William Dickinson,	186 00	.	.

## EXTERNAL REVENUES—Continued.

CONNECTICUT.				
Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Boatman,	William Dickinson,	.	\$220 00	\$406 00
Port inspector,	Hanlen Williams,	\$94 00	.	94 00
Port inspector,	Isaac Williams,	286 00	.	286 00
Port inspector,	Silvanus Lindsley,	19 75	.	
Weigher,	Silvanus Lindsley,	.	14 83	
Measurer,	Silvanus Lindsley,	.	8 78	
Gauger,	Silvanus Lindsley,	.	10 08	53 44
Port inspector,	Robert Warner,	165 50	.	165 50
Revenue inspector,	John Chester,	.	74 50	74 50
Port inspector,	Samuel Tulley,	58 00	.	58 00
Port inspector,	Daniel Ingraham,	36 00	.	36 00
Port inspector,	Samuel Dickinson,	8 00	.	8 00
Port inspector,	Samuel Stillman,	34 00	.	34 00
Port inspector,	George Dickinson,	32 00	.	32 00
Weigher,	Stephen Ramsay, Jun.	.	23 94	
Measurer,	Stephen Ramsay, Jun.	.	177 05	
Gauger,	Stephen Ramsay, Jun.	.	66 64	267 63
NEW HAVEN.				6,491 63
Collector,	Samuel Bishop,	150 00	1,758 67	1,908 67
Clerk hire,	.	.	.	500 00
Surveyor,	William Munson,	150 00	215 87	
Revenue inspector,	William Munson,	.	35 68	401 55
Port inspector,	Benjamin English,	170 00	.	
Weigher,	Benjamin English,	.	2 26	
Measurer,	Benjamin English,	.	9 37	181 63
Port inspector,	Peter Pint,	152 00	.	152 00
Port inspector,	John P. Austin,	192 00	.	
Weigher,	John P. Austin,	.	3	
Measurer,	John P. Austin,	.	16 63	208 66
Port inspector,	Henry Peck,	160 00	.	
Measurer,	Henry Peck,	.	12 55	172 55
Port inspector,	William Powell,	14 00	.	
Weigher,	William Powell,	.	39 96	
Measurer,	William Powell,	.	292 92	346 88
Port inspector,	David Ingersoll,	66 00	.	66 00
Port inspector,	Thomas Fitch,	10 00	.	10 00
Gauger,	Eben Parmeli,	.	94 28	94 28
FAIRFIELD.				4,042 22
Collector,	Samuel Smedley,	150 00	284 44	
Revenue inspector,	Samuel Smedley,	.	89	435 33
Clerk hire,	.	.	.	75 00
Port inspector,	Salmon Hubbel,	116 00	.	
Revenue inspector,	Salmon Hubbel,	.	1 47	
Weigher,	Salmon Hubbel,	.	25	
Measurer,	Salmon Hubbel,	.	62 24	
Gauger,	Salmon Hubbel,	.	4 96	184 92
Weigher,	Samuel Burrall,	.	41	41
				695 66
NEW YORK.				
LAKE CHAMPLAIN.				
Collector,	Mel. L. Woolsey, (for 1799,)	250 00	278 26	528 26
Port inspector,	John Ransom,	50 00	.	
Measurer,	John Ransom,	.	3 25	
Weigher,	John Ransom,	.	19	53 44
Port inspector,	Charles Dunham,	2 00	.	2 00
Port inspector,	Lewis Ransom,	12 00	.	12 00
Port inspector,	F. Chandonet,	96 00	.	96 00
SAGG HARBOR.				691 70
Collector,	Henry P. Dering,	200 00	81 12	
Revenue inspector,	Henry P. Dering,	.	3 31	284 43
Clerk hire,	.	.	.	37 65
Port inspector,	J. N. Fordham,	76 00	.	
Weigher,	J. N. Fordham,	.	7 52	
Measurer,	J. N. Fordham,	.	8 93	
Gauger,	J. N. Fordham,	.	7 70	100 15
Port inspector,	James Higgins,	30 00	.	
Boatman,	James Higgins,	.	15 00	45 00

## EXTERNAL REVENUES—Continued.

## NEW YORK.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Port inspector,	Charles Halsey,	\$10 00	-	\$10 00
Port inspector,	David Hand,	4 00	-	4 00
Boatman,	David Hand,	-	\$45 00	49 00
Port inspector,	Asa Partridge,	22 00	-	22 00
Port inspector,	Stephen Saturday,	10 00	-	10 00
HUDSON.				558 23
Collector,	Henry Malcolm,	150 00	100 65½	250 65½
Surveyor,	Henry J. Bogart,	150 00	10 90	160 90
Surveyor,	J. C. T. Broeck,	150 00	8 02	158 02
Port inspector,	J. C. T. Broeck,	8 00	-	8 00
Port inspector,	John Powell,	20 00	-	20 00
Measurer,	John Powell,	-	37 49	37 49
NEW YORK.				635 06½
Collector,	David Gelston,	-	6,542 72	6,542 72
Clerk hire,	-	-	-	8,752 83
Naval officer,	Richard Rogers,	-	5,999 16	5,999 16
Clerk hire,	-	-	-	1,650 00
Surveyor,	Wm. S. Smith,†	-	1,613 30	1,613 30
Revenue inspector,	Wm. S. Smith,	-	494 42	2,107 72
Clerk hire,	-	-	-	412 50
Port inspector,	John Boerand,	730 00	-	730 00
Revenue inspector,	John Boerand,	-	107 37	837 37
Port inspector,	David Hurger,	730 00	-	730 00
Revenue inspector,	David Hurger,	-	239 30	969 30
Port inspector,	Ezekiel Dodge,	606 00	-	606 00
Port inspector,	Henry Defour,	706 00	-	706 00
Port inspector,	Win. A. Forbes,	730 00	-	730 00
Port inspector,	Jabez Halsey,	730 00	-	730 00
Revenue inspector,	Jabez Halsey,	-	300 16	1,030 16
Port inspector,	Walter Heyer,	710 00	-	710 00
Revenue inspector,	Walter Heyer,	-	199 54	909 54
Port inspector,	Ralph Hodge,	714 00	-	714 00
Port inspector,	Bezaliel Howe,	716 00	-	716 00
Port inspector,	Peter Kinman,	730 00	-	730 00
Revenue inspector,	Peter Kinman,	-	249 07	979 07
Port inspector,	William Leacroft,	726 00	-	726 00
Port inspector,	John B. Kissam,	706 00	-	706 00
Revenue inspector,	John B. Kissam,	-	136 82	842 82
Port inspector,	Thomas Leonard,	714 00	-	714 00
Port inspector,	John Mitchell,	706 00	-	706 00
Revenue inspector,	John Mitchell,	-	147 31	853 31
Port inspector,	James W. Payne,	698 00	-	698 00
Port inspector,	John Pray,	240 00	-	240 00
Port inspector,	James Robertson,	711 00	-	711 00
Port inspector,	W. H. Smith,	650 00	-	650 00
Port inspector,	John Stephen,	730 00	-	730 00
Port inspector,	Jedediah Waterman,	690 00	-	690 00
Port inspector,	Jacob Wright,	730 00	-	730 00
Revenue inspector,	John Lusler,	-	703 66	703 66
Revenue inspector,	Nicholas Fish,	-	1,466 70	1,466 70
Port inspector,	Robert Hunter,	490 00	-	490 00
Port inspector,	Andrew White,	222 00	-	222 00
Port inspector,	John Hurtel, Jun.,	26 00	-	26 00
Port inspector,	D. Van Antwerp,	178 00	-	178 00
Port inspector,	Samuel Scudden,	730 00	-	730 00
Weigher,	Daniel Kemper,	-	363 78	363 78
Weigher,	John Banker,	-	578 21	578 21
Weigher,	Walter Becker,	-	1,388 24	1,388 24
Weigher,	James Cebra,	-	939 65	939 65
Weigher,	Charles Durye,	-	2,153 29	2,153 29
Weigher,	Alexander Mowall,	-	1,480 56	1,480 56
Measurer,	Thomas Barkfield,	-	917 36	917 36
Measurer,	William Dodge,	-	895 12	895 12
Measurer,	Andrew Norwood,	-	756 28	756 28
Measurer,	Garret Sickels,	-	805 02	805 02
Measurer,	William Terry,	-	750 65	750 65
Gauger,	John Hertell,	-	1,201 14	1,201 14
Gauger,	Isaac Van Vleck,	-	1,220 83	1,220 83
Gauger,	John Watson,	-	1,235 66	1,235 66
Master of revenue cutter,	John W. Leonard,	906 60	-	906 60
Mate of revenue cutter,	John Squire,	624 40	-	624 40
Mate of revenue cutter,	Nathaniel Harriot,	564 40	-	564 40
Mate of revenue cutter,	John Wade,	504 40	-	504 40
OSWEGO.				\$62,349 45
Collector,	No appointment.	-	-	-
NIAGARA.				-
Collector,	No appointment.	-	-	-

† From July 17, to December 31—5 months, 14 days.



## EXTERNAL REVENUES—Continued.

NEW JERSEY.				
Office.	Officer.	Salary.	Fees and commission.	Total compensation.
BURLINGTON.				
Collector,	Moses Kempton,	\$150 00	(*)	\$149 54
Clerk hire,	-	-	-	15 50
Port inspector,	Nathaniel Rockhill,	58 00	-	58 00
				223 04
LITTLE EGG HARBOR.				
Collector,	William Watson,	150 00	-	150 00
Surveyor,	Arthur W. White, residing at New Brunswick,	No return.	-	-
Port inspector,	Thomas Brown,	360 00	-	360 00
				510 00
BRIDGETOWN.				
Collector,	Eli Elmer,	200 00	\$88 40	288 40
Port inspector,	Maurice Beesley,	2 00	-	2 00
				290 40
GREAT EGG HARBOR.				
Collector,	Alexander Freeland,	200 00	(*)	166 32
Port inspector,	James Chaltin,	171 00	-	171 00
Port inspector,	William Beaston,	152 00	-	152 00
				489 32
PERTH AMBOY.				
Collector,	Daniel Marsh,	200 00	58 80	258 80
Revenue inspector,	Aaron Dunham,	-	30 54	30 54
				289 34

## PENNSYLVANIA.

PHILADELPHIA.				
Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Collector,	George Latimer,	-	8,452 17	8,452 17
Clerk hire,	-	-	-	6,287 88
Naval officer,	W. Macpherson,	-	4,089 33	4,089 33
Clerk hire,	-	-	-	1,500 00
Surveyor,	William Jackson,	-	2,746 08	-
Revenue inspector,	William Jackson,	-	815 58	3,561 66
Clerk hire,	-	-	-	696 00
Port inspector,	Robert Jackson,	716 00	-	-
Revenue inspector,	Robert Jackson,	-	97 93	813 93
Port inspector,	John Claypoole,	240 00	-	240 00
Port inspector,	William Gray,	608 00	-	-
Revenue inspector,	William Gray,	-	13 07	621 07
Port inspector,	Robert Hopkins,	708 00	-	-
Revenue inspector,	Robert Hopkins,	-	97 93	805 93
Port inspector,	William Parrish,	730 00	-	-
Revenue inspector,	William Parrish,	-	97 95	827 95
Port inspector,	Jonas Simonds,	730 00	-	-
Revenue inspector,	Jonas Simonds,	-	97 93	827 93
Port inspector,	John Cress,	730 00	-	-
Revenue inspector,	John Cress,	-	97 93	827 93
Port inspector,	Peter Ozeas,	730 00	-	730 00
Port inspector,	David Rose,	730 00	-	730 00
Port inspector,	Benjamin Thomas,	674 00	-	674 00
Port inspector,	George Ralston,	730 00	-	730 00
Port inspector,	James Smith,	720 00	-	-
Revenue inspector,	James Smith,	-	97 93	817 93
Port inspector,	Isaac Milnor,	730 00	-	-
Revenue inspector,	Isaac Milnor,	-	97 93	827 93
Port inspector,	Andrew Burkhead,	730 00	-	730 00
Port inspector,	Benjamin Laurence,	730 00	-	-
Revenue inspector,	Benjamin Laurence,	-	97 92	827 92
Port inspector,	Benjamin Ashmead,	730 00	-	730 00
Port inspector,	Matthew Hale,	706 00	-	706 00
Port inspector,	Frederick Shull,	730 00	-	730 00
Port inspector,	Andrew Jackson,	730 00	-	730 00
Port inspector,	Joseph Mort,	730 00	-	730 00
Port inspector,	Joseph Allen,	730 00	-	730 00
Port inspector,	Joseph Wharton,	428 00	-	-
Measurer,	Joseph Wharton,	-	463 21	891 21
Port inspector,	Isaac Roach,	730 00	-	730 00
Revenue inspector,	Henry Miller,	-	644 42	644 42
Revenue inspector,	Joseph Taylor,	-	53 79	53 79
Port inspector,	Thomas Eggar,	382 00	-	382 00
Port inspector,	Heath Norbury,	284 00	-	284 00

## EXTERNAL REVENUES—Continued.

## PENNSYLVANIA.

Office.	Officer.	Salary.	Fees and commissions.	Total compensation.
PHILADELPHIA.				
Weigher,	J. Graft, for himself and persons employed by him,	.	\$7,939 93	\$7,939 93
Measurer,	William Thackara,	.	435 84	435 84
Measurer,	Aaron Musgrave,	.	435 83	435 83
Measurer,	Charles Fleming,	.	435 84	435 84
Gauger,	William Milnor,	.	1,941 56	1,941 56
Master of revenue cutter,	Silas Foster,	\$906 60	.	906 60
Mate of revenue cutter,	Joseph Sawyer,	504 40	.	504 40
Mate of revenue cutter,	John S. Oliver,	120 31	.	120 31
Mate of revenue cutter,	Thomas Thompson,	434 47	.	434 47
				56,115 75
PRESQU' ISLE.				
Collector,	Thomas Foster,	No return.		

## DELAWARE.

WILMINGTON.				
Collector,	Allen McLean,	250 00	3,011 73	
Revenue inspector,	Allen McLean,	.	1 23	3,262 96
Clerk hire,	.	.	.	750 00
Port inspector,	H. Montgomery,	670 00	.	670 00
Port inspector,	James Darby,	110 00	.	110 00
Port inspector,	Elijah Skillington,	730 00	.	730 00
Port inspector,	Edward Warrell,	730 00	.	
Weigher,	Edward Warrell,	.	295 10	
Measurer,	Edward Warrell,	.	53 29	1,078 39
Port inspector,	Samuel Potts,	10 00	.	10 00
Port inspector,	Peter Hardin,	420 00	.	420 00
Port inspector,	James Ross,	90 00	.	
Revenue inspector,	James Ross,	.	2 04	
Gauger,	James Ross,	.	15 08	107 12
Port inspector,	Edward Thomas,	66 00	.	66 00
Port inspector,	Thomas W. Clark,	180 00	.	180 00
Port inspector,	Samuel Thompson,	82 00	.	82 00
				7,466 47

## MARYLAND.

BALTIMORE.				
Collector,	Robert Purviance,	.	7,630 21	7,630 21
Clerk hire,	.	.	.	6,861 95
Naval officer,	Nathaniel Ramsey,	.	2,829 34	2,829 34
Clerk hire,	.	.	.	937 18
Surveyor,	Daniel Delozier,	.	2,935 11	
Revenue inspector,	Daniel Delozier,	.	357 25	3,292 36
Port inspector,	Thomas Saunderson,	424 00	.	
Revenue inspector,	Thomas Saunderson,	.	9 93	
Measurer,	Thomas Saunderson,	.	15 87	449 80
Revenue inspector,	John Kelty,	.	622 77	622 77
Port inspector,	Clement Skerret,	730 00	.	
Revenue inspector,	Clement Skerret,	.	22 39	
Measurer,	Clement Skerret,	.	59 45	811 84
Port inspector,	John Hamilton,	576 00	.	
Revenue inspector,	John Hamilton,	.	17 13	
Measurer,	John Hamilton,	.	42 98	636 11
Port inspector,	M. H. Irwine,	730 00	.	
Revenue inspector,	M. H. Irwine,	.	22 40	
Measurer,	M. H. Irwine,	.	59 45	811 85
Port inspector,	James Burn,	730 00	.	
Revenue inspector,	James Burn,	.	22 39	
Measurer,	James Burn,	.	59 45	811 84
Port inspector,	Gilbert Middleton,	662 00	.	
Revenue inspector,	Gilbert Middleton,	.	18 02	
Measurer,	Gilbert Middleton,	.	50 97	730 99
Port inspector,	J. Eichelberger,	726 00	.	
Revenue inspector,	J. Eichelberger,	.	22 39	
Measurer,	J. Eichelberger,	.	59 45	807 84
Port inspector,	James Chesnut,	450 00	.	
Revenue inspector,	James Chesnut,	.	9 92	
Measurer,	James Chesnut,	.	15 87	475 79
Port inspector,	Charles Robinson,	730 00	.	
Revenue inspector,	Charles Robinson,	.	22 39	

## EXTERNAL REVENUES—Continued.

MARYLAND.				
Office.	Officer.	Salary.	Fees and commission.	Total compensation.
BALTIMORE.				
Measurer,	Charles Robinson,	-	\$59 45	\$811 84
Port inspector,	William O. Lock,	-	-	-
Revenue inspector,	William O. Lock,	\$730 00	22 38	-
Measurer,	William O. Lock,	-	59 45	811 83
Port inspector,	Lemuel Goddard,	684 00	-	-
Revenue inspector,	Lemuel Goddard,	-	22 38	-
Measurer,	Lemuel Goddard,	-	59 44	765 82
Port inspector,	George Litteg,	600 00	-	-
Revenue inspector,	George Litteg,	-	18 02	-
Measurer,	George Litteg,	-	49 26	667 28
Port inspector,	John Gregg,	680 00	-	-
Revenue inspector,	John Gregg,	-	22 39	-
Measurer,	John Gregg,	-	59 45	761 84
Port inspector,	William Stewart,	606 00	-	-
Revenue inspector,	William Stewart,	-	17 12	-
Measurer,	William Stewart,	-	56 67	679 79
Port inspector,	John Henderson,	462 00	-	-
Revenue inspector,	John Henderson,	-	14 82	-
Measurer,	John Henderson,	-	15 87	429 69
Port inspector,	Samuel Wilson,	656 00	-	-
Revenue inspector,	Samuel Wilson,	-	22 39	-
Measurer,	Samuel Wilson,	-	59 44	737 83
Port inspector,	Andrew Bell,	690 00	-	-
Revenue inspector,	Andrew Bell,	-	22 39	-
Measurer,	Andrew Bell,	-	59 44	771 83
Port inspector,	James Boone,	590 00	-	-
Revenue inspector,	James Boone,	-	18 48	-
Measurer,	James Boone,	-	50 48	658 96
Port inspector,	Benjamin Fowler,	688 00	-	-
Revenue inspector,	Benjamin Fowler,	-	21 94	-
Measurer,	Benjamin Fowler,	-	57 01	766 95
Port inspector,	William Hanson,	154 00	-	-
Revenue inspector,	William Hanson,	-	3 20	-
Measurer,	William Hanson,	-	17 91	175 11
Weigher,	M. Eichelberger, for himself and persons employed by him,	-	5,653 90	5,653 90
Gauger,	Thomas Donnellan,	-	1,555 48	1,555 48
				43,021 02
VIENNA.				
Collector,	James Frazier,	200 00	51 08	251 08
Clerk hire,	-	-	-	140 00
				391 08
SNOW HILL.				
Collector,	William Selby,	150 00	127 52	277 52
Clerk hire,	-	-	-	92 37
Port inspector,	Joseph Mitchell,	40 00	-	40 00
Port inspector,	John Johnson,	18 00	-	18 00
Port inspector,	R. T. H. Handy,	35 15	-	-
Revenue inspector,	R. T. H. Handy,	-	1 11	-
Measurer,	R. T. H. Handy,	-	4 00	-
Gauger,	R. T. H. Handy,	-	2 96	43 22
				471 11
OXFORD.				
Collector,	Robert Banning,	200 00	-	200 00
NOTTINGHAM.				
Collector,	George Briscoe,	200 00	(*)	52 29
Clerk hire,	-	150 00	(*)	160 00
Surveyor,	Charles Chilton,	30 00	-	107 67
Port inspector,	Alexander H. Boteler,	90 00	-	30 00
Port inspector,	-	-	-	90 00
				439 96
NANJEMOY.				
Collector,	John C. Jones,	250 00	-	250 00
Surveyor,	Robert Chesley,	250 00	(*)	195 25
Surveyor,	Richard Jordan,	150 00	2 25	153 25
Port inspector,	John Hindman,	12 00	-	-
Measurer,	John Hindman,	-	6 15	18 15
				616 65

## EXTERNAL REVENUES—Continued.

## MARYLAND.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
ANNAPOLIS.				
Collector,	John Randall,	\$250 00	(*)	\$25 38
Clerk hire,				200 00
				225 28
GEORGETOWN.				
Collector,	John Oakley,	200 00	†	460 00
Clerk hire,				626 00
Port inspector,	William Morton,	626 00		
				1,066 00
CHESTER.				
Collector,	Jeremiah Nichols,	250 50	\$6 31	256 31
Clerk hire,				100 00
				356 31
HAVRE-DE-GRACE.				
Collector,	Robert Boyce,	250 00	11 03	261 03

## VIRGINIA.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
NORFOLK.				
Collector,	W. Davies, (for '99)		3,966 61	3,966 61
Clerk hire,				1,300 00
Naval officer,	Phil. Gatewood,		1,606 10	1,606 10
Clerk hire,				150 00
Surveyor,	C. Parker, (11 months)	264 32	1,148 92	
Revenue inspector,	C. Parker,		75 45	1,488 69
Surveyor,	T. Brow, (11 months)	229 17	(*)	176 67
Surveyor,	Thomas Sweepson,	250 00		250 00
Surveyor,	Andrew Forborn,	225 00	12 34	237 34
Port inspector,	John George,	644 00		644 00
Port inspector,	Hilary Mosley,	664 00		664 00
Port inspector,	John J. Smith,	652 00		
Revenue inspector,	John J. Smith,		127 20	779 20
Port inspector,	Robert Barron,	246 00		246 00
Port inspector,	Thomas Jennings,	450 00		450 00
Port inspector,	John Saunders,	936 00		936 00
Port inspector,	W. Whitefield,	566 00		566 00
Port inspector,	Thomas Gatewood,	192 00		192 00
Port inspector,	Samuel Leffingwell,	556 00		
Weigher,	Samuel Leffingwell,		45 29	
Measurer,	Samuel Leffingwell,		156 33	
Gauger,	Samuel Leffingwell,		64 40	822 02
Port inspector,	Willes George,	344 00		344 00
Port inspector,	Jonathan Rogers,	348 00		348 00
Port inspector,	David Davis,	262 00		262 00
Revenue inspector,	E. Carrington,		237 74	237 74
Revenue inspector,	James Gibbon,		34 58	34 58
Revenue inspector,	Daniel Bedinger,		47 13	47 13
Port inspector,	John W. Christie,	28 00		28 00
Port inspector,	George Gibbons,	12 00		12 00
Port inspector,	Thomas Blow,	6 00		
Measurer,	Thomas Blow,		2 66	8 66
Port inspector,	O. C. D. Klauman,	108 00		108 00
Port inspector,	John Parker,	78 00		78 00
Port inspector,	Sol. Bedinger,	82 00		82 00
Weigher,	E. Archer,		1,113 15	
Gauger,	E. Archer,		540 90	1,654 05
Measurer,	Baylor Hill,		2,010 34	2,010 34
Master of revenue cutter,	Francis Bright,	906 60		906 60
Master of revenue cutter,	William Ham,	623 26		623 26
Mate of revenue cutter,	William Parish,	564 40		564 40
Mate of revenue cutter,	Roe Latimer,	504 40		504 40
				22,027 81
PETERSBURG.				
Collector,	William Heth,	250 00	8,301 56	8,551 56
Clerk hire,				1,008 47
Surveyor,	William Gibbon,	250 00	(*)	150 12
Port inspector,	John Robertson,	352 80		
Revenue inspector,	John Robertson,		4 10	356 90
Port inspector,	Pet Manson,	14 00		14 00
Revenue inspector,	Andrew Forborn,		3 46	
Measurer,	Andrew Forborn,		367 45	
Gauger,	Andrew Forborn,		9 17	380 08

† The collector states that his clerk hire and expenses exceed his annual salary of \$200, by \$282 81.

## EXTERNAL REVENUES—Continued.

VIRGINIA.					
Office.		Officer.	Salary.	Fees and commission.	Total compensation.
Port inspector,	-	Archibald Robinson,	\$120 00	-	\$120 00
Port inspector,	-	Thomas Wilcox,	6 00	-	6 00
Port inspector,	-	Daniel Parrish,	18 00	-	18 00
Port inspector,	-	E. Whitaker,	30 00	-	30 00
Port inspector,	-	James Colgin,	74 00	-	74 00
Port inspector,	-	Robert Watkins,	16 00	-	16 00
RICHMOND.					10,725 13
Collector,	-	James Gibbon,	no return.	-	-
Surveyor,	-	James Rowland,	250 00	\$170 25	420 25
Port inspector,	-	E. Whitaker,	18 00	-	18 00
TAPPAHANNOCK.					438 25
Collector,	-	Laurence Muse,	250 00	460 25	710 25
Surveyor,	-	Peter Kemps, Jr.	150 00	12 65	162 65
Surveyor,	-	George Catlet,	200 00	(*)	174 00
Surveyor,	-	Andrew McWilliams,	250 00	(*)	-
Port inspector,	-	Andrew McWilliams,	28 00	-	-
Revenue inspector,	-	Andrew McWilliams,	-	68½	-
Weigher,	-	Andrew McWilliams,	-	5 52	-
Measurer,	-	Andrew McWilliams,	-	2 46	184 68½
Port inspector,	-	Oswald Kemp,	70 00	-	70 00
Measurer,	-	Samuel Boulevau,	-	25 49	25 49
YORK TOWN.					1,327 07½
Collector,	-	William Reynolds,	200 00	38 98	238 98
Surveyor,	-	Stephen Bingham,	150 00	(*)	132 00
YEOCOMICO.					370 98
Collector,	-	J. A. Thompson,	250 00	-	250 00
CHERRYSTONE.					
Collector,	-	Nathaniel Wilkins,	no return.	-	-
DUMFRIES.					
Collector,	-	William Linton,	227 00	(*)	199 78
Clerk hire,	-	-	-	-	60 00
Port inspector,	-	Thomas Linton,	30 00	-	30 00
HAMPTON.					289 78
Collector,	-	William Kerby,	no return.	-	-
SOUTH QUAY.					
Collector,	-	Archibald Richardson,	250 00	(*)	228 23
ALEXANDRIA.					
Collector,	-	Charles Sims,	-	1,410 76	1,410 76
Clerk hire,	-	-	-	-	550 00
Surveyor,	-	Hugh West,	200 00	242 45½	-
Revenue inspector,	-	Hugh West,	-	6 69	449 14½
Port inspector,	-	Daniel C. Pupps,	324 00	-	-
Weigher,	-	Daniel C. Pupps,	-	33 98	-
Measurer,	-	Daniel C. Pupps,	-	79 90	437 88
Port inspector,	-	John C. Kempt,	308 00	-	-
Weigher,	-	John C. Kempt,	-	5 05	-
Measurer,	-	John C. Kempt,	-	29 50	342 55
Port inspector,	-	Jos. Harris,	168 00	-	-
Weigher,	-	Jos. Harris,	-	32 91	-
Measurer,	-	Jos. Harris,	-	56 99	257 90
Weigher,	-	Edward Harper,	-	127 51	-
Measurer,	-	Edward Harper,	-	273 37	400 88
Gauger,	-	Archibald M. Clush,	-	17 68	17 68
FOLLY LANDING.					3,866 79½
Collector,	-	William Gibb,	200 00	(*)	199 36
Clerk hire,	-	-	-	-	66 66
Port inspector,	-	John Bull,	10 00	-	-
Weigher,	-	John Bull,	-	1 64	-
Gauger,	-	John Bull,	-	6 00	11 70
					277 72

EXTERNAL REVENUES—Continued.

KENTUCKY.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
LOUISVILLE.	James McConnel,	no return.		

NORTH CAROLINA.

WILMINGTON.				
Collector,	Griffith I. McRea,	\$250 00	\$1,976 29	\$2,226 29
	(Deceased, no appointment since.)			
Clerk hire,				400 00
Naval officer,	Carletor Walker, (for 1799)	150 00	32 07	182 07
Surveyor,	Thomas Callender,	250 00	361 50	
Revenue inspector,	Thomas Callender,		23 06	
Weigher,	Thomas Callender,		104 67	
Gauger,	Thomas Callender,		78 88	818 11
Port inspector,	Henry Cummings,	164 00		164 00
Port inspector,	Cor. Galloway,	52 00		
Measurer,	Cor. Galloway,		7 18	59 18
Port inspector,	Philip Williams,	356 00		
Measurer,	Philip Williams,		175 78	531 78
Port inspector,	Sedgwick Springs,	371 00		
Measurer,	Sedgwick Springs,		103 64	474 64
Port inspector,	William Bunton,	152 00		152 00
Port inspector,	Sempronius Russ,	292 00		
Measurer,	Sempronius Russ,		86 76	378 76
Port inspector,	L. A. Dorsey,	74 00		
Measurer,	L. A. Dorsey,		15 13	89 13
Port inspector,	James Dunbidden,	72 00		
Measurer,	James Dunbidden,		30 48	102 48
Revenue inspector,	William Polk,		105 34	105 34
Master of revenue cutter,	John Brown,	873 75		873 75
Mate of revenue cutter,	Joseph Burch,	602 50		602 50
Mate of revenue cutter,	William Snell,	361 50		361 50
				<u>7,521 33</u>
NEWBERN.				
Collector,	Francis Hawks,	213 00	412 85 $\frac{1}{2}$	626 35 $\frac{1}{2}$
Surveyor,	John Easton,	250 00	28 65	278 65
Surveyor,	Alexander Carmalt,	no return.		
Port inspector,	John Snead,	322 00		
Revenue inspector,	John Snead,		18 84	
Gauger,	John Snead,		54 00	
Weigher,	John Snead,		35 87	
Measurer,	John Snead,		62 79	
Boatman,	John Snead,		72 00	565 50
Port inspector,	Jav. Henry,	14 00		14 00
Port inspector,	James Farror,	50 00		
Weigher,	James Farror,		8 38	58 38
Port inspector,	B. Chency,	84 00		
Gauger,	B. Chency,		10 31	
Weigher,	B. Chency,		12 53	
Measurer,	B. Chency,		6 12	112 96
Port inspector,	Demsey Jones,	22 00		
Gauger,	Demsey Jones,		16	
Weigher,	Demsey Jones,		54	
Measurer,	Demsey Jones,		4 50	27 20
Port inspector,	John Hall,	32 00		32 00
Port inspector,	John Knowles,	8 00		
Measurer,	John Knowles,		13 21	21 21
Port inspector,	C. O. Neal,	10 00		10 00
Weigher,	John Mayo,		10 28	10 28
Mate of revenue cutter,	Samuel Easton,	45 00		45 00
				<u>1,801 53<math>\frac{1}{2}</math></u>
WASHINGTON.				
Collector,	William Keais,	250 00	1,383 38	
Revenue inspector,	William Keais,		5 12	1,638 50
Clerk hire,				150 00
Port inspector,	Daniel Groves,	189 00		
Gauger,	Daniel Groves,		2 16	
Weigher,	Daniel Groves,		91	
Measurer,	Daniel Groves,		93 08	285 15
Port inspector,	John L. Keais,	108 00		
Gauger,	John L. Keais,	8 72		
Weigher,	John L. Keais,		15 01	
Measurer,	John L. Keais,		44 05	175 78
Port inspector,	Jos. H. Bryan,	50 00		
Gauger,	Jos. H. Bryan,		9 04	
Weigher,	Jos. H. Bryan,		9 00	68 04
Port inspector,	David Wallace,	56 00		56 00
Port inspector,	Joseph Farron,	39 00		39 00
Port inspector,	John Hall,	6 00		6 00

EXTERNAL REVENUES—Continued.

NORTH CAROLINA.

Office.	Officer.	Salary.	Fees and com- mission.	Total compen- sation.
Port inspector,	William Kyle,	\$14 00		\$15 06
Gauger,	William Kyle,	-	\$1 06	
Revenue inspector,	William Polk,	-	21 18	21 18
EDENTON.				2,454 71
Collector,	Samuel Tredwell,	250 00	1,421 76	
Revenue inspector,	Samuel Tredwell,	-	132 74	1,804 50
Clerk hire,	-	-	-	229 93
Surveyor,	Stephen Skinner,	150 00	2 08	152 08
Surveyor,	Lawrence Mooney,	150 00	-	150 00
Surveyor,	Levi Blunt,	150 00	16 70	
Revenue inspector,	Levi Blunt,	-	1 28	167 98
Surveyor,	William Benson,	150 00	(*)	90 00
Clerk hire,	-	-	-	50 00
Surveyor,	Henry Hunter,	150 00	(*)	135 37
Surveyor,	Hardy Murfree,	150 00	(*)	141 25
Port inspector,	William Carter,	220 00	-	
Weigher,	William Carter,	-	12 57	
Measurer,	William Carter,	-	75 08	
Gauger,	William Carter,	-	18 64	326 29
Port inspector,	W. Romburg,	216 00	-	
Weigher,	W. Romburg,	-	23 20	
Measurer,	W. Romburg,	-	84 54	
Gauger,	W. Romburg,	-	12 48	336 22,
Port inspector,	Wilson Burges,	8 00	-	8 00
Port inspector,	Henry Bond,	15 00	-	
Measurer,	Henry Bond,	-	13 38	28 38
Port inspector,	George Cryer,	6 00	-	
Weigher,	George Cryer,	-	38	
Measurer,	George Cryer,	-	7 06	13 44
Port inspector,	John Hall,	6 00	-	6 00
Revenue inspector,	William Polk,	-	26 28	26 28
CAMDEN.				3,665 72
Collector,	Enoch Sawyer,	250 00	469 00	719 00
Surveyor,	Hugh Knox,	150 00	(*)	143 50
Surveyor,	Thomas Williams,	150 00	6 50	156 50
Surveyor,	Samuel Jasper,	no return.	-	
Surveyor,	M. E. Sawyer,	150 00	(*)	129 10
Surveyor,	Frederick B. Sawyer,	150 00	(*)	142 25
Surveyor,	James Taylor,	1,000 00	(*)	526 60
Clerk hire,	-	-	-	400 00
Port inspector,	Thomas P. Williams,	16 00	-	
Revenue inspector,	Thomas P. Williams,	-	6 00	
Gauger,	Thomas P. Williams,	-	5 21	27 21
Port inspector,	John Hall,	10 00	-	10 00
Port inspector,	Othniel Lassell,	22 00	-	22 00
Port inspector,	Robert McMorine,	10 00	-	
Weigher,	Robert McMorine,	-	20	
Gauger,	Robert McMorine,	-	8	10 28
Port inspector,	Timothy Colter,	34 00	-	
Weigher,	Timothy Colter,	-	7 15	
Measurer,	Timothy Colter,	-	1 31	
Gauger,	Timothy Colter,	-	1 96	44 42
Port inspector,	T. L. Shannonhouse,	42 00	-	
Weigher,	T. L. Shannonhouse,	-	77	
Measurer,	T. L. Shannonhouse,	-	15 45	
Gauger,	T. L. Shannonhouse,	-	3 60	61 82
Port inspector,	Wilson Sawyer,	34 00	-	
Gauger,	Wilson Sawyer,	-	5 36	
Weigher,	Wilson Sawyer,	-	1	39 37
Port inspector,	M. Jones,	20 00	-	20 00
Revenue inspector,	William Polk,	-	12 18	12 18
Measurer,	Jesse Taylor,	-	14 00	14 00
				2,478 23

SOUTH CAROLINA.

GEORGETOWN.				
Collector,	Charles Brown,	150 00	188 77	338 77
Port inspector,	L. Joseph,	146 00	-	
Measurer,	L. Joseph,	-	44 25	190 25
Port inspector,	William Tonson,	6 00	-	
Measurer,	William Tonson,	-	2 95	8 95

## EXTERNAL REVENUES—Continued.

SOUTH CAROLINA.				
Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Port inspector,	Thomas Hancock,	\$30 00		
Measurer,	Thomas Hancock,		\$8 25	\$38 25
CHARLESTON.				576 22
Collector,	James Simons,		8,248 49	8,248 49
Clerk hire,				8,605 43
Naval officer,	Thomas Waring,		2,207 04	2,207 04
Clerk hire,				1,066 66
Surveyor,	Edward Weyman,		1,728 64	
Revenue inspector,	Edward Weyman,		377 60	2,106 24
Clerk hire,				700 00
Port inspector,	Edward Martin,	460 00		460 00
Port inspector,	Caleb Smith,	520 00		520 00
Port inspector,	Oliver McMahon,	400 00		400 00
Port inspector,	Robert Shand,	608 00		608 00
Port inspector,	Israel Myers,	526 00		526 00
Port inspector,	John Liddle,	464 00		464 00
Port inspector,	John Bryant,	494 00		494 00
Port inspector,	Francis Simons,	498 00		498 00
Port inspector,	William Gray,	432 00		432 00
Port inspector,	Matthew Jessuum,	408 00		408 00
Port inspector,	I. H. Kahle,	398 00		398 00
Port inspector,	Henry Cuhun,	470 00		470 00
Port inspector,	Thomas Holmes,	458 00		458 00
Port inspector,	Francis Goring,	434 00		434 00
Port inspector,	John Mulligan,	104 00		104 00
Port inspector,	Henry Burnet,	52 00		52 00
Port inspector,	William Wood,	392 00		392 00
Port inspector,	Samuel Pittsburg,	730 00		730 00
Port inspector,	J. Richardson,	730 00		730 00
Port inspector,	James Thomson,	730 00		730 00
Port inspector,	Hym. Solomon,	730 00		730 00
Port inspector,	James Smith,	288 00		288 00
Port inspector,	Henry Legg,	374 00		374 00
Port inspector,	Nathaniel Cudworth,	730 00		730 00
Port inspector,	Joseph Dickinson,	730 00		730 00
Port inspector,	J. J. Aspray,	138 00		138 00
Port inspector,	J. G. Williams,	336 00		336 00
Port inspector,	Samuel Nobb,	302 00		302 00
Port inspector,	Robert Cochran,	374 00		374 00
Port inspector,	Isaac L. Roach,	324 00		324 00
Port inspector,	Archibald McNeil,	212 00		212 00
Port inspector,	Charles Reynolds,	26 00		26 00
Revenue inspector,	Daniel Stevens,		301 16	301 16
Weigher,	William Blamy, for himself and persons employed by him,		6,340 47	6,340 47
Measurer,	Ichabod Attwell,		927 54	927 54
Gauger,	T. Ellsworth,		1,647 35	1,647 35
Master of revenue cutter,	James Payne,	906 60		906 60
Mate of revenue cutter,	Edward Pennington,	564 40		564 40
Mate of revenue cutter,	John McLean,	83 60		83 60
Mate of revenue cutter,	Thomas White,	86 36		86 36
Mate of revenue cutter,	John Parker,	281 92		281 92
Mate of revenue cutter,	Dennard Kumbley,	282 48		282 48
Mate of revenue cutter,	Richard Hrabrowski,	168 32		168 32
BEAUFORT.				\$48,396 06
Collector,	Robert G. Geuard,	no return.		
GEORGIA.				
BRUNSWICK.				
Collector,	Claud. Thomson, (from 21st June to 31 Dec. 1800, 6 months & 9 days.)	150 55	(*)	127 70
SAVANNAH.				
Collector,	T. de M. Johnson, appointed in December, 1801,	†		
Naval officer,	Richard Wall,	150 00	611 37	761 37
Surveyor,	Edward White,	150 00	246 56	396 56
Port inspector,	John Lillibridge,	76 00		
Weigher,	John Lillibridge,	-	7 16	103 47
Measurer,	John Lillibridge,	-	20 31	90 00
Port inspector,	Taylor James,	90 00	-	34 00
Port inspector,	Thomas Hylton,	34 00		
Port inspector,	James McCabe,	106 00		

† No return has been furnished by his predecessor, Mr. Powell.



## EXTERNAL REVENUES—Continued.

GEORGIA.					
Office.		Officer.	Salary.	Fees and com- mission.	Total compen- sation.
Weigher,	-	James McCabe,	-	\$45 83	
Measurer,	-	James McCabe,	-	11 51	\$163 34
Port inspector,	-	Richard Green,	\$172 10		
Weigher,	-	Richard Green,	-	19 48	
Measurer,	-	Richard Green,	-	15 24	206 82
Port inspector,	-	Andrew McIntire,	124 39		
Weigher,	-	Andrew McIntire,	-	16 60	140 99
Port inspector,	-	John McCurdy,	44 00	-	44 00
Port inspector,	-	George Alkerson,	190 00		
Weigher,	-	George Alkerson,	-	50 66	240 66
Port inspector,	-	William Harding,	146 00		
Weigher,	-	William Harding,	-	22 11	
Measurer,	-	William Harding,	-	13 03	181 14
Port inspector,	-	William Hamilton,	88 00	-	88 00
Port inspector,	-	Green Simpson,	150 00		
Weigher,	-	Green Simpson,	-	55 79	
Measurer,	-	Green Simpson,	-	12 25	218 04
Port inspector,	-	James Hemphill,	262 00		
Weigher,	-	James Hemphill,	-	140 18	
Measurer,	-	James Hemphill,	-	4 97	407 15
Port inspector,	-	James Taylor,	106 00		
Weigher,	-	James Taylor,	-	13 74	119 74
Revenue inspector,	-	Edward White,	-	46 98	
Gauger,	-	Edward White,	-	269 85	316 83
Port inspector,	-	James Wood,	168 00		
Weigher,	-	James Wood,	-	133 12	
Measurer,	-	James Wood,	-	34 00	335 12
Master of revenue cutter,	-	James Howell,	761 57	-	761 57
Mate of revenue cutter,	-	Benjamin Forsyth,	508 22	-	508 22
ST. MARY'S.					5,117 02
Collector,	-	Randolph McGilliss,	386 75	-	386 75
Port inspector,	-	John Shaw,	-	6 00	
Gauger,	-	John Shaw,	-	2 89	8 89
HARDWICK.					395 64
Collector,	-	Simons Maxwell,	200 00	(*)	159 25 $\frac{3}{4}$
SUNBURY.					150 00
Collector,	-	George Foster,	150 00	-	150 00
UNITED STATES TERRITORY.					
DETROIT.					
Collector,	-	Matthew Ernest,	-	No return.	
Revenue inspector,	-	Matthew Ernest,	-	-	3 35
Port inspector,	-	John Dodemead,	98 00		98 00
MISSISSIPPI.					101 35
Collector,	-	J. F. Carmichael,	-	No return.	
MASSAC.					
Collector,	-	William Chribs,	-	No return.	
ILLINOIS.					
Collector,	-	No appointment.			
MICHILIMACKINAC.					
Collector,	-	Samuel Duncan,	-	No return.	
CINCINNATI.					
Collector,	-	No appointment.			
ERIE.					
Collector,	-	No appointment.			

EXTERNAL REVENUES—Continued.

MASSACHUSETTS AND RHODE ISLAND.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
PASSAMAQUODDY.				
Collector,	- - L. F. Delesdernier,	\$375 00	\$289 00	\$664 00
BRISTOL.				
Collector,	- - Jonathan Russel,	No return.		

NOTE.—The total amount of compensation extended to certain officers in the foregoing statement, marked thus, (\*) is less than the amount of salary; clerk-hire and official expenditures, more than the amount of fees and commissions, being deducted therefrom.

INTERNAL REVENUES.

NEW HAMPSHIRE.

Supervisor,	- - Nathaniel Rogers,	500 00	147 49½	647 49½
Clerk hire,	- -	-	-	300 00
Collector,	- - Samuel Elliot,	80 00	180 22	260 22
Collector,	- - Samuel Crosby,	80 00	36 50	116 50
Collector,	- - James Jewit,	40 00	84 22½	124 22½
Collector,	- - Daniel Warner,	60 00	17 25	77 25
Collector,	- - Andrew S. Crocker,	60 00	36 73	96 73
Auxiliary officer,	- - George Hough,	-	16 89	16 89
Auxiliary officer,	- - Daniel Adams,	-	14 44	14 44
Auxiliary officer,	- - Phineas Walker,	-	5 22	5 22
				1,658 97

MASSACHUSETTS.

Supervisor,	- - Jonathan Jackson,	1,000 00	710 58	1,710 58
Clerk hire,	- -	-	-	2,000 00
Inspector,	- - John Frothingham,	500 00	132 94	632 94
Clerk hire,	- -	-	-	70 00
Inspector,	- - John Brook,	500 00	518 42½	1,018 42½
Clerk hire,	- -	-	-	300 00
Inspector,	- - Ebenezer Storer,	500 00	1,095 66½	1,595 66½
Clerk hire,	- -	-	-	500 00
Collector,	- - Ebenezer Mayo,	40 00	52 32	92 32
Collector,	- - Joseph Tucker,	32 00	39 19	71 19
Collector,	- - Francis Cook,	44 00	60 91	104 91
Collector,	- - John Lee,	44 00	123 58	167 58
Collector,	- - Stephen Smith,	48 00	-	41 13
Collector,	- - Jeremiah Dummer,	44 00	43 52	87 52
Collector,	- - John Frothingham,	-	24 16	24 16
Collector,	- - Joseph Storer,	32 00	-	22 83
Collector,	- - William Wyer,	40 00	22 21½	62 21½
Collector,	- - William Farnham,	-	682 69½	682 69½
Collector,	- - Thomas Burnham,	40 00	14 73	54 73
Collector,	- - Moses Moody,	40 00	-	38 86½
Collector,	- - Ephraim Emerton,	32 00	205 87	237 87
Collector,	- - George Orsborn,	-	723 92	723 92
Collector,	- - B. B. Macanulty,	40 00	7 96½	47 96½
Collector,	- - William Rogers,	40 00	3 46½	43 46½
Collector,	- - Samuel Swan,	-	895 19¾	895 19¾
Collector,	- - Ebenezer Kent,	28 00	65 58½	93 58½
Collector,	- - Jonathan Kettell,	32 00	198 88½	230 88½
Collector,	- - Abraham Lincoln,	52 00	275 30	327 30
Collector,	- - Abel Whitney,	52 00	6 64½	58 64½
Collector,	- - John Breck,	36 00	25 65½	61 65½
Collector,	- - John S. Hopkins,	52 00	33 78½	85 78½
Collector,	- - Asa Leech,	32 00	-	32 00
Collector,	- - Foster & E. Cruft,	-	919 73	919 73
Collector,	- - Isaac Codman,	-	965 66½	965 66½
Collector,	- - Nathan Davies,	-	829 84	829 84
Collector,	- - David Cheever,	-	655 02¾	655 02¾
Collector,	- - Jeremiah Shuttleworth,	44 00	92 45¾	136 45¾
Collector,	- - William Goodwin,	44 00	115 49	159 49
Collector,	- - Hodijah Baylies,	44 00	94 74	138 74
Collector,	- - Joseph Otis,	40 00	37 66½	77 66½
Collector,	- - John Pease,	44 00	4 87½	48 87½
Collector,	- - Stephen Hussey,	36 00	21 06¾	57 06¾
Collector,	- - Ebenezer Bacon,	36 00	3 21½	39 21½
Collector,	- - William Coffin,	36 00	4 17	40 17
Collector,	- - Foster Swift,	36 00	11 60½	47 60½
				16,231 56½

## INTERNAL REVENUES—Continued.

## RHODE ISLAND.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Supervisor,	John S. Dexter,	\$600 00	\$469 22	\$1,069 22
Clerk hire,	-	-	-	700 00
Collector,	Daniel S. Dexter,	80 00	91 85	171 85
Collector,	John P. Dexter,	20 00	139 89	159 89
Collector,	Nathan Cushing,	60 00	176 47	236 47
Collector,	George Sears,	-	940 25	940 25
Clerk hire,	-	-	-	100 00
Collector,	Daniel E. Updike,	30 00	-	24 71
Clerk hire,	-	-	-	3 00
Collector,	Thomas Arnold,	30 00	2 88	32 88
Collector,	Samuel Bosworth,	30 00	3 54	33 54
				3,471 81

## CONNECTICUT.

Supervisor,	Ephraim Kerby,	700 00	147 18½	847 18½
Clerk hire,	-	-	-	604 00
Collector,	Robert Hallam,	54 00	57 22½	111 22½
Collector,	Shubael Breed,	72 00	126 27½	198 27½
Clerk hire,	-	-	-	25 00
Collector,	Dyer White,	72 00	129 76½	201 76½
Clerk hire,	-	-	-	25 00
Collector,	Thomas Chester,	72 00	222 45½	294 45½
Clerk hire,	-	-	-	160 00
Collector,	Mathew T. Russell,	72 00	-	69 87
Clerk hire,	-	-	-	10 00
Collector,	Frederick Wolcott,	68 00	125 74	193 74
Clerk hire,	-	-	-	60 00
Collector,	Lemuel King,	12 00	12 46½	24 46½
Collector,	Bethwell Phelps,	12 00	22 46	34 46
Collector,	Edmund Bradger,	40 00	3 03	43 03
Collector,	Ephraim Grant, Jun.	30 00	-	25 11
Collector,	Samuel Rowland,	50 00	-	28 52½
				2,952 10

## VERMONT.

Supervisor,	Nathaniel Bush,	500 00	-	488 45½
Clerk hire,	-	-	-	300 00
Collector,	Samuel Robinson,	80 00	53 13	133 13
Collector,	Thomas Levrett,	80 00	65 76	145 76
Collector,	Abner Brush,	80 00	45 87	125 87
Auxiliary officer,	Lemuel Whitney,	30 00	-	30 00
Auxiliary officer,	Isaac Bayley,	30 00	-	30 00
Auxiliary officer,	John Mattocks,	30 00	-	30 00
Auxiliary officer,	Elnathan Keyes,	30 00	-	30 00
Auxiliary officer,	Rosw. D. Hopkins,	30 00	-	30 00
Auxiliary officer,	Thomas Hooker,	30 00	-	30 00
				1,368 21½

## NEW YORK.

Supervisor,	Samuel Osgood,	1,000 00	840 80	1,840 80
Clerk hire,	-	-	-	1,850 00
Inspector,	Nicholas Fish,	-	1,157 98	1,157 98
Collector,	Nicholas Fish,	-	2,792 79	2,792 79
Collector,	Joseph Crook,	50 00	76 88	126 88
Collector,	Fred. Weissensels,	80 00	27 18	107 18
Collector,	Aquila Giles,	40 00	20 85	60 85
Collector,	James Pool, Jun.	45 00	42 26	87 26
Collector,	Henry P. Dering,	40 00	9 72	49 72
Collector,	Robert Morris,	40 00	61 74	101 74
Collector,	Asa Steward,	40 00	164 99	204 99
Collector,	Jonathan G. Lewis,	40 00	-	38 41
Collector,	Robert Williams,	40 00	57 74	97 74
Collector,	Wm. W. Sacket,	40 00	43 64	83 64
Collector,	J. C. Ten Broeck,	40 00	342 05	382 05
Collector,	Henry J. Bogart,	50 00	158 12	208 12
Collector,	Eben. Proudfit,	40 00	17 60	57 60
Collector,	Nathan Christy,	40 00	9 78	49 78
Collector,	David Henry,	40 00	58 71	98 71

INTERNAL REVENUES—Continued.

NEW YORK.

Office.	Officer.	Salary.	Fees and com- mission.	Total compen- sation.
Collector,	Ashbel Andrews,	\$40 00	\$13 66	\$53 66
Collector,	John Post,	40 00	16 66	56 66
Collector,	Joshua Dewey,	40 00	2 48	42 48
Collector,	Mel. L. Woolsey,	40 00	.	24 82
Collector,	John L. Mercereau,	50 00	.	44 96
Collector,	Peter B. Porter,	40 00	129 03	169 03
Collector,	Bazaleel Seely,	40 00	62 99	102 99
Collector,	Thomas McCaughy,	20 00	.	1 34
Collector,	William H. Cuyler,	20 00	.	7 50
Collector,	Abel Sherman,	40 00	.	27 70
Collector,	Jacob C. Elmendorf,	20 00	4 77	24 77
Collector,	B. B. Bladenburg,	40 00	9 89	49 89
Collector,	Comfort Tyler,	.	13 94	13 94
Collector,	Joachim G. Stoats,	.	11 56	11 56
Collector,	J. R. Vandenburg,	.	15 54	15 54
				10,043 08

NEW JERSEY.

Supervisor,	James Linn,	600 00	84 94	684 94
Clerk hire,	.	.	.	520 00
Collector,	John Vandegrift,	80 00	20 30	100 30
Clerk hire,	.	.	.	20 00
Collector,	Thomas Lawrence,	70 00	11 12	81 12
Clerk hire,	.	.	.	25 00
Collector,	John Elton,	70 00	12 05	82 05
Clerk hire,	.	.	.	30 00
Collector,	James Hedden,	60 00	161 37	221 37
Collector,	James R. English,	70 00	151 68	221 68
Collector,	Moses Estey,	66 00	38 36	104 36
Clerk hire,	.	.	.	100 00
Collector,	John Bray,	80 00	35 57	115 57
Clerk hire,	.	.	.	50 00
Collector,	John Clement,	70 00	1 33	71 33
Collector,	John M. White,	50 00	.	47 90
Clerk hire,	.	.	.	9 00
Collector,	Robert Campbell,	60 00	39 95	99 95
Clerk hire,	.	.	.	10 00
Collector,	Andrew Howell,	60 00	69 55	129 55
Clerk hire,	.	.	.	15 00
Collector,	Samuel L. James,	50 00	18 34	68 34
Clerk hire,	.	.	.	10 00
Collector,	Ebenezer Newton,	34 00	.	17 71
				2,835 17

PENNSYLVANIA.

Supervisor,	Peter Muhlenberg,	1,200 00	1,842 25	3,042 25
Clerk hire,	.	.	.	2,350 00
Inspector,	Thomas Ross,	500 00	38 87½	538 87½
Clerk hire,	.	.	.	200 00
Inspector,	John Boyd,	500 00	225 04	725 04
Clerk hire,	.	.	.	200 00
Inspector,	Edward Hand,	500 00	898 81½	1,398 81½
Clerk hire,	.	.	.	300 00
Inspector,	John Neville,	500 00	715 58½	1,215 58½
Collector,	James Ash,	.	1,882 37½	1,882 37½
Clerk hire,	.	.	.	500 00
Collector,	James Chapman,	125 00	.	118 12
Clerk hire,	.	.	.	40 00
Collector,	Daniel S. Clair,	125 00	.	121 19
Clerk hire,	.	.	.	40 00
Collector,	Benjamin Perry,	150 00	74 42	224 42
Collector,	John Witman,	80 00	649 32½	729 32½
Collector,	Stephen Balliet,	150 00	189 50½	339 50½
Clerk hire,	.	.	.	20 00
Collector,	John Hamilton,	60 00	92 69½	152 69½
Clerk hire,	.	.	.	8 00
Collector,	John Buyers,	45 00	108 52	153 52
Clerk hire,	.	.	.	15 00
Collector,	Matthew Wilson,	45 00	33 56½	78 56½
Collector,	Jacob Humphries,	125 00	48 16	173 16
Clerk hire,	.	.	.	110 00
Collector,	Jacob Graeff,	.	820 65	820 65
Clerk hire,	.	.	.	180 00
Collector,	Frederick Hubley,	100 00	19 31	119 31

## INTERNAL REVENUES—Continued.

## PENNSYLVANIA.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Clerk hire,				\$ 60 00
Collector,	Conrad Laub,		\$1,119 46½	1,119 46½
Clerk hire,				180 00
Collector,	John Hughes,	\$80 00	805 95	885 95
Clerk hire,				210 00
Collector,	Robert Johnson,	125 00	371 22	496 22
Collector,	James Brice,	30 00	477 41½	507 41½
Collector,	Benjamin Wells,	60 00	262 38	322 38
Collector,	John Wells,	60 00	350 94	410 94
Collector,	John Webster,	100 00	142 41	242 41
Clerk hire,				30 00
Collector,	John Crabb,	75 00	39 07	114 07
Collector,	Samuel Hyde,	75 00	12 83	87 83
				20,463 11

## DELAWARE.

Supervisor,	George Truitt,	500 00	66 27½	566 27½
Clerk hire,				300 00
Collector,	John Hall, Jun.	110 00	114 71	224 71
Collector,	James Sorden,	110 00	110 89½	220 89½
Collector,	James Houston,	110 00	129 75	239 75
				1,551 63

## MARYLAND.

Supervisor,	John Kelty,	1,000 00	1,181 90	2,181 90
Clerk hire,				1,200 00
Inspector,	Philip Thomas,	500 00	276 60	776 60
Clerk hire,				200 00
Inspector,	William Richardson,	500 00	39 60	539 60
Clerk hire,				220 00
Collector,	Thomas Jeffery,	80 00	61 77	141 77
Clerk hire,				30 00
Collector,	Isaac Dixon,	80 00	33 16	113 16
Clerk hire,				80 00
Collector,	John K. Smith,		1,159 97	1,159 97
Collector,	Richard Marshall,	75 00	115 29	190 29
Collector,	Samuel Hanson,	80 00	15 53	95 53
Collector,	Joseph Ford,	80 00	44 88	124 88
Collector,	Thomas Harwood,	75 00	106 83	181 83
Collector,	Benjamin H. Mackall,	40 00	21 24	61 24
Collector,	George Magruder,	80 00		
Clerk hire,				100 00
Collector,	John Ritchie,	110 00	103 66	213 66
Clerk hire,				266 66
Collector,	George Price,	110 00	310 43	420 43
Clerk hire,				270 00
Collector,	David Linn,	70 00	89 61	159 61
Collector,	Evans Willing,	80 00	15 56	95 56
Collector,	Robert J. Handy,	80 00	9 35	89 35
Collector,	John Green,	80 00	76 83	156 83
Collector,	John Bennet,	70 00	44 55	114 55
Collector,	Thomas Stevens,	80 00	71 10	151 10
Collector,	James Arthur,	70 00	64 00	134 00
Collector,	James Rowland,			
Collector,	J. D. Thompson,	80 00	68 27	148 27
Collector,	John Bewly,			
Collector,	Edward Deyton,	80 00	110 27	190 27
Collector,	J. Browne, Jun.			
Collector,	Samuel Jay, for stamps only,			25
Collector,	James Wallace, for do.		6 98	6 98
Collector,	Thomas Dick, for do.		3 28	3 28
Collector,	Richard G. Hardesly, for do.		2 15	2 15
Collector,	Samuel L. Smith, for do.		1 71	1 71
Collector,	Shriver, for do.		77	77
Collector,	Cornelius Comegys, for do.		6 96	6 96
Collector,	John L. Somers, for do.		6 68	6 68
Collector,	Abraham Larsh, for do.		2 90	2 90
Collector,	John Armstrong, for do.		1 88	1 88
Collector,	John Gwinn, for do.		3 21	3 21
Collector,	Aaron Rawlings, for do.		4 98	4 98
				9,848 61

## INTERNAL REVENUES—Continued.

## VIRGINIA.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Supervisor,	Edward Carrington,	\$1,350 00	\$905 76	\$2,255 76
Clerk hire,				1,766 75
Inspector,	William F. Gains,	500 00	21 03	521 03
Clerk hire,				200 00
Inspector,	Edward Stephens,	500 00	.	398 98
Clerk hire,				300 00
Inspector,	James Daniel,	500 00	143 20	643 20
Clerk hire,				200 00
Inspector,	James Gibbon,	500 00	96 32	596 32
Clerk hire,				250 00
Inspector,	Edward Smith,	500 00	514 73	1,014 73
Clerk hire,				200 00
Inspector,	James McDowell,	500 00	88 86	588 86
Clerk hire,				200 00
Collector,	Fleming Terrell,	60 00	12 56	72 56
Collector,	John Priddy,	67 50	179 14	246 64
Collector,	Robert Priddy,	22 50	46 39	68 89
Collector,	Richard Graves,	80 00	17 23	97 23
Collector,	John Pierce,	32 50	.	25 81
Collector,	John Power,	32 50	.	27 56
Collector,	John Hawkins,	32 50	.	10 50
Collector,	James Finney,	32 50	.	20 88
Collector,	Thomas Jones,	80 00	2 54	82 54
Collector,	John Tribble,	80 00	3 93	83 93
Collector,	Benjamin Temple,	25 00	.	15 65
Collector,	John Taliaferro,	25 00	12 22	37 22
Collector,	John Segar,	25 00	.	16 42
Collector,	William T. Fleet,	25 00	28 61	53 61
Collector,	Daniel Lawson,	97 50	.	85 14
Collector,	Joseph Locke,	23 75	.	9 16
Collector,	Richard Ball,	23 50	.	21 56
Collector,	Thomas Carter,	47 25	.	33 60
Collector,	Thomas L. Allison,	80 00	109 24	189 24
Collector,	Francis Adams,	80 00	193 42	273 42
Collector,	Charles Page,	25 00	114 99	139 99
Collector,	Matthew Rodes,	55 00	86 75	141 75
Collector,	Samuel Overton,	100 00	17 38	117 38
Collector,	Daniel F. Strother,	35 00	175 52	210 52
Collector,	Richard J. Tutt,	35 00	140 06	175 06
Collector,	Armstead Camp,	.	8 33	8 33
Collector,	Robert H. Saunders,	80 00	14 99	94 99
Collector,	Joseph Pleasants,	57 50	.	42 09
Collector,	Nelson Anderson,	65 00	.	64 38
Collector,	Robert Snoddy,	57 50	77 25	134 75
Collector,	Peter Saunders,	50 00	17 01	67 01
Collector,	Robert G. Payne,	76 00	4 05	80 05
Collector,	William McCraw,	76 50	106 26	182 76
Collector,	Thomas Clarke,	110 50	28 59	139 09
Collector,	John Street,	82 52	110 25	192 77
Collector,	Henry Brown,	22 50	35 21	57 71
Collector,	Samuel Clark,	29 00	.	16 09
Collector,	William Irby,	28 50	39 35	67 85
Collector,	John Fitzpatrick,	28 50	8 51	37 01
Collector,	Joseph M. Street,	27 50	.	23 93
Collector,	Allen Towns,	28 00	1 31	29 38
Collector,	Drury Woodson,	22 50	8 87	31 37
Collector,	John Clarke,	28 00	7 75	35 75
Collector,	John J. Brown,	25 00	.	21 87
Collector,	Robert Jacob,	105 00	195 45	300 45
Collector,	Francis S. Taylor,	17 50	146 56	164 06
Collector,	Richard H. Bradford,	125 00	143 65	268 65
Collector,	Joshua Forte,	95 00	247 03	342 03
Collector,	David Mason,	85 00	89 59	174 59
Collector,	Frederick Batte,	25 00	.	11 06
Collector,	James Gibbon,	30 00	62 57	92 57
Collector,	Edward Worsham,	52 50	.	43 77
Collector,	Patrick Boiseau,	55 00	3 10	58 10
Collector,	Joseph Saunders,	65 00	11 54	76 54
Collector,	Benjamin Payne,	17 50	126 26	143 76
Collector,	John D. Peterson,	20 00	10 85	30 85
Collector,	William Bonnor,	17 50	6 32	23 82
Collector,	Samuel Waples,	.	5 63	5 63
Collector,	Southy Satchell,	.	1 27	1 27
Collector,	John A. Bundick,	.	2 94	2 94
Collector,	Edward Dilliard,	.	40 99	40 99
Collector,	Henry Bush,	25 00	402 23	427 23
Collector,	George Lind,	25 00	412 10	437 10
Collector,	Asher Waterman,	45 00	253 26	298 26
Collector,	Samuel Clark,	40 00	328 69	368 69
Collector,	Henry Burnet,	65 00	.	50 80
Collector,	Samuel Ball,	50 00	.	12 46
Collector,	Allison Clarke,	25 00	5 01	30 01

## INTERNAL REVENUES—Continued.

## VIRGINIA.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Collector,	William Naylor,	\$55 00	\$6 12	\$61 12
Collector,	John Hay,	55 00	16 71	71 71
Collector,	Moses Collins,	25 00	492 19	517 19
Collector,	George Stricker,	160 00	84 07	244 07
Collector,	A. Hawthorn,	75 00	-	63 10
Collector,	George Seldon,	30 00	-	4 50
Collector,	Elias Stilwell,	15 00	-	3 88
Collector,	Thomas Robinson,	-	24 28	24 28
Collector,	Adam Heiskell,	-	7 86	7 86
Collector,	William Caruthers,	30 00	112 75	142 75
Collector,	David Rowland,	65 00	92 41	157 41
Collector,	Robert Steele,	67 50	24 32	91 82
Collector,	Henry Edmunson,	80 00	39 36	119 36
Collector,	Hugh McGavoc,	85 00	24 45	109 45
Collector,	Silas Reynolds,	10 00	-	2 37
Collector,	John Fulkerson,	75 00	-	51 80
Collector,	Samuel Ewing,	90 00	-	67 02
Collector,	John McCartney,	22 50	3 80	26 30
Collector,	Matthew Dickey,	35 00	-	11 03
Collector,	John Alexander,	30 00	30 03	60 03
Collector,	George Pitzer,	10 00	-	1 90
Collector,	Jehab Graham,	10 00	-	10 00
Auxiliary officer,	Robert Priddy,	10 00	-	10 00
Auxiliary officer,	William Graves,	20 00	-	20 00
Auxiliary officer,	Matthew Pierce,	10 00	-	10 00
Auxiliary officer,	E. Cheeseman,	10 00	-	10 00
Auxiliary officer,	Henry Power,	10 00	-	10 00
Auxiliary officer,	M. Cook,	10 00	-	10 00
Auxiliary officer,	H. Respees,	20 00	-	20 00
Auxiliary officer,	E. Ware,	20 00	-	20 00
Auxiliary officer,	Daniel Carmichael,	20 00	-	20 00
Auxiliary officer,	J. Havey,	20 00	-	20 00
Auxiliary officer,	Thomas Noble,	20 00	-	20 00
Auxiliary officer,	B. Bronaugh,	20 00	-	20 00
Auxiliary officer,	W. Gibson,	20 00	-	20 00
Auxiliary officer,	Edmund Denny,	20 00	-	20 00
Auxiliary officer,	R. Crutchfield,	20 00	-	20 00
Auxiliary officer,	Andrew Shepherd,	10 00	-	10 00
Auxiliary officer,	Richard Tutt,	10 00	-	10 00
Auxiliary officer,	William A. Bradford,	10 00	-	10 00
Auxiliary officer,	Thomas Bell,	10 00	-	10 00
Auxiliary officer,	Samuel Richardson,	20 00	-	20 00
Auxiliary officer,	Josiah Smith,	10 00	-	10 00
Auxiliary officer,	B. Branch,	10 00	-	10 00
Auxiliary officer,	Henry Brown,	10 00	-	10 00
Auxiliary officer,	John Staples,	10 00	-	10 00
Auxiliary officer,	William Irby,	10 00	-	10 00
Auxiliary officer,	Asa Vaughan,	10 00	-	10 00
Auxiliary officer,	John Clarke,	10 00	-	10 00
Auxiliary officer,	E. Dennis,	10 00	-	10 00
Auxiliary officer,	Joseph M. Street,	10 00	-	10 00
Auxiliary officer,	John A. Bundick,	20 00	-	20 00
Auxiliary officer,	William H. Smith,	20 00	-	20 00
Auxiliary officer,	Swep. Whitehead,	20 00	-	20 00
Auxiliary officer,	Wilson Davis,	20 00	-	20 00
Auxiliary officer,	John Mason,	20 00	-	20 00
Auxiliary officer,	W. Bonnor,	10 00	-	10 00
Auxiliary officer,	Allen Griffin,	20 00	-	20 00
Auxiliary officer,	Not known,	20 00	-	20 00
Auxiliary officer,		20 00	-	20 00
				18,513 65

## OHIO.

Supervisor,	James Morrison,	700 00	-	574 32½
Clerk hire,	-	-	-	700 00
Inspector,	<i>Ebenezer Sproat,</i>	500 00	283 12½	783 12½
Collector,	John Arthur,	57 50	307 61	365 11
Collector,	George Mansel,	27 50	49 63½	77 13½
Collector,	Daniel Jennings,	25 00	-	18 01
Collector,	John Haberson,	20 00	-	2 10
Collector,	Joseph Ballinger,	22 50	57 82½	80 32½
Collector,	Isaac Holeman,	10 00	-	-
Collector,	Abel Hennon,	28 50	-	-
Collector,	William Hubbell,	-	-	40 36
Collector,	James McConnell,	27 50	77 19	104 69
Collector,	Lewis Moore,	27 50	13 93	41 43
Collector,	Hez. J. Balch,	-	-	-

## INTERNAL REVENUES—Continued.

## OHIO.

Office.	Officers.	Salary.	Fees and commission.	Total compensation.
Collector,	Thomas L. Patterson,	\$17 50	-	\$8 92
Collector,	Zenas Kimberly,	37 50	-	36 56
Collector,	James Smith,	32 50	\$76 49 $\frac{1}{2}$	108 99 $\frac{1}{2}$
Collector,	Elijah Tisdale,	30 00	14 15 $\frac{3}{4}$	44 15 $\frac{3}{4}$
Collector,	Peter Audrain,	35 00	-	-
Collector,	James Denny,	30 00	-	-
Collector,	R. Morrison,	30 00	-	30 00
Auxiliary officer,	A. Calderwood,	30 00	-	30 00
Auxiliary officer,	George Helm,	30 00	-	30 00
Auxiliary officer,	William D. Irvine,	30 00	-	30 00
Auxiliary officer,	William Curl,	15 00	-	15 00
Auxiliary officer,	Isaac Alderson,	15 00	-	15 00
Auxiliary officer,	Absalom Graves,	15 00	-	15 00
Auxiliary officer,	William Reddick,	15 00	-	15 00
Auxiliary officer,	John Sanders,	15 00	-	15 00
Auxiliary officer,	Robert Allen,	15 00	-	15 00
Auxiliary officer,	John Crow,	9 00	-	9 00
Auxiliary officer,	Richard M. Gano,	30 00	-	30 00
Auxiliary officer,	John Jackson,	27 50	-	27 50
Auxiliary officer,	Samuel Waddy,	30 00	-	30 00
Auxiliary officer,	William Moore,	30 00	-	30 00
Auxiliary officer,	William Chappin,	6 50	-	6 50
Auxiliary officer,	John Bradford,	6 50	-	6 50
Auxiliary officer,	David Caldwell,	6 50	-	6 50
Auxiliary officer,	John Bradley,	6 50	-	6 50
Auxiliary officer,	John Christian,	6 50	-	6 50
Auxiliary officer,	James Simpson,	7 50	-	7 50
				3,361 74 $\frac{1}{2}$

## TENNESSEE.

Supervisor,	John Overton,	500 00	74 98	574 98
Clerk hire,	-	-	-	350 00
Collector,	Reuben Sanders,	80 00	92 35	172 35
Collector,	Thomas Brown,	80 00	-	77 09
Collector,	Henry Bradford,	80 00	216 94	296 94
Auxiliary officer,	John Neely,	10 00	118 12	128 12
Auxiliary officer,	John McMahan,	10 00	6 27	16 27
Auxiliary officer,	T. Henderson,	-	23 47	23 47
Auxiliary officer,	John Woods,	10 00	20 87	30 87
Auxiliary officer,	John Anderson,	10 00	25 00	35 00
Auxiliary officer,	George Bell,	7 50	11 00	18 50
Auxiliary officer,	Robert Prince,	10 00	5 00	15 00
Auxiliary officer,	William Johnson,	2 50	4 00	6 50
				1,745 09

## NORTH CAROLINA.

Supervisor,	William Polk,	1000 00	476 17	1,476 17
Clerk hire,	-	-	-	850 00
Inspector,	Thomas Overton,	500 00	18 46	518 46
Clerk hire,	-	-	-	250 00
Inspector,	Hardy Murfree,	500 00	-	453 61
Clerk hire,	-	-	-	280 00
Inspector,	John Whitaker,	500 00	70 95	570 95
Clerk hire,	-	-	-	200 00
Inspector,	Daniel McKissack,	500 00	88 74	588 74
Clerk hire,	-	-	-	200 00
Collector,	Robert Hunt,	50 00	59 87	109 87
Collector,	Benajah White,	50 00	10 84	60 84
Collector,	Jesse Aldridge,	50 00	16 39	66 39
Collector,	Joseph Dickson,	50 00	38 65	88 65
Collector,	Andrew McIntire,	50 00	17 87	67 87
Collector,	Robert Muter,	50 00	87 52	137 52
Collector,	John Storm,	50 00	36 40	86 40
Collector,	Duncan McRae,	50 00	90 68	140 68
Collector,	Malcolm Gilchrist,	50 00	24 51	74 51
Collector,	John Conyers,	50 00	8 67	58 67
Collector,	Lewis Dickson,	50 00	32 13	82 13
Collector,	William Robeson,	50 00	21 97	71 97
Collector,	John Barfield,	50 00	22 03	72 03
Collector,	Richard McKinne,	50 00	27 73	77 73
Collector,	John Becton,	50 00	16 51	66 51
Collector,	William French,	50 00	11 75	61 75
Collector,	James Stewart,	50 00	21 93	71 93



## INTERNAL REVENUES—Continued.

## NORTH CAROLINA.

Office.	Officers.	Salary.	Fees and commission.	Total compensation.
Collector, . . . . .	John Williams, . . . . .	\$50 00	\$12 59	\$62 59
Collector, . . . . .	Isaac Dauge, . . . . .	50 00	9 18	59 18
Collector, . . . . .	William Bruer, . . . . .	50 00	20 19	70 19
Collector, . . . . .	Stephen Skinner, . . . . .	} 50 00	10 25	60 25
Collector, . . . . .	James Wood, . . . . .		8 12	58 12
Collector, . . . . .	Levi Blount, . . . . .	50 00	29 10	79 10
Collector, . . . . .	Ed. Norcum, . . . . .	50 00	18 39	68 39
Collector, . . . . .	Thomas Marshall, . . . . .	50 00	61 11	111 11
Collector, . . . . .	Hardy Murfree, . . . . .	50 00	36 74	86 74
Collector, . . . . .	William Benson, . . . . .	50 00	. . . . .	44 64
Collector, . . . . .	Seth Hovey, . . . . .	50 00	11 95	61 95
Collector, . . . . .	Josiah Laurence, . . . . .	50 00	. . . . .	34 70
Collector, . . . . .	Louis Leroy, . . . . .	50 00	38	50 38
Collector, . . . . .	Benjamin Chiney, . . . . .	50 00	70 88	120 88
Collector, . . . . .	George Graham, . . . . .	50 00	125 07	175 07
Collector, . . . . .	Samuel King, . . . . .	50 00	54 07	104 07
Collector, . . . . .	David Reese, . . . . .	50 00	9 24	59 24
Collector, . . . . .	John Christian, . . . . .	} 50 00	189 42	239 42
Collector, . . . . .	Nathan Chaffin, . . . . .		50 00	109 96
Collector, . . . . .	Edward Chambers, . . . . .	50 00	40 64	90 64
Collector, . . . . .	Hance McCain, . . . . .	50 00	137 92	187 92
Collector, . . . . .	Samuel Hunter, . . . . .	} 50 00	80 91	130 91
Collector, . . . . .	Christian Lash, . . . . .		50 00	48 15
Collector, . . . . .	Mar. Kimbrough, . . . . .	50 00	46 16	96 16
Collector, . . . . .	James P. Walker, . . . . .	50 00	20 49	70 49
Collector, . . . . .	Eli B. Whitaker, . . . . .	50 00	31 57	81 57
Collector, . . . . .	John H. Hall, . . . . .	50 00	. . . . .	44 15
Collector, . . . . .	Anthony Williams, . . . . .	50 00	19 40	69 40
Collector, . . . . .	Allen Mann, . . . . .	50 00	. . . . .	49 60
Collector, . . . . .	Henry Hunter, . . . . .	50 00	26 09	76 09
Collector, . . . . .	Charles Marshall, . . . . .	50 00	28 94	78 94
Collector, . . . . .	William Green, . . . . .	50 00	100 01	250 01
Collector, . . . . .	William Scurlock, . . . . .	50 00	. . . . .	39 84
Collector, . . . . .	Maurice Smith, . . . . .	50 00	21 92	71 92
Collector, . . . . .	John Scott, . . . . .	50 00	34 96	84 96
Collector, . . . . .	Barnaby Burrow, . . . . .	50 00	20 68	70 68
Collector, . . . . .	Henry Jones, . . . . .	50 00	197 80	247 80
Collector, . . . . .	H. E. Williamson, . . . . .	50 00	50 29	100 29
Collector, . . . . .	John Clixby, . . . . .	50 00	73 60	123 60
Collector, . . . . .	Daniel McKissick, . . . . .	50 00	23 85	73 85
Collector, . . . . .	Lemuel Moore, . . . . .	} 50 00	39 68	89 68
Collector, . . . . .	Thomas Coleman, . . . . .		50 00	. . . . .
Collector, . . . . .	Lambert Clayton, . . . . .			
Collector, . . . . .	John Gordon, . . . . .			
Collector, . . . . .	Meredith Thurman, . . . . .			
				10,619 01

## SOUTH CAROLINA.

Supervisor, . . . . .	Daniel Stevens, . . . . .	1,000 00	-	598 63
Clerk hire, . . . . .	- . . . .	-	-	1,880 00
Inspector, . . . . .	Benjamin Cudworth, . . . . .	500 00	-	429 37
Clerk hire, . . . . .	- . . . .	-	-	250 00
Inspector, . . . . .	E. Brenan, (4½ months,) . . . . .	187 50	-	75 73
Clerk hire, . . . . .	- . . . .	-	-	112 50
Inspector, . . . . .	J. Nichols, (7½ months,) . . . . .	312 50	-	255 10
Clerk hire, . . . . .	- . . . .	-	-	229 23
Collector, . . . . .	Samuel Prior, . . . . .	80 00	-	60 03
Collector, . . . . .	Francis Mulligan, . . . . .	85 00	321 23	406 23
Clerk hire, . . . . .	- . . . .	-	-	300 00
Collector, . . . . .	Robert Henderson, . . . . .	50 00	-	45 74
Collector, . . . . .	John Adcock, . . . . .	89 59	-	44 19
Collector, . . . . .	Thomas G. Scott, . . . . .	100 00	-	15 31
Collector, . . . . .	Gaspar Trotti, . . . . .	100 00	-	91 99
Collector, . . . . .	Joseph Evans, . . . . .	100 00	134 05	234 05
Collector, . . . . .	John Fisher, . . . . .	125 00	19 06	144 06
Collector, . . . . .	Thomas Godfrey, . . . . .	80 00	-	52 20
Collector, . . . . .	David Prior, . . . . .	100 00	-	89 70
Collector, . . . . .	Gabriel Benson, . . . . .	50 00	-	45 77
Collector, . . . . .	Silvanus Walker, . . . . .	50 00	-	13 95
Collector, . . . . .	David McCaleb, . . . . .	50 00	18 92	68 92
Collector, . . . . .	Andrew Bowie, . . . . .	50 00	24 11	74 11
Auxiliary officer, . . . . .	Bernard Mulligan, . . . . .	30 00	-	30 00
Auxiliary officer, . . . . .	Elias G. Jaudon, . . . . .	30 00	-	30 00
Auxiliary officer, . . . . .	John Dreher, . . . . .	30 00	-	30 00
Auxiliary officer, . . . . .	Joseph Sadler, . . . . .	30 00	-	30 00
Auxiliary officer, . . . . .	John Brown, . . . . .	30 00	-	30 00
Auxiliary officer, . . . . .	Joshua Benson, . . . . .	30 00	-	30 00
Auxiliary officer, . . . . .	John Simpson, . . . . .	26 88	-	26 88

## INTERNAL REVENUES—Continued.

## SOUTH CAROLINA.

Office.	Officer.	Salary.	Fees and commission.	Total compensation.
Auxiliary officer, - -	John Horan, - -	\$30 00	-	\$30 00
Auxiliary officer, - -	W. N. Richborough, - -	30 00	-	30 00
Auxiliary officer, - -	John P. Rushing, - -	30 00	-	30 00
Auxiliary officer, - -	James Lide, - -	30 00	-	30 00
Auxiliary officer, - -	Roger Roberts, - -	30 00	-	30 00
Auxiliary officer, - -	James Woodson, - -	30 00	-	30 00
Auxiliary officer, - -	Frederick Nance, - -	30 00	-	30 00
Auxiliary officer, - -	Stephen Norris, - -	30 00	-	30 00
Auxiliary officer, - -	David Goodlet, - -	30 00	-	30 00
				5,993 69

## GEORGIA.

Supervisor, - -	John Mathews, - -	500 00	-	420 01
Clerk hire, - -	- -	-	-	250 00
Collector, - -	Joshua Houghton, - -	50 00	\$15 54	65 54
Collector, - -	Henry Cappelear, - -	40 00	20 98	60 98
Collector, - -	James O. Cosby, - -	40 00	13 08	53 08
Collector, - -	John Graves, - -	36 00	-	18 12
Collector, - -	Yancy Sanders, - -	36 00	5 18	41 18
Collector, - -	Hamilton Wynn, - -	40 00	-	17 17
Collector, - -	Edward White, - -	56 00	36 51	92 51
Collector, - -	David Rees, - -	24 00	-	21 17
Auxiliary officer, - -	Andrew Baxter, - -	20 00	22 62	42 62
Auxiliary officer, - -	Andrew Kennedy, - -	36 00	-	12 93
Auxiliary officer, - -	Thomas Kilpatrick, - -	16 00	-	11 69
Auxiliary officer, - -	John Collier, - -	36 00	-	34 08
Auxiliary officer, - -	John Darracott, - -	36 00	4 72	40 72
Auxiliary officer, - -	Lewis Wright, - -	36 00	-	22 70
Auxiliary officer, - -	George Watkins, - -	40 00	52 28	92 28
Auxiliary officer, - -	Thomas Collier, - -	36 00	1 98	37 98
Auxiliary officer, - -	Simons Maxwell, - -	40 00	-	27 24
Auxiliary officer, - -	Isaac Crews, - -	20 00	-	2 89
Auxiliary officer, - -	Cloud. Thompson, - -	9 00	-	3 87
				\$1,368 76

NOTE.—In the foregoing statement, where the amount of compensation is not extended, the official expenses were equal to the total amount of salary, commissions, and fees; and where it is extended less than the amount of salary, official expenses more than the amount of commissions and fees are deducted therefrom.

## LAND OFFICES.

STEUBENVILLE.				
Receiver, - -	Zaccheus Biggs, - -	For 1 year,	\$940 17	\$940 17
Register, - -	David Hoge, - -	For 1 year,	470 08	470 08
				1,410 25
MARIETTA.				
Receiver, - -	Elijah Bacchus, - -	For 10 mos.	23 04	23 04
Register, - -	Peregrine Foster, - -	For 10 mos.	11 52	11 52
				34 56
CHILICOTHE.				
Receiver, - -	Samuel Finley, - -	For 8 mos.	1,130 35	1,130 35
Register, - -	Thomas Worthington, - -	For 8 mos.	565 17	565 17
				1,695 52
CINCINNATI.				
Receiver, - -	James Findley, - -	For 9 mos.	1,083 29	1,083 29
Register, - -	Israel Ludlow, - -	For 9 mos.	541 64	541 64
				1,624 93

The foregoing is exclusive of fees, which, it is supposed, may be equal to the commissions as above stated, viz: To the receivers one per cent. on all moneys received by them. To the registers one-half per cent on all moneys entered by them.

GENERAL POST OFFICE, *January 5, 1802*

The Postmaster General, in obedience to instructions received from the President, through the Secretary of State, respectfully reports:

That the persons whose names are herein hereafter written are Deputy Postmasters at the places written against their names; and that they received, as a compensation for their services for the year 1800, the sums set against their names respectively. In those cases where the accounts have not been returned for that year, the best light has been given which the state of the office admits of.

All which is respectfully submitted.

GIDEON GRANGER.

## DEPUTY POSTMASTERS.

Post Offices.	States, &c.	Postmasters.	Emolument to Postmasters, for 1800.	Remarks.
Aaronsburg, -	Penn.	James Duncan, -	\$14 22	
Abbeville C. H. -	S. C.	William Hamilton, -	30 51	
Abbottstown, -	Penn.	Martin Markley, -	12 55	
Abingdon, -	Virginia,	John McCormick, -	108 09	
Accomac C. H. -	Virginia,	Robert Twiford, -	76 10	
Aquasco, -	Md.	Rinaldo Johnson, -	13 77	
Acquia, -	Virginia,	William Edwards, -	34 58	
Addison, -	Vermont,	Cyrus Strong, -	3 81	
Albany, -	N. Y.	Geo. W. Mancius, -	908 16	
Alexandria, -	Penn.	Lewis Mytinger, -	13 47	
Alexandria, -	Virginia,	George W. Craik, -	1,417 11	
Allemance, -	N. C.	Jesse Smith, -	-	- No accounts rendered.
Allensfresh, -	Md.	James Doyle, -	29 75	
Allentown, -	N. J.	Samuel Rogers, -	16 15	
Amboy, -	N. J.	Robert Rattoone, -	-	
Amherst, -	N. H.	Samuel Curtis, -	58 76	
Andersville, -	N. C.	John Anders, -	-	- No accounts.
Andover, -	Mass.	Isaac Abbott, -	14 37	
Annapolis, -	Md.	Samuel Green, -	298 06	
Athens, -	Penn.	William Prentice, -	-	\$2 61 From Oct. 22 to December 31, 1800.
Atsion, -	N. J.	Reynold Keen, -	14 74	
Augusta, -	Maine,	James Burton, -	56 67	
Augusta, -	Georgia,	William I. Hobby, -	752 76	
Aurelius, -	N. Y.	Samuel Crossett, -	-	24 36 March 22 to December 31, 1800.
Austinville, -	Virginia,	James Austin, -	8 35	
Averysborough, -	N. C.	Gerard Banks, -	43 14	
Asylum, -	Penn.	Joseph Doyle, -	-	- Commenced in 1801.
Barre, -	Mass.	John Ruggles, -	6 84	
Bairdstown, -	Ken.	James E. Winn, -	-	34 27 May 23 to December 31, 1800.
Ballston, -	N. Y.	Samuel Cook, -	-	6 74 September 16 to December 31, 1800.
Ballston Springs, -	N. Y.	J. B. Aldridge, -	48 15	
Baltimore, -	Md.	Charles Burrall, -	3,235 45	
Bangor, -	Maine,	Bulkl. Emerson, -	4 21	- October 1 to December 31, 1800.
Barefields, -	S. C.	John Ford, -	-	35 October 1 to December 31, 1800.
Barnstable, -	Mass.	Richard Bourne, -	54 11	
Basonharbor, -	Vermont,	Jacob Rogers, -	1 10	
Bath, -	Maine,	Dummer Sewall, -	110 49	
Bath, -	N. Y.	Doug. Cameron, -	-	1 37 October 18 to December 31, 1800.
Bath, -	N. C.	Thomas Alderson, -	-	72 November 1 to December 31, 1800.
Bath C. H. -	Virginia,	Anthony Mustoe, -	23 12	- April 1, 1799, to April 1, 1800.
Battletown, -	Virginia,	Tarlton F. Webb, -	-	15 12 January 2 to September 1, 1800.
Beaufort, -	N. C.	Brian Hellen, -	14 00	
Beaufort, -	S. C.	John M. Verdier, -	114 63	
Bedford, -	N. Y.	Aaron Read, -	13 23	
Bedford, -	Penn.	William Reynolds, -	72 71	
Bell Air, -	Md.	John Reardon, -	22 13	
Belcherton, -	Mass.	Jonathan Grout, -	11 13	
Belfast, -	Maine,	Tolford Durham, -	23 73	
Bellefont, -	Penn.	James Dunloss, -	12 41	
Belleville, -	Penn.	John Reed, -	1 97	
Bellows Falls, -	Vermont,	William Page, -	-	45 October 10 to December 31, 1800.
Belvidere, -	N. J.	Thomas Paul, -	-	1 42 October 1 to December 31, 1800.
Benedict, -	Md.	John Forbes, -	19 63	
Bennington, -	Vermont,	Micah I. Lyman, -	146 61	
Benson, -	Vermont,	Albert Stevens, -	-	9 December 5 to December 31, 1800.
Bent Creek, -	Virginia,	Samuel Perkins, -	-	64 December 5 to December 31, 1800.
Berlin, -	Conn.	Samuel Porter 3d, -	50 92	
Berwick, -	Maine,	William Morris, -	37 71	
Berwick, -	Penn.	William Bryan, -	-	53 November 1 to December 31, 1800.
Bethania, -	N. C.	Henry Hauser, -	3 60	
Bethlehem, -	Penn.	Joseph Horsfield, -	78 95	
Beverly, -	Mass.	Asa Leech, -	87 83	
Biddeford, -	Maine,	William P. Hooper, -	90 79	
Billerica, -	Mass.	Jonathan Bowers, -	10 43	
Bladensburg, -	Md.	Benj. Lowndes, -	74 23	
Blandford, -	Mass.	Timothy Hatch, -	12 60	
Blenham, -	N. Y.	Peter Richtmeyre, -	10	10 November 4 to December 31, 1800.
Bluehill, -	Maine,	Andrew Witham, -	11 06	
Booneton, -	N. J.	Rich'd B. Faesch, -	2 57	

## DEPUTY POSTMASTERS—Continued.

Post Offices.	States, &c.	Postmasters.	Emolument to Postmasters, for 1800.		Remarks.
Bordentown,	N. J.	William Norcross,	-	\$1 09	October 1 to December 31, 1800.
Boston,	Mass.	Jonathan Hastings,	\$2,688 67	-	-
Boundbrook,	N. J.	Elias Coombs,	-	-	No accounts; new office.
Bourbon,	Ken.	William Paton,	54 05	-	-
Bowling Green,	Virginia,	John Hoomes,	73 40	-	April 5, 1798, to April 5, 1799.
Bowling Green,	Ken.	George Moore,	-	-	Established Oct. 15, 1800; no account.
Brandon,	Vermont,	Abraham Gilbert,	-	36	October 1 to December 31, 1800.
Brattleborough,	Vermont,	John Halbrook,	72 19	-	-
Bridgehampton,	N. Y.	Samuel H. Rose,	6 48	-	-
Bridgetown,	Maine,	Joseph Sears,	-	69	October 1 to December 31, 1800.
Bridgetown,	W. N. J.	John Soulard,	40 20	-	-
Bridgewater,	Mass.	Nahum Mitchell,	33 45	-	-
Bristol,	R. I.	Josiah Finney,	50 67	-	-
Bristol,	Penn.	Joseph Clunn,	158 58	-	-
Broadfield,	Virginia,	James Park,	-	3 66	October 1 to December 31, 1800.
Brooke C. H.	Virginia,	William Thorpe,	-	-	No acc'ts; established Nov. 15, 1800.
Brookfield,	Mass.	Seth Field,	51 36	-	-
Brookfield,	Conn.	C. Chamberlain,	-	-	No acc'ts; established Dec. 16, 1800.
Brookhaven,	N. Y.	Apollos Wetmore,	9 56	-	-
Brookington,	Virginia,	Vivian Brooking,	-	2	November 6 to December 31, 1800.
Brownsburg,	Virginia,	Andrew Finley,	13 52	-	-
Brownsville,	Penn.	Jacob Bowman,	47 79	-	-
Brunswick,	Maine,	Robert Duning,	41 03	-	-
Buckfield,	Maine,	Mark Andrews,	-	67	October 14 to December 31, 1800.
Buckingham C. H.	Virginia,	Rolfe Eldridge,	-	1 59	December 4 to December 31, 1800.
Buckstown,	Maine,	Benjamin Buck,	28 33	-	-
Burlington,	Vermont,	John Fay,	149 03	-	-
Burlington,	N. Y.	Brown Smith,	-	81	October 1 to December 31, 1800.
Burlington,	N. J.	Thomson Neale,	238 50	-	-
Bustletown,	Penn.	John Sagars,	1 80	-	-
Butternutts,	N. Y.	Lewis L. Morris,	14 20	-	-
Buxton,	Maine,	Paul Coffin,	5 36	-	-
Brunswick,	Georgia,	Adam Mackay,	-	1 14	December 18 to December 31, 1800.
Buckland,	Virginia,	William Brooks,	-	-	No acc'ts; established Dec. 23, 1800.
Brackan C. H.	Ken.	William Brooks,	-	1 20	September 22 to December 16, 1800.
Cabarras C. H.	N. C.	John Carson,	-	-	No accounts.
Cabin Point,	Virginia,	Thomas Peter,	33 73	-	-
Cabellsburg,	Virginia,	Hudn. McGarland.	-	-	-
Cambridge,	N. Y.	Adonijah Skinner,	22 75	-	-
Cambridge,	Md.	John Reed,	-	32 43	April 26 to December 31, 1800.
Cambridge,	S. C.	James Wilson,	47 51	-	-
Cambden,	Maine,	Benjamin Cushing,	19 41	-	-
Camden,	S. C.	John McCaa,	173 94	-	-
Campbell C. H.	Ken.	Daniel Mayo,	-	79	October 1 to December 31, 1800.
Campbellton,	S. C.	William F. Taylor,	-	4 10	October 1 to December 31, 1800.
Canaan,	Maine,	Samuel Weston,	5 97	-	-
Canaan,	N. H.	Joshua Harris,	-	2 09	October 1 to December 31, 1800.
Canaan,	Conn.	Ovid Burrall,	14 93	-	-
Canandaigua,	N. Y.	Thaddeus Chapin,	94 23	-	-
Canonsburg,	Penn.	Andrew Munroe,	27 03	-	-
Cantwellsbridge,	Del.	Samuel Thomas,	27 79	-	-
Carlisle,	Penn.	John P. Thomson,	226 73	-	-
Carthage,	N. C.	Martin Nall,	6 00	Say.	-
Cartersville,	Virginia,	Samuel Bransford,	56 18	-	-
Castine,	Maine,	David Howe,	68 18	-	-
Caswell C. H.	N. C.	Henry Atkinson,	12 03	-	-
Catawissee,	Penn.	Jona. Shoemaker,	-	-	No acc'ts; established Nov. 19, 1800.
Cattskill,	N. Y.	T. O. H. Crosswell,	-	6 66	October 1 to December 31, 1800.
Cavendish,	Vermont,	Salmon Dutton,	-	20	October 1 to December 31, 1800.
Catawba Springs,	N. C.	John Read,	-	4 29	April 15 to October 15, 1800.
Cayuga,	N. Y.	Joseph Annin,	28 52	-	-
Cazenovia,	N. Y.	Samuel S. Forman,	69 28	-	-
Centreville,	Md.	William Chambers,	153 28	-	-
Centreville,	Virginia,	Chas. Tyler, Jun.	50 51	-	-
Centrefurnace,	Penn.	John Patton,	5 35	-	-
Centreharbor,	N. H.	James Little,	2 77	-	-
Chambersburg,	Penn.	Patrick Campbell,	157 75	-	-
Champlainton,	N. Y.	Pliny Moore,	4 55	-	-
Chandlersville,	Maine,	William Tupper,	4 63	-	-
Chapel Hill,	N. C.	John Puckett,	36 34	-	-
Chaptico,	Md.	Josiah B. Grindall,	47 82	-	-
Charlesburg,	Md.	Charles Rogers,	-	-	This office is discontinued.
Charleston,	S. C.	Thomas W. Bacot,	2,220 39	-	-
Charleston,	N. H.	Samuel Crosby,	46 07	-	-
Charlestown,	Md.	Samuel Hogg,	40 96	-	-
Charlestown,	Virginia,	Matthew Fraume,	43 33	-	-
Charlotte,	Vermont,	Hezekiah Barnes,	-	3 24	April 11 to December 31, 1800.
Charlotte,	N. C.	Eph. B. Davidson,	36 04	-	-
Charlotte C. H.	Virginia,	Robert Campbell,	41 86	-	-
Charlottehall,	Md.	John Chappellear,	7 28	-	-
Charlottesvile,	Virginia,	Hardin Davis,	123 94	-	-
Chatham,	Mass.	Eleazer Cobb,	15 30	-	-
Chatham,	S. C.	Isaac Course,	-	-	Established September 18, 1800.
Chatham C. H.	N. C.	James Baker,	30 57	-	-

## DEPUTY POSTMASTERS—Continued.

Post Offices.	States, &c.	Postmasters.	Emolument to Postmasters, for 1800.	Remarks.
Cheeks X Roads,	Tenn.	William Conway,	\$21 40	
Chelmsford,	Mass.	Jonathan Barron,	12 69	
Cheraw C. H.	S. C.	Samuel Wilds,	70 88	
Cherry Valley,	N. Y.	Elijah Holt,	23 42	
Chester,	Maine,	Dummer Sewall,	2 36	
Chester,	N. H.	Edmund Webster,	12 79	
Chester,	N. Y.	Peter Townsend,	13 58	
Chester,	Vermont,	Th. S. Fullerton,	-	\$0 66 October 1 to December 31, 1800.
Chester,	Penn.	Aaron Cobourn,	85 63	
Chester C. H.	S. C.	George Kennedy,	32 80	
Chesterfield,	Virginia,	John Sutton,	-	no acct. Established October 28, 1800.
Chestertown,	Md.	James Arthur,	202 27	
Chilesburg,	Virginia,	Fleming Chiles,	-	22 December 16 to December 31, 1800.
Chilicothe,	N. T.	Edward Tiffin,	90 01	
Christiana,	Del.	David Nivin,	93 68	
Christian C. H.	Ken.	Benjamin Clark,	-	30 October 1 to December 31, 1800.
Christianville,	Virginia,	Samuel Christian,	-	5 31 May 1 to December 31, 1800.
Churchhill,	Md.	Andrew Hall,	-	- Established November 28, 1800.
Cincinnati,	N. T.	William Ruffin,	248 33	
Cinthiana,	Ken.	James Coleman,	-	28 October 25 to December 31, 1800.
City Point,	Virginia,	Andrew Torborn,	36 47	
Clarksborough,	Geo.	Samuel Gairdner,	-	13 October 1 to December 31, 1800.
Clarksburg,	Md.	John Clark,	2 26	
Clarksburg,	Virginia,	John Welster,	29 72	
Clarksville,	Tenn.	James Elder,	-	2 09 October 1 to December 31, 1800.
Colchester,	Conn.	Samuel A. Peters,	24 12	
Colchester,	Virginia,	Zachariah Ward,	49 71	
Clermont,	N. Y.	William Wilson,	50 35	
Columbia,	Maine,	Joseph Patton,	9 35	
Columbia,	Penn.	Joseph Smith,	10 44	- July 1, 1799, to July 1, 1800.
Columbia,	Virginia,	Meriweath Morris,	53 83	
Columbia,	S. C.	James S. Guignard,	269 62	
Columbia C. H.	Geo.	William Appling,	28 80	
Conajoharry,	N. Y.	Adam Roose,	62 86	
Concord,	N. H.	George Hough,	64 78	
Concord,	Mass.	William Parkman,	35 67	
Connellsville,	Penn.	Benjamin Wells,	38 14	
Cooperstown,	N. Y.	Joseph Griffin,	85 40	
Coosawhatchie,	S. C.	Reuben Williams,	113 63	- October 1, 1799, to October 1, 1800.
Craig Font,	Tenn.	James Winchester,	14 47	
Crewsville,	Virginia,	Micajah Crew,	-	say 10 December 17 to 31, 1800.
Culpeper,	Virginia,	Benj. Shackelford,	79 56	
Cumberland,	Md.	Chas. F. Broadhag,	60 72	
Cumberland C. H.	Virginia,	Newton Ford,	36 35	
Darien,	Geo.	George Maurice,	-	2 84 December 24 to 31, 1800.
Dagsborough,	Del.	Isaac Tunnel,	20 68	
Danbury,	Conn.	Eben. R. White,	50 16	
Dandridge,	Tenn.	Hugh Martin,	-	3 46 July 1 to December 31, 1800.
Danville,	Vermont,	David Dunbar,	14 61	
Danville,	Penn.	W. Montgomery,	-	- Established October 16, 1800.
Danville,	Virginia,	William Spiller,	20 82	
Danville,	Ken.	Ephraim McDowell,	110 52	
Dedham,	Mass.	Jer. Shuttleworth,	31 98	
Deerfield,	Mass.	Elijah Williams,	12 70	
Denneysville,	Maine,	William Kilby,	-	2 93 April 1 to December 31, 1800.
Dennis,	Mass.	Nathan Stone,	9 14	
Denton,	Md.	Levin Charles,	-	1 68 October 14 to December 31, 1800.
Derby,	Conn.	Sam. I. Andrews,	26 72	
Dighton,	Mass.	David Andrews,	24 71	
Dixhills,	N. Y.	Moses Blackley,	-	1 66 July 1 to December 31, 1800.
Dixon's Springs,	Tenn.	Telman Dixon,	-	- Established December 21, 1800.
Double Bridges,	Virginia,	Charles Brydie,	-	1 08 November 8 to December 31, 1800.
Douty's Falls,	Maine,	Joseph Savage,	1 82	
Dover,	N. H.	Ezra Green,	31 75	
Dover,	Del.	Joshua Wootten,	181 03	
Downingtown,	Penn.	Hunt Downing,	29 66	
Dracut,	Mass.	William Hildreth,	-	1 59 October 1 to December 31, 1800.
Dresden,	Maine,	Ezra Taylor,	17 98	
Duck Creek,	Del.	Solomon Dawson,	63 26	
Ducktrap,	Maine,	George Ulmer,	7 59	
Dumfries,	Virginia,	Timothy Brundige,	296 77	
Dunkirk,	Virginia,	James B. Crosbie,	53 08	
Durham,	N. H.	Benj. Thompson,	4 50	
Durham,	Conn.	David Camp,	-	10 92 April 1 to December 31, 1800.
Duxbury,	Mass.	Judah Alden,	-	5 05 October 1 to December 31, 1800.
East Greenwich,	R. I.	Gideon Mumford,	25 46	
East Haddam,	Conn.	James Green,	-	15 03 April 1 to December 31, 1800.
Eastham,	Mass.	William Myrick,	9 06	
Easton,	Mass.	Nath. Weatherby,	-	11 23 May 9 to December 31, 1800.
Easton,	Penn.	Thomas B. Dick,	78 29	
Easton,	Md.	James Cowan,	173 79	
Eddington,	Maine,	Jonathan Eddy,	-	15 November 5 to December 31, 1800.
Edenton,	N. C.	Hend. Standin,	232 29	
Edgefield C. H.	S. C.	Stephen Norris,	46 99	

## DEPUTY POSTMASTERS—Continued.

Post Offices.	States, &c.	Postmasters.	Emolument to Postmasters, for 1800.		Remarks.
Elberton, -	Geo.	Middleton Woods,	\$23 31		
Elizabeth City, -	N. C.	Jeremiah Murden,	16 96		
Elizabethtown, -	N. J.	James Chapman, -	399 13		
Elizabethtown, -	Penn.	Samuel Grimes, -	-	\$0 74	September 8 to December 31, 1800.
Elizabethtown, -	Md.	Nath. Rochester, -	192 38		
Elizabethtown, -	N. C.	Wm. Richardson, -	21 03		
Ellisville, -	Penn.	Francis Ellis, -	-	1 05	February 22 to December 31, 1800.
Elkton, -	Md.	Thomas Giles, -	189 95		
Ellicotts, -	Md.	Samuel Godfrey, -	7 69		
Emmetsburg, -	Md.	Daniel Coghlen, -	-	74	October 1 to December 31, 1800.
Epping, -	N. H.	William Stearns, -	-	29	October 29 to December 31, 1800.
Epsom, -	N. H.	James H. McClury,	-	21	November 5 to December 31, 1800.
Exeter, -	N. H.	John W. Gilman, -	101 77		
Edgartown, -	Mass.	Beriah Norton, -	37 02		
Fabus, -	N. Y.	S. Hedges, Jun. -	-	-	Established November 19, 1800.
Fairfield, -	Conn.	Thaddeus Burr, -	87 73		
Fairfield, -	Penn.	James Brice, -	6 03		
Fairfield, -	Virginia,	James Scott, -	-	say 55	November 13 to December 31, 1800.
Fairhaven, -	Vermont,	John Brown, -	11 57	-	April 1, 1799, to April 1, 1800.
Falmouth, -	Mass.	Joseph Palmer, -	30 00		
Falmouth, -	Maine,	Joseph Thrasher, -	-	no acct.	New office.
Falmouth, -	Virginia,	S. B. Wiggenton, -	147 04		
Farmington, -	Maine,	Moses Sterling, -	10 45		
Farmington, -	Conn.	Samuel Richards, -	23 92		
Farmville, -	Virginia,	Thomas Morton, -	-	20 88	April 1 to December 31, 1800.
Farmham, -	Virginia,	Thomas Lydnor, -	-	6 23	July 1 to October 1, 1799.
Fauquier C. H. -	Virginia,	Richard Baker, -	87 34		
Fayetteville, -	N. C.	Duncan McRae, -	327 61		
Fincastle, -	Virginia,	James McCarroll, -	62 17		
Fishkill, -	N. Y.	A. B. Rapalje, -	31 78		
Fleming C. H. -	Ken.	John Faris, -	-	87	October 1 to December 31, 1800.
Flemington, -	N. J.	James Gregg, -	9 93		
Fort Ann, -	N. Y.	John Scott, -	16 22		
Fort Blount, -	Tenn.	Sampson Williams,	-	2 08	April 1 to December 31, 1800.
Fort Edward, -	N. Y.	Mathias Ogden,	-		
Fort Wilkinson, -	Geo.	John K. Candler, -	34 84		
Frankfort, -	Penn.	Arthur Sanderson, -	-	33 56	March 14 to December 31, 1800.
Frankfort, -	Maine,	Henry Sampson, -	-	1 38	October 1 to December 31, 1800.
Frankfort, -	Virginia,	Alexander King, -	-	98	October 1 to December 31, 1800.
Frankfort, -	Ken.	Isaac E. Gano, -	97 05		
Franklin, -	N. Y.	Elias Osborn, -	-	53	December 6 to December 31, 1800.
Franklin, -	Penn.	Alex. McDowell, -	-	2 01	October 1 to December 31, 1800.
Franklin C. H. -	Geo.	Daniel Beall, -	-	no acct.	
Frederica, -	Del.	Samuel White, -	-	3 60	October 21 to December 31, 1800.
Fredericksburg, -	Virginia,	Timothy Green, -	782 66		
Fredericktown, -	Md.	William M. Beall,	244 96		
Freehold, -	N. Y.	Platt, -	-	-	No accounts.
Freehold, -	N. J.	Daniel Craig, -	17 06		
Freeport, -	Maine,	Nathan Wesson, -	18 67		
Fryburg, -	Maine,	Moses Ames, -	13 48		
Geneva, -	N. Y.	Elijah H. Gordon,	115 58		
Georgetown, -	Del.	James Houston, -	-	38 02	March 17 to December 31, 1801.
Georgetown, -	Ken.	Thomas Lewis, -	-	2 07	October 11, to December 31, 1801.
Georgetown, -	S. C.	Abraham Cohen, -	207 83		
Georgetown, -	Geo.	Barratt Brewer, -	24 09		
Georgetown X.rds. -	Md.	John Ireland, -	100 54		
Georgetown, -	Ptk.	Joseph Carleton, -	494 02		
Germanflats, -	N. Y.	N. B. Aldridge, -	20 77		
Germantown, -	N. C.	Lewis Blume, -	10 18		
Gettysburg, -	Penn.	James Scott, -	34 38		
Gilletts, -	S. C.	Elijah Gillet, -	-	-	Discontinued.
Gilmantown, -	N. H.	Elijah Russell, -	5 06		
Glasgow, -	Ken.	John Gorin, -	-	-	No accounts rendered.
Gloucester, -	Mass.	Henry Phelps, -	125 17		
Gloucester, -	Virginia,	Abijah Tufts, -	77 64		July 1, 1798, to July 1, 1799.
Goldsons, -	Virginia,	John Gholson, -	43 29		
Goochland C. H. -	Virginia,	Nathaniel Perkins,	25 29		
Gorham, -	Maine,	Samuel Prentiss, -	10 93		
Goshen, -	N. Y.	James W. Wilkin,	60 15		
Goshen, -	Virginia,	William Cooke, -	-	40	November 13 to December 31, 1800.
Gouldsborough, -	Maine,	Thomas Hill, -	19 57		
Grafton, -	N. H.	Ebenezer Hoyl, -	-	17	November 15 to December 31, 1800.
Granville, -	N. Y.	Wadsworth Bull, -	12 72		
Gray, -	Maine,	Joseph McLellan, -	4 93		
Grayson C. H. -	Virginia,	Joseph Finney, -	4 58		
Great Barrington, -	Mass.	Moses Hopkins, -	16 67		
Great Bridge, -	Virginia,	John Cornwall, -	10 87		
Great Mill, -	Md.	Joseph Thomas, -	-	-	No accounts.
Greene, -	Maine,	Benj. Merrill, 3d, -	2 52		
Greenville, -	Ken.	Samuel Russell, -	-	56	November 1 to December 31, 1800.
Greenbriar C. H. -	Virginia,	J. W. Matthews, -	45 92		
Greencastle, -	Penn.	John Watson, -	39 11		
Greenfield, -	Mass.	Thomas Dickman, -	31 66		
Greensborough, -	Md.	William Crawford, -	-	62	October 15 to December 31, 1800.

## DEPUTY POSTMASTERS—Continued.

Post Offices.	States, &c.	Postmasters.	Emolument to Postmasters, for 1800.	Remarks.
Greensborough, -	Georgia,	Ezekiel E. Park, -	\$49 56	
Greensburg, -	Penn.	David McKeehan,	159 55	
Greensburg, -	Ken.	Robert Allen, -	-	- No accounts rendered.
Greenville, -	Tenn.	William Dickson, -	19 71	
Greenville, -	N. C.	Grove Wright, -	16 31	
Greenville C. H. -	S. C.	Jesse Carter, -	18 37	
Groton, -	Mass.	Samuel Dana, -	-	\$0 84 October 1 to December 31, 1800.
Guilford, -	Conn.	Medad Stone, -	36 12	
Hackettstown, -	N. J.	Wm. S. Dunlop, -	7 51	
Hackensack, -	N. J.	Archibald Campbell,	18 55	
Haddonfield, -	N. J.	John Branson, -	-	- No accounts rendered.
Halifax, -	N. C.	Edward Fisher, -	117 81	
Halifax C. H. -	Virginia,	German Y. Stokes,	52 40	- October 1, 1799, to October 1, 1800.
Hallowell, -	Maine,	Nathaniel Dummer,	96 17	
Hamburg, -	N. J.	Thomas Laurence,	12 14	
Hamburg, -	Penn.	Francis Artilla, -	-	1 77 April 1 to December 31, 1798.
Hamilton, -	N. Y.	Elisha Paine, -	-	1 80 October 25 to December 31, 1800.
Hampden, -	Maine,	Daniel Livermore,	-	1 81 October 7 to December 31, 1800.
Hampton, -	Virginia,	Horatio Whiting, -	60 77	- January 1, 1799, to January 1, 1800.
Hancock, -	Md.	John Donovan, -	43 68	
Hanover, -	N. H.	Jedediah Baldwin,	113 90	
Hanover, -	Mass.	Benjamin Whitman,	60 56	
Hanover, -	Penn.	George Nace, -	23 56	
Hanover C. H. -	Virginia,	Ben. Anderson, -	-	- No accounts rendered.
Hanovertown, -	Virginia,	Peter Foster, -	62 42	
Harden C. H. -	Ken.	George Helm, -	-	1 42 October 22 to December 31, 1800.
Harford, -	Md.	P. Nowland, -	79 64	
Harper's Ferry, -	Virginia,	Robert Whittel, -	50 41	
Harpersfield, -	N. Y.	Rosw. Hotchkis, -	-	1 13 November 5 to December 31, 1800.
Harrisburg, -	Penn.	John Wyeth, -	80 65	
Harris's, -	Virginia,	Charles Harris, -	-	11 26 February 1 to December 31, 1800.
Harrodsburg, -	Ken.	George Marr, -	21 87	
Hartford, -	Conn.	E. Williams, jun. -	676 14	
Hartford, -	N. Y.	Job Pierce, -	5 42	
Hartford, -	Ken.	Wesley Pigman, -	-	1 00 October 10 to December 31, 1800.
Harwich, -	Mass.	Sylvanus Stone, -	27 48	
Haverhill, -	N. H.	Joseph Bliss, -	52 20	
Haverhill, -	Mass.	Moses Wingate, -	52 17	
Havre de Grace, -	Md.	Samuel Jay, -	164 93	
Hawkins C. H. -	Tenn.	Edmund Sherman,	-	1 37 November 8 to December 31, 1800.
Haw river, -	S. C.	Benjamin Rainey, -	-	4 88 July 1 to December 31, 1800.
Henderson, -	Ken.	George Holloway, -	-	2 80 October 30 to December 31, 1800.
Hendersonville, -	Virginia,	Asa Vaughan, -	-	37 November 4 to December 31, 1800.
Hertford, -	N. C.	John Woods, -	4 65	
Herkimer, -	N. Y.	Chauncey Woodruff,	55 91	
Hicksford, -	Virginia,	James Lanier, -	35 16	
Hillsborough, -	Md.	John Tillotson, -	-	- No accounts rendered.
Hillsborough, -	N. C.	Bar. O'Farrill, -	67 50	
Hillsdale, -	N. Y.	Jacob Bogardus, -	-	69 July 3 to December 31, 1800.
Hilltop, -	Md.	W. W. Dunnington,	-	60 November 21 to December 31, 1800.
Hingham, -	Mass.	Thomas Thaxter, -	50 05	
Hiram, -	Maine,	Timothy Cutler, -	-	8 October 1 to December 31, 1800.
Hogton, -	N. C.	Kenneth Clark, -	7 33	
Holmeshole, -	Mass.	Silas Daggett, -	8 75	
Hornstown, -	Virginia,	D. Welbourne, -	32 66	- April 1, 1798, to April 1, 1799.
Hudson, -	N. Y.	Cotton Gelston, -	241 80	
Hungarytown, -	Virginia,	Jonathan Clark, -	-	20 November 9 to December 31, 1800.
Huntingdon, -	Penn.	John Cadwallader,	51 40	
Huntington, -	Conn.	Agur Clark, -	1 00	1 32 October 1 to December 31, 1800.
Huntington, -	N. Y.	Timothy Williams,	11 34	
Huntington, -	Md.	Phillip Dorsey, -	20 26	
Huntsville, -	N. C.	Charles Hunt, -	6 80	
Hyde C. H. -	N. C.	John Gayland, -	-	- No accounts received.
Indiantown, -	N. C.	George Firebee, -	7 31	
Ipswich, -	Mass.	Joseph Lord, -	52 58	
Jacksonborough, -	S. C.	John Adcock, -	51 04	
Jacksonborough, -	Georgia,	Alex. Newman, -	-	- No accounts received.
Jaffray, -	N. H.	Peter Lawrence, -	-	15 November 27 to December 31, 1800.
Jamaica, -	N. Y.	Eliphalet Wickes, -	12 51	
Jamestown, -	Virginia,	John Kelso, -	-	55 October 1 to December 31, 1800.
Jamesville, -	S. C.	John James, -	23 13	
Jeffersonton, -	Virginia,	Joseph Coones, -	5 62	- April 1, 1799, to April 1, 1800.
Jericho, -	Vermont,	Rod. Messinger, -	12 33	
Jerusalem, -	Virginia,	Joshua Fort, -	55 66	
Jonesborough, -	Tenn.	John McAllister, -	39 58	
Jonesburg, -	N. C.	Patrick Garvey, -	4 62	
Jones's Store, -	N. C.	Richard Jones, -	4 62	
Johnsonburg, -	N. J.	Jonathan Johnson, -	7 49	
Johnston, -	N. Y.	Richard Dodge, -	66 76	
Kaskaskia, -	N. T.	John Rice Jones, -	31 71	
Keene, -	N. H.	Daniel Adams, -	29 64	
Kempsville, -	Virginia,	John S. Salisbury, -	30 01	
Kennebunk, -	Maine,	Joseph Storer, -	97 42	

## DEPUTY POSTMASTERS—Continued.

Post Offices.	States, &c.	Postmasters.	Emolument to Postmasters, for 1800.	Remarks.
Killingworth, -	Conn.	Samuel Crane, -	\$33 29	
Kinderhook, -	N. Y.	Daniel Ludlow, -	71 76	
King George C. H.	Virginia,	Younger Johnson, -	-	\$2 02 October 1 to December 31, 1800.
Kingston, -	N. H.	Levi Bartlett, -	3 71	
Kingston, -	Mass.	John Sever, -	-	2 81 October 1 to December 31, 1800.
Kingston, Esopus,	N. Y.	J. C. Elmendorf, -	53 48	- October 1, 1799, to October 1, 1800.
King and Queen, -	Virginia,	Thomas Garnett, -	30 78	
Kingstree, -	S. C.	R. Hamilton, jun. -	-	- No accounts received.
Kinsale, -	Virginia,	William Forbes, -	27 40	
Kinston, -	N. C.	John Gatlin, -	12 37	
Knoxville, -	Tenn.	John Crozier, -	210 52	
Lancaster, -	Mass.	Joseph Wales, -	17 66	
Lancaster, -	Ken.	James G. Whelaw, -	-	2 20 October 1 to December 31, 1800.
Lancaster, -	N. T.	Samuel Coates, -	-	no acct. Established in December, 1800.
Lancaster, -	Penn.	George Moore, -	409 81	
Lancaster C. H. -	Virginia,	Severe Galle, -	33 60	
Lancaster C. H. -	S. C.	John May, -	7 91	
Lansingburg, -	N. Y.	Joseph D. Selden, -	110 60	
Laurens C. H. -	S. C.	James Sills, -	19 01	
Leytons, -	Virginia,	James Hunter, -	39 63	
Lebanon, -	N. H.	James Ralston, -	-	1 04 October 1 to December 31, 1800.
Lebanon, -	Maine,	Isaac Hasey, -	1 78	
Lebanon, -	Penn.	Jacob Karsh, -	31 52	
Leedstown, -	Virginia,	Robert R. Hodge, -	-	2 44 October 24 to December 31, 1800.
Leesburg, -	Virginia,	John Schooley, jun. -	99 01	
Lemington, -	Mass.	Jacob Quincey, -	-	58 April 1 to December 31, 1800.
Lenox, -	Mass.	Eliab Brewer, -	-	22 December 9 to December 31, 1800.
Lenox Castle, -	N. C.	John Lenox, -	2 21	
Leominster, -	Mass.	John Gardner, -	18 00	
Leonardtown, -	Md.	James Thompson, -	72 99	
Lewisburg, -	Penn.	Richard Sherer, -	16 09	- October 1, 1799, to October 1, 1800.
Lewistown, -	Maine,	Daniel Read, -	1 43	
Lewistown, -	Penn.	Jacob Walters, -	49 75	
Lexington, -	Virginia,	S. L. Campbell, -	86 33	
Lexington, -	N. C.	Richard Leach, -	-	2 53 May 28 to December 31, 1800.
Lexington, -	Ken.	John W. Hunt, -	302 44	
Lexington, -	Georgia,	Matthew Gage, -	-	5 81 October 1 to December 31, 1800.
Liberty, -	Virginia,	Armstead Otey, -	53 57	
Libertytown, -	Md.	Abraham Jones, -	-	90 October 17 to December 31, 1800.
Limerick, -	Maine,	Jeremiah Allen, -	4 93	
Lincolnton, -	N. C.	James Campbell, -	12 21	October, 1798, to October, 1799.
Lincolnton, -	Georgia,	Henry Jones, -	-	70 October 17 to December 31, 1800.
Litchfield, -	Conn.	Ben. Talmage, -	133 49	
Londonderry, -	N. H.	Isaac Thom, -	14 24	
Louisa C. H. -	Virginia,	Ludlow Bramham, -	-	3 40 October 1 to December 31, 1800.
Louisburg, -	N. C.	William Pleasants, -	46 92	
Louisville, -	Ken.	John Eastin, -	80 52	
Louisville, -	Georgia,	James Bozeman, -	159 93	
Lower Marlboro', -	Md.	Isaac Norfolk, -	23 17	
Lower Three Runs,	S. C.	Aaron Smith, -	-	1 11 December 17 to December 31, 1800.
Lumberton, -	N. C.	John Noyes, -	81 20	
Lunenburg, -	Virginia,	Joseph Smith, -	24 02	- June 1, 1799, to June 1, 1800.
Lyme, -	Conn.	Marsh. Parsons, -	36 95	
Lynchburg, -	Virginia,	William Norvelle, -	141 67	
Lynchville, -	S. C.	William Hitch, -	-	no acct. Established October 27, 1800.
Lynn, -	Mass.	James Robinson, -	46 20	
Machias, -	Maine,	Ralph H. Bowles, -	35 21	
Madison C. H. -	Virginia,	G. W. Hunton, -	-	3 74 October 1 to December 31, 1800.
Manchester, -	Vermont,	Abel Allis, -	19 86	
Manchester, -	Virginia,	William Ball, -	134 44	
Manlius, -	N. Y.	Luther Bingham, -	-	
Manchester, -	N. T.	Israel Dopaldson, -	-	- No accounts.
Marblehead, -	Mass.	W. Abraham, -	129 26	
Marcellus, -	N. Y.	Elnathan Beech, -	12 76	
Marietta, -	N. T.	Josiah Munro, -	152 07	- April 1, 1800, to April 1, 1801.
Marlborough, -	N. H.	David Carter, -	3 00	
Marlborough, -	Mass.	Joseph Brigham, -	14 34	
Marshfield, -	Mass.	George Keith, -	-	3 36 October 1 to December 31, 1800.
Martinsburg, -	Virginia,	Robert C. Willis, -	108 32	
Martinsville, -	Virginia,	Henry Clark, -	-	- No accounts.
Martinville, -	N. C.	Samuel Cummings, -	32 99	
Marysville, -	Tenn.	J. Montgomery, -	-	1 59 October 20 to December 31, 1800.
Matthews C. H. -	Virginia,	Henry Rissep, -	-	5 51 October 20 to December 31, 1800.
Maysville, -	Ken.	John Brown, -	7 60	
Meadsville, -	Penn.	Fred. Haymaker, -	-	4 80 October 8 to December 31, 1800.
Mecklenburg, -	Virginia,	Richard Boyd, -	33 98	
Medford, -	Mass.	Samuel Buell, -	21 65	
Mendon, -	Mass.	Philip Ammidon, -	15 94	
Middleborough, -	Mass.	James Washburne, -	13 98	- April 1, 1799, to April 1, 1800.
Middlebrook, -	Virginia,	James P. Nelson, -	-	0 63 September 15 to December 31, 1800.
Middleburg, -	Virginia,	Robert Dagg, -	25 16	
Middleburg, -	Ken.	Haden Edwards, -	-	- No accounts.
Middlebury, -	Vermont,	Horatio Seymour, -	51 35	
Middletown, -	Conn.	Wensley Hobbey, -	251 43	
Middletown, -	Penn.	William Crabb, -	-	3 29 September 15 to December 31, 1800.



## DEPUTY POSTMASTERS—Continued.

Post Offices.	States.	Postmasters.	Emolument to Postmasters, for 1800.	Remarks.
Middletown, -	Del.	Joseph Ireland, -	\$32 11	
Middletown point, -	N. J.	Richard Stout, -	9 37	
Mifflinburg, -	Penn.	George Youngman, -	14 62	- October 1, 1799, to October 1, 1800.
Mifflintown, -	Penn.	James Knox, -	25 46	
Milesburg, -	Penn.	Joseph Green, -	6 54	
Milford, -	Conn.	William Durand, -	24 44	
Milford, -	Del.	Nathaniel Russum, -	44 24	
Millerstown, -	Penn.	Samuel Utter, -	5 63	
Millstone, -	N. J.	J. C. Ten Eyck, -	-	- No accounts.
Millwood, -	Virginia,	Bacon Burwell, -	-	\$0 93 October 2 to December 31, 1800.
Milton, -	Penn.	Samuel Hepburn, -	20 10	
Milton, -	Virginia,	Richard Price, -	66 24	
Monmouth, -	Maine,	John Chandler, -	5 58	
Montgomery C. H. -	Md.	Thomas P. Wilson, -	32 26	
Montgomery C. H. -	Virginia,	Fleming Trigg, -	34 15	
Montgomery C. H. -	Ken.	Joseph Simpson, -	-	- No accounts received.
Montpelier, -	Vermont,	Timothy Hubbard, -	11 47	
Moorefields, -	Virginia,	John Hay, -	58 86	
Morgantown, -	N. C.	Thomas Walton, -	21 21	- July 1, 1799, to July 1, 1800.
Morgantown, -	Virginia,	Hugh McNeely, -	39 67	
Morristown, -	N. J.	Henry King, -	61 16	
Mount Airy, -	N. C.	John Laurence, -	7 85	- July 1, 1798, to July 1, 1799.
Mount Holly, -	N. J.	Stephen C. Ustick, -	-	65 October 1 to December 31, 1800.
Mount Pleasant, -	N. J.	Mordeica Hale, -	29 99	
Mount Tirzah, -	N. C.	Charles Moore, -	10 50	
Muncey, -	Penn.	Henry Shoemaker, -	10 76	
Murfreesborough, -	N. C.	Hardy Murfree, -	43 04	
Nanjemoj, -	Md.	John Hindman, -	-	56 December 22 to December 31, 1800.
Nantucket, -	Mass.	William Coffin, -	191 63	
Narraguagus, -	Maine,	Thomas Archibald, -	9 18	
Nashville, -	Tenn.	William Stothart, -	124 17	
Natchez, -	N. Ter.	Abijah Hunt, -	-	56 80 March 3 to December 31, 1800.
New Antrim, -	N. Y.	John Suffern, -	15 77	
Newark, -	N. J.	John Burnet, -	357 65	
New Bedford, -	Mass.	William Tobey, -	192 43	
Newbern, -	N. C.	John S. Pasteur, -	285 77	
New Brunswick, -	N. J.	William Tenbrook, -	350 16	
Newburg, -	N. Y.	Harry Caldwell, -	47 19	
Newbury, -	Vermont,	David Johnson, -	29 15	
Newbury C. H. -	S. C.	Henry Coate, -	-	12 19 March 1 to December 31, 1800.
Newburyport, -	Mass.	Bukeley Emerson, -	465 83	
New Canton, -	Virginia,	Benjamin Pollard, -	-	- No accounts received.
New Casco, -	Maine,	Joseph Thrasher, -	3 49	- October 1, 1799, to October 1, 1800.
Newcastle, -	Maine,	Joseph Farley, -	26 64	
Newcastle, -	Del.	John Smith, -	99 73	
New Geneva, -	Penn.	William Martin, -	21 58	
New Germantown, -	N. J.	Richard Kroesen, -	say 5 08	
New Gloucester, -	Mass.	Nathan C. Allen, -	22 18	
New Hartford, -	Conn.	Michael Gillet, -	13 67	
New Haven, -	Conn.	Elias Beers, -	641 04	
New Holland, -	Penn.	John Roland, -	-	- No accounts received.
New Ipswich, -	N. H.	Samuel Batchelder, -	-	3 November 27 to December 31, 1800.
New Kent C. H. -	Virginia,	Thomas Glenn, -	75 15	
New Lebanon, -	N. Y.	John Tryon, -	22 18	
New Lebanon, -	N. C.	Thomas Gordon, -	6 69	
New London, -	Conn.	Richard Douglass, -	347 13	
New London, -	Virginia,	Robert Snoddy, -	48 55	
New Market, -	N. H.	John Shute, Jun. -	15 75	
New Market, -	Md.	John Hall, -	3 42	
New Market, -	Virginia,	John Neill, -	32 50	
New Mills, -	N. J.	William Kempton, -	-	73 October 1 to December 31, 1800.
New Milford, -	Maine,	Josiah Stebbins, -	10 93	
New Milford, -	Conn.	Daniel Everitt, -	27 86	
Newport, -	R. I.	Jacob Richardson, -	434 37	
Newport, -	Del.	William Robeson, -	29 54	
Newtown, -	Conn.	Caleb Baldwin, Jr. -	-	2 34 October 1 to December 31, 1800.
Newtown, -	N. Y.	John Konkle, -	-	2 82 October 1 to December 31, 1800.
Newtown, -	N. J.	John Holmes, -	37 64	
Newtown, -	Penn.	Jacob Kisler, -	12 76	
New Rochelle, -	N. Y.	Frederick Guion, -	40 48	
New York, -	Virginia,	Jacob Haller, -	12 80	
New York city, -	N. Y.	Sebastian Bauman, -	4,567 45	
Niagara, -	N. Y.	David Thompson, -	106 34	
Nixonton, -	N. C.	William Albertson, -	28 49	
Norfolk, -	Virginia,	Edward Archer, -	1,691 47	
Norridgewalk, -	Maine,	John Ware, -	7 45	
Norristown, -	Penn.	John Davis, -	-	- No accounts received.
Northampton, -	Mass.	Simeon Butler, -	191 76	
Northampton C. H. -	Virginia,	Coventon Simkins, -	60 67	
Northend, -	Virginia,	Andrew Vanbibber, -	-	- No accounts; established Nov. 7, 1800.
Northfield, -	Mass.	Solomon Vose, -	8 90	
Northumberland, -	Penn.	John Cowden, -	73 54	
Northumb. C. H. -	Virginia,	William Humphris, -	41 36	- October 1, 1799, to October 1, 1800.
N. W. Riverbridge, -	Virginia,	Edward Doughty, -	8 40	

DEPUTY POSTMASTERS—Continued.

Post Offices.	States.	Postmasters.	Emolument to Postmasters, for 1800.	Remarks.
New Yarmouth, -	Maine,	Payn Elwell, -	\$21 57	
Norwalk, -	Conn.	William Lockwood, -	57 20	
Norwich, -	Conn.	Gardner Carpenter, -	296 04	
Nottingham, -	N. H.	Henry Butler, -	2 59	
Nottingham, -	Md.	Robert Young, -	35 97	
Nottingham, West, -	N. H.	Jesse Davidson, -	-	- Commenced January 1, 1801.
Oldtown, -	Md.	Daniel Fetter, -	22 42	
Onondaugua, -	N. Y.	George Hall, -	34 88	
Oquago, -	N. Y.	George Harper, -	-	- Commenced January 1, 1801.
Orangeburg, -	S. C.	Samuel P. Jones, -	34 80	
Orange C. H. -	Virginia,	Andrew Shepherd, -	52 35	- October 1, 1799, to October 1, 1800.
Orford, -	N. H.	John Mann, Jun. -	18 84	
Orleans, -	Mass.	Simeon Kingman, -	-	\$9 21 April 14 to December 31, 1800.
Orrington, -	Maine,	John Brewer, -	-	2 71 October 8 to December 31, 1800.
Oresville, -	Tenn.	James Ore, -	-	23 December 9 to December 31, 1800.
Orwell, -	Vermont,	Apollos Austin, -	7 04	
Ossipee, -	N. H.	Ephraim Knight, -	-	- No accounts.
Oswego, -	N. Y.	David Jones, Jun. -	-	62 October 29 to December 31, 1800.
Oxford, -	N. Y.	Uri Tracey, -	17 02	
Oxford, -	Mass.	Samuel Campbell, -	9 89	
Painted Post, -	N. Y.	Howell Bull, -	-	13 December 16 to 31, 1800.
Palatine, -	N. Y.	Charles Walton, -	16 80	
Paris, -	Maine,	Caleb Prentiss, -	-	- Commenced January 1, 1800.
Paris, -	N. Y.	Henry McNeil, -	-	1 36 November 4 to December 31, 1800.
Paris, -	Virginia,	Moses Gibson, -	-	12 October 12 to December 31, 1800.
Personfield, -	Maine,	Thomas Parsons, -	5 51	
Passamaquoddy, -	Maine,	L. F. Delesdernier, -	16 08	
Patrick, -	Virginia,	Benjamin Philpott, -	7 05	- April 1, 1799, to April 1, 1800.
Patucket bridge, -	Mass.	James Varnum, -	-	- Commenced March 4, 1801.
Peacham, -	Vermont,	Amos Farley, -	24 73	
Peekskill, -	N. Y.	Daniel W. Birdsall, -	70 80	
Pelham, -	N. H.	Moses Whiting, -	-	27 October 9 to December 31, 1800.
Pendleton C. H. -	Ken.	James Lanier, Jun. -	-	30 November 5 to December 31, 1800.
Pendleton C. H. -	S. C.	William Steele, -	31 61	
Pennington, -	N. J.	Jonathan Muirhead, -	2 94	
Peru, -	N. Y.	Moses Warren, -	3 98	
Peterborough, -	N. H.	Samuel Smith, -	8 64	
Petersburg, -	Penn.	Jacob Will, -	4 95	
Petersburg, -	Virginia,	John Grammer, -	1,325 97	
Petersburg, -	Georgia,	Oliver Whyte, -	91 48	
Petersham, -	Mass.	Jeremiah Robinson, -	16 10	
Philadelphia, -	Penn.	Robert Patton, -	4,625 57	
Pickensville, -	S. C.	William Gunn, -	5 06	
Pinkneyville, -	S. C.	Hugh White, -	-	- No accounts.
Piscataway, -	Md.	Isadore Hardey, -	45 46	
Pittsburg, -	Penn.	George Adams, -	674 36	
Pittsylvania, C. H. -	Virginia,	James Hinton, -	-	6 79 November 13 to Decentber 31, 1800.
Pittsfield, -	Mass.	John Stoddard, -	76 05	
Pittston, -	Maine,	Barzillai Gannet, -	21 88	
Pittston, -	N. J.	Benjamin Guild, -	27 89	
Pittston, -	Penn.	William Slocum, -	-	42 December 8 to December 31, 1800.
Plainfield, -	Conn.	Ebenezer Eaton, -	35 48	
Plainfield, -	N. J.	John F. Randolph, -	13 80	
Plattsburg, -	N. Y.	Eleazer Miller, -	39 55	
Plumstead, -	Penn.	John Rodrock, -	17 15	
Plymouth, -	N. H.	John Rogers, -	19 07	
Plymouth, -	Mass.	William Goodwin, -	244 39	
Plymouth, -	N. C.	John Armistead, -	28 35	
Poland, -	Maine,	Samuel Swett, -	-	48 October 28 to December 31, 1800.
Pomfret, -	Conn.	Lemuel Grosvenor, -	27 17	
Portland, -	Maine,	Samuel Freeman, -	613 75	
Port Royal, -	Virginia,	John Gray, -	127 11	
Portsmouth, -	N. H.	Mark Simes, -	675 78	
Portsmouth, -	Virginia,	Robert Thompson, -	81 59	
Port Tobacco, -	Md.	Samuel Hanson, -	157 42	
Poughkeepsie, -	N. Y.	Nicholas Power, -	231 71	
Poltney, -	Vermont,	John Stanley, -	5 96	
Powhattan C. H. -	Virginia,	Samuel Marshall, -	49 88	
Powell's Valley, -	Tenn.	Salathiel Martin, -	13	
Presque Isle, -	Penn.	James Wilson, -	-	5 23 October 10 to December 31, 1800.
Pridesville, -	Virginia,	Benjamin Lawson, -	-	30 November 3 to December 31, 1800.
Prince Edw. C. H. -	Virginia,	Joshua League, -	72 17	
Princess Ann, -	Md.	L. D. Teackle, -	66 03	
Princeton, -	N. J.	John Harrison, -	367 49	
Princeton, -	N. C.	Benjamin Coakley, -	2 37	- July 1, 1798, to July 1, 1799.
Prospect, -	Maine,	Samuel Shute, -	7 75	
Providence, -	R. I.	Wm. Wilkinson, -	844 52	
Provincetown, -	Mass.	Daniel Pease, -	-	1 33 October 1 to Decemr 31, 1800.
Putney, -	Vermont,	John Goodwin, -	13 14	
Queen Ann's, -	Md.	Solomon Sparrow, -	31 48	
Quincey, -	Mass.	Richard Cranch, -	12 20	
Raleigh, -	N. C.	William Shaw, -	247 36	
Randolph C. H. -	N. C.	John Harvey, -	-	5 85 March 12 to December 31, 1800.

## DEPUTY POSTMASTERS—Continued.

Post Offices.	States.	Postmasters.	Emolument to Postmasters, for 1800.	Remarks.
Raway.	N. J.	Richard Marsh,	\$ 99 83	
Readfield.	Maine,	James Dalton,	7 47	
Reading.	Penn.	Gotlob Jungman,	141 44	
Redhook.	N. Y.	Henry Lysle,	29 23	- October 1, 1797, to October 1, 1798.
Rhinebeck.	N. Y.	William Freeman,	81 83	
Richardsonville.	Georgia,	O. Richardson,	2 71	- April 1 to December 31, 1800.
Richmond.	Virginia,	Augustin Davis,	1,838 06	
Richmond C. H.	Virginia,	Wm. Holbourne,	44 78	
Richmond C. H.	N. C.	John Crowson,	-	\$2 45 October 1 to December 31, 1800.
Riceborough.	Georgia,	James Roberts,	90 76	- July 1, 1799, to July 1, 1800.
Ridge.	Md.	Robert Crane,	-	41 October 1 to December 31, 1800.
Ridgefield.	Conn.	Philip Bradley,	12 87	
Rochester.	N. H.	Levi Dearborn,	-	- No accounts received.
Rochester.	Mass.	Elisha Ruggles,	-	2 80 October 3 to December 31, 1800.
Rockaway.	N. J.	Joseph Jackson,	5 62	
Rockford.	N. C.	William Bills,	8 45	
Rockingham.	Vermont,	Roswell Billows,	-	15 November 3 to December 31, 1800.
Rockingham C. H.	Virginia,	Philip Cobbs,	47 54	
Rockingham C. H.	N. C.	John Chartres,	-	15 40 February 1 to December 31, 1800.
Rocky Mount.	Virginia,	Wm. Callaway,	17 17	
Rome.	N. Y.	Matthew Brown,	75 48	
Romney.	Virginia,	John J. Jacob,	42 14	
Rotterdam.	N. Y.	John H. G. Wirth,	8 89	- April 1, 1799, to April 1, 1800.
Rossville.	Tenn.	Wm. Vennerson,	-	69 October 9 to December 31, 1800.
Royalton.	Vermont,	Elkanah Stevens,	16 96	
Russelville.	Ky.	Aram Morehead,	-	1 64 October 12 to December 31, 1800.
Rutherford town.	N. C.	A. M. Gilbert,	-	- No accounts.
Rutland.	Vermont,	Nathaniel Gove,	68 30	
Ryegate.	Vermont,	James Whitelaw,	11 45	
Sacarappe.	Maine,	Enoch Freeman,	4 65	
Sag Harbor.	N. Y.	Henry P. Dering,	33 91	
Salem.	Mass.	John Dabney,	555 10	
Salem.	N. Y.	Ebenezer Proudfit,	49 66	
Salem.	N. J.	Thomas Jones,	44 94	
Salem.	N. C.	Godlieb Shober,	55 97	
Salem.	S. C.	George Cooper,	-	89 October 1 to December 31, 1800.
Salisbury.	N. H.	Thomas Thompson,	9 27	
Salisbury.	Mass.	Joseph Wadleigh,	-	- Commenced in 1801.
Salisbury.	Conn.	Peter Farnam,	19 70	
Salisbury.	Md.	Robert Lemmon,	31 86	
Salisbury.	N. C.	Andrew Balfour,	70 58	
Sandwich.	Mass.	Wm. Fessenden,	30 96	
Sandyhill.	N. Y.	Roswell Weston,	10 42	
Sanford.	Maine,	Caleb Emery,	2 48	
Sangorfield.	N. Y.	Amos Muzzy,	-	29 October 1 to December 31, 1800.
Sandersville.	Georgia,	Daniel I. Greene,	3 38	
Savannah.	Georgia,	Isaac Benedix,	1,160 34	
Saybrook.	Conn.	Humphrey Pratt,	59 33	
Scarborough.	Maine,	John Wood,	19 97	
Scipio.	N. Y.	Walter Wood,	53 28	
Scituate.	Mass.	Charles Turner, Jr.	-	2 70 October 15 to December 31, 1800.
Schenectady.	N. Y.	Joseph Shurtleff,	140 01	
Schoodic.	Maine,	John Brewer,	82 24	
Scotland Neck.	N. C.	Henry Baker,	15 24	
Scottsburg.	Virginia,	Wm. Beasley,	-	- No accounts.
Shapleigh.	Maine,	J. P. Woodbury,	4 19	
Sharon.	Conn.	George King, Jun.	23 25	
Sharpsburg.	Md.	Peter Righter,	6 48	
Sheffield.	Mass.	William Buell,	22 21	
Shelbyville.	Ky.	James Wardlaw,	-	2 97 October 6 to December 31, 1800.
Shepherdstown.	Virginia,	John Morrow, Jun.	96 15	
Sherbourne.	N. Y.	Joel Thompson,	-	98 October 1 to December 31, 1800.
Sheshequin.	Penn.	Avery Gore,	-	- Commenced in 1801.
Shippensburg.	Penn.	Nicholas Khrehl,	-	- No accounts.
Shrewsbury.	N. J.	Samuel Breese,	13 39	
Smithtown.	N. Y.	R. B. Blydenburg,	18 92	
Smithfield.	Virginia,	Thomas Purdie,	88 72	
Smithfield.	N. C.	Hugh Dickson,	11 71	
Snowhill.	Md.	George Rosse,	69 95	- July 1, 1798, to July 1, 1799.
Somerset.	Mass.	James Chace,	12 03	
Somerset.	Penn.	Joseph Parks,	60 46	
Somerset C. H.	N. J.	John Meldrum,	-	- No accounts received.
Southampton.	N. Y.	Benjamin Huntling,	8 67	
South Kingston.	R. I.	Sam. E. Gardner,	17 37	
South Quay.	Virginia,	John Dorlon,	2 95	
Sparta.	N. J.	James S. Smith,	-	- No accounts.
Sparta.	Georgia,	John Lucas,	47 26	
Spartan C. H.	S. C.	Alexander McKee,	-	- No accounts.
Springfield.	Mass.	James Byers, Jun.	140 99	
Springfield.	N. J.	Grover Coe,	8 73	
Springfield.	Virginia,	John Lyle,	-	70 October 10 to December 31, 1800.
Springfield.	Ky.	Isaac Landsdale,	-	- No accounts.
Spotsylvania C. H.	Virginia,	Joshua Long,	-	1 31 October 1 to December 31, 1801.

## DEPUTY POSTMASTERS—Continued.

Post Offices.	States.	Postmasters.	Emolument to Postmasters, for 1800.		Remarks.
Standish,	Maine,	John Dean, Jun. -	\$ 7 18		
Stamford,	Conn.	Abm. Davenport, -	64 86		
Stamford,	Ky.	David Simpson, -	-	\$16 19	March 10 to December 31, 1800.
Statesburg,	S. C.	William Murrell, -	141 90		
Statesville,	N. C.	James Ferguson, -	33 66		
Staunton,	Virginia,	Laur. Tremper, -	180 93		
Stevensburg,	Virginia,	Wm. McDowel, -	15 20		
Stillwater,	N. Y.	Dirck Swart, -	25 22		
Stockbridge,	Mass.	Horatio Jones, -	63 31		
Stonington,	Conn.	Samuel Trumbull, -	37 13		
Strasburg,	Penn.	George McLellan, -	30 65		
Strasburg,	Virginia,	Jacob Hite, -	19 58		
Stratford,	Conn.	Victory Wetmore, -	71 50		
St. Alban's,	Vermont,	Daniel Ryan, -	-	-	Commenced in 1801.
St. George's,	Dela.	Levi Clark, -	-	2 78	November 1 to December 31, 1800.
St. Leonard's,	Md.	Thos. Dixon, Jun. -	18 50		
St. Mary's,	Georgia,	Isaac Crews, -	90 20		
St. Tammany's,	Virginia,	Moses Lunsford, -	11 27	-	April 1, 1798, to April 1, 1799.
Suffield,	Conn.	William Gay, -	89 52		
Suffolk,	Virginia,	Arch. Richardson, -	143 64		
Suffolk C. H.	N. Y.	Hull Osborne, -	15 89		
Sullivan,	Maine,	P. D. Sargeant, -	6 32		
Sullivan C. H.	Tenn.	James Rhea, -	-	1 30	November 5 to December 31, 1800.
Sunbury,	Penn.	John Weitzel, -	63 96		
Sunbury,	Georgia,	M. Vanyeverin, -	83 10		
Surry C. H.	Virginia,	Robert McIntosh, -	40 73		
Swansborough,	N. C.	Thomas A. Bell, -	3 66	-	July 1, 1799, to July 1, 1800.
Swanzey,	Mass.	Reuben Chace, -	-	3 62	February 16 to December 31, 1800.
Sweetsprings,	Virginia,	David Kean, -	28 07		
Southeast,	N. Y.	Joseph C. Fields, -	5 48		
Sweedsburg,	N. J.	John Croes, -	11 20		
Taneyton,	Md.	Daniel Boyle, -	33 18		
Tappahannock,	Virginia,	Wm. Chowning, -	124 44		
Tarborough,	N. C.	J. G. L. Schenck, -	57 02		
Taunton,	Mass.	Nich. Tillinghast, -	112 12		
Thomaston,	Maine,	David Fales, Jun. -	40 75		
Thornsburg,	Virginia,	Joseph Pollard, Jr. -	-	-	Commenced in 1801.
Tindallsville,	N. C.	John Neall, -	-	3 65	January 1 to April 1, 1800.
Tolland,	Conn.	Benoni Shepherd, -	15 77		
Trap,	Md.	Stephen White, -	20 03		
Trenton,	Maine,	Donald Ross, -	17 28		
Trenton,	N. J.	Peter Gordon, -	486 42		
Trenton,	N. C.	William Neill, -	3 00	-	July 1, 1799, to July 1, 1800.
Troy,	N. Y.	David Buell, -	133 50		
Trumbull,	Conn.	Eliahim Beech, -	-	93	October 1 to December 31, 1800.
Truro,	Mass.	Ephraim Harding, -	28 24		
Tuckerton,	N. J.	Ruben Tucker, -	11 22		
Tunchannock,	Penn.	Isaac Slocum, -	-	-	Established in 1801.
Turner,	Maine,	John Keen, -	-	1 21	October 1 to December 31, 1800.
Union,	N. Y.	Joshua Whitney, -	16 60		
Union,	Penn.	John Lyon, -	68 73		
Upper Marlboro',	Md.	R. W. Brashears, -	59 39		
Unadilla,	N. Y.	Solomon Martin, -	-	40	October 28 to December 31, 1800.
Urbana,	Virginia,	John Baytop, -	71 20		
Utica,	N. Y.	Samuel Carrington, -	162 76		
Vassalboro',	Maine,	Thomas Odiorne, -	13 18		
Vergennes,	Vermont,	Samuel Chipman, -	37 61		
Versailles,	Ken.	Stewart Wilkins, -	-	-	No accounts received.
Vienna,	Md.	David Smith, -	17 82		
Vincennes,	N. T.	Gen. W. Johnston, -	12 67		
Waltersville,	Georgia,	Nathaniel Waller, -	-	-	No accounts.
Wadesboro',	S. C.	Andrew Wade, -	-	-	Ditto.
Waldoboro',	Maine,	John Head, -	26 22		
Wallingford,	Conn.	James Carrington, -	32 93		
Walpole,	N. H.	Alexander Thomas, -	47 92		
Wardsbridge,	N. Y.	Hugh Lindsey, -	12 19		
Wareham,	Maine,	Benjamin Fearing, -	-	1 29	October 1 to December 31, 1800.
Warminster,	Virginia,	Willis Wills, -	75 17		
Warren,	Maine,	Rufus Crane, -	21 43		
Warren,	R. I.	Nathan Philips, -	60 81		
Warren,	Virginia,	Benjamin Johnson, -	36 98		
Warrenton,	N. C.	William Falkner, -	74 95		
Warrenton,	Georgia,	Thomas Dent, -	-	1 82	October 1 to December 31, 1800.
Warwick,	N. Y.	Joseph Houston, -	-	-	No accounts received.
Warwick,	Md.	John Morton, -	56 44	-	October 1, 1799, to October 1, 1800.
Washington City,	D. C.	Thomas Munroe, -	1,245 85		
Washington,	Penn.	Daniel Moore, -	155 26		
Washington,	Ken.	Edward Harris, -	191 67		
Washington,	N. C.	John G. Blount, -	144 51		
Washington,	Georgia,	Barnard Kelley, -	129 29		
Waterboro',	Maine,	Andrew Burley, -	5 51		
Waterford,	Maine,	Eli Longley, -	-	46	October 1 to December 31, 1800.
Waterford,	N. Y.	John Bloore, -	17 16		

## DEPUTY POSTMASTERS—Continued.

Post Offices.	States, &c.	Postmasters.	Emolument to Postmasters, for 1800.	Remarks.	
Waterford,	Penn.	Charles Martin,	-	\$1 87	October 1 to December 31, 1800.
Waterford,	Virginia,	Daniel Stone,	-	38	December 1 to December 31, 1800.
Waynesboro',	Penn.	James Wilson,	-	2 51	October 1 to December 31, 1800.
Waynesboro',	N. C.	John R. Good,	\$ 4 29	-	July 1, 1799, to July 1, 1800.
Waynesboro',	Georgia,	James B. Sharpe,	36 43	-	
Wellfleet,	Mass.	Lewis Hamlen,	21 16	-	
Wells,	Maine,	Samuel Bartlett,	22 72	-	
Westerly,	R. I.	Rouse Babcock,	13 13	-	
Westfield,	Mass.	Abel Whitney,	23 40	-	
Westfield,	N. Y.	Ralph Coffin,	-	-	No accounts.
West Liberty,	Virginia,	Zachariah Sprigg,	46 30	-	
Westminster,	Vermont,	Eleazer May,	41 39	-	
Westminster,	Md.	John Wampler,	-	50	October 1 to December 31, 1800.
Westmoreland c. h.	Virginia,	Samuel Templeman,	65 80	-	
Wethersfield,	Conn.	Levi Butler,	108 55	-	
Wheeling,	Virginia,	Andrew Woods,	59 21	-	
Whitehall,	N. Y.	Melan. Wheeler,	5 96	-	
Whiteplains,	N. Y.	Stephen Barker,	9 86	-	
Whiteponds,	S. C.	Walter Robinson,	-	-	No accounts.
Whitelysburg,	Md.	William Travers,	-	60	October 13 to December 31, 1800.
Whitestown,	N. Y.	Elizur Moseley,	92 31	-	
Wickford,	R. I.	Daniel E. Updike,	10 45	-	
Wilkes,	N. C.	James Patton,	13 34	-	
Wilkesbarre,	Penn.	Lord Butler,	85 06	-	
Wylliesburg,	Virginia,	Hugh Wyllie,	-	30	October 1 to December 31, 1800.
Williamsboro',	N. C.	James Sneed,	61 89	-	
Williamsburg,	Virginia,	James Davis,	249 30	-	
Williamsport,	Md.	Jacob T. Towson,	20 48	-	
Williamsport,	Penn.	Samuel E. Grier,	24 03	-	
Williamston,	Vermont,	Moses Morse,	4 48	-	
Williamston,	Mass.	W. Starkweather,	54 73	-	
Williamston,	N. C.	Richard Williams,	29 53	-	
Willsboro',	N. Y.	Daniel Ross,	12 60	-	
Wiltown,	S. C.	Robert Paisley,	-	3 97	October 1 to December 31, 1800.
Wilmington,	Dela.	Edward Gilpin,	669 84	-	
Wilmington,	N. C.	John Bradley,	367 38	-	
Wilmington,	Vermont,	Elijah Eastin,	-	12	December 16 to 31, 1800.
Winchendon,	Mass.	Samuel Crosley, Jr.	5 06	-	
Winchester,	Virginia,	George F. Norton,	241 87	-	January 1, 1799, to January 1, 1800.
Windham,	Conn.	John Byrne,	43 41	-	
Windham,	Maine,	Sylvanus Gallison,	-	36	November 24 to December 31, 1800.
Windsor,	Vermont,	Benjamin Comens,	79 16	-	
Windsor,	N. C.	William Hubbell,	40 39	-	
Winnfield,	S. C.	Joel Winfield,	-	5 91	October 1 to December 31, 1800.
Winnsboro',	S. C.	James Barkley,	22 07	-	
Winslow,	Maine,	Asa Redington,	34 86	-	
Winton,	N. C.	G. W. Montgomery,	18 76	-	
Winthrop,	Maine,	Silas Lambert,	11 67	-	
Wiscasset,	Maine,	Ebenezer Whittier,	171 57	-	
Woburn,	Mass.	Ichabod Parker,	5 42	-	
Woodbridge,	N. J.	Thomas Jackson,	40 07	-	
Woodbury,	Conn.	Daniel Huntington,	24 48	-	
Woodbury,	N. J.	Nathan Donnell,	33 50	-	
Woodstock,	Vermont,	Henry Mower,	17 78	-	
Woodstock,	Virginia,	George Hoffman,	48 56	-	
Woodstock,	N. C.	Seth Hovey,	-	8	October 20 to December 31, 1800.
Woodsboro',	Md.	Joseph Spoon,	4 77	-	
Woodstown,	N. J.	William Wayman,	13 44	-	
Worcester,	Mass.	Isaiah Thomas,	143 25	-	
Worthington,	Mass.	Asa Bigelow,	19 01	-	
Wrentham,	Mass.	David Fisher, Jun.	35 85	-	
Wyalusing,	Penn.	Peter Stephens,	-	90	October 27 to December 15, 1800.
Wythe C. H.	Virginia,	William Hay,	70 30	-	
Yanceyville,	Virginia,	Jos. Kimbrough,	-	1 82	October 17 to December 31, 1800.
Yarmouth,	Maine,	Thomas Thacher,	18 45	-	
Yonkers,	N. Y.	Alpheus Pierson,	18 75	-	
York,	Maine,	Daniel Sewall,	76 32	-	
York,	Penn.	Jacob Spangler,	140 30	-	
Yorktown,	Virginia,	Wm. A. Rogers,	106 27	-	
Zanesville,	N. T.	Wm. McCallogh,	-	4 88	June 19 to December 31, 1800.

## A LIST OF POST OFFICES ESTABLISHED IN 1801.

Post Offices.	States, &c.	Postmasters.	Post Offices.	States, &c.	Postmasters.
Alfred,	Maine,	Joseph Emerson.	Black Swamp,	S. C.	W. H. Lawston.
Amherst Springs,	Virginia,	Hugh Campbell.	Boonesburg,	Md.	Peter Conn.
Barnabas,	Mass.	Peter Conn.	Bridgeport,	Conn.	Charles Bostwick.
Batavia,	N. Y.	Sanford Hunt.	Bristol,	Maine,	Thomas McClure.
Beavertown,	Penn.	James Alexander.	Broadus Mills,	Virginia,	Mordecai Broadus.

## LIST OF POST OFFICES—Continued.

Post Offices.	States, &c.	Postmasters.	Post Offices.	States, &c.	Postmasters.
Canfield, -	N. Y.	Elijah Wadsworth.	Newtown, -	Virginia,	Philip Gatewood.
Cahokia, -	I. T.		Newsharon, -	Maine,	Prince Barker.
Charleston, -	R. I.	Joseph Staunton 3d.	Norway, -	-	William Reed.
Chemungo, -	N. Y.	Judge Buck.	Old Jehorary, -	N. Y.	George Tiffany.
Chickasaw Nation,	-	John McIntosh.	Painville, -	Virginia,	Benjamin Seay.
Claverack, -	N. Y.	William Bay.	Palmyra, -	Tenn.	Morgan Brown.
Claremont, -	N. H.	Josiah Stevens.	Paris, -	Maine,	Caleb Prentiss.
Coleraine, -	N. C.	Miles Raynor.	Pendleton C. H. -	Virginia,	John Roberts.
Cross Keys, -	Virginia,	M. W. Hancock.	Pitch Landing, -	N. C.	John Cooper.
Cumberland, -	Virginia,	Dandridge Wilkins.	Pocotatijo, -	S. C.	Alexander Fauns.
Danby, -	Vermont,	Samuel Dow.	Port Royal, -	Tenn.	— Woolfolk.
Darlington C. H. -	S. C.	Jesse Dubose.	Prairies Rochere, -	I. T.	
Doylestown, -	Penn.	Charles Stewart.	Queenstown, -	Md.	William Bourke.
Duanesburg, -	N. Y.	Edward Campston.	Randolph, -	Vermont,	Sereno Wright.
Durlock, -	N. Y.	Lenas Pynnes.	Raymondtown, -	Maine,	Joseph Dingley.
Eaton, -	Maine,	William Snell.	Readfield, -	Maine,	Samuel P. Glidden.
Francistown, -	N. H.	Giles Newtown.	Reedy River Shoal, -	S. C.	John H. Harrison.
Franklin, -	Tenn.	Thomas Masterson.	Salisbury, -	Vermont,	Patrick Johnson.
Genito Bridge, -	Virginia,	William H. Harrison.	Sampson C. H. -	N. C.	Joshua Knowlton.
George's Creek, -	Md.	William H. Burns.	Satauket, -	N. Y.	Zachariah Hawkins.
Georgetown, -	Penn.	Thomas Forster.	Scull Camp, -	N. C.	John Hughes.
Green Glades, -	Md.	John Hayes.	Sempronius, -	N. Y.	John Stoyell.
Haleysburg, -	Virginia,	Henry Haley.	Springfield, -	Virginia,	Stephen Bayard.
Harwinton, -	Conn.	Joel Bradley.	Southampton, -	S. C.	Hugh Millegan.
Haymarket, -	Virginia,	William Morgan.	St. Clairsville, -	N. T.	Andrew Marshall.
Head of Delaware, -	N. Y.	James Graves.	St. Ingoes, -	Md.	Basil Biscoe.
Head of Sassafras, -	-	Robert Hodgson.	St. Michael's, -	Md.	James Dobson.
Hillsboro', -	Virginia,	Mahlen Roche.	St. George's Creek, -	-	John Burnes.
Huntersville, -	N. C.	Humphrey Hunter.	St. Phillips, -	I. T.	
Jerusalem, -	N. Y.	Abraham Wagener.	Stamford, -	N. Y.	John Lamb.
Johnstonville, -	N. C.	Alexander Gray.	Sumptersville, -	S. C.	John Gayle.
Kanhawa C. H. -	Virginia,	Edward Graham.	Sussex C. H. -	Virginia,	James Pennington.
Kent Island, -	Md.	John Stevens, Jun.	Towerhill, -	R. I.	William Nicholls.
Lanesboro', -	Mass.	M. H. Welles.	Tunchannock, -	Penn.	Isaac Slocum.
Lebanon, -	Conn.	John Tainter.	Warm Springs, -	N. C.	William Nelson, Jun.
Lloyd's, -	Virginia,	Benj. H. Munday.	Winchester, -	Ken.	Edmond Callaway.
Ligonton, -	Virginia,	Thomas Colley.	Walnut Grove, -	Virginia,	Robert Poor.
Loftus Heights, -	-	E. Woodridge.	Walton, -	N. Y.	Gabriel North.
Marshalville, -	Virginia,	James Wilson.	Walkerton, -	Virginia,	John Templeman.
McFallsville, -	N. C.	John McFall.	Warren, -	N. T.	Simeon Perkins.
Monroe C. H. -	Virginia,	Richard Shanklin.	Washington, -	N. H.	Israel Danforth.
Mount Vernon, -	Md.	Benj. Philbrick.	West Middleton, -	Penn.	John Buchanan.
Natural Bridge, -	Virginia,	Matthew Houston.	White Chimneys, -	Virginia,	— Golvon.
Newfound Mills, -	Virginia,	Thomas Price.	West Simsbury, -	Conn.	William Stone.
Nelson's Ferry, -	S. C.	James Rickburg, Jun.	Windham, -	N. Y.	Sanford Hunt.
Newport, -	Tenn.	Baldwin Harle.	Youngstown, -	N. T.	Calvin Pease.
Newtown, ('Trap) -	Md.	James Torrance.	York C. H. -	S. C.	Benjamin Haile.

## CIVIL ESTABLISHMENT.

## EXECUTIVE.

Office.	Officer.	Total annual compensation.
President of the United States, -	Thomas Jefferson, -	\$25,000
Vice President, -	Aaron Burr, -	5,000

## LEGISLATURE.

[Each Senator and member of the House of Representatives receives a compensation of six dollars per day whilst attending in session, and one day's pay for every twenty miles travelling to and from the seat of Government.]

## SENATE.

States.	Officer.	States.	Officer.
New Hampshire, -	James Sheafe,	New York, -	Gouverneur Morris,
Massachusetts, -	Simeon Olcott.	New Jersey, -	John Armstrong.
Vermont, -	Dwight Foster,	Pennsylvania, -	Jonathan Dayton,
Rhode Island, -	Jonathan Mason.	Delaware, -	Aaron Ogden.
Connecticut, -	Nathaniel Chipman,	Maryland, -	James Ross,
	Stephen R. Bradley.		George Logan.
	Theodore Foster,		William Hill Wells,
	Christopher Ellery.		Samuel White.
	James Hillhouse,		John E. Howard,
	Uriah Tracy.		Robert Wright.

## CIVIL ESTABLISHMENT—Continued.

## LEGISLATURE.

## SENATE.

States.	Officer.	States.	Officer.
Virginia, - -	Stevens T. Mason, Wilson C. Nicholas.	Tennessee, - -	Joseph Anderson, William Cocke.
Kentucky, - -	John Brown, John Breckenridge.	South Carolina, - -	John Ewen Calhoun, Thomas Sumpter.
North Carolina, - -	Jesse Franklin, David Stone.	Georgia, - -	Abraham Baldwin, James Jackson.

## HOUSE OF REPRESENTATIVES.

New Hampshire, - -	Nath'l Macon, Speaker. (salary per diem \$12.) Abiel Foster. Joseph Pierce. Samuel Tenney. George B. Upham.	Pennsylvania, - -	John Stewart. Isaac Van Horn. Henry Woods. Joseph Hemphill.
		Delaware, - - Maryland, - -	James A. Bayard. John Archer. John Campbell. John Dennis. Daniel Heister. Joseph H. Nicholson. Thomas Plater. Samuel Smith.
Massachusetts, - -	John Bacon. Phanuel Bishop. Manasseh Cutler. Richard Cutts. William Eustis. Seth Hastings. Ebenezer Mattoon. Nathan Reed. William Shepard. Josiah Smith. Joseph B. Varnum. Peleg Wadsworth. Lemuel Williams. One representative to be elected.	Virginia, - -	Richard Sprigg, Jun. Richard Brent. Samuel J. Cabell. Thomas Claiborne. Matthew Clay. John Clopton. John Dawson. William B. Giles. Edwin Gray. David Holmes. Anthony New.
			Thomas Newton, Jun. John Randolph, Jun. John Smith. John Stratton. John Taliaferro, Jun. Philip R. Thompson. Abraham Trigg. John Trigg. George Jackson. Thomas T. Davis. John Fowler.
Vermont, - -	Lewis R. Morris. Israel Smith.	Kentucky, - - North Carolina, - -	William Barry Grove. Arch. Henderson. William H. Hill. James Holland. Charles Johnson. John Stanley. Robert Williams. Richard Stanford. William Dickson. William Butler. Benjamin Huger. Thomas Lowndes. Thomas Moore. John Rutledge. One representative to be elected.
Rhode Island, - - Connecticut, - -	Joseph Stanton, Jun. Thomas Tillinghast. Samuel W. Dana, John Davenport. Calvin Goddard. Roger Griswold. Elias Perkins. John Cotton Smith. Benjamin Tallmadge. Theodorus Bailey. Lucas Elmendorf. Thomas Morris. Samuel L. Mitchell. John Smith. David Thomas. Philip Van Cortland. John P. Van Ness. Wm. K. Van Rensselaer. Benjamin Walker.		Tennessee, - - South Carolina, - -
New Jersey, - -	John Condit. Ebenezer Elmer. William Helms. James Mott. Henry Southard.	Georgia, - -	Paul Fearing.
			Delegate from Northwest Territory, - - Delegate from Missis- sippi Territory, - -
Pennsylvania, - -	Thomas Boude. Robert Brown. Andrew Gregg. John A. Hanna. Joseph Heister. William Hoge. William Jones. Michael Leib. John Smilie.		

## CIVIL ESTABLISHMENT—Continued.

Office.	Officer.	Annual salary.	Per diem allowance.	Total annual compensation.
Secretary to the Senate, - - -	Samuel A. Otis, - - -	\$1,750	\$2	\$1,968 00
One clerk, - - -	- - -	200	3	1,295 00
One clerk, - - -	- - -	200	2	930 00
One clerk, - - -	- - -	-	2	96 00
Chaplain to the Senate, - - -	— Grant, for 150 days, - - -	500	-	205 48
Door-keeper to the Senate, - - -	- - -	500	2	718 00
Assistant door-keeper to the Senate, - - -	- - -	450	-	668 00
Clerk to House of Representatives, - - -	John Beckley, - - -	1,750	-	1,964 00
One clerk, - - -	- - -	200	3	1,295 00
Two clerks, at - - -	- - -	200	2	1,860 00
Chaplain to House of Representatives, - - -	— Parkinson, for 150 days, - - -	500	-	205 48
Sergeant-at-arms to H. Representatives, - - -	Joseph Wheaton, - - -	500	2	714 00
Door-keeper to House Representatives, - - -	- - -	-	-	-
Assistant door-keeper to H. of Reps. - - -	- - -	450	-	664 00

## JUDICIARY.

Office.	Officer.	Total annual compensation.
Chief Justice of the United States, - - -	John Marshall, - - -	\$4,000
Associate judges, - - -	William Cushing, - - -	3,500
	William Patterson, - - -	3,500
	Samuel Chase, - - -	3,500
	Bushrod Washington, - - -	3,500
	Alfred Moore, - - -	3,500
Attorney General to the United States, - - -	Levi Lincoln, - - -	3,000
Agent under the 6th article of the British treaty, - - -	Levi Lincoln, - - -	600
		3,600

## CIRCUIT JUDGES.

First circuit, - - -	John Lowell, - - -	2,000
	Benjamin Bourne, - - -	2,000
	Jeremiah Smith, - - -	2,000
Second circuit, - - -	Egbert Benson, - - -	2,000
	Oliver Wolcott, - - -	2,000
	Samuel Hitchcock, - - -	2,000
Third circuit, - - -	William Tilghman, - - -	2,000
	William Griffith, - - -	2,000
	Richard Bassett, - - -	2,000
Fourth circuit, - - -	Philip Barton Key, - - -	2,000
	George Keith Taylor, - - -	2,000
	Charles Magill, - - -	2,000
Fifth circuit, - - -	Dominic A. Hall, - - -	2,000
	Henry Potter, - - -	2,000
	- - -	2,000
Sixth circuit, - - -	William McClung, - - -	1,500
	John McNairy, - - -	1,500
	Harry Innes, - - -	1,500

## DISTRICT JUDGES.

New Hampshire, - - -	John Pickering, - - -	1,000
Maine, - - -	David Sewell, - - -	1,000
Massachusetts, - - -	John Davis, - - -	1,600
Rhode Island, - - -	David L. Barnes, - - -	1,000
Vermont, - - -	Elijah Paine, - - -	800
Connecticut, - - -	Richard Law, - - -	1,000
New York, - - -	John Sloss Hobart, - - -	1,600
New Jersey, - - -	Robert Morris, - - -	1,200
Pennsylvania, - - -	Richard Peters, - - -	1,600
Delaware, - - -	Gunning Bedford, - - -	1,200
Maryland, - - -	James Winchester, - - -	1,600
Virginia, - - -	Cyrus Griffin, - - -	1,800
North Carolina, - - -	John Sitgreaves, - - -	1,500
South Carolina, - - -	Thomas Bee, - - -	1,500
Georgia, - - -	William Stevens, - - -	1,500
Columbia. Chief judge, - - -	William Kilty, - - -	2,000
Assistant chief judge, - - -	James Marshall, - - -	1,600
Assistant chief judge, - - -	William Cranch, - - -	1,600



## CIVIL ESTABLISHMENT—Continued.

## JUDICIARY.

## CLERKS TO THE SUPREME, CIRCUIT, AND DISTRICT COURTS.\*

Office.	Officer.	Total annual compensation.
Supreme Court, - - -	Elias B. Caldwell, - - -	\$230 00
District of New Hampshire, - - -	Jonathan Steel, - - -	99 80
Maine, - - -	Henry Sewall, - - -	125 00
Massachusetts, - - -	Nathan Goodale, - - -	231 72
Rhode Island, - - -	Edmund T. Ellery, - - -	307 15
Vermont, - - -	Cephas Smith, - - -	176 44
Connecticut, - - -	Simeon Baldwin, - - -	184 35
New York, - - -	Edward Dunscomb, - - -	225 00
New Jersey, - - -	Robert Boggs, - - -	40 50
Pennsylvania, - - -	David Caldwell, - - -	525 00
Maryland, - - -	Philip Moore, - - -	No acct. rend.
Virginia, - - -	William Marshall, - - -	316 40
Delaware, - - -	Thomas Stockton, - - -	85 90
North Carolina, - - -	William Blackledge, - - -	165 60
South Carolina, - - -	Thomas Hall, - - -	174 35
Georgia, - - -	Richard M. Stites, - - -	119 10
Kentucky, - - -	Thomas Tunstall, - - -	240 00
Tennessee, - - -	Robert M. Gavock, - - -	208 74
Columbia, - - -	U. Forrest, for eight months, - - -	298 70
Columbia, - - -	George Deneale, for eight months, - - -	263 88

## ATTORNEYS.

Districts.	Officer.	Annual salary.	Fees and commission.	Total compensation.
New Hampshire, - - -	John S. Sherburne, - - -	\$200	\$81 00	\$281 00
Maine, - - -	Silas Lee, - - -	200	109 54	309 54
Massachusetts, - - -	George Blake, - - -	-	-	192 49
Rhode Island, - - -	David Howell, - - -	200	282 70	482 70
Connecticut, - - -	Pierpoint Edwards, - - -	200	494 20	694 20
Vermont, - - -	David Fay, - - -	200	183 50	383 50
New York, - - -	Edward Livingston, - - -	-	-	355 60
New Jersey, - - -	George Maxwell, - - -	200	56 00	256 00
East Pennsylvania, - - -	Alexander J. Dallas, for 7 months, - - -	-	-	265 00
West Pennsylvania, - - -	James Hamilton, for 6 months, - - -	-	-	31 00
Delaware, - - -	George Read, Jun., - - -	200	85 90	285 90
Maryland, - - -	Z. Hollingsworth, acct's not rend., - - -	-	-	-
East Virginia, - - -	Thomas Nelson, 5 months, - - -	200	171 40	371 40
West Virginia, - - -	John Monroe, - - -	200	accounts not rendered.	rendered.
Potomac, - - -	Walter Jones, acct's not rend'rd., - - -	-	-	-
Kentucky, - - -	Jos. H. Davies, - - -	200	200 50	400 50
North Carolina, - - -	Benjamin Woods, - - -	200	107 80	307 80
South Carolina, - - -	Thomas Parker, - - -	-	-	95 00
Georgia, - - -	Charles Jackson, - - -	200	136 45	336 45
East Tennessee, - - -	Vacant, - - -	200	-	-
West Tennessee, - - -	William P. Anderson, - - -	200	-	-
Albany, - - -	Accounts not rendered.	-	-	-
Ohio, - - -	Wm. McMillan, acct's not rend., - - -	-	-	-
Columbia, - - -	J. T. Mason, 8 months, - - -	-	-	381 60

## MARSHALS.

New Hampshire, - - -	Bradbury Cilley, - - -	200	129 34	329 34
Maine, - - -	Isaac Parker, - - -	200	132 17	332 17
Massachusetts, - - -	Samuel Bradford, - - -	-	-	278 71
Rhode Island, - - -	William Peck, - - -	-	-	428 78
Connecticut, - - -	Joseph Wilcox, - - -	-	-	246 06
Vermont, - - -	John Willard, - - -	200	321 85	521 85
New York, - - -	John Swartwout, - - -	-	-	269 82
New Jersey, - - -	John Heard, - - -	-	-	56 99
East Pennsylvania, - - -	John Smith, 7 months, - - -	-	-	330 49
West Pennsylvania, - - -	P. C. Lane, 6 months, - - -	-	-	82 69
Delaware, - - -	Joel Lewis, - - -	-	-	136 24
Maryland, - - -	Reuben Etting, acct's not rend., - - -	-	-	-
East Virginia, - - -	Joseph Scott, for 5 months, - - -	-	-	283 60
West Virginia, - - -	Andrew Moore, - - -	-	-	-
Potomac, - - -	William Baker, - - -	-	-	-
Kentucky, - - -	Joseph Crockett, - - -	200	452 33	652 33
North Carolina, - - -	John S. West, - - -	-	-	283 47
South Carolina, - - -	Charles B. Cochran, - - -	-	-	303 60

\* The sums affixed to the names of the clerks and marshals show the amount of compensation paid by the United States, exclusively of fees paid by individuals.

CIVIL ESTABLISHMENT—Continued.

JUDICIARY.

Districts.	Officer.	Annual salary.	Fees and commission.	Total compensation.
Georgia, - - -	Ambrose Gordon, - - -	-	-	\$160 85
East Tennessee, - - -	- - -	\$200	accounts not rendered.	-
West Tennessee, - - -	Robert Hays, - - -	200	do.	do.
Albany, - - -	Her. H. Windell, - - -	-	do.	do.
Ohio, - - -	James Findlaye, - - -	-	do.	do.
Columbia, - - -	Daniel C. Brent, for eight months,	-	-	842 84

DEPARTMENTS AT THE SEAT OF GOVERNMENT.

STATE DEPARTMENT.			TREASURY DEPARTMENT.		
Office.	Officer.	Total annual compensation.	Office.	Officer.	Total annual compensation.
Secretary, -	James Madison, -	\$5,000	Messenger, at	-	\$410 00
One clerk, at	-	1,750	Superintendent of	-	-
One clerk, at	-	900	Stamps, -	Joshua Johnson, -	2,000 00
Three clerks, at	-	800	One clerk, at	-	1,200 00
One clerk, at	-	750	One clerk, at	-	700 00
One clerk, at	-	700	Messenger, at	-	150 00
Messenger, at	-	410	One stamper, at	-	500 00
			One stamper, at	-	362 50
			One stamper, at	-	276 87
			One stamper, at	-	198 97
			One stamper, at	-	185 52
			One stamper, at	-	80 79
			Secretary to commis-		
			sioners of sinking		
			fund, -	Edward Jones, -	250 00
			Draughtsman of the		
			Western lands, -	Charles De Krafft,	800 00
			Superintendent of		
			building, -	John Woodside,	400 00
			Two watchmen at	-	300 00
TREASURY DEPARTMENT.			WAR DEPARTMENT.		
Office.	Officer.	Total annual compensation.	Office.	Officer.	Total annual compensation.
Secretary, -	Albert Gallatin, -	5,000 00	Secretary, -	Henry Dearborn, -	\$4,500 00
One clerk, at	-	1,800 00	One clerk, at	-	1,840 00
One clerk, at	-	1,150 00	Two clerks, at	-	1,390 00
One clerk, at	-	900 00	One clerk, at	-	965 00
One clerk, at	-	800 00	One clerk, at	-	640 00
One clerk, at	-	775 00	One clerk, at	-	772 30
One clerk, at	-	775 00	Messenger, at	-	410 00
One clerk, at	-	625 00	Accountant, -	William Simmons,	2,000 00
Messenger, at	-	410 00	One clerk, at	-	1,725 00
Comptroller, -	John Steele,	3,500 00	Two clerks, at	-	1,150 00
One clerk, at	-	1,650 00	Two clerks, at	-	1,092 50
One clerk, at	-	1,150 00	Three clerks, at	-	920 00
One clerk, at	-	1,050 00	One clerk, at	-	805 00
Two clerks, at	-	900 00	Messenger, at	-	410 00
One clerk, at	-	850 00			
Four clerks, at	-	625 00			
One clerk, at	-	525 00			
Messenger, at	-	410 00			
Auditor, -	Richard Harrison,	3,000 00			
One clerk, at	-	1,450 00			
One clerk, at	-	1,200 00			
One clerk, at	-	1,150 00			
One clerk, at	-	1,050 00			
Three clerks, at	-	775 00			
Two clerks, at	-	700 00			
One clerk, at	-	650 00			
One clerk, at	-	575 00			
Messenger, at	-	410 00			
Treasurer, -	Thomas T. Tucker,	3,000 00			
One clerk, at	-	1,350 00			
One clerk, at	-	775 00			
One clerk, at	-	725 00			
Messenger, -	-	410 00			
Commissioner of the					
Revenue, -	William Miller, -	3,000 00			
One clerk, at	-	1,300 00			
One clerk, at	-	900 00			
One clerk, at	-	625 00			
Messenger, at	-	410 00			
Register, -	Joseph Nourse, -	2,400 00			
One clerk, at	-	1,450 00			
Two clerks, at	-	1,150 00			
One clerk, at	-	1,100 00			
One clerk, at	-	975 00			
One clerk, at	-	900 00			
Two clerks, at	-	825 00			
Four clerks, at	-	775 00			
One clerk, at	-	750 00			
One clerk, at	-	700 00			
One clerk, at	-	650 00			
One clerk, at	-	525 00			
One clerk, at	(temporary), -	600 00			

## CIVIL ESTABLISHMENT—Continued.

POST OFFICE.			INDIANA TERRITORY.		
Office.	Officer.	Total annual compensation.	Office.	Officer.	Total annual compensation.
Postmaster General,	Gideon Granger, -	\$3,000 00	Governor,	W. H. Harrison, -	\$2,000 00
Assistant do.	A. Bradley, Jun. -	1,700 00	Secretary,	John Gibson, -	750 00
One clerk, at	-	1,300 00	Judges,	William Clark, -	800 00
One clerk, at	-	920 00		Henry Vanderburg,	800 00
One clerk, at	-	800 00		John Griffin, -	800 00
One clerk, at	-	700 00			
Two clerks, at	-	593 75			
One clerk, at	-	562 50	MISSISSIPPI TERRITORY.		
One clerk, at	Occasional, -	45 00	Governor,	W. C. C. Claiborne,	2,000 00
Messenger, at	-	410 00	Secretary,	John Steele, -	750 00
NORTHWESTERN TERRITORY.			Judges,	Seth Lewis, -	800 00
Governor,	Arthur St. Clair, -	2,000 00		Daniel Tilton, -	800 00
Secretary,	Charles W. Byrd, -	750 00		Peter B. Bruin, -	800 00
Judges,	John C. Symmes, -	800 00			
	Joseph Gilman, -	800 00			
	Return J. Meigs, -	800 00			

## GENERAL ESTABLISHMENTS.

## COMMISSIONERS OF LOANS AND AGENTS FOR INVALID PENSIONS.

States.	Officer.	Commission on pensions.	Annual salary.	Total annual compensation.
New Hampshire, -	William Gardner, -	\$86 56	\$650 00	\$736 56
	Allowance for clerk hire, -	-	-	350 00
Massachusetts, -	Thomas Perkins, -	211 94	1,500 00	1,711 94
	One clerk, at -	-	-	620 00
	Two clerks, at -	-	-	580 00
	One clerk, at -	-	-	540 00
	One clerk, at -	-	-	180 00
Rhode Island, -	Jabez Bowen, -	46 62	600 00	646 62
	Allowance for clerk hire, -	-	-	400 00
Connecticut, -	William Imlay, -	183 00	1,000 00	1,183 00
	Two clerks, at -	-	-	400 00
New York, -	James Nicholson, -	330 57	1,500 00	1,830 57
	Three clerks, at -	-	-	616 66 <sup>3</sup> / <sub>4</sub>
	One clerk, at -	-	-	400 00
	One clerk, at -	-	-	250 00
New Jersey, -	James Ewing, -	56 46	700 00	756 46
	Allowance for clerk hire, -	-	-	300 00
Pennsylvania, -	Stephen Moylan, -	289 29	1,500 00	1,789 29
	Five clerks, at -	-	-	500 00
Delaware, -	John Stockton, -	20 96	600 00	620 96
Maryland, -	Benjamin Harwood, -	50 29	1,000 00	1,050 29
	Allowance for clerk hire, -	-	-	250 00
Virginia, -	John Hopkins, -	168 48	1,500 00	1,668 48
	Two clerks, at -	-	-	500 00
North Carolina, -	Sherwood Haywood, -	27 60	1,000 00	1,027 60
South Carolina, -	John Neufville, -	-	-	1,000 00
	Two clerks, at -	-	-	500 00
Georgia, -	-	29 92	700 00	729 92
Vermont, -	Nathaniel Brush, -	-	-	39 10

Office.	Officer.	Total annual compensation.
Purveyor of public supplies,	Israel Wheelen, -	\$2,000 00
One clerk, at	-	800 00
One clerk, at	-	400 00
Messenger, at	-	300 00
MINT.		
Director,	Elias Boudinot, -	2,000 00
Treasurer,	Benjamin Rush, -	1,200 00
Coiner,	Henry Voight, -	1,500 00

GENERAL ESTABLISHMENTS—Continued.

Office.	Officer.	Total annual compensation.
Assayer, - - -	Joseph Richardson, - - -	\$1,500 00
Refiner, - - -	Joseph Cloud, - - -	1,500 00
Engraver, - - -	Robert Scott, - - -	1,200 00
Assistant coiner and die forger, - - -	Adam Eckfelt, - - -	800 00
One clerk, at - - -	- - -	700 00
Two clerks, at - - -	- - -	500 00
Surveyor General, - - -	Rufus Putnam, - - -	2,000 00
One clerk, at - - -	- - -	500 00
One clerk, at - - -	- - -	450 00
LIGHT-HOUSES AND NAVIGATION.		
Superintendent of Portsmouth light house, -	Joseph Whipple, - - -	24 15
“ Boston, do. -	Benjamin Lincoln, - - -	243 38
“ Nantucket, do. -		
“ Thatcher’s island, do. -		
“ Plumb Island, do. -		
“ Portland Head, do. -		
“ Plymouth, do. -		
“ Seguin Island, do. -		
“ Baker’s Island, do. -		
“ Cape Cod, do. -		
“ Wigwam Point, do. -		
“ Nantucket Beacon, do. -		
“ Gay Head, do. -		
“ Clark’s Point, do. -		
“ Newport, do. -		
“ New London, do. -		
“ Montauk Point, do. -	Edward Pope, - - -	} 33 78
“ Eaton’s Neck, do. -	Edward Pope, - - -	
“ Sandy Hook, do. -	William Ellery, - - -	15 55
“ Cape Henlopen, do. -	Jedediah Huntington, - - -	37 45
“ Cape Henry, do. -	Henry P. Dering, - - -	16 96
“ Cape Fear, do. -	David Gelston, - - -	} 166 56
“ Charleston, do. -	David Gelston, - - -	
“ Georgetown, do. -	William McPherson, - - -	208 12
“ Tybee Island, do. -	William Davies, - - -	19 44
“ Keeper of Portsmouth, do. -	Griffith I. McRee, - - -	53 71
“ Boston, do. -	Daniel Stephens, - - -	} 131 66
“ Nantucket, do. -	Daniel Stephens, - - -	
“ Nantucket Beacon, do. -	James Powell, - - -	157 24
“ Thatcher’s Island, do. -	David Duncan, - - -	200 00
“ Plumb Island, do. -	Thomas Knox, - - -	333 33
“ Portland Head, do. -	George Swain, - - -	266 67
“ Plymouth, do. -	Jonathan Coffin, - - -	120 00
“ Seguin Island, do. -	Joseph Sayward, - - -	266 67
“ Baker’s Island, do. -	Abner Lowell, - - -	266 67
“ Cape Cod, do. -	Barzilla Delano, - - -	200 00
“ Wigwam Point, do. -	John Thomas, - - -	200 00
“ Gay Head, do. -	John Polereczki, - - -	200 00
“ Clark’s Point, do. -	George Chapman, - - -	266 67
“ Newport, do. -	Isaac Small, - - -	200 00
“ New London, do. -	James Day, - - -	200 00
“ Montauk Point, do. -	Ebenezer Skiff, - - -	200 00
“ Eaton’s Neck, do. -	David Allen, - - -	150 00
“ Sandy Hook, do. -	William Martin, - - -	200 00
“ Cape Henlopen, do. -	Daniel Harris, - - -	200 00
“ Cape Henry, do. -	Jacob Hand, - - -	266 67
“ Cape Fear, do. -	Thomas Burgher, - - -	333 33
“ Charleston, do. -	Matthew Ely, - - -	333 33
“ Georgetown, do. -	Abraham Hargis, - - -	333 33
“ Tybee Island, do. -	Henry James, - - -	333 33
	Henry Long, - - -	333 33
	Cotton M. Stephens, - - -	333 33
	John Shackelford, - - -	333 33
	Isam Clay, - - -	300 00

INTERCOURSE WITH FOREIGN NATIONS.

DIPLOMATIC.

Officers.	Annual salary.	Annual average for outfit, return, & contingent expenses.	Total.
<i>Ministers Plenipotentiary.</i>			
To the French republic, Robert R. Livingston, - - -	\$9,000	\$2,250	\$11,250
Court of London, Rufus King, - - -	9,000	2,250	11,250
Court of Madrid, Charles Pinckney, - - -	9,000	2,250	11,250
Court of Portugal, William Smith, (vacated,) - - -	9,000	2,250	11,250

## DIPLOMATIC.

Officers.	Annual salary.	Annual average for outfit, return, & contingent expenses.	Total.
<i>Private Secretaries of Legations.</i>			
To the French republic, Thomas Sumpter, Jun.	-	-	-
Court of London,	-	-	-
Court of Madrid, John Graham,	-	-	-
Court of Portugal,	-	-	-
	\$1,350	-	\$1,350
	1,350	-	1,350
	1,350	-	1,350
	1,350	-	1,350
<i>Minister resident at the Hague.</i>			
William V. Murray,	-	-	-
Private Secretary,	-	-	-
	4,500	\$1,125	5,625
	1,350	-	1,350
<i>Consuls.</i>			
Consul General at Algiers, Richard O'Brien,	-	-	-
Consul at Tunis, William Eaton,	-	-	-
Consul at Tripoli, James L. Cathcart,	-	-	-
Consul at Morocco, James Simpson,	-	-	-
	-	-	4,000 00
	-	-	2,000 00
	-	-	2,000 00
	-	-	2,000 00
<i>Commissioners and agents.</i>			
*Commissioners under the sixth article of the treaty of amity, &c. } Thomas Fitzsimmons,	-	-	4,444 44
with Great Britain, - } Samuel Sitgreaves,	-	-	4,444 44
The fifth commissioner, one-half of whose salary is paid by the United States, John Guellimard,	-	-	2,222 22
Secretary to the Board, Griffith Evans,	-	-	2,222 20
Commissioners under the 7th article of the same treaty, (appointed } Christopher Gore,	-	-	6,666 67
by the President of the United States,) residing in London, } William Pinckney,	-	-	6,666 67
The 5th commissioner, one-half of whose salary is paid by the United States, John Trumbull,	-	-	3,333 33
Secretary to the Board,	-	-	2,222 20
Agent of the United States attached to the board established under the 6th article of the British treaty, resident at Philadelphia, John Read, Jun.	-	-	2,000 00
<i>Other agents appointed by the Attorney General, viz:</i>			
IN NEW JERSEY.			
Henry Boggs, resident at New Brunswick.			
IN VIRGINIA.			
William Watkins, Charlotte court house.	James Jones, Mechlinberg court house.		
Edmund J. Lee, Alexandria.	Blake B. Woodson, Farnville, Prince Edward.		
Charles F. Bates, Richmond.	William W. Hening, Fredericksburg.		
James Eastham, Halifax court house.	Christopher Clark, Lynchburg.		
Charles Marshall, Fauquier court house.	Thomas Miller, Port Royal.		
Thomas Nelson, York.	Richard Venable, Prince Edward court house.		
George Craghead, Lunenburg court house.	William Satchell, Northampton court house.		
Robert Henning, Falmouth, Stafford county.	John Dabney, Lynchburg.		
Conrad Webb, Petersburg.			
IN NORTH CAROLINA.			
William Slade, Edenton.	William Duffy, Hillsborough.		
William Williams, Fayetteville.	Daniel Carthy, Newbern.		
Robert H. Jones, Warrenton.			
IN SOUTH CAROLINA.			
John Hagood, Charleston.			
IN GEORGIA.			
	John Young Nael, Savannah.		
NOTE.—The gross amount of compensation made to the above special agents for the year one thousand eight hundred and one, is - - - - - 6,210 34			
Agent for the relief and protection of American seamen, in London, David Lenox, - - - - - 3,000 00			
Agent for the relief and protection of American seamen at Kingston, Jamaica, William Savage.			
Mr. Savage receives for his services five per centum on his expenditures as adjusted at the Treasury.			
<i>Consuls.</i>			
George W. Ewing, consul at London, and agent for managing claims for spoliations, salary in the latter capacity,			1,000 00
Robert W. Fox, consul at Falmouth.	Charles D. Cox, commercial agent, Dunkirk.		
James Murray, consul at Liverpool.	James Blake, commercial agent, Antwerp.		
Elias Vanderhorst, consul at Bristol.	Tobias Lear, general commercial agent in St. Domingo.		
Thomas Auldjo, vice consul, Poole.	John E. Caldwell, commercial agent for the city of St. Domingo.		
George Knox, consul, Kingston upon Hull.	Bart. Dandridge, consul at Aux Cayes.		
John J. Murry, consul, Glasgow.	Edward Jones, consul at Guadaloupe.		
Harry Grant, consul, Leith.	Thomas Aborn, consul at Cayenne.		
John Church, consul, Cork.	William Buchanan, consul at the Isle of France.		
John Gavino, consul, Gibraltar.	Moses Young, consul at Madrid.		
Jacob Lewis, consul, Calcutta.	Joseph Yznardi, consul at Cadiz.		
Fulwar Skipwith, commercial agent, Paris.	Robert Montgomery, consul at Alicant.		
William Lee, commercial agent, Bordeaux.	William Kirkpatrick, consul at Malaga.		
Theodore Peters, commercial agent, Bordeaux.	Lewis M. O'Brien, consul at St. Andero.		
Peter Dobell, commercial agent, Havre de Grace.	William Willis, consul at Barcelona.		
Mr. de la Motte, vice consul, Havre de Grace.	Augustin Madan, consul at La Guira.		
William Patterson, vice consul, L'Orient.	John Morton, consul at Havana.		
Thomas J. Gantt, commercial agent, Nantz.	Josiah Blakely, consul at St. Jago in Cuba.		
Etienne Catkalan, commercial agent, Marseilles.			
Francis L. Taney, commercial agent, Ostend.			

\* American commissioners. Two other commissioners are appointed by the British Government. This commission is not now in a state of activity. They are stated as they were appointed by the President of the United States.

## DIPLOMATIC.

*Consuls.*

Daniel Clark, consul at New Orleans.	Frederick W. Lutze, consul, Stelling.
William E. Hulings, vice consul, New Orleans.	Joseph Pitcairn, consul, Hamburg.
Thomas Bulkeley, consul, Lisbon.	F. J. Wichelhausen, consul, Bremen.
John Culnan, consul, Teneriffe.	Philip March, consul, Francona.
Sylvanus Bourne, consul general, Amsterdam.	Elias Backman, consul, Gottenburg.
Joseph Forman, consul, Rotterdam.	John Lamson, consul, Trieste.
Benjamin H. Phillips, consul, Curacao.	Frederick H. Walloston, consul, Genoa.
Nicholas Rousselet, consul, Demarara and Esse- quibo.	Thomas Appleton, consul, Leghorn.
John Elmslie, Jun. consul, Cape of Good Hope.	John Baptiste Sartori, consul, Rome.
Thomas Hewes, consul, Batavia.	John Matthew, consul, Naples.
Hans Rudolph Saabye, consul, Copenhagen.	Joseph Pulis, consul, Malta.

NOTE.—The fees and emoluments of consuls, as established by law, (excepting those in the Barbary States, who receive the salaries above mentioned,) and which of course extend to commercial agents, are as follows, viz:

For authenticating under the consular seal, every protest, declaration, deposition, or other act, which any captain, master, mariner, or other citizen of the United States may respectively choose to make, the sum of two dollars.

For the taking into possession, inventorying, selling, and finally settling and paying, or transmitting the balance due on personal estate, left by any citizen of the United States, who shall die within the limits of his consulate, five per centum on the gross amount of such estate.

For taking into possession, and otherwise proceeding on any such estate which shall be delivered over to the legal representative, before a final settlement of the same, two and a half per cent. on such part delivered over as shall not be in money, and five per cent. on the gross amount of the residue.

For administering oaths or affirmations to the principal officers of a vessel, confirming the landing of merchandise, where he shall reside, twenty-five cents for each; and for certifying the delivery of such merchandise from every such vessel, one dollar.

Total, - \$111,807 51

## MILITARY ESTABLISHMENT.

## GENERAL STAFF.

Rank.	Names.	Pay per month.	Forage per month.	Rations per day.	Total annual compensation.
Brigadier general, - -	James Wilkinson, - -	\$104	\$16	12	\$2,053 20
Quartermaster general, - -	John Wilkins, Jun. - -	166	20	15	2,998 50
Paymaster general, - -	Caleb Swan, - -	120	10	4	1,764 40
Major and inspector, - -	Thomas H. Cushing, - -	75	20	6	1,446 60
Captain and brigade inspector, - -	Isaac Guion, - -	74	10	4	1,212 40
Captain and brigade inspector, - -	Edward D. Turner, - -	64	-	3	921 30
Captain and division quartermaster, - -	Bartholm. Shaumberg, - -	70	-	3	993 30
Captain and judge advocate, - -	Campbell Smith, - -	64	-	3	921 30
Lieut. colonel and inspector of art'y, - -	Louis Tousard, - -	105	22	10	2,035 00
Major and inspector of fortifications, - -	Jonathan Williams, - -	90	10	4	1,404 40
Aid-de-camp, - -	William R. Boote, - -	64	10	3	1,041 30
Brigade quartermaster.					
Brigade quartermaster.					

## DISMOUNTED CAVALRY.

Captain, - - -	James Taylor, - -	40	8	3	729 30
Captain, - - -	James V. Ball, - -	40	8	3	729 30
First lieutenant, - - -	William Tharp, - -	30	6	2	534 20
First lieutenant, - - -	Archibald Lee, - -	30	6	2	534 20
Second lieutenants, - - -	- - -	25	6	2	474 20

## FIRST REGIMENT OF ARTILLERISTS AND ENGINEERS.

Lieutenant colonel commandant, - -	Henry Burbeck, - -	75	12	6	1,350 60
Major, - - -	J. I. U. Rivardi, - -	55	10	4	984 40
Major, - - -	Const. Freeman, - -	55	10	4	984 40
Major, - - -	Mahlon Ford, - -	55	10	4	984 40
Major, - - -	Moses Porter, - -	55	10	4	984 40
Captain, - - -	George Ingersol, - -	40	-	3	633 30
Captain, - - -	Richard S. Blackburn, - -	40	-	3	633 30
Captain, - - -	James Bruff, - -	40	-	3	633 30
Captain, - - -	Alexander Thompson, - -	40	-	3	633 30
Captain, - - -	Frederick Frye, - -	40	-	3	633 30
Captain, - - -	Michael Kaltieson, - -	40	-	3	633 30
Captain, - - -	Abimael Y. Nicoll, - -	40	-	3	633 30
Captain, - - -	Staats Morris, - -	40	-	3	633 30
Captain, - - -	John McClallen, - -	40	-	3	633 30
Captain, - - -	Nehemiah Freeman, - -	40	-	3	633 30
Captain, - - -	James Sterrett, - -	40	-	3	633 30

## MILITARY ESTABLISHMENT—Continued.

## FIRST REGIMENT OF ARTILLERISTS AND ENGINEERS.

Rank.	Names.	Pay per month.	Forage per month.	Rations per day.	Total annual compensation.
Captain, - - -	George Izard, - - -	\$40	-	3	\$633 30
Captain, - - -	Jonathan Robeson, - - -	40	-	3	633 30
Captain, - - -	H. Muhlenberg, - - -	40	-	3	633 30
Captain, - - -	Theophilus Elmer, - - -	40	-	3	633 30
Captain, - - -	Peter Talman, - - -	40	-	3	633 30
Lieutenant, - - -	John Saunders, - - -	30	-	2	} 654 20
Adjutant, - - -	John Saunders, - - -	10	\$6	-	
Lieutenant, - - -	Peter A. Dransay, - - -	30	-	2	462 20
Lieutenant, - - -	Andrew Marschalk, - - -	30	-	2	462 20
Lieutenant, - - -	Howell Cobb, - - -	30	-	2	462 20
Lieutenant, - - -	Richard Whitey, - - -	30	-	2	462 20
Lieutenant, - - -	Philip Landais, - - -	30	-	2	462 20
Lieutenant, - - -	Philip Rodrigue, - - -	30	-	2	462 20
Lieutenant, - - -	Samuel F. Dyson, - - -	30	-	2	} 654 20
Quartermaster, - - -	Samuel F. Dyson, - - -	10	6	-	
Lieutenant, - - -	Samuel Fowle, - - -	30	-	2	462 20
Lieutenant, - - -	James House, - - -	30	-	2	} 654 20
Paymaster, - - -	James House, - - -	10	6	-	
Lieutenant, - - -	Ebenezer Bebee, - - -	30	-	2	462 20
Lieutenant, - - -	William Yates, - - -	30	-	2	462 20
Lieutenant, - - -	Warham Shephard, - - -	30	-	2	462 20
Lieutenant, - - -	James P. Heath, - - -	30	-	2	462 20
Lieutenant, - - -	R. Chamberlaine, - - -	30	-	2	462 20
Lieutenant, - - -	John B. Barnes, - - -	30	-	2	462 20
Lieutenant, - - -	A. B. Armistead, - - -	30	-	2	462 20
Lieutenant, - - -	Robert Gray, - - -	30	-	2	462 20
Lieutenant, - - -	George Armistead, - - -	30	-	2	462 20
Lieutenant, - - -	Enos Noland, - - -	30	-	2	462 20
Lieutenant, - - -	Charles Hunt, - - -	30	-	2	462 20
Lieutenant, - - -	Peter Lampkin, - - -	30	-	2	462 20
Lieutenant, - - -	John F. Powell, - - -	30	-	2	462 20
Lieutenant, - - -	Clarence Mulford, - - -	30	-	2	462 20
Lieutenant, - - -	Jared Brooks, - - -	30	-	2	462 20
Lieutenant, - - -	Hezekiah W. Bissel, - - -	30	-	2	462 20
Lieutenant, - - -	Lewis Landais, - - -	30	-	2	462 20
Lieutenant, - - -	William A. Murray, - - -	30	-	2	462 20
Lieutenant, - - -	Joseph Cross, - - -	30	-	2	462 20
Lieutenant, - - -	Kil. P. Van Ransselaer, - - -	30	-	2	462 20
Lieutenant, - - -	Enoch Humphrey, - - -	30	-	2	462 20
Surgeon, - - -	Charles Brown, - - -	45	10	3	813 30
Surgeon's mate, - - -	Samuel M. Griffith, - - -	30	6	2	534 20
Surgeon's mate, - - -	Prescott Barron, - - -	30	6	2	534 20

## SECOND REGIMENT OF ARTILLERISTS AND ENGINEERS.

Lieutenant colonel commandant, - - -	Louis Tousard, - - - (See general staff.)				
Major, - - -	Daniel Jackson, - - -	55	10	4	984 40
Major, - - -	Decius Wadsworth, - - -	55	10	4	984 40
Major, - - -	William McRea, - - -	55	10	4	984 40
Major, - - -	Jonathan Williams, - - - (See general staff.)				
Captain, - - -	Amos Stoddard, - - -	40	-	3	633 30
Captain, - - -	Lemuel Gates, - - -	40	-	3	633 30
Captain, - - -	James Read, - - -	40	-	3	633 30
Captain, - - -	James Stille, - - -	40	-	3	633 30
Captain, - - -	Theo. Meminger, - - -	40	-	3	633 30
Captain, - - -	William A. Barron, - - -	40	-	3	633 30
Captain, - - -	Alexander D. Pope, - - -	40	-	3	633 30
Captain, - - -	J. W. Livingston, - - -	40	-	3	633 30
Captain, - - -	Lloyd Beall, - - -	40	-	3	633 30
Captain, - - -	Josiah Dunham, - - -	40	-	3	633 30
Captain, - - -	G. W. Carmichael, - - -	40	-	3	633 30
Captain, - - -	William L. Cooper, - - -	40	-	3	633 30
Captain, - - -	William F. Duvauz, - - -	40	-	3	633 30
Lieutenant, - - -	Patrick C. Harris, - - -	30	-	2	462 20
Lieutenant, - - -	James White, - - -	30	-	2	462 20
Lieutenant, - - -	James B. Marry, - - -	30	-	2	462 20
Lieutenant, - - -	John Knight, - - -	30	-	2	462 20
Lieutenant, - - -	John Furgus, Jun. - - -	30	-	2	462 20
Lieutenant, - - -	Nathaniel Leonard, - - -	30	-	2	462 20
Lieutenant, - - -	John Leyburn, Jun. - - -	30	-	2	462 20
Lieutenant, - - -	C. Woolstencraft, - - -	30	-	2	} 654 20
Paymaster, - - -	C. Woolstencraft, - - -	10	6	-	
Lieutenant, - - -	Robert W. Osborn, - - -	30	-	2	} 654 20
Adjutant, - - -	Robert W. Osborn, - - -	10	6	-	
Lieutenant, - - -	George Waterhouse, - - -	30	-	2	462 20
Lieutenant, - - -	David Evans, Jun. - - -	30	-	2	462 20
Lieutenant, - - -	Leonard Williams, - - -	30	-	2	} 654 20
Quartermaster, - - -	Leonard Williams, - - -	10	6	-	

MILITARY ESTABLISHMENT—Continued.

SECOND REGIMENT OF ARTILLERISTS AND ENGINEERS.

Rank.	Names.	Pay per month.	Forage per month.	Rations per day.	Total annual compensation.
Lieutenant,	James Wilson,	\$30	-	2	\$462 20
Lieutenant,	John Walbach,	30	-	2	462 20
Lieutenant,	Lewis Howard,	30	-	2	462 20
Lieutenant,	William Cocks,	30	-	2	462 20
Lieutenant,	Moses Swett,	30	-	2	462 20
Lieutenant,	Jesse Leall,	30	-	2	462 20
Lieutenant,	George Peter,	30	-	2	462 20
Lieutenant,	Nathan Parks,	30	-	2	462 20
Lieutenant,	Samuel Seton,	30	-	2	462 20
Lieutenant,	Pearson Titcomb,	30	-	2	462 20
Lieutenant,	John Grange,	30	-	2	462 20
Lieutenant,	William Wilson,	30	-	2	462 20
Lieutenant,	Samuel Welsh,	30	-	2	462 20
Lieutenant,	Augustus Strong,	30	-	2	462 20
Lieutenant,	Stephen Warrell,	30	-	2	462 20
Surgeon,	James Scanlon,	45	\$10	3	813 30
Surgeon's mate,	Charles Blake,	30	6	2	534 20
Surgeon's mate,	George Dill,	30	6	2	534 20

FIRST REGIMENT OF INFANTRY.

Lieutenant colonel commandant,	J. F. Hamtramck,	75	12	6	1,350 60
Major,	Thomas Hunt,	50	10	4	924 40
Major,	Thomas H. Cushing.				
	(See general staff.)				
Major,	Thomas Martin,	50	10	4	924 40
Captain,	Thomas Pasteur,	40	-	3	633 30
Captain,	Ross Bird,	40	-	3	633 30
Captain,	John Whistler,	40	-	3	633 30
Captain,	Charles Hyde,	40	-	3	633 30
Captain,	Daniel Bissell,	40	-	3	633 30
Captain,	John Michael,	40	-	3	633 30
Captain,	Elijah Strong,	40	-	3	633 30
Captain,	Nicholas Rosencrantz,	40	-	3	633 30
Captain,	Merriwether Lewis. (Pay and rations discontinued.)				
First lieutenant,	George W. Stall,	30	-	2	462 20
First lieutenant,	Moses Hook,	30	-	2	462 20
First lieutenant,	Jos. H. Dwight,	30	-	2	462 20
First lieutenant,	Jos. S. Rogers,	30	-	2	462 20
Quartermaster,	Jos. S. Rogers,	10	6	-	654 20
First lieutenant,	Eli B. Clemson,	30	-	2	462 20
First lieutenant,	G. W. Kirkland,	30	-	2	462 20
First lieutenant,	James Rhea,	30	-	2	462 20
First lieutenant,	William Swan,	30	-	2	462 20
First lieutenant,	Ninin. Pinkney,	30	-	2	462 20
Paymaster,	Ninin. Pinkney,	10	6	-	654 20
First lieutenant,	Sylv. G. Whipple,	30	-	2	462 20
First lieutenant,	William Carson,	30	-	2	462 20
First lieutenant,	Benjamin Wallace,	30	-	2	462 20
First lieutenant,	Samuel Clinton,	30	-	2	462 20
Second lieutenant,	Horatio Stark,	25	-	2	402 20
Second lieutenant,	Simon Owens,	25	-	2	402 20
Second lieutenant,	Jos. C. Cooper,	25	-	2	402 20
Second lieutenant,	Robert G. Barde,	25	-	2	402 20
Second lieutenant,	Bartholomew Armistead,	25	-	2	402 20
Second lieutenant,	Ambrose Whitlock,	25	-	2	402 20
Second lieutenant,	Richard Skinner,	25	-	2	402 20
Second lieutenant,	William Whistler,	25	-	2	402 20
Surgeon,	John Elliot,	45	10	3	813 30
Surgeon's mate,	John C. Wallace,	30	6	2	534 20

SECOND REGIMENT OF INFANTRY.

Lieutenant colonel commandant,	-	75	12	6	1,350 60
Major,	John H. Buel,	50	10	4	924 40
Major,	Jacob Kingsbury,	50	10	4	924 40
Captain,	Cornelius Lyman,	40	-	3	633 30
Captain,	Richard H. Greaton,	40	-	3	633 30
Captain,	Russell Bissell,	40	-	3	633 30
Captain,	Edward D. Turner.				
	(See general staff.)				
Captain,	Theodore Sedgwick,	40	-	3	633 30
Captain,	Bartholomew Shaumburg.				
	(See general staff.)				
Captain,	Andrew McClary,	40	-	3	633 30



## MILITARY ESTABLISHMENT—Continued.

## SECOND REGIMENT OF INFANTRY.

Rank.	Names.	Pay per month.	Forage per month.	Rations per day.	Total annual compensation.
Captain, - - -	Peter Shoemaker, -	\$40	-	3	\$633 30
Captain, - - -	Nang. J. Vischer, -	40	-	3	633 30
Captain, - - -	Rezin Webster, -	40	-	3	633 30
Captain, - - -	James Richmond, -	40	-	3	633 30
Captain, - - -	John McClary, -	40	-	3	633 30
First lieutenant, - - -	John Callender, -	30	-	2	462 20
First lieutenant, - - -	John Whipple, -	30	-	2	462 20
Quartermaster, - - -	John Whipple, -	10	\$6	-	654 20
First lieutenant, - - -	John V. Glenn, -	30	-	2	462 20
First lieutenant, - - -	Zebulon M. Pike, -	30	-	2	462 20
Paymaster, - - -	Zebulon M. Pike, -	10	6	-	654 20
First lieutenant, - - -	Nathan Heald, -	30	-	2	462 20
First lieutenant, - - -	John Wilson, -	30	-	2	462 20
First lieutenant, - - -	James Dill, -	30	-	2	462 20
First lieutenant, - - -	Peter Shiras, -	30	-	2	462 20
First lieutenant, - - -	Thomas Porter, -	30	-	2	462 20
First lieutenant, - - -	Seymour Renick, -	30	-	2	462 20
First lieutenant, - - -	John Braham, -	30	-	2	462 20
Second lieutenant, - - -	William Elliot, -	25	-	2	402 20
Second lieutenant, - - -	Levi Alexander, -	25	-	2	402 20
Second lieutenant, - - -	Daniel Hughes, -	25	-	2	402 20
Adjutant, - - -	Daniel Hughes, -	10	6	-	594 20
Second lieutenant, - - -	Alexander Macomb, Jun. -	25	-	2	402 20
Second lieutenant, - - -	Uriah Blue, -	25	-	2	402 20
Second lieutenant, - - -	Robert Bell, -	25	-	2	402 20
Second lieutenant, - - -	W. H. Wooldridge, -	25	-	2	402 20
Second lieutenant, - - -	Joseph Miller, -	25	-	2	402 20
Second lieutenant, - - -	Henry Hopkins, -	25	-	2	402 20
Surgeon, - - -	William McCoskry, -	45	10	3	813 30
Surgeon's mate, - - -	Edward Reynolds, -	30	6	2	534 20

## THIRD REGIMENT OF INFANTRY.

Lieutenant colonel commandant, -	Henry Gaither, -	75	12	6	1,350 60
Major, - - -	Zebulon Pike, -	50	10	4	924 40
Major, - - -	Isaac Guion, -				
	(See general staff.)				
Captain, - - -	John Heth, -	40	-	3	633 30
Captain, - - -	Richard Sparks, -	40	-	3	633 30
Captain, - - -	John Wade, -	40	-	3	633 30
Captain, - - -	Samuel Vance, -	40	-	3	633 30
Captain, - - -	John Bowyer, -	40	-	3	633 30
Captain, - - -	Aaron Gregg, -	40	-	3	633 30
Captain, - - -	Hugh McCall, -	40	-	3	633 30
Captain, - - -	William Scott, -	40	-	3	633 30
Captain, - - -	William R. Boote, -				
	(See general staff.)				
First lieutenant, - - -	Jacob Wilson, -	30	-	2	462 20
First lieutenant, - - -	Peter P. Schuyler, -	30	-	2	462 20
First lieutenant, - - -	Samuel Lane, -	30	-	2	462 20
First lieutenant, - - -	Patrick McCarty, -	30	-	2	462 20
First lieutenant, - - -	Mathew Arbuckle, -	30	-	2	462 20
First lieutenant, - - -	John Horton, -	30	-	2	462 20
First lieutenant, - - -	John Saxon, -	30	-	2	462 20
First lieutenant, - - -	James Ryan, -	30	-	2	462 20
Adjutant, - - -	James Ryan, -	10	6	-	654 20
First lieutenant, - - -	Samuel Erwine, -	30	-	2	462 20
First lieutenant, - - -	Samuel B. Magaw, -	30	-	2	462 20
First lieutenant, - - -	E. W. Wheeler, -	30	-	2	462 20
First lieutenant, - - -	John Williams, -	30	-	2	462 20
Second lieutenant, - - -	Alexander Cooper, -	25	-	2	402 20
Second lieutenant, - - -	James Smith, Jun. -	25	-	2	402 20
Second lieutenant, - - -	J. W. Brownson, -	25	-	2	402 20
Second lieutenant, - - -	Daniel Baker, -	25	6	2	402 20
Second lieutenant, - - -	Benjamin Wilkinson, -	25	-	2	402 20
Paymaster, - - -	Benjamin Wilkinson, -	10	-	-	594 20
Second lieutenant, - - -	Henry R. Graham, -	25	-	2	402 20
Second lieutenant, - - -	John Hylton, -	25	-	2	402 20
Second lieutenant, - - -	H. B. Breevoort, -	25	-	2	402 20
Second lieutenant, - - -	William Piatt, -	25	-	2	402 20
Surgeon, - - -	J. F. Carmichael, -	45	10	3	813 30
Surgeon's mates, - - -	-	30	6	2	534 20

## MILITARY ESTABLISHMENT—Continued.

## FOURTH REGIMENT OF INFANTRY.

Rank.	Names.	Pay per month.	Forage per month.	Rations per day.	Total annual compensation.
Lieutenant colonel commandant, -	Thomas Butler, -	\$75	\$12	6	\$1,350 60
Major, -	William Peters, -	50	10	4	924 40
Major, -	Daniel Bradley, -	50	10	4	924 40
Captain, -	Edward Butler, -	40	-	3	633 30
Captain, -	Samuel Tinsley, -	40	-	3	633 30
Captain, -	Benjamin Lockwood, -	40	-	3	633 30
Captain, -	William Diven, -	40	-	3	633 30
Captain, -	Peter Grayson, -	40	-	3	633 30
Captain, -	Robert Purdy, -	40	-	3	633 30
Captain, -	Campbell Smith. (See general staff.)	-	-	-	-
Captain, -	H. Leithiser, -	40	-	3	633 30
Captain, -	J. Wallington, -	40	-	3	633 30
Captain, -	Francis Johnston, -	40	-	3	633 30
First lieutenant, -	James Swaine, -	30	-	2	-
Quartermaster, -	James Swaine, -	10	6	-	654 20
First lieutenant, -	Richard Chandler, -	30	-	2	-
Paymaster, -	Richard Chandler, -	10	6	-	654 20
First lieutenant, -	George Salmon, -	30	-	2	462 20
First lieutenant, -	John Campbell, -	30	-	2	462 20
First lieutenant, -	Joseph Boomer, -	30	-	2	-
Adjutant, -	Joseph Boomer, -	10	6	-	654 20
First lieutenant, -	John Hanes, -	30	-	2	462 20
First lieutenant, -	Gabriel Jones, -	30	-	2	462 20
First lieutenant, -	Samuel McGuire, -	30	-	2	462 20
First lieutenant, -	Thomas Blackburn, -	30	-	2	462 20
First lieutenant, -	John S. Porter, -	30	-	2	462 20
Second lieutenant, -	E. P. Gaines, -	25	-	2	402 20
Second lieutenant, -	James Wilkinson, Jun. -	25	-	2	402 20
Second lieutenant, -	Richard Buck, -	25	-	2	402 20
Second lieutenant, -	G. W. Harwood, -	25	-	2	402 20
Second lieutenant, -	Wilkinson Jones, -	25	-	2	402 20
Second lieutenant, -	John Hinson, -	25	-	2	402 20
Second lieutenant, -	William Laurence, -	25	-	2	402 20
Surgeon, -	Joseph Philips, -	45	10	3	813 30
Surgeon's mate, -	David Davis, -	30	6	2	534 20
Cadet, -	Henry B. Jackson, -	10	-	2	222 20
Cadet, -	Samuel Gates, -	10	-	2	222 20
Cadet, -	William Gates, -	10	-	2	222 20
Cadet, -	Joseph Provoux, -	10	-	2	222 20
Cadet, -	Joseph B. Wilkinson, -	10	-	2	222 20
Cadet, -	Simon Levy, -	10	-	2	222 20
Cadet, -	Josiah Taylor, -	10	-	2	222 20
Cadet, -	Ambrose Porter, -	10	-	2	222 20
Cadet, -	W. Armistead, -	10	-	2	222 20
Cadet, -	John Lillie, -	10	-	2	222 20
Additional surgeon's mate, -	Cyrus Dart, -	30	6	2	534 20
Additional surgeon's mate, -	William A. McCrea, -	30	6	2	534 20
Additional surgeon's mate, -	Joseph Wilkinson, -	30	6	2	534 20
Additional surgeon's mate, -	Elijah Greenlee, -	30	6	2	534 20
Additional surgeon's mate, -	John Rippey, -	30	6	2	534 20
Additional surgeon's mate, -	Alexander A. Peters, -	30	6	2	534 20
Additional surgeon's mate, -	John Griffin, -	30	6	2	534 20
Additional surgeon's mate, -	John C. Cornwall, -	30	6	2	534 20
Additional surgeon's mate, -	John P. Fisher, -	30	6	2	534 20
Additional surgeon's mate, -	Francis L. Barron, -	30	6	2	534 20

## QUARTERMASTER'S DEPARTMENT.

Rank.	Names.	Pay per annum.	Forage per annum.	Rations per day.	Total annual compensation.
Agent at Pittsburg, -	Isaac Craig, -	600	-	-	600
Agent at Schenectady, -	Henry Glen, -	772	80	-	850
Agent at Presqu'Isle, -	James Wilson, -	460	80	-	540
Clerk to quartermaster general, -	John Ferree, -	446	40	-	486
Agent at Niagara, -	Robert Lee, -	460	80	-	540
Agent at Detroit, -	Matthew Ernest, -	762	-	-	762
Clerk to do. -	Frederick Beates, -	468	-	-	468
Agent at Wilkesville, -	A. Whitlock, -	480	-	-	480
Clerk to do. -	Samuel Henley, -	480	-	-	480
Agent at Natchez and Fort Adams, -	Francis Jones, -	642	-	-	642
Clerk to do. -	Samuel Lighter, -	468	-	-	468

## MILITARY ESTABLISHMENT—Continued.

## ARMORIES.

Rank.	Names.	Pay per annum.	Forage per annum.	Rations per day.	Total annual compensation.
<b>SPRINGFIELD.</b>					
Superintendent, - -	David Ames, - -	\$840	-	3	\$993 30
Master armorer, - -	Robert Orr, - -	600	-	2	702 20
Master armorer, - -	Nathan Forbes, - -	600	-	2	702 20
Paymaster and storekeeper, - -	Joseph Williams, - -	500	-	-	500 00
<b>HARPER'S FERRY.</b>					
Superintendent, - -	Joseph Perkins, - -	840	-	3	993 30
Master armorer, - -	Charles Williams, - -	600	-	2	702 20
Paymaster and storekeeper, - -	Samuel Annin, - -	600	-	-	600 00

## MILITARY STORES.

<b>PHILADELPHIA.</b>					
Superintendent, - -	William Irvine, - -	1,500	-	-	1,500 00
Three clerks, - -	- - - - -	-	-	-	2,100 00
Messenger, - -	- - - - -	-	-	-	300 00
Storekeeper, - -	Robert Jones, - -	-	-	-	1,200 00
Clerk, - -	- - - - -	-	-	-	600 00
<b>WEST POINT.</b>					
Storekeeper, - -	George Fleming, - -	-	-	-	650 00
Assistant storekeeper, - -	C. P. Pourcherese, - -	-	-	-	360 00
<b>ALBANY.</b>					
Storekeeper, - -	M. G. Houdin, - -	-	-	-	510 00
<b>NEW LONDON, VA.</b>					
Storekeeper, - -	Thomas Holt, - -	-	-	-	500 00
<b>WASHINGTON CITY.</b>					
Storekeeper, - -	Hezekiah Rodgers, - -	-	-	-	200 00
Inspector of arms, - -	John Nicholson, - -	-	-	-	840 00

## INDIAN DEPARTMENT.

Superintendent of Indian affairs south of river Ohio, - -	Benjamin Hawkins, - -	2,000	-	12	2,613 20
Agent to the Cherokees and for the War Department, - -	Return J. Meigs, - -	1,000	-	6	1,306 60
Assistant agent to the Cherokees, - -	William L. Lovely, - -	-	-	-	300 00
Interpreter in Cherokee nation, - -	John Rogers, - -	300	-	2	402 20
Interpreter in Cherokee nation, - -	Samuel Riley, - -	300	-	2	402 20
Interpreter in Cherokee nation, - -	Charles Hicks, - -	300	-	2	402 20
Agent to the Chickasaws, - -	Samuel Mitchell, - -	800	-	2	902 20
Interpreter, - -	William McClish, - -	300	-	2	402 20
Agent to the Choctaws, - -	John McKee, - -	1,000	-	6	1,306 60
Interpreter, - -	John Pitchlyn, - -	300	-	2	402 20
Agent to the Northwestern nations, - -	William Lyman, - -	1,200	-	6	1,506 60
Interpreter, - -	William Wells, - -	-	-	-	-
Factor at Fort Wilkinson, - -	Edward Wright, - -	-	-	-	1,000 00
Assistant at ditto, - -	John Bigelow, - -	-	-	-	500 00
Interpreter, - -	- - - - -	-	-	-	300 00

## INDIAN DEPARTMENT.

Rank.	Names.	Total annual compensation.
Factor at Tellico, - -	John W. Hooker, - -	\$1,000
Interpreter, - -	James Carey, - -	300
Agent for the factories, - -	William Irvine, - -	300
Clerk, - -	Isaac Waterman, - -	700
Agent at Savannah, - -	Joseph Clay, - -	-

## MILITARY ESTABLISHMENT—Continued.

## AGENTS FOR FORTIFICATIONS.

Rank.	Names.	Total annual compensation.
At Boston, Newport, R. I.	Jonathan L. Austin. Andrew McCorrey.	

## CLERKS, &amp;c. IN PAYMASTER GENERAL AND INSPECTOR'S OFFICE.

Paymaster General,			
Two clerks,			\$1,800
Messenger,			400
Inspectors,			
Two clerks,			1,200
Messenger,			400

## NAVAL ESTABLISHMENT.

*Pay of the commissioned and warrant officers, as established by law.*

Grade.	Pay per month.	Rations per day, at 20 cents.
Captains commanding ships of thirty-two guns and upwards,	\$100	8
Captains commanding ships of twenty and under thirty-two guns,	75	6
Master commandants,	60	5
Lieutenants commanding,	50	4
Lieutenants,	40	3
Commanders of galleys,	40	3
Sailing-masters,	40	2
Surgeons,	50	2
Surgeons' mates,	30	2
Purser,	40	2
Boatswain,	20	2
Gunner,	20	2
Sail-maker,	20	2
Carpenter,	20	2
Midshipman,	19	1

Officers employed in the command of a squadron, on separate service, have double allowance of rations during the continuance of such service.

The senior officer of the navy, while in service, has double allowance of rations.

Rank.	Names.	To what vessel attached, or place of residence.	Pay per annum.
Captain,			\$600
Captain,			600
Captain commanding a squadron,			2,368
Captain,			600
Captain,			1,784
Captain,			1,784
Captain,			1,784
Captain,			1,784
Captain,			1,784
Lieutenant,	Charles Stewart,	Chesapeake,	699
Lieutenant,	Isaac Hull,	Constitution,	699
Lieutenant commanding,	Andrew Sterrett,	Enterprise,	892
Lieutenant,	John Shaw,	George Washington,	699
Lieutenant,	John McRea,	Resides at Alexandria,	240
Lieutenant,	Robert W. Hamilton,	Adams,	699
Lieutenant,	Isaac Chauncey,	President,	699
Lieutenant,	John Rush,	Enterprise,	699
Lieutenant,	John Smith,	Chesapeake,	699
Lieutenant,	Fréeborn Banning,	Chesapeake,	699
Lieutenant,	Richard Somers,	Boston,	699
Lieutenant,	Stephen Decatur,	Essex,	699
Lieutenant,	George Cox,	Constellation,	699
Lieutenant,	John H. Dent,	Essex,	699
Lieutenant,	Thomas Robinson,	Resides at Philadelphia,	240
Lieutenant,	John Cowper,	Chesapeake,	699

## NAVAL ESTABLISHMENT—Continued.

*Pay of the commissioned and warrant officers, as established by law.*

Rank.	Names.	To what vessel attached, or place of residence.	Pay per annum.
Lieutenant,	John T. K. Cox,	Adams,	\$699
Lieutenant,	William C. Jenks,	Boston,	699
Lieutenant,	David Porter,	Resides at Baltimore,	240
Lieutenant,	John Cassin,	Philadelphia,	699
Lieutenant,	Samuel Evans,	George Washington,	699
Lieutenant,	George G. Lee,	Resides at Boston,	240
Lieutenant,	Richard H. L. Lawson,	Resides at Norfolk,	699
Lieutenant,	Godfrey Wood,	President,	699
Lieutenant,	Edward Wyer,	Boston,	699
Lieutenant,	George W. Few,	Essex,	699
Lieutenant,	Henry Vandyke,	Philadelphia,	699
Lieutenant,	John M. Clagett,	President,	699
Lieutenant,	P. C. Wederstrandt,	President,	699
Lieutenant,	Joshua Blake,	Philadelphia,	699
Lieutenant,	Joseph Tarbell,	Essex,	699
Lieutenant,	Charles Gordon,	Philadelphia,	699
Lieutenant,	John Foote,	Enterprise,	699
Lieutenant,	James R. Caldwell,	Constellation,	699
Lieutenant,	Jacob Jones,	Constellation,	699
Sailing-master,	Richard Butler,	Essex,	626
Sailing-master,	Josiah Hazard,	Philadelphia,	626
Sailing-master,	Levi Basden,	President,	626
Sailing-master,	William Knight,	George Washington,	626
Sailing-master,	Seth Carter,	Enterprise,	626
Sailing-master,	David Phipps,	Vessel in ordinary,	626
Sailing-master,	Josias M. Speake,	Vessel in ordinary,	626
Sailing-master,	James Trant,	Adams,	626
Sailing-master,	Richard B. Brandt,	Constellation,	626
Sailing-master,	Nathaniel Harriden,	Constitution,	626
Sailing-master,	James Laurence,	Vessel in ordinary,	626
Sailing-master,	Morris Newman,	Vessel in ordinary,	626
Surgeon,	George Balfour,	Hospital, Norfolk,	746
Surgeon,	John Bullus,	Marines, Washington,	746
Surgeon,	William Turner,	Philadelphia,	746
Surgeon,	John K. Read,	President,	746
Surgeon,	Henry Wells,	Essex,	746
Surgeon,	George Davis,	Enterprise,	746
Surgeon,	Robert Harris,	George Washington,	746
Surgeon,	Edward Cutbush,	Resides at Philadelphia,	300
Surgeon,	Thomas Triplett,	Chesapeake,	746
Surgeon,	Samuel R. Marshall,	Resides at Trenton,	300
Surgeon,	John Goddard,	Boston,	746
Surgeon,	P. St. Medard,	Constitution,	746
Surgeon's mate,	N. Tisdale,	Essex,	506
Surgeon's mate,	Thomas Marshall,	Essex,	506
Surgeon's mate,	Jonathan Cowdery,	Philadelphia,	506
Surgeon's mate,	Hugh Aitken,	Philadelphia,	506
Surgeon's mate,	D. McCormick,	At Washington,	506
Surgeon's mate,	Samuel Willet,	Resides at New York,	180
Surgeon's mate,	Alexander McWilliams,	Enterprise,	506
Surgeon's mate,	James Boyd, Jun.	Resides at New York,	180
Surgeon's mate,	Louis Heermann,	Hospital, Norfolk,	506
Surgeon's mate,	Starling Archer,	President,	506
Surgeon's mate,	W. C. Smith,	President,	506
Chaplain,	Samuel Chandler,	Chesapeake,	626
Chaplain,	Robert Thompson,	President,	626
Purser,	Charles Wadsworth,	Boston,	626
Purser,	James S. Deblois,	Doing duty at Boston,	626
Purser,	Buller Cocke,	Chesapeake,	626
Purser,	Keith Spence,	Constellation,	626
Purser,	Thomas Johnston,	Resides at Port Tobacco,	240
Purser,	Benjamin Aline,	Resides at Boston,	240
Purser,	Silas Butler,	Enterprise,	626
Purser,	Timothy Winn,	Essex,	626
Purser,	Thomas Chew,	Resides at New London,	240
Boatswain,	George Bills,	Adams,	386
Boatswain,	Aug. Serry,	George Washington,	386
Boatswain,	Joseph Grant,	Vessel in ordinary,	386
Boatswain,	M. White,	President,	386
Boatswain,	George Hodge,	Philadelphia,	386
Boatswain,	Joseph Martin,	Essex,	386
Boatswain,	William Whitehead,	Vessel in ordinary,	386
Boatswain,	John Lord,	Vessel in ordinary,	386
Boatswain,	Richard Lang,	Vessel in ordinary,	386
Boatswain,	David Roberts,	Vessel in ordinary,	386
Boatswain,	John Hall,	Constellation,	386
Gunner,	George Western,	George Washington,	386
Gunner,	William Hook,	Enterprise,	386
Gunner,	James Morgan,	President,	386
Gunner,	Samuel Masury,	Essex,	386
Gunner,	James Barnett,	United States, in ordinary,	386

## NAVAL ESTABLISHMENT—Continued.

*Pay of the commissioned and warrant officers, as established by law.*

Rank.	Names.	To what vessel attached, or place of residence.	Pay per annum.
Gunner, - -	John Marshall, - -	Congress, in ordinary, - -	\$386
Gunner, - -	John Lenon, - -	New York, in ordinary, - -	386
Gunner, - -	James Porter, - -	Adams, in ordinary, - -	386
Gunner, - -	William Johnson, - -	Constellation, - -	386
Sailmaker, - -	William Clark, - -	President, - -	386
Sailmaker, - -	Jacob Miller, - -	Philadelphia, - -	386
Sailmaker, - -	Samuel S. Green, - -	Essex, - -	386
Carpenter, - -	John W. Rash, - -	President, - -	386
Carpenter, - -	M. Brown, - -	Philadelphia, - -	386
Carpenter, - -	Oliver Rumsey, - -	Essex, - -	386
Carpenter, - -	Persifor Taylor, - -	New York, in ordinary, - -	386
Carpenter, - -	William Godby, - -	Constellation, - -	386
Midshipman, - -	Henry Allen, - -	Philadelphia, - -	301
Midshipman, - -	Samuel Angus, - -	President, - -	301
Midshipman, - -	Thomas O. Anderson, - -	George Washington, - -	301
Midshipman, - -	Clement Biddle, - -	Philadelphia, - -	301
Midshipman, - -	William Butler, - -	Philadelphia, - -	301
Midshipman, - -	Thomas Brown, - -	Philadelphia, - -	301
Midshipman, - -	Joseph Bainbridge, - -	President, - -	301
Midshipman, - -	J. Blakely, - -	President, - -	301
Midshipman, - -	P. C. Blake, - -	Resides at Charleston, S. C. - -	114
Midshipman, - -	James Biddle, - -	Constellation, - -	301
Midshipman, - -	Edward Bennett, - -	President, - -	301
Midshipman, - -	William Burrows, - -	Philadelphia, - -	301
Midshipman, - -	Thomas T. Beale, - -	Resides at Norfolk, - -	114
Midshipman, - -	P. E. Bentley, - -	Chesapeake, - -	301
Midshipman, - -	Walter Boyd, - -	Resides at Georgetown, Md. - -	114
Midshipman, - -	James Biggs, - -	Resides at Philadelphia, - -	114
Midshipman, - -	Samuel G. Blodget, - -	Constitution, - -	301
Midshipman, - -	E. R. Blaine, - -	Constellation, - -	301
Midshipman, - -	Edward N. Cox, - -	President, - -	301
Midshipman, - -	Michael B. Carroll, - -	Philadelphia, - -	301
Midshipman, - -	Stephen Cassin, - -	Philadelphia, - -	301
Midshipman, - -	William Blake, - -	Resides at Philadelphia, - -	114
Midshipman, - -	Orde Creighton, - -	President, - -	301
Midshipman, - -	Henry P. Casey, - -	President, - -	301
Midshipman, - -	I. P. D. H. Craig, - -	Essex, - -	301
Midshipman, - -	George Calder, - -	Chesapeake, - -	301
Midshipman, - -	William Campbell, - -	President, - -	301
Midshipman, - -	William Crane, - -	Chesapeake, - -	301
Midshipman, - -	William Cutbush, - -	Constellation, - -	301
Midshipman, - -	Henry I. Cobb, - -	Boston, - -	301
Acting sailing-master, - -	Winlock Clark, - -	Vessel in ordinary, - -	626
Midshipman, - -	James Decatur, - -	Philadelphia, - -	301
Midshipman, - -	John Dorsey, - -	Philadelphia, - -	301
Midshipman, - -	Daniel S. Dexter, - -	Resides at Providence, - -	114
Midshipman, - -	John Davis, - -	Constitution, - -	301
Midshipman, - -	David Deacon, - -	Resides at Philadelphia, - -	114
Midshipman, - -	Samuel Elbert, - -	President, - -	301
Midshipman, - -	Wilson Elliott, - -	Resides at Pittsburg, - -	114
Midshipman, - -	John Gallaway, - -	Resides at Annapolis, - -	114
Midshipman, - -	James Gibbons, - -	Constellation, - -	301
Midshipman, - -	I. P. M. Gardner, - -	Philadelphia, - -	301
Midshipman, - -	Sloss H. Grenel, - -	President, - -	301
Midshipman, - -	Edward Giles, - -	Boston, - -	301
Midshipman, - -	A. I. Green, - -	President, - -	301
Midshipman, - -	John Godwin, - -	Chesapeake, - -	301
Midshipman, - -	George G. Grubb, - -	Chesapeake, - -	301
Midshipman, - -	John Godwin, - -	Constitution, - -	301
Midshipman, - -	George H. Geddes, - -	George Washington, - -	301
Midshipman, - -	Marshall Glenn, - -	Chesapeake, - -	301
Midshipman, - -	Noble W. Glenn, - -	Boston, - -	301
Midshipman, - -	C. Gadsden, Jun. - -	Boston, - -	301
Midshipman, - -	William Gregory, - -	Resides at Wilmington, N. C. - -	114
Midshipman, - -	A. C. Harrison, - -	Essex, - -	301
Midshipman, - -	Barnard Henry, - -	Essex, - -	301
Midshipman, - -	George Haekley, - -	Essex, - -	301
Midshipman, - -	Sewal Handy, - -	Enterprise, - -	301
Midshipman, - -	I. R. Hardenburg, - -	Essex, - -	301
Midshipman, - -	James S. Higinbotham, - -	Resides at Annapolis, - -	114
Midshipman, - -	John Henley, - -	Resides at Fredericksburg, - -	114
Midshipman, - -	Alfred Hazard, - -	Philadelphia, - -	301
Midshipman, - -	I. M. Haswell, - -	Boston, - -	301
Midshipman, - -	John Hartley, - -	Chesapeake, - -	301
Midshipman, - -	Theodore Hunt, - -	Resides at Trenton, - -	114
Midshipman, - -	James Haight, - -	Boston, - -	301
Midshipman, - -	Thomas Hunt, - -	Boston, - -	301
Midshipman, - -	Daniel C. Heath, - -	Constellation, - -	301
Midshipman, - -	Robert Henley, - -	Resides at Fredericksburg, - -	114
Midshipman, - -	Joseph Israel, - -	Enterprise, - -	301
Midshipman, - -	Ralph Izard, Jun. - -	Boston, - -	301

## NAVAL ESTABLISHMENT—Continued.

*Pay of the commissioned and warrant officers, as established by law.*

Rank.	Name.	To what vessel attached, or place of residence.	Pay per month.
Midshipman,	Robert Innes,	Enterprise,	\$301
Midshipman,	A. K. Kearney,	President,	301
Midshipman,	James L. Leonard,	President,	301
Midshipman,	Charles Ludlow,	Adams,	301
Midshipman,	William M. Livingston,	Resides at New York,	114
Midshipman,	A. B. Lord,	Boston,	301
Midshipman,	W. T. Mason,	Philadelphia,	301
Midshipman,	Levis McLane,	Resides at Philadelphia,	114
Midshipman,	William Miller,	Constellation,	301
Midshipman,	Joseph Maxwell,	Resides at Charleston, S. C.	114
Midshipman,	Charles Moore,	Philadelphia,	301
Midshipman,	George Merrill,	Resides at Boston,	114
Midshipman,	Archibald McCall,	Resides at Dover, Delaware,	114
Midshipman,	Charles Miles, Jun.	President,	301
Midshipman,	Daniel Murray,	Essex,	301
Midshipman,	George A. Marcellin,	Resides at New York,	114
Midshipman,	Charles Morris, Jun.	Constitution,	301
Midshipman,	William McIntosh,	Chesapeake,	301
Midshipman,	George Mitchell,	Enterprise,	301
Midshipman,	James Maray,	Resides at Wilmington, N. C.	114
Midshipman,	Joseph Murdoch,	George Washington,	301
Midshipman,	George Mann,	Boston,	301
Midshipman,	Thomas McDonough,	Constellation,	301
Midshipman,	John Nicholson,	President,	301
Midshipman,	James Nicholson,	Philadelphia,	301
Midshipman,	William F. Nichols,	President,	301
Midshipman,	William Newman,	Boston,	301
Midshipman,	P. S. Oglevie,	Chesapeake,	301
Midshipman,	Edward O'Brian,	Cumberland, Pennsylvania,	114
Midshipman,	Benjamin Page,	Resides in Virginia,	114
Midshipman,	Octavius A. Page,	President,	301
Midshipman,	Henry Page,	Chesapeake,	301
Midshipman,	George Parker,	Chesapeake,	301
Midshipman,	Daniel I. Patterson,	Constellation,	301
Midshipman,	Francis Patton,	Philadelphia,	301
Midshipman,	Daniel Polk,	Boston,	301
Midshipman,	Oliver H. Perry,	Resides at Newport, R. I.	114
Midshipman,	Stephen Proctor,	Resides at Charleston, S. C.	114
Midshipman,	James Renshaw,	President,	301
Midshipman,	Charles L. Ridgeley,	President,	301
Midshipman,	Hethcote I. Reed,	Philadelphia,	301
Midshipman,	George W. Reed,	Resides at Philadelphia,	114
Midshipman,	Charles Reed,	Philadelphia,	301
Midshipman,	Benjamin F. Reed,	President,	301
Midshipman,	Charles Robinson,	Chesapeake,	301
Midshipman,	Joseph Richardson,	Resides at Easton,	114
Midshipman,	Robert Stewart,	Resides at Philadelphia,	114
Midshipman,	William P. Smith,	Resides at Providence,	114
Midshipman,	Sidney Smith,	President,	301
Midshipman,	Thomas Swartwout,	Essex,	301
Midshipman,	Benjamin Smith,	Essex,	301
Midshipman,	Simon Smith,	Essex,	301
Midshipman,	William Scallon,	Essex,	301
Midshipman,	John Shattuck,	Essex,	301
Midshipman,	G. W. Spotswood,	President,	301
Midshipman,	Maurice Simmons,	At Charleston, South Carolina,	114
Midshipman,	William H. Smith,	At Charleston, South Carolina,	114
Midshipman,	Daniel Simms,	Enterprise,	301
Midshipman,	John Shore,	Chesapeake,	301
Midshipman,	John Trippe,	President,	301
Midshipman,	R. L. Tilghman,	Philadelphia,	301
Midshipman,	R. T. Spence,	Constellation,	301
Midshipman,	Richard Thomas,	George Washington,	301
Midshipman,	William Thom,	Chesapeake,	301
Midshipman,	Edward Trenchard,	Resides at Brunswick,	114
Midshipman,	Jonathan Thorn,	Resides at New Brunswick,	114
Midshipman,	Benjamin Turner,	Enterprise,	301
Midshipman,	Jacob R. Valk,	Resides at Charleston, S. C.	114
Midshipman,	Jacob Vickery,	President,	301
Midshipman,	Abner Woodruff,	Essex,	301
Midshipman,	H. Wadsworth,	Constitution,	301
Midshipman,	Charles Wilson,	Philadelphia,	301
Midshipman,	Elias Willis,	President,	301
Midshipman,	L. Warrington,	President,	301
Midshipman,	Daniel Wurtz,	Resides at New Brunswick,	114
Midshipman,	Samuel Woodhouse,	Resides at Philadelphia,	114
Midshipman,	M. T. Woolsey,	Boston,	301
Midshipman,	Abijah Weston,	Boston,	301
Midshipman,	John Wood,	Resides at Washington,	114
Midshipman,	Daniel McNiell, Jun.	Essex,	301
Midshipman,	T. N. Willis,	Resides at Norfolk,	114

## NAVAL ESTABLISHMENT—Continued.

## MARINE CORPS.

*Pay of the officers, as established by law.*

GRADE.	Pay per month.	Forage per month.	Rations per day.
Lieutenant Colonel Commandant, - - - -	\$75	\$12	12
Captains, - - - -	40	-	3
First Lieutenants, - - - -	30	-	3
Second Lieutenants, - - - -	25	-	2
Adjutant, Paymaster, and Quartermaster each, - - - -	10	6	-

Rank.	Name.	To what vessel attached, or when stationed.	Pay per annum.
Lieut. Colonel Commandant, -	William W. Burrows, -	City of Washington, -	\$2,020
Captains, -	Franklin Wharton, -	City of Philadelphia, -	699
Captains, -	Daniel Carmick, -	City of Philadelphia, -	699
Captains, -	James McKnight, -	City of Philadelphia, -	699
Captains, -	John Hall, -	City of Washington, -	699
First lieutenants, -	James Weaver, -	At Newport, -	579
First lieutenants, -	B. Clinch, -	At Norfolk, -	579
First lieutenants, -	Anthony Gale, -	At Philadelphia, -	579
Adjutant, -	Robert Rankin, -	At Washington, -	771
Adjutant, -	Henry Caldwell, -	Constitution, -	579
Adjutant, -	William Amory, -	Boston, -	579
Paymaster, -	James Thompson, -	At Washington, -	771
Paymaster, -	James R. Middleton, -	At Washington, -	579
Paymaster, -	Newton Keene, -	President, -	579
Paymaster, -	Nathaniel R. Sheridine, -	At Fredericktown, Maryland, -	579
Paymaster, -	Edward Hall, -	At Washington, -	579
Quartermaster, -	M. Reynolds, -	At Washington, -	771
Quartermaster, -	John Howard, -	At Washington, -	507
Quartermaster, -	Samuel Llewellyn, -	At Washington, -	507
Quartermaster, -	Thomas Barclay, -	At Washington, -	507
Quartermaster, -	John R. Fenwick, -	Philadelphia, -	507
Quartermaster, -	Samuel Baldwin, -	At Norfolk, -	507
Quartermaster, -	John Johnson, -	Philadelphia, -	507
Second lieutenants, -	William S. Osborn, -	President, -	446
Second lieutenants, -	P. Alexander, -	Essex, -	446
Second lieutenants, -	T. W. Hooper, -	Essex, -	446
Second lieutenants, -	P. N. O'Bamson, -	Adams, -	446
Second lieutenants, -	Enoch S. Lane, -	At Washington, -	446
Second lieutenants, -	Robert Greenleaf, -	At Washington, -	446

*Navy Agents are allowed a commission of two per cent. on all sums of money paid and expended by them on the public account; one per cent. on all sums of money received on all public property sold by them; one-half per cent. on all sums of money paid for the purpose of recruiting, paying off a crew, and like services.*

Residence.	Names.	Estimated amount of annual commis'n.
Portsmouth, - - - -	Woodbury Langdon, - - - -	\$750
Boston, - - - -	Samuel Brown, - - - -	2,500
New York, - - - -	Daniel Ludlow, - - - -	2,500
Philadelphia, - - - -	George Harrison, - - - -	2,500
Norfolk, - - - -	William Pennock, - - - -	2,500
Baltimore, - - - -	John Stricker, - - - -	750
Charleston, - - - -	William Smith & Co. - - - -	500
Georgia, - - - -	William Hunter, - - - -	750
Wilmington, North Carolina, - - - -	Amaziah Jocelin, - - - -	200

*Superintendents of navy yards, clerks, and storekeepers.*

Office.	Officer.	Annual salary.
Portsmouth, clerk and storekeeper, - - - -	- - - -	\$600
Charlestown, Massachusetts, clerk and storekeeper, - - - -	Caleb Gibbs, - - - -	1,200
Boston, superintendent, - - - -	Samuel Nicholson, - - - -	1,200
New York, clerk and storekeeper, - - - -	- - - -	600
Philadelphia, two clerks and storekeepers, - - - -	- - - -	600
Norfolk, clerk and storekeeper, - - - -	- - - -	600
Washington, superintendent, - - - -	Thomas Tingey, - - - -	1,200
Washington, clerk and storekeeper, - - - -	Richard Frazier, - - - -	600



NAVAL ESTABLISHMENT—Continued.

There have been abolished, since the passage of the act entitled “An act providing for a Naval Peace Establishment, and for other purposes,” the following offices:

Navy constructor, at Philadelphia,	- \$3,000	7 Lieutenants of galleys.
Navy constructor, at Norfolk,	- 2,000	23 Surgeons.
Navy constructor, at Boston,	- 2,000	22 Sailing-masters.
Navy constructor, at Portsmouth,	- 1,000	29 Surgeons' mates.
Navy storekeeper, at Philadelphia,	- 1,500	26 Pursers.
19 Captains in the navy.		22 Boatswains.
8 Masters commandants.		22 Gunners.
78 Lieutenants.		22 Carpenters.
7 Commanders of galleys		29 Sail-makers.

7th Congress.]

No. 155.

[1st Session.

LIST OF SUITS DECIDED AND DEPENDING IN THE COURTS OF THE UNITED STATES.

COMMUNICATED TO CONGRESS, FEBRUARY 26, 1802.

FEBRUARY 26, 1802.

*Gentlemen of the Senate and of the House of Representatives:*

Some statements have been lately received of the causes decided or depending in the courts of the Union, in certain States, supplementary or corrective of those from which was formed the general statement accompanying my message at the opening of the session; I, therefore, communicate them to Congress, with a report of the Secretary of State, noting their effect on the former statement, and correcting certain errors in it, which arose partly from inexactitude in some of the returns, and partly in analyzing, adding, and transcribing them, while hurried in preparing the other voluminous papers accompanying that message.

TH: JEFFERSON.

DEPARTMENT OF STATE, February 25, 1802.

The SECRETARY OF STATE has the honor to lay before the President of the United States copies of the following documents, to wit:

A schedule, containing a statement of the suits in the Circuit Court for Maryland, ending with the November term last.

A similar statement of suits in the District Court for Kentucky, ending with March term last.

A certificate of the clerk of the Circuit Court for West Tennessee, (and who was the clerk of the late District Court for Tennessee,) respecting the suits in the courts of the United States within that State.

The two last-mentioned papers are intended as corrections of the document referred to in your message to Congress at the opening of the present session, as containing a statement of the suits in the courts of the United States; and the first-mentioned schedule to supply an omission in it.

This occasion being adapted to the purpose, the Secretary takes leave to mention some other imperfections of the document referred to in the message.

In Massachusetts 14 common-law suits being omitted at October term, 1797, the whole number of common law-suits should be 244, instead of 230; the aggregate of all the suits 323, instead of 320; and the number of suits decided, discontinued, dismissed, and not prosecuted, 282, instead of 283.

In Virginia, the aggregate should be 2,162, instead of 2,048; and the number decided, discontinued, dismissed, and not prosecuted, 1,831, instead of 1,717.

In North Carolina the aggregate should be 629, instead of 495; and the number decided, discontinued, dismissed, and not prosecuted, 495, instead of 361.

And in South Carolina the aggregate should be 882, instead of 1,143; and the number decided, discontinued, dismissed, and not prosecuted, 621, instead of 571.

None of the above variations affect the whole number of causes stated to be depending in either of the districts, except that of Kentucky, to which an addition of 21 is made by the second statement received; but Maryland adds to the whole 69 of such causes. That the aggregate is not materially varied is also apparent from the annexed recapitulation.

It would be unnecessary to explain with minuteness how these errors originated; it is sufficient to observe that they arose partly from inexact statements returned to this office by the clerks of the courts, and partly in analyzing and adding the numbers contained in the returns, and transcribing the result.

All which is respectfully submitted.

JAMES MADISON.

*Recapitulation of the suits in the circuit courts of the United States, and the district courts for Maine, Kentucky, and Tennessee.*

	Instituted.	Depending.		Instituted.	Depending.
New Hampshire, - - -	114	7	Delaware, - - -	163	16
Rhode Island, - - -	275	10	Maryland, - - -	279	69
Massachusetts, - - -	323	41	Kentucky, - - -	870	246
Maine, - - -	9	3	Eastern district of Virginia, -	2,162	331
Connecticut, - - -	354	38	Western district of Virginia—not completely organized.		
Vermont, - - -	278	64	North Carolina, - - -	629	134
New York and Albany, - - -	106	—	South Carolina, - - -	495	261
New Jersey, - - -	104	14	Georgia, - - -	897	147
Eastern district of Pennsylvania, 1,061		174	Districts of E. and W. Tennessee, *239		174
Western district of Pennsylvania, none		none	District of Ohio—not organized.		
				8,358	1,629
Former recapitulation made, - - -				8,276	1,539
Difference, - - -				82	90

*Statement concerning suits in the Circuit Court of the United States, for the District of Maryland.*

*Statement concerning suits in the District Court of the United States, for the District of Kentucky.*

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
May, 1790,	4						
Nov. 1790,	12						
May, 1791,	4						
Nov. 1791,	17						
May, 1792,	4						
Nov. 1792,	6						
May, 1793,	6	-	1				
Nov. 1793,	4	-	1	2			
May, 1794,	12						
Nov. 1794,	2						
May, 1795,	4	-	9				
Nov. 1795,	2						
May, 1796,	2						
Nov. 1796,	-	-	1				
May, 1797,	4						
Nov. 1797,	6	-	10				
May, 1798.							
Nov. 1798.							
May, 1799.							
Nov. 1799,	19	-	5	14			
May, 1800,	19	-	9	1			
Nov. 1800,	15	-	-	1			
—, 1801,	37	-	1				
Nov. 1801,	39	1	5				
	218	1	42	18	279	210	69

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
March, 1790,	5					
June, 1790,	7					
Sept. 1790,	1	1				
March, 1791,	3					
June, 1791,	2					
Sept. 1791,	2	3				
Dec. 1791,	2					
June, 1792,	1	1				
Sept. 1792,	6	2				
Dec. 1792,	2					
March, 1793,	15	2				
June, 1793,	8	3				
Sept. 1793,	5	1				
Dec. 1793,	2					
March, 1794,	12	4				
June, 1794,	4	4				
Sept. 1794,	7	5				
Dec. 1794,	1					
March, 1795,	5	3				
June, 1795,	10	1				
Sept. 1795,	5	3				
Dec. 1795,	5					
March, 1796,	2	1				
June, 1796,	9	5				
Sept. 1796,	8	8				
Dec. 1796,	16	10				
March, 1797,	20	7				
June, 1797,	16	2	5			
Nov. 1797,	4	6				
March, 1798,	15	7				
July, 1798,	8	3				
Nov. 1798,	54	5	4			
March, 1799,	32	8	11			
July, 1799,	143	4	13			
Nov. 1799,	120	2	1			
March, 1800,	37	5	9			
June, 1800,	37	8				
Nov. 1800,	37	7				
March, 1801,	26	12				
	694	133	43	870	624	246

PHILIP MOORE,  
Clerk of the Circuit Court of Maryland.

UNITED STATES' CIRCUIT COURT, Kentucky District, ss.

I, Thomas Tunstall, clerk of the circuit court of the United States for the district aforesaid, do certify that the foregoing statement exhibits all the causes that have been instituted in the late district court, from March, 1790, to the first day of June, 1801. I do further certify that two hundred and ninety-four of those suits were in the name and for the benefit of the United States; and that forty-five were only depending on the said first day of June.

In testimony whereof, I have hereunto set my hand, and affixed the seal of my office, this 13th day of January, 1802, and in the twenty-sixth year of American independence.

THOMAS TUNSTALL, C. C. C. K. D.

\* There is reason to suppose this number exceeds the truth, but how much is uncertain.

† This number includes eleven new suits, brought between April term, 1801, and 10th July following.

JANUARY 1, 1802.

I, Randall McGavock, heretofore clerk of the court of the United States for the district of Tennessee, and now clerk of the sixth circuit for the district of West Tennessee, do certify that, at the time the new judiciary act was known in Tennessee, there were seventy-seven causes depending and undecided in the district court for Tennessee: that at April term, 1801, of the circuit court for West Tennessee, fourteen of the before mentioned causes were decided, leaving sixty-three undecided, thirty-six of which were then adjourned into the circuit court for West, and the remaining twenty-seven into the circuit court for East Tennessee.

R. MCGAVOCK.

[The following are the statements which accompanied the President's message "at the opening of the session."]

*Statement concerning suits in the Circuit Court of the United States, for the District of New Hampshire.*

*Statement concerning suits in the Circuit Court of the United States for the District of Massachusetts.*

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
May, 1790,	1						
Nov. 1790,	5	1					
May, 1791,	3						
Nov. 1791,	3						
May, 1792,	3						
Oct. 1792,	3						
May, 1793,	7	1		1			
Oct. 1793,	3						
May, 1794,	5		1				
Oct. 1794,	5						
May, 1795,	1		3				
Oct. 1795,	8						
May, 1796,	1			2			
Oct. 1796,	2						
May, 1797,	5						
Nov. 1797,	7						
May, 1798,	8						
Nov. 1798,	5						
May, 1799,	4						
Nov. 1799,	3						
May, 1800,	10						
Nov. 1800,	4						
April, 1801,	9						
	105	2	4	3	114	107	7

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
May, 1790,	2		1				
Nov. 1790,	1						
May, 1791,	5		1				
Nov. 1791,	5		1				
May, 1792,	3						
Oct. 1792,	4						
June, 1793,	4		1				
Oct. 1793,	11						
June, 1794,	17	1	3				
Oct. 1794,	4	2	1	1			
June, 1795,	15	1	1				
Oct. 1795,	7			1			
June, 1796,	19	1					
Oct. 1796,	7			1			
June, 1797,	19		3	1			
Oct. 1797,		1					
June, 1798,	13		1	2			
Oct. 1798,	16	1	1				
June, 1799,	32		3				
Oct. 1799,	10		2				
June, 1800,	9		1				
Oct. 1800,	15		1	3			
April, 1801,	12			1			
	230	7	21	10	320	283	41

NOTE.—The left hand columns appear to be exclusive of the causes stated as depending in the returns from which this abstract is made.

*Statement concerning suits in the Circuit Court of the United States, for the District of Rhode Island.*

*Statement concerning causes decided in the District Court of Maine, acting as a Circuit Court, and those decided and depending in the Circuit Court of the United States for the District of Maine.*

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
Dec. 1790,	7						
June, 1791,	17		7				
Dec. 1791,	10		1				
June, 1792,	12						
Nov. 1792,	8						
June, 1793,	14						
Nov. 1793,	8		1				
June, 1794,	21						
Nov. 1794,	6		2				
June, 1795,	13		1				
Nov. 1795,	6	None.					
June, 1796,	16			2			
Nov. 1796,	13						
June, 1797,	19						
Nov. 1797,	15						
June, 1798,	20						
Nov. 1798,	13		1				
June, 1799,	17						
Nov. 1799,	10						
June, 1800,	9						
Nov. 1800,	4		1				
April, 1801,	1						
	259		14	2	275	265	10

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
June, 1790,			1				
Sept. 1790,			1				
Dec. 1792,	1						
June, 1798,	1	None,		None.			
Dec. 1798,	1						
Dec. 1800,			1				
May, 1801,	1		2				
	4		5		9	6	3

NOTE.—All the above terms, except the last, are those of the District Court. The last is of the Circuit Court; but no new suits were brought to it, the three which are stated being removals from the District Court.

Statement concerning suits in the Circuit Court of the United States for the District of Connecticut.

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
April, 1790,	13	2					
Oct. 1790,	16	1	5				
April, 1791,	19	2					
Oct. 1791,	17	3					
April, 1792,	23	3					
Sept. 1792,	19						
April, 1793,	13	1					
Sept. 1793,	3	1					
April, 1794,	6	2					
Sept. 1794,	5		2				
April, 1795,	8	1					
Sept. 1795,	10						
April, 1796,	6	2	5				
Sept. 1796,	10	2					
April, 1797,	27	1					
Sept. 1797,	21	3					
April, 1798,	17	2					
Sept. 1798,	14						
April, 1799,	10	1					
Sept. 1799,	6	1	5				
April, 1800,	14	2	1				
Sept. 1800,	9	1	1	1			
April, 1801,	14	3					
	300	34	19	1	354	316	38

Statement concerning suits in the Circuit Court of the U. States for the Districts of New York and Albany.\*

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.
April, 1790,	-	-	1		
Feb. 1791,	-	-	4		
April, 1791,	1				
Oct. 1791,	2	1			
April, 1792,	2				
Sept. 1792,	1	1			
April, 1793,	4				
Sept. 1793,	3		-	2	
April, 1794,	1	2			
Sept. 1794,	1				
April, 1795,	1	2	2		
Sept. 1795,	1	1			
April, 1796,	-	-	-	4	
Sept. 1796,	3				
April, 1797,	13	3	4		
Sept. 1797,	2	-	1		
April, 1798,	2	1	2		
Sept. 1798,	2				
April, 1799,	2				
Sept. 1799,	-	-	6	4	
April, 1800,	2		-	1	
Sept. 1800,	4	-	1		
June, 1801,	15	-	-	1	
	62	11	21	12	106

Statement concerning suits in the Circuit Court of the United States for the District of Vermont.

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
June, 1792,	1						
May, 1793,	2						
May, 1794,	6						
May, 1795,	13						
May, 1796,	10						
Nov. 1796,	1						
May, 1797,	6	-	2				
Oct. 1797,	9	None,	-	None.			
May, 1798,	18	-	1				
Oct. 1798,	29	-	1				
May, 1799,	2						
Oct. 1799,	59	-	1				
May, 1800,	39	-	3				
Oct. 1800,	35	-	3				
May, 1801,	37						
	267	-	11	-	278	214	64

Statement concerning suits in the Circuit Court of the United States for the District of New Jersey.

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
Oct. 1790,	13						
April, 1791,	11	-	2				
Oct. 1791,	8						
April, 1792,	17						
Oct. 1792,	6						
April, 1793,	2						
Oct. 1793,	8						
April, 1794,	2						
Oct. 1794,	4						
April, 1795,	2	1	-	None.			
Oct. 1795,	7						
April, 1796,	2						
Oct. 1796,	2						
April, 1797,	2	1					
Oct. 1797,	2						
April, 1798,	1	-	2				
Oct. 1798,	-	-	3				
April, 1799,	1						
Oct. 1799,	1	2					
April, 1800,	1						
May, 1801,	1						
	93	4	7	-	104	90	14

\* Extract of a letter from the Attorney of the District of New York to the Secretary of State, dated

"JUNE 28, 1801.

"As to the causes now pending, it is impossible to procure an official return that will perfectly ascertain their number; for many suits, especially those instituted for the recovery of debts, are settled on the return of the writ. But as this settlement does not appear on the minutes, we can only judge of the probability of their being still pending, from subsequent proceedings at the ensuing term. Now, as no private suits were entered at the last term, and no further steps have been taken in any of those instituted at a preceding term, it may safely be concluded that there is no common law cause now depending in the Circuit Court of the United States for this district, except a few of the fifteen you will find entered at the last term, which are on revenue bonds, and usually prosecuted in the District Court; particular circumstances having induced me in these instances to proceed in the Circuit Court."

Statement concerning suits in the Circuit Court of the United States for the District of Pennsylvania.

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
October, 1790,	14	1					
April, 1791,	20	7	3				
October, 1791,	20	8					
April, 1792,	23	2	14				
October, 1792,	29	5	3				
April, 1793,	11	1					
October, 1793,	25	3					
April, 1794,	18	7					
October, 1794,	8	1					
April, 1795,	17	1	51*				
October, 1795,	41	2	6*	1			
April, 1796,	46	4					
October, 1796,	42	7					
April, 1797,	51	2					
October, 1797,	53	4					
April, 1798,	64	2	2				
October, 1798,	27						
April, 1799,	74	4	98†				
October, 1799,	28	3	15†				
April, 1800,	51	2	70†				
October, 1800,	28	2	1	1			
April, 1801,	24	-	6				
October, 1801,	8						
	722	68	269	2	1,061	887	174

NOTE.—No causes had been commenced, or were depending, in the circuit court for the Western district of Pennsylvania on the 15th June, 1801.

Notes of the attorney for the Eastern district of Penn.

\* These indictments were chiefly founded on the western insurrection in 1794, and violations of the acts of Congress for preserving our neutrality.

† These indictments arose from the disturbances in Bucks and Northampton counties, and the sedition act, &c. The discontinuance which took place in holding the court at Norristown occasioned a renewal of the indictments for the same causes in April, 1800.

Statement concerning causes in the Circuit Court of the United States for the District of Delaware.

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
April, 1790,	2						
October, 1790,	4						
April, 1791,	3						
October, 1791,	1						
April, 1792,	3						
April, 1793,	5						
October, 1793,	4						
April, 1794,	12						
October, 1794,	4						
October, 1795,	6	None.		None.			
June, 1796,	11						
October, 1796,	17						
June, 1797,	23						
October, 1797,	20						
June, 1798,	14						
October, 1798,	7						
June, 1799,	4						
October, 1799,	3						
June, 1800,	1						
October, 1800,	2						
June, 1801,	13		4				
	159		4		163	147	16

MARYLAND.

A part of the return from Maryland has been mislaid through accident, and the clerk of the court has been written to to supply the portion which is missing.

Statement concerning suits depending in the Circuit Court of the United States for the district of Kentucky, and such as have been decided in the late District Court thereof.

Since the establishment of the court there have been instituted, of all kinds, six hundred and seventy suits,	670
Of which have been decided four hundred and forty-five,	445
Were depending on the 15th June, 1801, two hundred and twenty-five,	225

The materials from which the above sketch is given do not afford any other particulars except the names of the parties; whence it appears that the United States are plaintiffs in one hundred and ninety-six of the suits in Kentucky, and that but twenty-one of them are decided.

Statement concerning causes in the Circuit Court of the United States for the Eastern District of Virginia.

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.	
Nov. 1790,	11						The foregoing columns are exclusive of the suits depending, which are 331 in number, viz: Chancery suits, . . . . . 108 Common law suits, . . . . . 223 — 331	
May, 1791,	21							
Nov. 1791,	31	1						
May, 1792,	36							
Nov. 1792,	14	1						
May, 1793,	21	1						
Nov. 1793,	90	3						
May, 1794,	35							
Nov. 1794,	79	12						
May, 1795,	108	4		2				
Nov. 1795,	105	3	1					
May, 1796,	83	1		1				
(No court in 1796.)								
May, 1797,	207	13	1					
Nov. 1797,	237	7						
(No court in 1798.)								
May, 1798,	151	7		1				
Nov. 1798,	120	5						
May, 1799,	105	10						
Nov. 1799,	121	5	1	1				
May, 1800,	81	5	16					
Nov. 1800,	63	9	1					
April, 1801,								
	1,719	87	20	5	2,048	1,717		331

NOTE.—No suits were decided or depending in the Circuit Court for the Western district of Virginia on the 15th June, 1801.

Statement concerning suits in the Circuit Court of the United States for the District of South Carolina.

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.	
October, 1791,	7							
May, 1792,	10							
October, 1792,	10	2						
October, 1793,	18	3						
October, 1794,	9				11			
May, 1795,	10				10			
October, 1795,	27	18			32			
May, 1796,	7				1			
October, 1796,	16							
May, 1797,	30							
October, 1797,	23							
May, 1798,	51	1						
October, 1798,	53							
May, 1799,	338							
October, 1799,	80	5						
May, 1800,	65	5			2			
October, 1800,	28	5						
	782	44			56	1,143		571
								261

Statement concerning suits in the Circuit Court of the United States for the District of North Carolina.

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty suits.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
Nov. 1791,	8						The preceding columns are exclusive of the causes depending, which are: Suits in chancery, . . . . . 22 Suits at common law, . . . . . 112 — 134
June, 1792,	13		1				
Nov. 1792,	12						
June, 1793,	33		6				
Nov. 1793,	25						
June, 1794,	9	1					
Nov. 1794,	21						
Nov. 1795,	2						
June, 1796,	34	1					
Nov. 1796,	22						
June, 1797,	11						
Nov. 1797,	48						
June, 1798,	55						
Nov. 1798,	23						
June, 1799,	36	3					
Nov. 1799,	28	2					
June, 1800,	58						
Nov. 1800,	36	4	1				
June, 1801,	2						
	476	11	8		495	361	

Statement concerning suits in the Circuit Court of the United States for the District of Georgia.

TO WHAT TERMS.	Suits at common law.	Suits in chancery.	Criminal prosecutions.	Admiralty causes.	Aggregate.	Decided, discontinued, dismissed, and not prosecuted.	Depending.
April, 1791,	54	1					
October, 1791,	13						
April, 1792,	12						
Nov. 1792,	34	2					
April, 1793,	41						
Nov. 1793,	40	1					
April, 1794,	35	1					
Nov. 1794,	31	3					
April, 1795,	23	2					
Nov. 1795,	40	6					
April, 1796,	33	6					
Nov. 1796,	41	6					
April, 1797,	31	6					
Nov. 1797,	38	5					
April, 1798,	34	6		1			
Nov. 1798,	38	5					
April, 1799,	51	4	1				
Nov. 1799,	63	4					
April, 1800,	50	8					
Nov. 1800,	53	7					
April, 1801,	62	5					
	817	78	1	1	897	750	147

<i>Number of causes decided in the District Court of Tennessee.</i>			<i>Causes depending in the Circuit Court for West Tennessee at April term, 1801.</i>		
Suits at common law,	-	89	Common law suits,	-	61
Chancery suits,	-	2	Chancery suits,	-	15
Criminal suits,	-	18	Criminal suit,	-	1
Aggregate,	-	109			77
Total of causes brought,	-	228	Of which were decided at that court,	-	14
Total of causes undecided,	-	119			63
			New suits brought after April term, 1801, being all suits at common law,	-	11
			Total number of suits depending,	-	74

The court for East Tennessee not having been organized on the 10th of July last, nor any clerk appointed, no information is received respecting the causes depending therein; but it would appear probable, from the preceding statement, that, if the return for West Tennessee, from which it is extracted, be correct, the undecided causes in the District Court of Tennessee were adjourned into the Circuit Court for West, instead of East, Tennessee, as the law required.

DISTRICT OF OHIO.

The Circuit Court for this district was not organized, nor any suits brought, on the 15th June, 1801.

RECAPITULATION.

Where instituted.	Suits instituted.	Suits depending.
Circuit Court of New Hampshire,	114	7
Do. of Rhode Island,	275	10
Do. of Massachusetts,	320	41
Do. of Maine,	9	3
Do. of Connecticut,	354	38
Do. of Vermont,	278	64
Do. of New York and Albany,	106	(See p. 322)
Do. of New Jersey,	104	14
Do. of Eastern district of Pennsylvania,	1,061	174
Do. of Western district of Pennsylvania,	(See p. 323)	
Do. of Delaware,	163	16
Do. of Maryland,	(See p. 320)	
Do. of Kentucky,	670	225
Do. of Eastern district of Virginia,	2,048	331
Do. of Western district of Virginia,	(See p. 324)	
Do. of North Carolina,	495	134
Do. of South Carolina,	1,143	261
Do. of Georgia,	897	147
Districts of Tennessee and West Tennessee,	239	74
District of Ohio,	(See p. 325)	
	8,276	1,539

APPLICATION TO ERECT THE NORTHWESTERN TERRITORY INTO A STATE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 4, 1802.

Mr. GILES made the following report:

The committee to whom was referred the census of the inhabitants of the Territory northwest of the Ohio, with instructions to report "whether any, and what, measures ought at this time to be taken, for enabling the people of the said Territory to form a Government for themselves, to be admitted into the Union upon the same terms with the original States;" to whom were also referred the representations of sundry inhabitants of the said Territory, complaining of an act passed by the Legislature of the said Territory for altering the boundary lines of the States therein as established by the ordinance of Congress of the 13th of July, 1787, &c. &c.; and other representations praying that provision may be made for enabling the people of the said Territory to form for themselves a State Government, to be admitted into the Union upon the same footing with the original States, &c.; after having bestowed on these interesting subjects all the attention their importance requires, report:

That it appears to your committee, that the ordinance of the 13th of July, 1787, between the original States, and the people and States within the Territory northwest of the river Ohio, contains the following stipulation: that

"Whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its delegates into the Congress of the United States, on an equal footing with the original States in all respects whatever; and shall be at liberty to form a permanent constitution and State Government: provided the constitution and Government so to be formed shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand." It also appears from the census of the inhabitants within the eastern division of the said Territory, taken more than twelve months since, in virtue of a law of the United States for that purpose, that there were then in the said eastern division forty-five thousand three hundred and sixty-five inhabitants, from which are to be deducted three thousand four hundred inhabitants living north and west of the line proposed for the boundary of the said eastern division.

It appears, that since the time of taking the census, the United States have sold five hundred and fifty-three thousand nine hundred and ninety-five acres of lands within the eastern division of the Territory, amounting in value to \$1,147,585. It also appears, from the best information to be procured, that, in the year 1794, the number of inhabitants within the present eastern division of the Territory did not exceed six thousand. From the progressive increase of population since that period, and the sales of lands recently made by the United States, it is probable that, before all the measures necessary for the formation of a constitution, putting into operation a State Government, and its admission into the Union, can be effectuated, the number of inhabitants will amount to sixty thousand; the number requisite, according to the terms of the ordinance, for giving them an absolute right of forming a constitution and State Government for themselves; as well as the absolute right of admission into the Union, upon the same footing with the original States, in all respects whatever.

It also appears to your committee, that great and increasing disquietudes exist among the inhabitants within the Territory, from various occasions, and particularly in consequence of the act lately passed for altering the boundary lines of the States in the Territory, as established by the ordinance of the 13th of July, 1787.

Your committee, from a due consideration of all the foregoing circumstances, are of opinion, that it is at this time expedient to make provision for enabling the people within the eastern division of the Territory northwest of the river Ohio to form for themselves a constitution and State Government, to be admitted into the Union upon the same footing with the original States in all respects whatever; and that such admission, at this time, is consistent with the general interests of the confederacy, according to the said ordinance, although the number of inhabitants may not amount to sixty thousand. The committee therefore recommend the following resolutions:

1. *Resolved*, That provision ought at this time to be made, by law, for enabling the inhabitants of the eastern division of the Territory northwest of the river Ohio to form for themselves a constitution and State Government, provided the same be republican, and not repugnant to the ordinance for the government of the Territory northwest of the river Ohio, of the 13th of July, 1787, nor repugnant to the constitution of the United States; and also for the admission of such State, when the Government thereof shall be formed, into the Union, upon the same footing with the original States, in all respects whatever, by the name of the State of \_\_\_\_\_.

2. *Resolved*, That the said State of \_\_\_\_\_ ought to consist of all the territory included within the following boundaries, to wit: Bounded on the east by the Pennsylvania line, running from the Territorial line in Lake Erie to the Ohio; on the south by the Ohio, to the mouth of the Great Miami; on the west by a line drawn due north, from the mouth of the Great Miami aforesaid; and on the north by an east and west line, drawn through the southerly extreme of Lake Michigan, running east, after intersecting the due north line aforesaid, from the mouth of the Great Miami, until it shall intersect Lake Erie or the Territorial line, and thence with the same through Lake Erie, to the Pennsylvania line aforesaid, or place of beginning: provided that Congress shall, at any time hereafter, be at liberty either to attach all the territory lying east of the line to be drawn due north from the mouth of the Miami aforesaid to the territorial line, and north of an east and west line drawn through the southerly extreme of Lake Michigan, running east as aforesaid to Lake Erie, to the aforesaid State, or dispose of it otherwise, in conformity to the fifth article of compact between the original States and the people and States to be formed in the Territory northwest of the Ohio.

3. *Resolved*, That provision ought to be made, by law, for calling a convention within the eastern division of the Territory, to be composed of members to be apportioned amongst the several counties therein, in a ratio of one representative for every \_\_\_\_\_ inhabitants of the said counties, according to the last enumeration of inhabitants thereof; also for fixing the time, place, and mode of making elections of members to compose such convention, and the time and place for the meeting of the same; which convention, when met, shall first determine, by a majority of the members present (provided the number present shall be a majority of the whole number chosen) whether it be or be not expedient, at that time, to form a constitution and State Government for the people within the said Territory; and if it be determined to be expedient, then, in the next place, the convention shall be authorized to form a constitution and State Government: provided the same shall be republican, and not repugnant to the ordinance of the 13th of July, 1787, between the original States and the people and States of the Territory northwest of the river Ohio, nor repugnant to the constitution of the United States.

4. *Resolved*, That until the next general census shall be taken, the State of \_\_\_\_\_ shall be entitled to \_\_\_\_\_ representatives in the House of Representatives of the United States.

The committee observe, in the ordinance for ascertaining the mode of disposing of lands in the Western Territory of the 20th of May, 1785, the following section, which, so far as respects the subject of schools, remains unaltered:

"There shall be reserved for the United States out of every township, the four lots, being numbered 8, 11, 26, 29; and out of every fractional part of a township so many lots of the same numbers as shall be found thereon for future sale. There shall be reserved the lot No. 16, of every township, for the maintenance of public schools within the said township; also one-third part of all gold, silver, lead, and copper mines, to be sold, or otherwise disposed of as Congress shall hereafter direct."

The committee also observe, in the third and fourth articles of the ordinance of the 13th of July, 1787, the following stipulations, to wit: Article three, "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged," &c.

Art. 4th. "The Legislatures of those districts or new States shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents."

The committee, taking into consideration these stipulations, viewing the lands of the United States within the said Territory as an important source of revenue; deeming it also of the highest importance to the stability and permanence of the union of the eastern and western parts of the United States, that the intercourse should, as far as possible, be facilitated, and their interests be liberally and mutually consulted and promoted, are of opinion that



the provisions of the aforesaid articles may be varied for the reciprocal advantage of the United States and the State of \_\_\_\_\_ when formed, and the people thereof; they have therefore deemed it proper, in lieu of the said provisions, to offer the following propositions to the convention of the eastern State of the said Territory, when formed, for their free acceptance or rejection, without any condition or restraint whatever, which, if accepted by the convention, shall be obligatory upon the United States:

1st. That the section No. 16, in every township, sold, or directed to be sold by the United States, shall be granted to the inhabitants of such township for the use of schools.

2d. That the six miles reservation, including the salt springs, commonly called the Scioto salt springs, shall be granted to the State of \_\_\_\_\_ when formed, for the use of the people thereof; the same to be used under such terms, conditions, and regulations, as the Legislature of the said State shall direct: provided the said Legislature shall never sell, nor lease the same for a longer term than \_\_\_\_\_ years.

3d. That one-tenth part of the nett proceeds of the lands lying in the said State, hereafter sold by Congress, after deducting all expenses incident to the same, shall be applied to the laying out and making turnpike or other roads, leading from the navigable waters emptying into the Atlantic to the Ohio, and continued afterwards through the State of \_\_\_\_\_; such roads to be laid out under the authority of Congress, with the consent of the several States through which the road shall pass: provided that the convention of the State of \_\_\_\_\_ shall, on its part, assent that every and each tract of land sold by Congress shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, township, or any other purpose whatever, for the term of ten years, from and after the completion of the payment of the purchase money on such tract to the United States.

SIR:

CITY OF WASHINGTON, February 13, 1802.

I have examined, in consequence of our conversation, the articles of compact which make part of the Territorial ordinance. The more I have reflected on the subject, the more forcibly have I been impressed with the importance of making some effectual provisions, which may secure to the United States the proceeds of the sales of the Western lands, so far at least as the same may be necessary to discharge the public debt, for which they are solemnly pledged.

That part of the system of taxation, adopted in the Northwestern Territory, which relates to non-resident owners, undoubtedly affects the value of the public lands, and will eventually diminish the amount of sales. Yet, upon due consideration, there is but one provision, which, in my opinion, would be inconsistent with the rights of the United States, as secured by the articles of compact. An attempt, on the part of the Legislature of the Territory or new State, to render lands, sold under the laws of Congress, but for which no patent has yet issued, liable to be sold for non-payment of taxes, would interfere with the regulations adopted by Congress for the "primary disposal of the soil," since, by these, the lands remain mortgaged to the United States until after complete payment of the purchase money, and, in case of failure thereof, are directed to be sold.

But it does not appear to me that the United States have a right to annex new conditions, not implied in the articles of compact, limiting the legislative right of taxation of the Territory or new State. The limitations which they may rightfully impose are designated by the articles themselves, and, these being unalterable, unless by common consent, all legislative powers, which of right pertain to an independent State, must be exercised at the discretion of the Legislature of the new State, unless limited either by the articles or by the constitution of the United States or of the State. Indeed, the United States have no greater right to annex new limitations than the individual State may have to infringe those of the original compact; and I cannot see that this position is, in any degree altered by the circumstance of admitting into the Union, in pursuance of an express provision of the articles, a State at an earlier period than that at which it must necessarily be admitted.

The conditions inserted in the fourth article of compact, in relation to that object, and which constitute all that Congress thought at the time necessary to reserve, in order to secure to the Union their right to the soil, are: 1st, that the Legislatures of the districts or new States shall never interfere with the primary disposal of the soil by Congress, nor with regulations which Congress may find necessary for securing the title in such soil to the *bona fide* purchasers; 2d, that no tax shall be imposed on lands the property of the United States; and 3d, that in no case shall non-resident proprietors be taxed higher than residents. Further than that Congress cannot demand, and it is on account of the second provision that the district or State Legislature has not a right to tax, or at least to sell for non-payment of taxes, the lands on which, although conditionally sold, the United States still retain a lien.

It follows, that if it be, in a high degree, as I believe it is, the interest of the United States to obtain some further security against an injurious sale, under the Territorial or State laws, of lands sold by them to individuals, justice not less than policy requires that it should be obtained by common consent. And, as it is not to be expected that the new State Legislature should assent to any alterations in their system of taxation which may affect the revenue of the State, unless an equivalent is offered which it may be their interest to accept, I would submit the propriety of inserting in the act of admission a clause or clauses to that effect, leaving it altogether optional in the State convention or Legislature to accept or reject the same.

The equivalent to be offered must be such as shall not affect the value of the pledge which the public creditors now have by the appropriation of the lands, and as shall be fully acceptable to the State, and, at the same time, prove generally beneficial, either in a political or commercial view to the Union at large. From the best view I have been able to take of the subject, the following provisions appear to me fully adequate to answer those several objects, namely:

That, provided the convention or Legislature of the State shall assent that every and each tract of land sold by Congress shall be and remain exempt from any tax, raised by or under the authority of the State, whether for State, county, township, or any other purpose, for the term of ten years, from and after the completion of the payment of the purchase money on such tract to the United States, the United States shall, on their part, agree—

1st. That the section No. 16, in every township, sold, or directed to be sold by the United States, shall be granted to the inhabitants of such township for the use of schools.

2d. That the six miles reservation, including the salt springs, commonly called the "Scioto salt springs," shall be granted to the new State, for the use of the people thereof; the same to be used under such terms, conditions, and regulations as the Legislature of the said State shall direct: provided that the said Legislature shall never sell nor lease the same for a longer time than \_\_\_\_\_ years.

3d. That one-tenth part of the nett proceeds of the lands lying in said State, hereafter sold by Congress, after deducting all expenses incident to the same, shall be applied towards laying out and making turnpike or other roads, leading from the navigable waters emptying into the Atlantic to the Ohio, and continued afterwards through the new State; such roads to be laid out under the authority of Congress, with the consent of the several States through which the same shall pass.

That such conditions, instead of diminishing, would greatly increase the value of the lands, and therefore of the pledge to the public creditors; and that they would be highly beneficial and acceptable to the people of the new State cannot be doubted. And they are particularly recommended, as amongst the most eligible which may be suggested, from the following considerations:

The provision for schools, exclusively of its intrinsic usefulness, made a part of the former ordinance of Congress for the sale of lands. The grant has actually been made in the sales to the Ohio Company, and to J. C. Symmes; and although the ordinance be no longer in force, and such a grant be no part of the articles of compact, yet it has always been at least hoped by the inhabitants of the Territory that it would be generally extended.

The grant of the Scioto salt springs will at present be considered as the most valuable, and alone would, most probably, induce a compliance, on the part of the new State, with the condition proposed by Congress; and if it be considered that at least one-half of the future population of that district will draw their salt from that source, the propriety of preventing the monopoly of that article falling into the hands of any private individual can hardly be disputed.

The tenth part of the proceeds of the lands, as it will be co-extensive with the sales, will continue to be considered as an equivalent until the sales are completed, and after the present grant might have ceased to operate on the minds of the people of the new State. The roads will be as beneficial to the parts of the Atlantic States through which they are to pass, and nearly as much so to a considerable portion of the Union, as to the Northwest Territory itself; but a due attention to the particular geographical situation of that Territory and of the adjacent western districts of the Atlantic States, will not fail to impress you strongly with the importance of that provision, in a political point of view, so far as it will contribute towards cementing the bonds of union between those parts of the United States whose local interests have been considered as most dissimilar.

I have the honor to be, with sincere respect, your obedient servant,

ALBERT GALLATIN.

Hon. Mr. GILES, *Chairman of the Committee  
on the admission of the Northwestern Territory into the Union.*

SIR:

FEBRUARY 13, 1802.

The enclosed paper is an official document, stating the quantity and quality of lands subject to taxation in the Northwestern Territory. The present rate of taxation in the Territory is established as follows, viz: on each 100 acres of first rate land, 60 cents; second rate land, 40 cents; and third rate land, 20 cents. Agreeably to the document aforesaid, there is in the Territory,

116,128 acres of first rate land, at 60 cents per 100 acres,	-	-	-	\$696	76
3,982,094 acres of second rate land, at 40 cents per 100 acres,	-	-	-	15,928	37
3,526,659 acres of third rate land, at 20 cents per 100 acres,	-	-	-	7,053	31
<hr/>					
7,624,881 acres, in all, producing a revenue of	-	-	-	\$23,678	44

The actual expense of the representative Government to the Treasury for three years, the time it has existed, has averaged about \$13,000 57 per annum, which sum has been applied to the payment of the representatives of the people, the council, auditor, treasurer, attorney general, travelling expenses of the judges, printing, and other contingent expenses. The sums paid by the United States towards the support of this Government are as follows, viz:

To the Governor, (I believe,)	-	-	-	1,200	00
Three judges, \$800 each,	-	-	-	2,400	00
One secretary,	-	-	-	800	00

Which, added to the annual expense of the Government, will amount to

Which would be the whole amount of the expense of the Government; and if taken from the annual revenue, will leave a balance in the Treasury of (to meet the additional expense, if any, of a State Government,) \$6,277 87

To this sum may be added a sum due the Territory, in the hands of collectors, &c., agreeably to the report of a committee at last session, (page 54 of the Journals,) amounting to 8,977 75

Leaving the sum of \$15,255 62

In and due the Treasury, to meet the expenses of a convention, collection of taxes, and other contingent expenses. It will appear, therefore, from the foregoing statement, that the Territory pays nearly equal to the support of a State Government, without enjoying the advantages, and that the present revenue is more than sufficient to support the whole expense of a State Government on tolerably economical principles. Under these circumstances, can it be reasonably supposed that the people in the Northwestern Territory, who have emigrated from the different States in the Union, and who possess similar feelings with their fellow-citizens, prefer the present colonial arbitrary Government to one of their own choice?

I have the honor to be, with great respect, sir, your obedient servant,

T. WORTHINGTON.

WILLIAM B. GILES, Esq., *Chairman of the Committee  
to whom were referred the petitions from, and census of, the Northwestern Territory.*

TREASURY DEPARTMENT, REGISTER'S OFFICE, *March 1, 1802.*

In compliance with the request contained in your note of this morning, I send you, annexed, a statement of all the public lands sold at the Western land-offices, from the commencement of their operation to the 31st December, 1801, in which are included the pre-emption rights to lands contracted for by John Cleves Symmes, so far as deposit money may have been paid to the land-offices for land of that description.

Very respectfully, I am your obedient, humble servant,

JOSEPH NOURSE, *Register.*

THOMAS WORTHINGTON, Esq.

*Amount of public lands sold under the direction of the registers of the land-offices, from the commencement of their operations to the 31st December, 1801.*

	Acres.	Purchase money.
Amount sold, as per statement marked O, subjoined to the report of the Secretary of the Treasury, - - - - -	393,646 <sup>45</sup> / <sub>100</sub>	\$834,887 11
Amount since sold, commencing 1st November, and ending 31st December, 1801:		
In Steubenville district, - - - - -	45,974 <sup>30</sup> / <sub>100</sub>	91,948 60
In Marietta, (none.) - - - - -	-	-
In Chillicothe, - - - - -	3,451 <sup>30</sup> / <sub>100</sub>	6,902 60
In Cincinnati, - - - - -	106,923 <sup>80</sup> / <sub>100</sub>	213,847 60
<b>Total,</b>	<b>554,995 <sup>85</sup>/<sub>100</sub></b>	<b>\$1,147,585 91</b>

Sir:

CHILICOTHE, February 12, 1802.

The committee, having received your very pleasing communication of the 26th January last, take this opportunity of rendering you their most cordial thanks for the unremitting attention you have paid to the important concern committed by them to your agency: for, although their confidence in the justice and integrity of the General Government was unshaken, it was still necessary that just representations should be made to enable them to decide with propriety. This, sir, you have done, and for this accept their sincere thanks.

The committee, having considered the request in your communication of the 24th January, relative to instructions on the subject of our assuming an independent form of Government, pleased to hear that the situation of our country is regarded by many of the members of Congress with commiseration, do therefore request and instruct you to exert your influence with that honorable body to effect so desirable an event—an event which, terminating the influence of tyranny, will meliorate the circumstances of thousands, by freeing them from the domination of a despotic chief.

We do not take upon us to prescribe any mode of procedure necessary to be adopted on the occasion. We concur with your suggestion, and, considering ourselves as in a minor state, think it proper to submit the mode of calling a convention, the purposes for which it shall be called, the time when and the place where it shall convene, to that honorable body to whom, we conceive, it of right belongs.

With sentiments of respect and esteem, I subscribe myself, (by order of the committee,)

Dear sir, your obedient servant,

JAMES FINLEY, *Chairman.*

Attest: JOSEPH KERR, *Secretary.*

THOMAS WORTHINGTON, Esq.

*A list of the quantity and quality of the lands entered in the Auditor's office for taxation for the year 1801, situate in the different counties of the Territory of the United States northwest of the Ohio, and not included in the Virginia military district.*

Counties.	Total number of acres.	Number of acres of the different rates.			Amount of taxes.
		First rate.	Second rate.	Third rate.	Dolls. cts.
Washington, - - - - -	1,427,316 <sup>1</sup> / <sub>2</sub>	17,039	436,263 <sup>1</sup> / <sub>2</sub>	974,014	3,390 40
Hamilton, - - - - -	375,164	29,699	295,246 <sup>1</sup> / <sub>2</sub>	50,218 <sup>1</sup> / <sub>2</sub>	1,288 76
Ross, - - - - -	939,535 <sup>1</sup> / <sub>2</sub>	17,542	760,032 <sup>1</sup> / <sub>2</sub>	161,961	2,973 21
Jefferson, - - - - -	194,736 <sup>1</sup> / <sub>2</sub>	12,261 <sup>1</sup> / <sub>2</sub>	145,838 <sup>1</sup> / <sub>2</sub>	36,636	782 84.5
Clermont, - - - - -	101,735 <sup>1</sup> / <sub>2</sub>	2,086	54,367	45,282 <sup>1</sup> / <sub>2</sub>	277 52.5
Adams, - - - - -	178,195 <sup>1</sup> / <sub>2</sub>	5,462	83,593	89,140 <sup>1</sup> / <sub>2</sub>	496 08
Trumbull, - - - - -	1,836,368	570	54,202	1,781,604	3,218 89.3
Wayne, - - - - -	182,445 <sup>1</sup> / <sub>2</sub>	-	-	-	473 66.2
Virginia military district, - - - - -	5,235,496 <sup>1</sup> / <sub>2</sub>	84,659 <sup>1</sup> / <sub>2</sub>	1,829,543	3,138,856	12,901 37.5
	2,371,824 <sup>1</sup> / <sub>2</sub>	31,469 <sup>1</sup> / <sub>2</sub>	2,152,551 <sup>1</sup> / <sub>2</sub>	387,803	16,175 00.4
Hamilton, Ross, and the whole of Adams county, } - - - - -	7,607,320	116,128	3,982,094 3,526,659 116,128	3,526,659	

I do hereby certify, that this abstract is taken from the exhibits made by the Auditor to the House of Representatives, on the 6th day of November, 1801. By me,

THO: GIBSON, *Auditor.*

7th CONGRESS.]

No. 157.

[1st SESSION.]

## CITY OF WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 8, 1802.

Mr. DENNIS, from the committee to whom was referred, on the 5th of February last, a motion, in the form of two resolutions, of the House, "respecting the adjustment of the existing disputes between the commissioners of the city of Washington and other persons who may conceive themselves injured by the several alterations made in the plan of the said city: also relative to a plan of the said city of Washington, conformably, as nearly as may be, to the original design thereof, with certain exceptions," &c., made the following report:

That many disputes have arisen between the commissioners and proprietors of city property, in consequence of the alterations which, from time to time, have taken place in the plan of the city of Washington. It may not, therefore, be improper for your committee concisely to state the different plans which have existed, or been supposed to exist, for the same; and to present to the view of the House certain documents, explanatory of the nature of the complaints exhibited by individuals against the commissioners for the innovations made, and of the reasons assigned by the commissioners for their own and the conduct of their predecessors. Your committee find that the plan of the city was originally designed by Mr. L'Enfant, but that it was, in many respects, rejected by the President of the United States, and a plan drawn up by Mr. Ellicott, purporting to have been made from actual survey, which recognised the alterations made therein, and which was engraved and published by the order of General Washington, in the year 1792. This plan was circulated by the Government throughout the United States, and sent to our public agents in Europe, by authority of the Government, as the plan of the city, and is the only one which has ever been engraved and published; this is generally known by the appellation of the engraved plan. It was, however, found, on actual survey, that the engraved plan was, in many respects, inaccurate; and that the actual situation of many streets and squares differed so essentially from the situation which they seemed to possess on the face of that plan, that though they appeared on paper to lie some distance from the water, they were found to be situated in the Potomac. This circumstance rendered some deviations from that plan inevitable. In some other cases, grounds originally appropriated to public use have been surveyed into building lots, and divided as such between the United States and the proprietors. In certain other cases, the angles formed by the intersection of streets and avenues, and which seem to be a kind of property which neither comes within the description of streets, public appropriations, nor building lots, (which are the only descriptions of property mentioned in the deeds of trust,) have been surveyed also into building lots, and in some instances divided between the proprietors and the public, and added to the plan of the city. The alterations made, in the instances above enumerated, have been incorporated into the plan of the city, now in the commissioner's office, and this plan has been signed by Mr. Adams; in conformity with which the trustees were directed by him to convey the public grounds to the United States, and is considered by the commissioners as the true plan of the city. This plan has never been engraved or published. In one instance, known to your committee, since the signature of the plan before mentioned by Mr. Adams, viz. in the case of a Mr. Walker, an original proprietor of certain lands within the city, certain angles, formed by the intersection of streets and avenues, have, on his application, been converted into building lots, and divided between him and the commissioners, and been inserted in the plan of the city. It is understood that the commissioners conceive themselves at liberty to proceed in the same manner in all similar cases, and that there are many other cases remaining of the same description. This subject, together with the effect and operation of these angular insertions into the plan of the city, will be fully explained by a recurrence to the protest of one of the commissioners, who, in the case of Mr. Walker, dissented from the principle, together with his letter to General Washington on the subject, and the answer thereto; all of which are subjoined to this report, and are marked C, D, E. In order to give to the House a full view of the nature of the complaints exhibited against the commissioners for the innovations made, and to possess them of the reasons assigned by the commissioners for their own, and the conduct of their predecessors, in relation thereto, your committee have thought proper to exhibit, as a part of their report, the memorial of sundry proprietors, whose names are thereto annexed, presented to Mr. Adams some time in the year 1798, stating the injuries by them respectively received, in consequence of the innovations made, and the statement of the commissioners in relation to that subject, marked A and B.

The trustees have not yet conveyed the public grounds, as directed by the before-mentioned order of Mr. Adams. The reasons by them assigned for not conveying are, that they consider themselves as the agents for the original proprietors as well as for the United States; that justice to those proprietors requires, as well as the interests of the United States, that before they convey it should be fully ascertained what is the true plan of the city, and that the disputes in relation thereto should be previously terminated. Your committee are of opinion that suffering the engraved plan, which is no longer the true plan of the city, to continue to pass as such, may be productive of great deception in purchasers, and that measures ought to be taken for its suppression; that measures ought to be taken also for obtaining from the trustees a conveyance of the streets and other public grounds; and that a plan which, as far as practicable, shall prevent all further innovations, ought to be engraved and published under the direction of the President of the United States. But as it would be improper to publish any other plan until the existing disputes be settled, and a conveyance obtained from the trustees of the public grounds, your committee are of opinion it will be proper to invest in the President the power of compromising any dispute, (if justice shall require it,) by giving to such persons as have been injured by any alteration made other public grounds in lieu of the property so affected. Your committee approve of many of the principles contained in the resolutions referred to them; but, as they think it proper to deviate from them in some respects, they would recommend that they be rejected, and beg leave to offer to the House the following resolutions:

*Resolved*, That the President of the United States be, and he is hereby, requested to take such measures as he may deem necessary for obtaining conveyances to the United States of the public grounds in the city of Washington; and that he be, and he is hereby, authorized and empowered to grant to any individual, whose property may have been injured in consequence of the alterations made in the plan of the city, where, in his opinion, justice or the interests of the United States may require it, other public grounds, in lieu of the grounds so affected; unless, in his opinion, the plan of the city may be so varied as to remove the complaints of such individuals without injury to the city, or affecting the rights of others; in which case, he may authorize a deviation for that purpose.

*Resolved*, That after having obtained a conveyance, as aforesaid, he cause a plan of the city to be prepared, and such number of copies thereof as he may think proper to be engraved and published, conforming, as nearly as may be, to the plan signed by Mr. Adams, except in the cases contemplated in the foregoing resolution.

## A.

The undersigned, proprietors of lands in the city of Washington, beg leave to represent to your excellency certain circumstances relative to that city highly interesting to the United States, to us, and to all who may become purchasers and residents therein.

Conscious as we are of the inestimable value of your time and attention to the objects presented by the present crisis in public affairs, nothing but the most full persuasion of the absolute necessity of the measure could have induced us, at this time, to divert them to the state of the Federal city; yet, from a knowledge of your patriotism, we believe you will more readily excuse this than our omitting to present to your excellency an opportunity of averting an impending evil which threatens the prosperity of one of the most important establishments of the Union.

Surrounded by public business, and pressed by official duties, it is probable that many circumstances relative to this city may have escaped your notice, or have been obliterated by more important impressions; we, therefore, take the liberty of introducing to your notice such of them as, we flatter ourselves, you may think will require the most immediate attention.

Pursuant to the acts of Congress authorizing him thereto, the late President, with that indefatigable zeal which has always marked his attention to the interest of the public, proceeded carefully to examine the country; and, having ascertained the limits of the Federal territory, located the city of Washington agreeably to a design of Mr. L'Enfant, which, for its superior beauties and advantages, met with general approbation and applause.

The original proprietors of the lands included within the city, wishing to promote and insure an object so highly beneficial to themselves and to their country, came to the resolution of making such a donation to the United States as should enable them to erect the buildings necessary for the accommodation of the President and Congress, as also the public offices, in a style adapted to the metropolis of the United States.

By deeds of trust, which the proprietors proceeded immediately to give, the streets within the city were to be conveyed to the United States; such squares or grounds as the President should deem proper to appropriate for public purposes were also to be conveyed to the United States, upon the proprietor receiving at the rate of £25 per acre for the ground so appropriated; the remainder of the lands within the city was to be laid off into squares and lots, one moiety thereof to be subject to sale, and the money arising therefrom to be applied, in the first instance, to the payment for the lands so appropriated as above to public purposes, and the residue thereof to be a *donation* agreeably to the act of Congress; the other moiety of squares and lots to revert to the original proprietor.

The streets and public appropriations on the plan of the city being very large, and the latter, in addition to their great extensiveness, uniformly in the most beautiful situations, it was thought proper that the proprietors should receive a compensation for these appropriations, exclusive of streets, not considering them as building lots; that compensation was fixed at £25 per acre, and to be paid out of the proceeds of sales made by the public of lots given up by the proprietors. This was considered as securing to the United States ground enough for every public building, and to the citizens the advantages of spacious walks and areas, without too great a sacrifice on the part of the proprietor; although, had they been divided into building lots, it would have been infinitely more beneficial to him; yet, as he received some compensation for his land, and the few lots surrounding these vast areas were enhanced in value, he cheerfully complied therewith, when he considered the advantages in point of health and beauty which the city received therefrom.

Appropriations so extensive in themselves, so conducive to the beauty and health of the city, so gratifying to the public and proprietor, were deemed sacredly devoted to the purposes to which they were designated; yet, notwithstanding that public and private sales have been made on the faith of these appropriations; that those sales have been regulated by their proximity to these appropriations; that they had received every sanction which public opinion and the publication of the plan of the city, under the direction of the President and commissioners, could give; that payments have been made therefor to the proprietors, as appropriations to the sole use of the United States; notwithstanding these circumstances, innovations of the most serious, and to us of the most alarming nature, have been introduced.

The most singular of these innovations we beg leave to present to the view of your excellency, as illustrative of an infinity of cases which must necessarily arise, the right of innovation being admitted. The case we allude to is, the *conveyance* of a part of the President's square to the Queen of Portugal or her minister, lately made by the commissioners. This conveyance we consider as a most unfortunate circumstance, viewing it as a deviation from the plan of the city, and the intention of the parties on the execution of the deeds of trust. It was certainly never contemplated that appropriations of such great utility, so highly ornamental, so conducive to health, would have been alienated; and we rest assured that the alienation could never have obtained your excellency's sanction had the application been attended with a statement of the preceding facts.

This innovation must certainly never have been contemplated by the proprietors at the time of their executing the deeds of trust, nor since; the letter and spirit of those deeds show evidently what was the intention of the parties at that period. There is an evident distinction drawn in them between public appropriations and private building lots; the fee in the former, with the streets, was to reside and forever continue in the United States; the latter are expressly directed to be sold.

The proprietors, when they relinquished part of their ground as public appropriations, firmly believed that no more would be taken than was deemed proper for the use of the United States, and imagined that the same reasons of necessity, utility, and elegance which would dictate their location would forever prevent their being curtailed. This impression received additional confirmation by a variety of sales effected by the commissioners of lots adjacent to the grounds so appropriated to the United States; at which sales the said appropriations were always mentioned and exhibited as highly appreciating the property to be disposed of. But the official circulation of plans throughout Europe and America, on which plans those appropriations and public areas were designated, was sufficient to have removed any doubt that could possibly have existed.

When it is recollected that a number of the proprietors have, on the confidence they had in the plan of the city, made sale of lots adjacent to these appropriations and open areas, at prices high and proportionate to the supposed advantages arising from their proximity thereto, it is painful to anticipate the inconvenience, the expense, and endless litigation to which they have subjected themselves, should innovations of this nature be admitted. These evils, with additional injuries and injustice, will be extended to purchasers both from the commissioners and proprietors, as the advantages exhibited, which induced the purchase, will no longer exist.

The innovations already introduced have but too fatally tended to destroy that confidence which is inseparably combined with the growth and prosperity of the city; the continued introduction of others must necessarily endanger its very existence; as neither purchasers nor improvers will be found sufficiently adventurous to risk their property on a hope of advantage, the permanency of which is so obviously doubtful. And it is melancholy to reflect that even at this late day, when every energy should be employed in preparations for the reception of the Government of the United States, gentlemen anxious to make improvements are deterred, from an apprehension lest at some future period they be deprived of that which constitutes their present inducement.

The advantages which the United States and the proprietors (who, in that case, would be entitled to a moiety thereof) may derive from the sale or donation of these public appropriations or open areas, ought never to be placed in competition with health, beauty, and magnificence, which were singularly and amply provided for in extensive areas and public squares, adapted to a free circulation of air, elegant gardens, and spacious walks; more confined plans having unfortunately subjected our most flourishing cities to the most dreadful calamities.

We shall now proceed to solicit your excellency's attention to other subjects most intimately connected with the welfare of the city.

The deeds of trust being executed, and some alterations in Major L'Enfant's first plan and design being made at the desire of the late President, commissioners and surveyors were appointed, and the operations in the city commenced.

The President, agreeably to this improved plan of Mr. L'Enfant, declared the appropriations for the Capitol and President's house. Divisions of lots in their vicinity were made between the commissioners and proprietors, and a public sale thereof took place; a great number of persons became purchasers at this sale, and every thing spoke the ardor and sanguine hopes of those interested in the city.

Mr. L'Enfant was succeeded by Major Ellicott in the surveying department; the latter was superseded, and that department devolved on others, perhaps less qualified. It was found that much of the spirit and genius exhibited in the first plans had evaporated, and a dull uniformity, devoid of that elegance which had been so highly praised, had been introduced. An evident derangement of system and perspicuity was observable in that department, and the papers, plans, &c. under their care; which derangement is so far from being rectified, that it was become a source of errors and mistakes, affecting both the public and proprietors. It is now a labyrinth which no man can devolve.

While Mr. Ellicott was surveyor, a plan was engraved by the directions of the commissioners, and a very numerous impression taken therefrom; a number of copies were lodged in the office of the Secretary of State, others with the commissioners, and many dispersed throughout the United States and Europe for sale, and for the information of persons who might incline to become purchasers of the city property. This plan (although it differed in many respects from that by which the first sales were made, and which had been laid before Congress) was generally considered as the final plan of the city; and from that period sales have invariably been made in conformity therewith, under the idea that the sanction under which it issued was a sufficient guaranty of its stability.

By an act of the State of Maryland, the commissioners were enabled to carry the plan of the city into complete execution, and to prohibit docks, slips, buildings on wharves, and other nuisances, which have proved so injurious to other cities of this continent.

With these superlative advantages in the plan of the city, persons interested therein looked forward with hope to the removal of Congress to this place, when they would be clearly and fully displayed.

Unfortunately the plan has, in many instances, either been varied from, or not carried into execution; and, instead of having any fixed and determinate limits to our possessions, which would enable us to improve or make sale thereof, there are several mutilated, unfinished, and discordant plans, which bewilder instead of explaining, and paralyze property to a very large amount, that would otherwise be employed in improving the city.

That your excellency may have a fuller knowledge of the difficulties arising to the proprietors of lands and lots, and to the public, from this unsettled state of things, we shall endeavor to lay a few of them before you.

It has already been observed that there were several alterations made in the plan, between Mr. L'Enfant's first design, and the publishing the last engraved plan in Philadelphia, by the commissioners, and promulgated as the plan of the city. It now remains for us to observe, that, since the publication of that plan, there have been other very material innovations made therein by the surveyors; and many of them we believe without any authority. The discordant, inaccurate, and ill-executed ones, which are in the surveyor's office in this city, we shall not notice; but we cannot avoid mentioning, that the plan lately transmitted to your excellency by the commissioners, as a plan of the city of Washington, and to which your assent has been obtained, is extremely variant from the engraved one; it is incomplete; it is different from that laid off on the ground, and acted upon by the commissioners and proprietors on the division of lots and squares thereon exhibited.

It is variant from the plan published as the plan of the city, in the extent, form, and limits of almost all the public appropriations, in several streets, and in many of the squares to be laid off in building lots. By it some of the streets of the greatest magnitude and importance are allowed to be obstructed in the vicinity of the water, by laying off squares or building grounds across the same, and thereby lessening the utility of the street, preventing the free access of air, and, of course, subjecting the future inhabitants thereof to those malignant disorders which have of late ravaged other commercial towns of the United States.

It is incomplete, inasmuch as the rights and privileges of wharfing and water-lots are not ascertained. That street, which in every former plan circumscribed the city beyond any building lots, and near the channel, and which was intended to promote the intercourse with merchants, and the free conveyance of merchandise along the wharves, open a free passage for air from the water into the different streets and avenues terminating therein, is omitted; and, in many places, a distance of several hundred feet is left to be filled up and occupied by buildings and wharves, at the option of individuals. If the plan is left in this situation, no one can wharf or improve the water property, as he knows not where streets may be introduced; or if it should eventually be permitted that they wharf and build at pleasure, every advantage which the plan of this city had over others is lost, and the United States are voluntarily allowing reservoirs of contagion.

It differs from the plan, as already laid out on the ground, in the position of streets, and the figure and dimensions of squares, already laid off in lots, and divided between the proprietors and the public.

As a further elucidation of this matter, we beg leave to refer your excellency to the plans and other documents, marked No. 4, No. 5, No. 6, which are hereunto annexed.\*

When the trustees, to whom the proprietors of the lands within the city of Washington had conveyed their lands, were requested to convey the public appropriations and streets for the use of the United States, had examined and compared the same with the engraved plan, and that on which they were made, very material differences were observed; so great as, in their opinion, to warrant a refusal to convey, lest by so doing they should betray that trust and confidence the proprietors had in their integrity and justice.

From this statement of facts, which the subscribers are confident they can substantiate before your excellency, or any tribunal you may be pleased for that purpose to constitute, we flatter ourselves your excellency will see the necessity of immediately having an accurate and complete plan of the city, properly authenticated and established, and from which there can be no departure, as the only means of restoring public confidence in the city, and of enabling the proprietors to sell and improve their property therein; which plan we humbly conceive may show the limits of the city, and also permanently secure the spacious streets, ample areas, and extensive public appropria-

\* The papers here referred to are not now to be found.

tions, so conducive, as heretofore frequently observed, of the grand objects we have in view, the health of the citizens, the elegance, utility, and magnificence of the city. We know your excellency will attend to the necessity of defining what water privilege or right of wharfage is attached to the lots on the Eastern Branch, the Potomac river, and Rock creek; also, all such streets as are to be left in wharfing from the shore to the channel of the said waters, and the extent to which those wharves are to be carried; and what ground, so made and filled up, shall be considered as subject to occupancy by buildings. We are equally certain that your excellency will clearly perceive the necessity of convincing the public mind that the appropriations and open areas cannot be diverted to private uses, but must remain sacred, inviolate, and forever considered the property of the United States of America.

Having unsuccessfully attempted to obtain a remedy of the many evils herein detailed from the inferior department, and deeply impressed with the highest confidence in your excellency's disposition to exert every constitutional power vested in you for the benefit, advantage, and happiness of every part of the Union committed to your care, we cheerfully submit to your decision a subject which we humbly conceive is not the least deserving of your notice, amidst the vast variety of objects which at present occupy your unwearied attention.

ROBERT PETER,	DAVID BURNES,
DAN. CARROLL of <i>Dud.</i>	FRANCIS DEAKINS,
SAMUEL DAVIDSON,	SAMUEL DAVIDSON,
WILLIAM PROUT,	<i>for the heirs of J. Davidson.</i>
JAMES W. LINGAN,	ISAAC POLOCK,
WILLIAM H. DORSEY,	THOMAS LAW.

CITY OF WASHINGTON, November 10, 1798.

To His Excellency JOHN ADAMS, *President of the United States of America.*

B.

COMMISSIONERS' OFFICE, *March 23, 1802.*

SIR:

We are favored with your letter of the 20th instant, and, in compliance with your request, shall state the principal facts on which you desire information.

Major L'Enfant's plan of the city was sent to the House of Representatives on the 13th December, 1791, by President Washington, for the information of the House, and afterwards withdrawn. Many alterations were made therefrom by Major Ellicott, with the approbation of the President, and under his authority; all the appropriations (except as to the Capitol and President's house) were struck out, and the plan, thus altered, sent to the engravers, intending that work, and the promulgation thereof, to give the final and regulating stamp. These changes from L'Enfant's plan took place in the year 1792, and the published plan appears to have been engraved in October of that year. It has since been pursued in all the operations of the city, under the direction of the commissioners, as far as it was practicable; but the city not having been surveyed, and this plan being made partly from L'Enfant's draughts, and partly from materials possessed by Ellicott, it was probable it would not correspond with an actual mensuration. The commissioners, therefore, on the 9th of April, 1793, made the following order:

"The head of the surveying department is to conduct the field work, and be answerable for its accuracy and despatch. As soon as any square is finished, and marked on the ground, he is to deliver into the Commissioners' Office a certificate in the following form:

"April 10, 1793.—Surveyed square No. —, bounded (enumerating the lines as the truth is.)

"A. B."

"This work is, from time to time, to be added to the large plat, which, being finished, is to be considered as record. It is desired that stoning the squares may keep pace with the work, and the head of the department is to give so much attention to it as to see that the stones be properly placed. In the actual execution of the work, deviations from the plan may, in some instances, be proper. The commissioners do not think there is a propriety of their ordering such, in cases of consequence, at their pleasure. Any remarks on this head will not only be attended to, but are invited, that they may be enabled to obtain the President's order."

The surveyors complied with this order, and whenever a space of ground appeared, by actual survey, to be neither in a street nor public square, it was added to the plan, and divided as building lots, without objection or animadversion, until the year 1796, when it was contemplated to obtain from the President a minute description of the public grounds, and an order for their conveyance. The subject was then brought more immediately into view of the board. The above-recited order, and many of the proceedings under it, had taken place before any of the then commissioners were in office. Some difference of opinion appeared to exist among the commissioners with respect to the appropriations. One of them thought all the spaces of ground which were not designated on the engraved plan, and which were not already under the orders of the former board, divided into building lots, ought to be appropriated to public use; the other two did not concur with him in opinion, yet they agreed to submit the subject to the President, and, accordingly, in a letter, dated 30th November, 1796, write: "The vacant spaces which appear on the plan of the city, at the intersection of the streets and avenues, and which are composed of the streets themselves, and by striking off the points which these intersections necessarily form, so as to give a degree of regularity to the adjacent buildings, we have not considered as squares appropriated to public use; but some of the proprietors now insist that they ought to be paid, not only for the points thus struck off, but for the streets themselves, so far as they pass through those vacant spaces; or that those points should be laid off into building lots. This suggested the propriety of running a street one hundred and sixty feet wide, round each of those spaces, and appropriating the centre to public use, which may be enclosed with handsome palisades, sown with grass, and ornamented with fountains, statues, &c. to the great embellishment of the city, when it becomes populous: this, however, we only suggest, but we believe some decision of the Executive is necessary to silence clamor, and perhaps to prevent litigation." To which the President, on the 26th of December thereafter, answered: "With respect to the claims of individual proprietors, to be compensated for the spaces occasioned by the intersection of streets and avenues, I should conceive that they might, *with equal propriety, ask payment for the streets themselves.* But the terms of the original contract or cession, if a dispute on that point should arise, must be recurred to; for I presume the opinion of the President in such a case would avail nothing; but if angles are taken off at these spaces, the case is materially altered, and, *without designing it, you make a square where none was contemplated, and thereby not only lay the foundation of claim for those angles, but for the space also which is made a square by that act.*" This letter not containing instructions to include the spaces of ground which were the subjects of it, in the act of appropriation, the draught of an act was prepared and transmitted to the President, describing the grounds which were unanimously agreed to have been reserved for the purpose of appropriation; which draught, after being perused, and in some respects altered, by the Attorney General, received the President's signature; and the commissioners continued to divide such spaces of ground, as did not appear to be included in the streets or public appro-



priations, which a majority of the board considered themselves bound to do by the terms of the original cession. Those spaces were numerous, and consequently occasioned considerable deviations from the engraved plan. The actual survey had another apparent effect; it occasioned many squares to be laid in the water, being governed by the channel, and to insert other squares between the apparent water-squares and the river; but this was of necessity, or in conformity to the engraved plan. There are other variations from the engraved plan which may require explanation. Squares Nos. 728 and 729, on the engraved plan, appear to recede from 1st street east, whereas, in fact, they are brought up to it. The first form is said to have been given to them before the actual site for the Capitol was known. However that may be, the change seems to have taken place previous to the engraving of the plan, for the squares were divided 10th October, 1792, and must consequently have been laid out some time before—a circumstance which probably escaped Mr. Ellicott's attention when he prepared the plan for the engravers, as he has left those squares nearly as L'Enfant had delineated them. A space appears vacant on the engraved plan south of square No. 104; it is part of Hamburg, a town which was planned previous to the establishment of this city; part of this space was filled up with squares, designated by south of 104, east of 87, and east of 88, in order to compensate the original proprietors of that town, who were entitled to lots equal in value to those given up for public use, and as near as possible to their former possessions; whereas the proprietors of farms were only entitled to twenty-five pounds per acre for similar cessions. It seems probable that these squares were likewise laid off before the plan was engraved, and also escaped Mr. Ellicott's attention, because there were no returns of squares previous to the order of 9th April, 1793; and these squares were among the first that were returned, and by Mr. Ellicott himself, on the 15th June, 1793, forty-one days before the return of squares Nos. 728 and 729, and because the same vacancy appears also on L'Enfant's plan. There are two ranges of squares laid out south of square No. 506, on part of a space which appears vacant on the engraved plan. This was done in the year 1793, by order of the President, on the application of Mr. Notley Young, who complained that too great a portion of his land had been taken for public use; more than twenty acres yet remain to the public. The designation of the bed of one branch of the proposed canal was changed in 1795, by order of the President, and on the application of the adjacent proprietors. This was done because the course designated on the engraved plan would have carried it through high ground, and required much more labor than its present course.

The above changes (except the line of the canal and inserting squares, as before related,) took place before any member of the present board was in office; but we have no doubt of their having been made from pure motives, and by proper authority. We do not find that any individual has complained of sustaining an injury in consequence of the above deviations from the engraved plan. It is true that, in the year 1798, several city proprietors presented a memorial to President Adams, stating that *innovations of the most serious and alarming kind* had been made in the plan of the city; and mentioning the grant of a site for the minister of Portugal, in the President's square, as the most singular of those innovations. The intention of the memorial was to persuade the President that it was necessary to cause a complete plan of the city, including a water street, to be made and established, so that there could be no departure therefrom. It was referred to the Attorney General, who advised against making a new plan, because the plan to which the President's signature is annexed is sufficiently authenticated, and supercedes all prior plans; against making a plan unalterable, in the sense of the memorialists, because the appropriated grounds may be wanted for one purpose at this time, and for another at a future day; and against making the proposed water street in the present state of the city funds, because it was more necessary to build houses than to reclaim land out of the water. Upon this opinion the prayer of the memorial was rejected; and, as it contained a censure on the conduct of the commissioners, it was, with all the papers accompanying it, by order of the President, sent to them for such observations as they might deem proper, either with respect to themselves or the public interest. With regard to the first, they deemed it unnecessary to do more than *explicitly to deny the whole*: with respect to the second, considering the Government as implicated in the grant to the Queen of Portugal, they explained the transaction. The measure of granting sites for the residence of foreign ministers was warmly recommended by President Washington, and approved by President Adams, before any steps were taken by the commissioners to carry it into effect. President Washington, himself, pointed out the spot granted to the Queen of Portugal as a proper site for the residence of a foreign minister; and Mr. Adams delivered letters from the commissioners, making the offer to all the ministers of friendly Powers near the United States; and endorsed his approbation of the deed to the Queen of Portugal after it was executed. But the Attorney General, on hearing the objection, was of opinion that Congress alone were competent to make the grant—an idea which had never occurred to either of the Presidents, or to any of the commissioners. We know but one instance of a complaint of injury arising from a difference between L'Enfant's and the engraved plan; that is the case of Samuel Davidson: he alleges that L'Enfant's plan ought to be considered as the plan of the city; and that, agreeably to it, he would be entitled to additional property in the President's square. His case, as stated by himself, was transmitted to President Washington, who, in a letter to the commissioners, dated 20th February, 1797, says, "That many alterations have been made from L'Enfant's plan by Major Ellicott, with the approbation of the Executive, is not denied; that some were deemed essential, is avowed; and, had it not been for the materials which he happened to possess, it is probable that no engraving from L'Enfant's draughts ever would have been exhibited to the public; for, after the disagreement took place between him and the commissioners, his obstinacy threw every difficulty in the way of its accomplishment. To this summary may be added, that Mr. Davidson is mistaken if he supposes that the transmission of Major L'Enfant's plan of the city to Congress was the completion thereof; so far from it, it will appear, by the message which accompanied the same, that it was given as matter of information only, to show what state the business was in, and the return of it requested; that neither House of Congress passed any act consequent thereupon; that it remained, as before, under the control of the Executive; that, afterwards, several errors were discovered and corrected, many alterations made, and the appropriations, except as to the Capitol and President's house, struck out under that authority before it was sent to the engraver, intending that work, and the promulgation thereof, were to give the final and regulating stamp." Upon the receipt of this letter the commissioners rejected the application; Mr. Davidson, however, made a similar application to President Adams, without success; also to the present President, the event of which we have not heard. With respect to the refusal of the trustees to convey the public property, it is to be observed that President Washington's act directing the conveyance, in the hurry of business at the conclusion of his administration, was not annexed to the plan as the instrument expressed. The trustees made that circumstance a pretext for their refusal; one of them, Mr. Ganit, saying, if the instrument were annexed to the plan he would execute the conveyance, after giving Mr. Davidson notice of his intention in time to obtain an injunction. This he considered himself under honorary obligations to do. The plan and President Washington's act were sent to President Adams, who directed Washington's act to be annexed to the plan, and, by an act of his own, repeated the order to convey. When the trustees were notified of this, Mr. Ganit showed a letter, signed by Mr. Davidson and some other city proprietors, forbidding the trustees to convey, and promising indemnity in case of refusal. The Attorney General was then applied to for advice, who was of opinion that the property was as effectually vested in the United States as if it were formally conveyed; had he been of a different



opinion, compulsory measures would have been taken to obtain a conveyance. The trustees allege that the description of the appropriations does not agree with the plan to which it refers. In this they are incorrect; it agrees with the utmost precision. From this view of the subject, it is obvious that the trustees act in some degree under the influence of the proprietors. Let us examine their object: Mr. Davidson's object, it already appears, is to obtain additional property within the President's square. Mr. Carroll's object is to obtain a declaration from Government that there never shall be any buildings erected on the Capitol square, in front of his houses; he has also claimed payment for the streets round the appropriations on his land, and for the bed of the proposed canal; and it is an opinion, generally prevalent among the proprietors, that the Government is not, or at least ought not to be, at liberty to exercise the full rights of property over the appropriated grounds, notwithstanding they have received the agreed price for them; and a declaration of this principle is included in their demand of an unalterable plan. We have now stated the principal alterations which have been made in the plans of the city, and the causes of them; also the objections of the trustees to convey the public property. If ungratified demands, which have been rejected by the President, as well as by the commissioners, are to be considered as existing disputes between the proprietors and commissioners, we believe they likewise are all stated. It may be proper, however, to mention that no dispute can arise in matters cognizable by the commissioners which the President is not competent to determine; and that the commissioners never have determined a matter of importance against an applicant without the unequivocal sanction of the Executive. If, indeed, the commissioners, whether with or without the sanction of the Executive, should refuse a matter of right, the laws of the country are open; to them we presume it would be much more proper to recur, than to establish a tribunal with undefined powers to determine the disputes of a few dissatisfied individuals.

We are, with sentiments of respect, sir, your obedient servants,

WILLIAM THORNTON,  
ALEXANDER WHITE,  
TRISTRAM DALTON.

The Hon. JOHN DENNIS,  
*Chairman of a Committee of Congress.*

C.

MAY 22, 1799.

Finding that the board are disposed, on the motion of George Walker, to lay off several small squares, some of which do not contain one lot and a half, by which the intention of the late President, in keeping open the junction of large avenues, will be contravened, William Thornton moves (before they decide upon a measure which may, and he believes will, materially injure the general plan of the city, and establish a principle, which, by extending to every other similarly situated space, may do essential injury to individuals who have purchased under an impression that such spaces were meant to be left open) that the board postpone their decision till the opinion of the President of the United States can be obtained, whether it will be proper to lay out these small triangles into building lots, or, by declaring them public appropriations, shall direct payment for the same.

This motion having been made, the board declared that they would not postpone the determination unless it was by the consent of the said George Walker, who, being present, said *he would not consent to such a reference*, as he would never agree to take at the rate of £25 per acre (the sum the President is authorized to give for ground condemned for public appropriations) for ground that would command ten cents per square foot. In consequence of which, the board proceeded to lay out and divide the following squares or parcels of land, viz: north of 962, east of 1015, south of 1062, west of 1092, and south of 1039; to which William Thornton does now solemnly protest, thinking the board have assumed a power not delegated by the President.

N. B.—These squares *were divided*, but the board consented to let them remain unsigned for the present.

D.

CITY OF WASHINGTON, May 31, 1799.

Sir:

Finding that the board of commissioners were exceedingly urged by Mr. George Walker to lay off and divide certain small portions of ground within the lines of his property, between the intersection of various avenues and streets, which do not appear in the general plan of the city to have ever been designed for private occupancy, and, perceiving the board were disposed to adopt the proposal, I declared the measure expressly contrary to the intention of the late President of the United States, and accordingly wrote a formal protest, setting forth the injury that the city would sustain by admitting a principle which would induce every proprietor to make similar claims, and requested that the board would not sanction the divisions, by signature, until the opinion of the late President should be fully known; if any hesitation remained on the minds of my colleagues, after the perusal of your letters of the 26th December, 1796, and the 27th of February, 1797. Those letters explain clearly, in my opinion, the sentiments I have repeatedly heard you express; but, lest your meaning may be misconstrued, in a point so essential to the future benefit of the city, I request you will pardon me for making so free as to solicit a further declaration of your former opinions, if they can be more explicit. There is, perhaps, one point that may be considered as omitted. I mean the declaration of those portions as appropriations; for although many of them are very small, not containing a standard lot, and, if occupied by private individuals, might justly be considered as nuisances; yet, if appropriated to public use, they would not only be highly useful, but also ornamental, as they would serve for churches, temples, infirmaries, public academies, dispensaries, markets, public walks, fountains, statues, obelisks, &c.; and, if the whole were to be paid for as appropriations, they amount to only three hundred and eighty-one thousand six hundred and eighty-three square feet, or eight acres, at £25 making £200. The only doubt remaining on the minds of the commissioners relative to these portions of ground, was the power of non-insertion; but it appears to me that their not having been inserted, leaves them exactly in the same predicament as the other portions of the city intended for appropriations, but neither yet expressly designated as appropriations, nor even as reservations. They may be considered as reservations, because the points of squares have been cut off, and these latter, therefore, are rendered, by your declaration of 26th of December, 1796, subject to payment, and consequently to public appropriation. If no objection can be made to this, which, indeed, is warranted by the deeds of trust, surely less validity must be given to objections against the adoption of areas, heretofore considered only as streets which, by adoption, will be paid for and rendered highly useful and ornamental. If any objection can arise, it has been justly observed in your letter, last quoted, that they might with equal propriety ask payment for the streets, for these spaces differ in nothing from the avenues but in extent, and every avenue might, by a parity of claim, be reduced to a street, or be charged to the public.

No individual has ever contended for the insertion of these irregular portions, except Mr. George Walker; but the principle being admitted, the right will be universally claimed. Many have sold lots fronting on these open spaces; the map of the city has been published without them; and complaints of injustice will certainly be made by persons who have already purchased, if these spaces be filled up by private lots; besides, these insertions not accompanying the maps now dispersed, strangers might be liable to continual impositions, by purchasing lots apparently on open areas on the map, but in reality only fronting stables or greater nuisances; for these lots are too small to admit of houses all round and conveniences within; so that it appears not only against *the plan of the city* to insert them, (unless for public appropriations, which I should advocate,) but it would be highly unjust to individuals, as well those who may purchase, as those who have become proprietors; and it would materially injure the convenience of the city, by occupying, for private purposes, those places so easy of access and so necessary for the public.

I have the honor to be, sir, with sincere regard, your very respectful friend, &c.,

WILLIAM THORNTON.

General WASHINGTON.

E.

SIR:

FEDERAL CITY, June 1, 1799.

In replying to your favor of yesterday's date, I must beg leave to premise, that when I left the chair of Government, it was with a determination not to intermeddle in any public matter which did not immediately concern me; and that I have felt *no disposition since* to alter this determination.

But as you have requested that I would give you my ideas on a certain point which seems to have occupied the attention of the board of commissioners, and on which I presume my letters to that body (whilst I had the honor to administer the Government) have not been so clear and explicit as it was my intention to be, I have no hesitation in declaring (unless I have *entirely* forgotten all recollection of the fact) that it has always been my invariable opinion, and remains still to be so, that no departure from the *engraved* plan of the city ought to be allowed, unless imperious necessity should require it, or some great public good is to be promoted thereby.

Minor considerations contribute to this opinion; but the primary, and to my mind an unanswerable one, is, that after the original plan (with some alterations) had been adopted, ordered to be engraved and published, and was transmitted to *several* if not to *all* our public agents abroad, for the purpose of inviting purchasers, it would, for reasons too obvious and cogent to require illustration, be deceptive to lay off lots for *private purposes*, where none appeared in a plan which was intended to inform, aid, and direct the judgment of foreigners, and others, who could not on the premises make a choice.

It is not difficult to form an opinion of the ways of thinking and views of others by one's own, under similar circumstances; I shall declare, then, without reserve, that if I had made choice of a site for a house on an open area in the published map, occasioned by the intersection of avenues, and an angle thereof should afterwards be filled up in a manner I might not approve, I should not scruple to complain of both the deception and injury.

But I am straying from my purpose, which was no more than simply to say, (if I am not, as before mentioned, greatly forgetful,) that I have never had but one opinion on this subject, and that is, *that nothing ought to justify a departure from the engraved plan, but the probability of some great public benefit, or unavoidable necessity.*

With great esteem and regard, I am, sir, your most obedient servant,

GEORGE WASHINGTON.

WILLIAM THORNTON, Esq.

7th CONGRESS.]

No. 158.

[2d SESSION.]

## DISQUALIFICATION OF JOHN P. VAN NESS, A REPRESENTATIVE FROM THE STATE OF NEW YORK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 11, 1803.

Mr. BACON, from the Committee of Elections, who were instructed, by a resolution of the House of the 29th ultimo, "to inquire whether John P. Van Ness, one of the members of this House from the State of New York, returned by said State to serve as one of its members in the seventh Congress of the United States, has not, since his election as a member of this House, and since he occupied a seat as a member, accepted of and exercised the office of a major of militia under the authority of the United States, within the Territory of Columbia, and thereby forfeited his right to a seat as a member of this House," made the following report:

That, from the free concession and agreement of the said member, it appears to your committee that he has accepted and exercised the office of a major of the militia under the authority of the United States, within the Territory of Columbia; and that a paragraph in the sixth section of the first article of the constitution, which expressly provides, that no person holding *any* office under the United States shall be a member of either House, during his continuance in office, does, in the opinion of your committee, render the acceptance and exercise of the office aforesaid incompatible with the holding, at the same time, of a seat in this House.

Your committee, therefore, ask leave to submit to the House the following resolution, to wit:

*Resolved*, That John P. Van Ness, one of the members of this House, having accepted and exercised the office of major of militia under the authority of the United States within the Territory of Columbia, hath thereby forfeited his right to a seat as a member of this House.

7th CONGRESS.]

No. 159.

[2d SESSION.

## CITY OF WASHINGTON.

COMMUNICATED TO CONGRESS, JANUARY 25, 1803.

*Gentlemen of the Senate and of the House of Representatives:*

JANUARY 24, 1803.

I transmit a report by the superintendent of the city of Washington on the affairs of the city committed to his care. By this you will perceive that the resales of lots prescribed by an act of the last session of Congress did not produce a sufficiency to pay the debt to Maryland, to which they were appropriated; and, as it was evident that the sums necessary for the interest and instalments due to that State could not be produced by a sale of the other public lots, without an unwarrantable sacrifice of the property, the deficiencies were of necessity drawn from the treasury of the United States.

The office of surveyor for the city, created during the former establishment, being of indispensable necessity, it has been continued; and to that of the superintendent, substituted instead of the board of commissioners, at the last session of Congress, no salary was annexed by law. These offices being permanent, I have supposed it more agreeable to principle that their salaries should be fixed by the Legislature, and therefore have assigned them none. Their services to be compensated are from the 1st day of June last.

The marshal of the District of Columbia has, as directed by law, caused a jail to be built in the city of Washington. I enclose his statements of the expenses already incurred, and of what remains to be finished. The portion actually completed has rendered the situation of the persons confined much more comfortable and secure than it has been heretofore.

TH: JEFFERSON.

SIR:

SUPERINTENDENT'S OFFICE, WASHINGTON, *December 20, 1802.*

Pursuant to the sixth section of the act of Congress of last session entitled "An act to abolish the board of commissioners in the city of Washington, and for other purposes," and under your direction of the 16th of June last, I proceeded, with all possible diligence, to prepare a statement of all the lots of the description in the said section mentioned; and on the 19th of that month advertised the same for sale on the 30th day of August then next ensuing; which advertisement was published according to law; and on the day appointed the said sale commenced, and was continued, by adjournment, until the 29th day of October last; during which time the whole of the said lots were sold, and produced the sum of \$26,848 10; of which I paid away, agreeably to the fourth section of the above-recited act of Congress, the sum of \$2,249 03, (together with \$2,563 85, which arose out of other funds of the city,) for debts which had been contracted by the late commissioners, in their capacity as such, the payment whereof was not specially provided for by the aforesaid act of Congress; and the balance, to wit, \$24,599 07, was applied, as directed by the said act of Congress, towards the payment of the loan of \$50,000 by the State of Maryland.

It may not be improper here to mention that very few, if any, of these lots produced, by the resale thereof, the amount of the original purchase money due thereon; that the deficiency is very considerable, and that it is not probable the debtors will be able to pay more than about \$10,000 thereof. Some, however, who are deemed able to pay, contend that they cannot be compelled to make payment, because, they say, the act of the Maryland Legislature of 1793, chap. 53, which authorizes a resale in case of default in payment, does not admit of reselling more than once; and that, if the power of resale be exercised, the original purchaser is not bound for any deficiency, as the public or city agent had a choice of two remedies, to wit, a suit or release; and, having elected to resell, they have not a right to use both remedies, and to resort to a suit for the deficiency. This doctrine is particularly insisted on in the case of an endorser of the note of a deceased purchaser, at a resale; in which case a second resale has been made, and a considerable deficiency has in consequence happened. The endorser now says he is ready and willing to pay the amount due on the lots, as purchased by his principal, upon the same being conveyed for his indemnity. Before I adopt any compulsory measure on this subject, I have supposed it to be proper to submit the circumstances for the consideration and opinion of the proper law officer, and to pray the instructions of the President in the premises.

The number of lots which were thrown into the market at the public sale, directed by the act of Congress before recited, being much greater than the demand, and the positive and unconditional obligation imposed by that act of Congress to sell the whole of them within a limited time, not only subjected those lots to great sacrifices and disadvantages in the sale thereof, but has also materially injured the private sales of all the other public lots, in the sale of which the President might exercise his discretion. Of this description of lots, however, I have sold five, which have produced \$1,531 43, cash.

In my accounts from 1st June last to the 1st ultimo, prepared for the Treasury Department, it appears that, in addition to the receipts and expenditures hereinbefore stated, I have received—

From the late board of commissioners, being the balance which remained in their hands when the commission ceased, 1st June last,	\$ 110 59
For lots purchased prior to 6th May, 1796, voluntarily paid by the purchasers before the public sale on 30th August last,	1,274 28
For balance of purchase money for lots sold by the commissioners since 6th May, 1796,	109 93
And from sundry persons, for small balances which were due to the city on accounts other than for lots sold,	320 73
Making	<u>\$1,815 53</u>

Which has been expended as follows, viz: \$374 60 for expenses attending the aforesaid public sale of lots; and \$408 51 for other expenses necessarily incurred in the execution of the duties of the office of superintendent; the balance, to wit, \$1,032 42, is included in the sum of \$2,563 85, hereinbefore stated to have been paid for debts contracted by the commissioners.

The receipts and expenditures since 1st ultimo amount to \$36 80 only.

The debts now due to the city, and considered as good, exclusive of the deficiencies on the lots resold for default of payment, amount to upwards of \$13,000. Of these deficiencies it is thought (as is before stated) the debtors will be able to pay about \$10,000. The property of the city, (besides the debts,) as stated in the repre-

sentations of the late commissioners to the President, on 28th January, 1801, and 4th December, 1801, estimating the lots at the average prices of those previously sold under the condition of improvement, (which were much lower than the unconditional sales by individuals,) amounted to \$884,819 88, out of which lots have been since sold to the amount of \$9,886 24 only, for about the prices at which they were estimated.

Besides the debts and property before mentioned, there is due to the city (including interest) upwards of \$100,000; \$80,000 (principal) whereof is for the one thousand lots mentioned in the commissioners' representations to have been conveyed to Messrs. Morris and Greenleaf, under the circumstances therein particularly detailed, and concerning which a bill has been filed in the high Court of Chancery of the State of Maryland. The balance, between 4 and \$5,000 principal, is due for valuable water lots, originally bought by James Greenleaf, and resold in the usual manner for default of payment, and for which the second purchaser has always been ready to pay the purchase money, but has been prevented by an injunction of the Chancellor of Maryland, on a bill filed by Mr. Greenleaf's trustee. This bill, as well as that filed with regard to the one thousand lots, is still pending, and the counsel for the city are of opinion the decisions in both cases will be favorable to the public interest.

The debts due and to become due from the city (except for the advances from the Treasury of the United States, and the two loans by the State of Maryland, of \$100,000 each) are very inconsiderable; and it is hoped that the large fund hereinbefore stated (by the future sales of the property being made commensurate only with the demand therefor, agreeably to the provision contained in the 5th section of the before-recited act of Congress) will not only be adequate to the indemnity of the Government for its liberal patronage, but will also yield a surplus for the use of the city.

The state of the public buildings, directed to be reported, is the same as at the last session of Congress, or not materially changed. The private buildings, then seven hundred and thirty-five in number, have since increased a few more than one hundred.

The before-mentioned representations of the commissioners in January and December, 1801, and the documents accompanying them, which were laid before Congress, being very full and minute on the affairs of the city, prior to their respective dates, I beg leave to refer to them; but if there be any thing which you, sir, deem necessary, and which those representations and the present do not embrace, it will afford me much pleasure to communicate it.

I have the honor to be, with sentiments of the greatest respect, sir, your most obedient servant,

THOMAS MUNROE.

The PRESIDENT OF THE UNITED STATES.

SIR:

WASHINGTON, *January 21, 1803.*

I now enclose you the account and copies of the contract and bill of particulars respecting the jail directed at the last session of Congress to be built in this city.

Although every effort was made to complete the plan adopted for the sum appropriated, it could not be done; it was then determined to finish only certain parts of the building, and to keep the amount for such as should be finished within the appropriation. Messrs. Huddleston and Nesmith contracted to complete all the building except the interior of the west wing and the iron grated doors, which were at first contemplated to be put in for the sum of \$7,426; and Mr. George Hadfield, whose plan was adopted, was appointed to superintend the erection of the building. An estimate of the sum necessary to complete the west wing in the same manner as the east wing is herewith transmitted, which amounts to the sum of \$2,577, leaving out all the iron grated doors. If a kitchen should be built, (and one is absolutely necessary,) the further sum of about \$300 will be wanted.

The contractors have completed their work, except a few articles, which will be done. In the sixth article of the contract, it is stipulated, that such alterations or additions to the mode of building the jail as could not be adjusted by the parties, were to be left to reference; some alterations were considered as proper, and directed by the superintendent, and one respecting the cell doors was directed by me. The contractors claim for extra work the sum of \$1,098; on this subject, however, there is a considerable difference between the superintendent and them. They claim for many things as extra work which he does not admit to be extra. There is also a difference of opinion between them on the amount of the deduction that ought to be made in the iron work. If he is correct in his opinion, there remains the sum of \$449 for extra work only to be examined, which will be seen by a reference to his letter to me, a copy of which is sent. The contractors, under the sixth article of the contract, claim a right of reference upon those subjects. If all these claims should be established, and Congress determine to finish the jail and build the kitchen, the sum of \$3,702 66, in addition to the sum of \$272 34 of the sum appropriated, which is in hand, will be requisite.

When I appointed Mr. Hadfield the superintendent, I agreed to give him for his services the sum of \$200, and this is the amount of his claim against me; but he states that he thinks this sum too small a compensation for his trouble. He has, in drawing plans, making out bills of particulars and estimates, and superintending the work, been closely engaged for seven months, so that two dollars per day for his services cannot be thought unreasonable; and I must do Mr. Hadfield the justice to say, that I think the sum of \$200 is not a sufficient compensation for his trouble, and I believe he has been very attentive. If it should be thought proper to come up to Mr. Hadfield's idea, the sum of \$220 more will be wanted on his account.

With sentiments of the highest respect, I am, sir, your obedient servant,

DANIEL C. BRENT.

The PRESIDENT.

SIR:

CITY OF WASHINGTON, *January 19, 1803.*

The new jail is now ready for your reception, as completed agreeable to contract, except in a few articles, which the present season has prevented being done, and which, by agreement, may be finished at any future period; for which purpose I shall note them hereafter. The building, I presume, is executed throughout with fidelity to the contract; the execution is plain, but the work is strong, substantial, and firm.

An expense for some extra articles has unavoidably accrued, either for work which has been thought greatly advantageous to the building, or other contingencies not to be foreseen but during the progress of a building; in consequence of which, and also of a clause in the contract providing for additional work, the contractors bring in an extra claim of \$962; \$253 of which I reject as unfounded; the remainder \$709 are for iron work, and other articles ordered for reasons as above mentioned; a deduction in your favor must be made for the omission of the iron frames, which I calculate ought not to amount to less than \$260; in which case the remaining sum for extras to be examined would be \$449.

I presume, sir, that if you approve of the building, you might receive it, and close the contract with the undertakers, to prevent delay, leaving the business of extra claims to any time afterwards.

I remain your obedient servant,

D. C. BRENT, Esq.

GEORGE HADFIELD.

*Articles to be completed by agreement.*—Painting of cornice on the north side and two ends; pointing in slating; finishing; painting inside and outside bars; fixing grate in jailer's room, and repairing whatever plastering that may have been injured by the frost.

There is another claim from Maitland, which has been given in, amounting to fifty-two pounds four shillings, which is positively inadmissible.

G. H.

*Estimate of the expense necessary for finishing the interior of the west side of the new jail in the city of Washington.*

Digging foundation, and removing the earth, - - -	\$34 00
All rough stone work, materials and labor included, - - -	565 00
All brick work, materials and labor included, - - -	286 00
All plastering, materials and labor included, - - -	96 00
All freestone work and lead, stone not included, - - -	301 00
Finishing pediment, - - -	13 00
All carpentry and joinery materials, and labor included, - - -	700 00
All iron work, - - -	502 00
Clearing away the rubbish from the south side and the ends, - - -	80 00
	\$2,577 00

GEORGE HADFIELD.

CITY OF WASHINGTON, January 18, 1803.

N. B. Iron grated doors in this estimate are not included; nor is the kitchen, which, if built, will cost about \$300.

Dr. *United States in account with Daniel Carroll Brent, marshal of the District of Columbia,* Cr.

Dates.	To whom paid.	Amount.	Dates.	To whom paid.	Amount.
1802.			1802.		
July 26,	To payment to Huddleston & Nesmith, - - -	\$1,875 00	Aug. 20,	By warrant on the Treasurer, - - -	\$4,000 00
Aug. 12,	To cash to Robert King, Jun. for surveying ground, - - -	6 00	Oct. 12,	By warrant on the Treasurer, - - -	1,800 00
Sept. 25,	To cash for second payment to Huddleston & Nesmith, - - -	1,875 00		By balance of appropriation, not yet drawn, - - -	2,300 00
Oct. 12,	To cash for third payment to Huddleston & Nesmith, - - -	1,875 00		- - -	- - -
Oct. 13,	To cash to George Hadfield, superintendent, - - -	50 00		- - -	- - -
Oct. 13,	To cash to George Hadfield, superintendent, - - -	50 00		- - -	- - -
Nov. 11,	To Henry Skam, for making pump, - - -	33 00		- - -	- - -
Nov. 11,	To James Maitland, for bricks and walling well, - - -	32 66		- - -	- - -
1803.				- - -	- - -
Jan. 20,	To Geo. Hadfield, superintendent, - - -	70 00		- - -	- - -
Jan. 20,	To Huddleston & Nesmith, fourth payment, - - -	1,801 00		- - -	- - -
Jan. 20,	To balance due the superintendent, - - -	30 00		- - -	- - -
Jan. 20,	To advertising bills, not come in, (supposed) - - -	30 00		- - -	- - -
Jan. 20,	To balance in my hands, - - -	272 34		- - -	- - -
		\$8,000 00		- - -	\$8,000 00

By balance in my hands, \$272 34

(Errors excepted.)

DANIEL C. BRENT.

WASHINGTON, January 21.

7th CONGRESS.]

No. 160.

[2d SESSION.

## JUDGES REMOVED FROM OFFICE BY LEGISLATION.

COMMUNICATED TO THE SENATE, JANUARY 28, 1803.

Mr. MORRIS, from the committee to whom was referred the memorials of Judges Richard Basset, Egbert Benson, Benjamin Bourne, William Griffith, Samuel Hitchcock, Philip B. Key, C. Magill, Jeremiah Smith, G. K. Taylor, William Tilghman, and Oliver Wolcott, made the following report:

That the petitioners were judges of certain courts, inferior to the Supreme Court, constituted by an act of the 13th of February, 1801, and duly commissioned to hold their offices during good behavior.

That while holding and exercising their offices, an act was passed on the 8th of March last, to repeal the said act of the 13th of February, 1801, and transfer the duties of the said judges from them to others.

That a question has arisen, whether by reason of the premises, the said petitioners be deprived of their offices.

That this question, depending on the construction of the laws and constitution of the United States, is not properly cognizable by the Senate.

Your committee, therefore, conceive it improper either to give reasons or express opinions. But they consider it as a question of high and serious import, and believe that a speedy investigation and final decision is of great moment to the commonwealth.

Wherefore they submit the following resolution:

*Resolved*, That the President of the United States be requested to cause an information, in the nature of a *quo warranto*, to be filed by the Attorney General against Richard Bassett, one of the said petitioners, for the purpose of deciding judicially on their claims.

*To the honorable the Senate and House of Representatives of the United States, in Congress assembled: The undersigned most respectfully submit the following representation and memorial:*

By an act of Congress, passed on the 13th day of February, in the year of our Lord one thousand eight hundred and one, entitled "An act to provide for the more convenient organization of the courts of the United States," certain judicial offices were created, and courts established, called circuit courts of the United States.

In virtue of appointments made under the constitution of the United States, the undersigned became vested with the offices so created, and received commissions authorizing them to hold the same, with the emoluments thereunto appertaining, during their good behavior.

During the last session, an act of Congress passed, by which the above-mentioned law was declared to be repealed; since which no law has been made for assigning to your memorialists the execution of any judicial functions, nor has any provision been made for the payment of their stipulated compensations.

Under these circumstances, and finding it expressly declared in the constitution of the United States, that "the judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office," the undersigned, after the most deliberate consideration, are compelled to represent it as their opinion, that the rights secured to them by the constitution, as members of the judicial department, have been impaired.

With this sincere conviction, and influenced by a sense of public duty, they most respectfully request of Congress to review the existing laws which respect the offices in question; and to define the duties to be performed by the undersigned, by such provisions as shall be consistent with the constitution, and the convenient administration of justice.

The right of the undersigned to their compensations they sincerely believe to be secured by the constitution, notwithstanding any modification of the judicial department, which, in the opinion of Congress, public convenience may recommend. This right, however, involving a personal interest, will cheerfully be submitted to judicial examination and decision, in such manner as the wisdom and impartiality of Congress may prescribe.

That judges should not be deprived of their offices or compensations, without misbehavior, appears to the undersigned to be among the first and best established principles in the American constitutions; and in the various reforms they have undergone it has been preserved and guarded with increased solicitude.

On this basis the constitution of the United States has laid the foundation of the judicial department, and expressed its meaning in terms equally plain and peremptory.

This being the deliberate and solemn opinion of the undersigned, the duty of their stations requires that they should declare it to the Legislative body. They regret the necessity which compels them to make the representation; and they confide that it will be attributed to a conviction that they ought not voluntarily to surrender rights and authorities intrusted to their protection, not for their personal advantage, but for the benefit of the community.

7th CONGRESS.]

No. 161.

[2d SESSION.

## STATE OF OHIO.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 2, 1803.

Mr. RANDOLPH, from the committee to whom were referred a letter from Edward Tiffin, president of the convention of the State of Ohio, and a letter from Thomas Worthington, special agent of the said State, enclosing the constitution thereof, together with sundry propositions in addition to, and in modification of, those contained in the act, entitled "An act to enable the people of the eastern division of the Territory northwest of the river Ohio to form a constitution and State Government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes," made the following report:

That the ordinance for ascertaining the mode of disposing of land in the Western Territory, passed by Congress on the 20th day of May, 1785, establishes the principle of reserving one thirty-sixth part of the lands sold for the use

of schools. That to this principle, equally liberal and wise, your committee believe it a sound policy to adhere, and to extend it wherever practicable. They are aware of the objection that the right of soil in the tract of country commonly called the Connecticut reserve, having been ceded by Congress without any valuable consideration, and no reservation having been made for the support of schools therein, the inhabitants of that portion of the State of Ohio have not equal claims on the bounty of Congress with those who, having purchased their lands of the United States, have contributed large sums to the public treasury. But if it be recollected that the actual settlers are not, generally, those that have been enriched by that *extraordinary* donation, but purchasers under them, and at prices, it is believed, not inferior to those received for the public lands, and that whilst they are burdened with their full proportion of their expense of the State Government, they are cut off from an equal participation of the benefits enjoyed by their fellow-citizens; when, moreover, it is considered that the provision for schools embraces not the emolument of individuals, but the interests of morality and learning, the committee are of opinion that Congress will perceive the propriety of acceding to a proposition, the tendency of which is to cherish and confirm our present happy political institutions and habits. This last consideration applies equally to the United States' military tract, to the military reservation of Virginia, and to lands which may hereafter be acquired from the Indian tribes.

No objection suggests itself, why the lands which are or may be appropriated for the use of schools within the State of Ohio should not be vested in the Legislature of that State, in trust for that purpose.

The appropriation offered in the third proposition of the act enabling the people within the limits of the present State of Ohio to become a co-equal member of the Union, originating in the belief that it would at once enhance the value of the public lands, and cement more strongly together the various interests of the confederacy, it is believed that these desirable objects will be equally promoted by applying a portion of the proceeds (so offered to be appropriated) to the opening and repairing roads within the State of Ohio.

The provision contained in the sixth section of the seventh article of the constitution of the State of Ohio, respecting the northern boundary of that State, depending on a fact not yet ascertained, and not being submitted in the shape of the other propositions from the convention to Congress, the committee have thought it unnecessary to take it at this time into consideration.

In relation to the grant to John Cleves Symmes and his associates, of one complete township, in trust, for the use of an academy and other seminaries of learning, the committee recommend the adoption of a plan suggested by the Secretary of the Treasury, in a letter hereto subjoined, to which they beg leave generally to refer; and they respectfully submit the following resolutions, in addition to, and in modification of, the propositions contained in the act entitled "An act to enable the people of the eastern division of the Territory northwest of the river Ohio to form a constitution and State Government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes," passed the 30th day of April, 1802:

1. *Resolved*, That a donation, equal to one thirty-sixth part of the amount of the lands in the United States' military tract, within the State of Ohio, be made for the support of schools within that tract.

2. *Resolved*, That a donation, equal to one thirty-sixth part of the county of Trumbull, be made out of the lands within the United States' military tract, for the support of schools within the said county of Trumbull.

3. *Resolved*, That a donation, equal to one thirty-sixth part of the Virginia reservation, so far as the unlocated lands within that reservation (after the warrants issued by that State shall have been first satisfied) will supply the same, be made for the support of schools in the district contained between the Scioto and Miami rivers.

4. *Resolved*, That a like provision for the use of schools be made out of any lands which may hereafter be acquired from the Indian tribes.

5. *Resolved*, That the lands which now are, or hereafter may be, appropriated to the use of schools within the State of Ohio, be vested in the Legislature thereof, in trust for that object.

6. *Resolved*, That not less than three-fifths of the sum offered to be appropriated by Congress for the opening of roads from the western to the Atlantic waters, shall be appropriated under the direction of the State of Ohio, for the laying out of roads within that State.

7. *Resolved*, That in lieu of the township proposed to be granted for the use of an academy, by the act passed the 5th day of May, 1792, there be granted to the State of Ohio, for the purposes described in that act, one other entire township within the district of Cincinnati: provided that the State of Ohio shall relinquish to the United States all their claim, under the act aforesaid, against the said John C. Symmes.

8. *Resolved*, That these propositions shall depend on the compliance by the State of Ohio with the provisions of the third proposition and second section of the aforesaid act, entitled "An act to enable the people of the eastern division of the Territory northwest of the river Ohio to form a constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," passed the 30th day of April, 1802.

SIR:

The committee to whom were referred sundry propositions submitted by the convention of the State of Ohio, to the Congress of the United States, have instructed me to request of you information on the following points:

1. The gross amount of lands comprised within the United States' military tract.

2. Whether, through default of John Cleves Symmes, the intention of the United States to endow an academy or other public school with one entire township, hath been frustrated?

3. How far the purchasers under the aforesaid Symmes are bound to make good the said township, or the value thereof.

4. Whether the United States are bound to furnish an equivalent; and, if not,

5. How far it may be a matter of policy to comply with the proposition of the convention on that subject.

And such other information touching those propositions, generally, which the Secretary of the Treasury may deem expedient to lay before the committee.

With perfect consideration, I am, sir, yours,

JOHN RANDOLPH, JUN. *Chairman of the Committee.*

ALBERT GALLATIN, *Secretary of the Treasury.*

SIR:

TREASURY DEPARTMENT, *January 13, 1803.*

The gross amount of lands within the United States' military tract is computed at two million five hundred and thirty-nine thousand one hundred and ten acres; one thirty-sixth part of which, if appropriated for schools in conformity to the proposition of the convention of the State of Ohio, will amount to seventy thousand five hundred and thirty-one acres. The grants already made within that tract amount to one million eighty-one thousand

two hundred and seventy acres, which, supposing the school appropriation to take place, will leave one million three hundred and eighty-seven thousand three hundred and nine acres therein for the future disposition of Congress.

If the modifications proposed by the convention shall be acceded to, it will be necessary to define the manner in which the above-mentioned seventy thousand five hundred and thirty-one acres, as well as the sections to be given for the use of schools in those fractional townships containing less than three-fourths of an entire township, and in which the section No. 16 has been disposed of, shall be located. There are but thirty-seven such fractional townships in which that section did exist, and only twelve such sections have been sold. The mode of designating an equal number of sections in lieu thereof is not, therefore, material.

The seventy thousand five hundred and thirty-one acres in the military tract may be designated by directing that as many quarter-townships (which quarters in that tract contain four thousand acres each) as will make up the whole amount, shall be selected by lot; and the same mode may be extended to the designation of the lands which Congress may assign for the use of schools in the Connecticut reserve. But if it shall be thought proper to give an agency in the selection to the State, it will be necessary to limit the time within which that agency shall be exercised, and to provide, in case of failure on their part, for another mode of designating the land.

As the request made by the convention for certain lands in lieu of the township granted to J. C. Symmes and his associates for an academy, is no part of the modifications proposed to the original propositions of Congress, an immediate decision may not be necessary; and it seems proper and just that measures should, in the first place, be taken for the recovery of that township which was granted in trust to J. C. Symmes and his associates, and which, at all events, ought not to be applied to their private use since they did not pay for it. The difficulty, in this case, arises from the following circumstances:

J. C. Symmes had originally applied for two millions of acres, and it had then been contemplated to give him a township for the use of an academy. The contract was, however, made with the Board of Treasury, (in 1787,) by his attorneys Messrs. Dayton and March, for only one million of acres, and no grant or promise of an academy or college township was inserted in it.

In 1792, Congress directed that a township for that purpose should be included in the grant of lands to be made to said Symmes and his associates; and a patent accordingly issued, under date of 30th September, 1794, for a tract containing three hundred and eleven thousand six hundred and eighty-two acres, reserving five sections in each township for certain purposes; and further declaring, "that one complete township, or tract of land of six miles square, to be located with the approbation of the Governor for the time being of the Territory northwest of the river Ohio, and within the term of five years, as nearly as may be, in the centre of the tract herein granted, has been and is granted, and shall be holden in trust to and for the sole and exclusive intent and purpose of erecting and establishing therein an academy and other public schools and seminaries of learning, and endowing and supporting the same, and to and for no other use, intent, or purpose whatever."

At the time when the patent was granted there was, as Mr. Symmes states, but one entire township within its bounds; some sections having been sold in every other township because he had not contemplated such reservation, and that one entire township remained so, only because it had been reserved by Mr. Symmes for himself and his associates. He applied, in 1798, to Governor St. Clair, in order to obtain his approbation to the location of that township, in conformity to the words of the patent. Although there does not really appear to have existed any other unsold township at the time, the Governor refused his assent, because that offered was, in his opinion, of inferior quality, and not in the centre of the patent, and because a part of it was claimed by Elias Boudinot, one of Judge Symmes's associates. Since that time, it is understood that one half of that township has been sold under judgments obtained against Mr. Symmes; the other undivided half is said to be still claimed by Mr. Boudinot under articles of agreement, dated before the date of the contract of Mr. Symmes with the Board of Treasury; and by which the last-mentioned person agreed that he would, after he had received a title from the United States, convey to Mr. Boudinot, as his associate in the intended purchase, a part of the same.

As the patent is in the name of J. C. Symmes and his associates, it is not believed that the claim of any of the associates, as such, can affect the title of the public against them as trustees; but in what manner they shall be compelled to execute the trust is the question to be decided.

Perhaps Congress, at the same time that they shall direct legal measures to be taken for the recovery and due application of the land, might provide, that, if J. C. Symmes and his associates shall pay to the United States the original purchase money (two-thirds of a dollar per acre) for that township, with interest from the date of the patent, they shall be released from the execution of the trust, and the township confirmed to them for their own use; and they might also designate another entire township in the Cincinnati district, and as near to the Miami and Ohio as practicable, to be given in lieu of the other, in case either this should not be recovered, or J. C. Symmes and his associates should pay for it on the above-mentioned terms.

Permit me to suggest, here, the propriety of opening a land office for the sale of all the remaining lands in the military tract, and also to repeal those parts of the general land law which forbid the sales of certain sections throughout the whole extent of the lands of the United States, except so far as relates to the school sections and to the sections reserved for religious purposes in the lands sold prior to the law of the 18th May, 1796. The plan of reserving some sections in each township for the purpose of giving to the public a share in the increasing value of lands, originated at a time when lands were sold by the United States at a lower rate and in large tracts.

The present mode of disposing of the public lands, as under it none are sold until they have attained the value of two dollars per acre, effects the same object, and renders the reservation useless. No further precaution seems necessary in relation to that object, than to order a public sale of those reservations before they shall be offered on the usual terms.

The part of the military tract which shall remain for future disposition may be divided into sections and half-sections, and a land office opened at Zanesville, for the sale both of those lands and of those lying north of the Ohio Company purchase, which now belong to the Marietta district. The sales have been so inconsiderable in that district that little doubt remains that the place selected for the land office was not the most proper. It is, however, suggested that the sales would be eventually promoted in that and in all other districts, by permitting the sale of fractional sections, without being attached to the adjoining entire section.

There is another circumstance which, though of inferior importance, seems to merit some consideration.

The price at which Congress sell their lands is advantageous to the population and prosperity of the State of Ohio. It has effectually destroyed the monopoly of lands, and throws the land exclusively in the hands of actual settlers; yet it is considered as high; and, on that account, the payment of fees, in addition to the purchase money, is generally complained of. This objection should be removed, by giving to the registers a small salary or commission in lieu of their fees. About \$500 a year to each, that of Marietta excepted, would be, I believe, a sufficient compensation, in addition to the half per cent. commission which they receive on moneys entered.

I have the honor to be, very respectfully, sir, your obedient servant,

ALBERT GALLATIN.

The Hon. JOHN RANDOLPH, Esq.,

Chairman of the Committee to whom were referred the constitution and sundry propositions submitted by the State of Ohio.



HONORED SIR:

CHILICOTHE, (N. W. T.) *December 4, 1802.*

Enclosed you will receive an address from the convention lately convened at this place, for the purpose of forming a constitution and State Government, for the seventeenth State of United America, and which has been made my duty to enclose to you, to be communicated to the honorable body over which you preside.

With every sentiment of respect, I have the honor to be, sir, your most obedient servant,

EDWARD TIFFIN.

The Honorable the SPEAKER of the *House of Representatives of the United States.*

*Address to the President and both Houses of Congress of the United States.*

The convention of the State of Ohio, duly appreciating the importance of a free and independent State Government, and impressed with sentiments of gratitude to the Congress of the United States for the prompt and decisive measures taken at their last session, to enable the people of the Northwestern Territory to emerge from their Colonial Government, and to assume a rank among the sister States, beg leave to take the earliest opportunity of announcing to you this important event.

On this occasion, the convention cannot help expressing their unequivocal approbation of the measures pursued by the present administration of the General Government and of both Houses of Congress, in diminishing the public burdens, cultivating peace with all nations, and promoting the happiness and prosperity of our country.

*Resolved*, That the president of this convention do enclose to the President of the United States, to the President of the Senate, and to the Speaker of the House of Representatives of the United States, the foregoing address.

Done in convention, at Chillicothe, the 27th day of November, 1802.

EDWARD TIFFIN, *President of the Convention.*  
THOMAS SCOTT, *Secretary.*

PROPOSITIONS, &c.

We, the representatives of the people of the eastern division of the Territory northwest of the river Ohio, being assembled in convention pursuant to an act of Congress, entitled "An act to enable the people of the eastern division of the Territory northwest of the river Ohio to form a constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes:" and, having had under our consideration the propositions offered by the said act, for our free acceptance or rejection, do resolve to accept of the said propositions, provided the following addition to and modification of the said propositions shall be agreed to by the Congress of the United States, viz:

That, in addition to the first proposition, securing the section No. 16, in every township within certain tracts, to the inhabitants thereof, for the use of schools, a like donation, equal to the one thirty-sixth part of the amount of the lands in the United States' military tract, shall be made for the support of schools within that tract; and that the like provision shall be made for the support of schools in the Virginia reservation, so far as the unlocated lands in that tract will supply the proportion aforesaid, after the warrants issued from said State have been satisfied; and, also, that a donation of the same kind, or such provision as Congress shall deem expedient, shall be made to the inhabitants of the Connecticut reserve.

That all the lands which may hereafter be purchased of the Indian tribes by the United States, and lying within the State of Ohio, the one thirty-sixth part shall be given, as aforesaid, for the support of public schools.

That all lands before mentioned to be appropriated by the United States for the support of schools shall be vested in the Legislature of this State, in trust, for said purpose.

That not less than three per cent. of the nett proceeds of the lands of the United States lying within the limits of the State of Ohio, sold and to be sold after the 30th day of June last, shall be applied in laying out roads within the State, under the direction of the Legislature thereof.

And if the Congress of the United States shall agree to the above addition to and modification of the said propositions, it is hereby declared and ordained, that every and each tract of land sold or to be sold by Congress, from and after the 30th day of June last, shall be and remain exempt from any tax laid by order or under the authority of this State, whether for State, county, township, or any other purpose whatever, for the term of five years after the day of sale, to be reckoned from the date of certificate of the first quarterly payment.

That whereas Congress, by a law entitled "An act authorizing the grant and conveyance of certain lands to John Cleves Symmes and his associates," passed the 5th day of May, 1792, did authorize the President of the United States to convey, by letters patent, unto the said John Cleves Symmes and his associates, their heirs and assigns, a certain tract of land therein described; and did further authorize the President, by the act aforesaid, to grant and convey unto the said John Cleves Symmes and his associates, their heirs and assigns, in trust, for the purpose of establishing an academy and other public schools and seminaries of learning, one complete township, to be included and located within such limits and lines of boundary as the President may judge expedient; and, in pursuance thereof, the President did convey unto the said John Cleves Symmes and his associates, their heirs and assigns, by his letters patent, the aforesaid one complete township, to be located and accepted by the Governor of the Territory northwest of the river Ohio; and, inasmuch as the township aforesaid has never been located and accepted, agreeable to the provision of the said act:

The convention recommend the following propositions to Congress, as an equivalent for the one complete township aforesaid, to wit: The lots numbered 8, 11, and 26, reserved in the several townships for the future disposition of Congress, or so many of the said lots as will amount to the number contained in the aforesaid complete township, to be vested in the Legislature, in trust, to and for the purposes for which the said township was originally intended to be designated by the Legislature of this State.

*Resolved*, That Thomas Worthington be appointed a special agent to lay the aforesaid resolution and propositions before Congress; and that said agent do endeavor to procure the assent of Congress thereto.

Passed in convention, at Chillicothe, the 29th day of November, 1802.

EDWARD TIFFIN, *President of the Convention.*  
THOMAS SCOTT, *Secretary.*

7th CONGRESS.]

No. 162.

[2d Session.

## CONCENTRATION OF THE PUBLIC OFFICES IN THE CITY OF WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 13, 1803.

Mr. DAVIS, from the committee appointed to "inquire into the expediency of concentrating the several public offices and other public buildings belonging to the United States, in the city of Washington," reported:

That, in their opinion, no alteration ought to be made in the sites of the public offices, or other public buildings belonging to the United States, in the city of Washington.

7th CONGRESS.]

No. 163.

[2d Session.

## APPLICATION FOR A SUBSCRIPTION, BY THE UNITED STATES, TO THE STOCK OF THE ALLEGANY TURNPIKE COMPANY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 28, 1803.

Mr. RANDOLPH, from the committee to whom was referred the petition of sundry citizens on the Western waters, who have subscribed for shares in the Allegany turnpike road, praying for the aid and patronage of the United States in the completion of said road, made the following report:

That the United States have, by compact with the State of Ohio, already made provision for opening roads from the Atlantic to the Western waters; that, believing it to be a very questionable policy for the United States to become proprietors of a stock created by the laws of individual States, they respectfully recommend the adoption of the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petition.

8th CONGRESS.]

No. 164.

[1st Session.

## DESCRIPTION OF LOUISIANA.

COMMUNICATED TO CONGRESS, ON THE 14TH OF NOVEMBER, 1803.

NOVEMBER 14, 1803.

*To the Senate and House of Representatives of the United States:*

I now communicate a digest of the information I have received relative to Louisiana, which may be useful to the Legislature in providing for the government of the country. A translation of the most important laws in force in that province, now in the press, shall be the subject of a supplementary communication, with such further and material information as may yet come to hand.

TH: JEFFERSON.

## AN ACCOUNT OF LOUISIANA.

The object of the following pages is to consolidate the information respecting the present state of Louisiana, furnished to the Executive by several individuals among the best informed upon that subject.

Of the province of Louisiana no general map, sufficiently correct to be depended upon, has been published, nor has any been yet procured from a private source. It is, indeed, probable that surveys have never been made upon so extensive a scale as to afford the means of laying down the various regions of a country, which, in some of its parts, appears to have been but imperfectly explored.

## BOUNDARIES.

The precise boundaries of Louisiana, westward of the Mississippi, though very extensive, are at present involved in some obscurity. Data are equally wanting to assign with precision its northern extent. From the source of the Mississippi, it is bounded eastwardly, by the middle of the channel of that river, to the thirty-first degree of latitude; thence, it is asserted upon very strong grounds, that, according to its limits when formerly possessed by France, it stretches to the east as far, at least, as the river Perdido, which runs into the bay of Mexico, eastward of the river Mobile.

It may be consistent with the view of these notes to remark, that Louisiana, including the Mobile settlements, was discovered and peopled by the French, whose monarchs made several grants of its trade, in particular to Mr. Crosat, in 1712, and some years afterwards, with his acquiescence, to the well-known company projected by Mr. Law. This company was relinquished in the year 1731. By a secret convention, on the 3d November, 1762, the French Government ceded so much of the province as lies beyond the Mississippi, as well as the island of New Orleans, to Spain; and, by the treaty of peace which followed in 1763, the whole territory of France and Spain, eastward of the middle of the Mississippi, to the Iberville, thence, through the middle of that river and the lakes Maurepas and Pontchartrain to the sea, was ceded to Great Britain. Spain having conquered the Floridas from Great Britain, during our revolutionary war, they were confirmed to her by the treaty of peace of 1783. By the treaty of St. Ildefonso, of the 1st of October, 1800, His Catholic Majesty promises and engages on his part to cede back to the French republic, six months after the full and entire execution of the conditions and stipulations therein contained, relative to the Duke of Parma, "the colony or province of Louisiana, with the same extent that it actually has in the hands of Spain, that it had when France possessed it, and such as it ought to be after the treaties subsequently entered into between Spain and other States." This treaty was confirmed and enforced by that of Madrid, of the 21st of March, 1801. From France it passed to us by the treaty of the 30th of April last, with a reference to the above clause as descriptive of the limits ceded.

#### DIVISIONS OF THE PROVINCE.

The province as held by Spain, including a part of West Florida, is laid off into the following principal divisions: Mobile, from Balise to the city, New Orleans, and the country on both sides of lake Pontchartrain, First and Second German Coasts, Catahanose, Fourche, Venezuela, Iberville, Galveztown, Baton Rouge, Pointe Coupée, Attakapas, Opelousas, Ouachita, Avoyelles, Rapide, Natchitoches, Arkansas, and the Illinois.

In the Illinois there are commandants at New Madrid, St. Genevieve, New Bourbon, St. Charles, and St. Andrew's, all subordinate to the commandant-general.

Baton Rouge having been made a Government subsequently to the treaty of limits, &c. with Spain, the posts of Manchac and Thompson's creek, or Feliciana, were added to it.

Chapitoulas has sometimes been regarded as a separate command, but is now included within the jurisdiction of the city. The lower part of the river has likewise had occasionally a separate commandant.

Many of the present establishments are separated from each other by immense and trackless deserts, having no communication with each other by land, except now and then a solitary instance of its being attempted by hunters, who have to swim rivers, expose themselves to the inclemency of the weather, and carry their provisions on their backs for a time, proportioned to the length of their journey. This is particularly the case on the west of the Mississippi, where the communication is kept up only by water between the capital and the distant settlements; three months being required to convey intelligence from the one to the other by the Mississippi. The usual distance accomplished by a boat in ascending is five leagues per day. The rapidity of the current, in the spring season especially, when the waters of all the rivers are high, facilitates the descent, so that the same voyage by water, which requires three or four months to perform from the capital, may be made to it in from twelve to sixteen days. The principal settlements in Louisiana are on the Mississippi, which begins to be cultivated about twenty leagues from the sea, where the plantations are yet thin, and owned by the poorest people. Ascending, you see them improve on each side till you reach the city, which is situated on the east bank, on a bend of the river, thirty-five leagues from the sea.

#### CHAPITOULAS, FIRST AND SECOND GERMAN COASTS, CATAHANOSE, FOURCHE, AND IBERVILLE.

The best and most improved are above the city, and comprehend what is there known by the Paroisse de Chapitoulas, Premier and Second Cote des Allemands, and extend sixteen leagues.

Above this begins the parish of Catahanose, or first Acadian settlement, extending eight leagues on the river. Adjoining it, and still ascending, is the second Acadian settlement, or parish of the Fourche, which extends about six leagues. The parish of Iberville then commences, and is bounded on the east side by the river of the same name; which, though dry a great part of the year, yet, when the Mississippi is raised, it communicates with the lakes Maurepas and Pontchartrain, and through them with the sea, and thus form what is called the island of New Orleans. Except on the point just below the Iberville, the country from New Orleans is settled the whole way along the river, and presents a scene of uninterrupted plantations in sight of each other, whose fronts to the Mississippi are all cleared, and occupy on that river from five to twenty-five acres, with a depth of forty; so that a plantation of five acres in front contains two hundred. A few sugar plantations are formed in the parish of Catahanose, but the remainder is devoted to cotton and provisions, and the whole is an excellent soil incapable of being exhausted. The plantations are but one deep on the island of New Orleans, and on the opposite side of the river, as far as the mouth of the Iberville, which is thirty-five leagues above New Orleans.

#### BAYOU DE LA FOURCHE, ATTAKAPAS, AND OPELOUSAS.

About twenty-five leagues from the last-mentioned place, on the west side of the Mississippi, the creek or bayou of the Fourche, called in old maps *La Rivière des Chitamaches*, flows from the Mississippi, and communicates with the sea, to the west of the Balise. The entrance of the Mississippi is navigable only at high water, but will then admit of craft of from sixty to seventy tons burden. On both banks of this creek are settlements, one plantation deep, for near fifteen leagues; and they are divided into two parishes. The settlers are numerous, though poor, and the culture is universally cotton. On all creeks, making from the Mississippi, the soil is the same as on the bank of the river, and the border is the highest part of it, from whence it descends gradually to the swamp. In no place on the low lands is there depth more than suffices for one plantation before you come to the low grounds incapable of cultivation. This creek affords one of the communications to the two populous and rich settlements of Attakapas and Opelousas, formed on and near the small rivers Teche and Vermilion, which flow into the bay of Mexico. But the principal and swiftest communication is by the bayou or creek of Plaquemines, whose entrance into the Mississippi is seven leagues higher up on the same side, and thirty-two above New Orleans. These settlements abound in cattle and horses, have a large quantity of good land in their vicinity, and may be made of great importance. A part of their produce is sent by sea to New Orleans, but the greater part is carried in batteaux by the creeks above mentioned.

#### BATON ROUGE AND ITS DEPENDENCIES.

Immediately above the Iberville, and on both sides of the Mississippi, lies the parish of Manchac, which extends four leagues on the river, and is well cultivated. Above it commences the settlement of Baton Rouge, extending

about nine leagues. It is remarkable as being the first place where the high land is contiguous to the river, and here it forms a bluff from thirty to forty feet above the greatest rise of the river. Here the settlements extend a considerable way back on the east side; and this parish has that of Thompson's creek and bayou Sara subordinate to it. The mouth of the first of these creeks is about forty-nine leagues from New Orleans, and that of the latter two or three leagues higher up. They run from northeast to southwest, and their head waters are north of the thirty-first degree of latitude. Their banks have the best soil, and the greatest number of good cotton plantations, of any part of Louisiana, and are allowed to be the garden of it.

#### POINTE COUPEE AND FAUSSE RIVIERE.

Above Baton Rouge, at the distance of fifty leagues from New Orleans, and on the west side of the Mississippi, is Pointe Coupée, a populous and rich settlement, extending eight leagues along the river. Its produce is cotton. Behind it, on an old bed of the river, now a lake, whose outlets are closed up, is the settlement of Fausse Rivière, which is well cultivated.

In the space now described from the sea, as high as and including the last-mentioned settlement, are contained three-fourths of the population, and seven-eighths of the riches of Louisiana.

From the settlement of Pointe Coupée, on the Mississippi, to Cape Girardeau, above the mouth of the Ohio, there is no land on the west side that is not overflowed in the spring to the distance of eight or ten leagues from the river, with from two to twelve feet of water, except a small spot near New Madrid; so that, in the whole extent, there is no possibility of forming a considerable settlement contiguous to the river on that side. The eastern bank has, in this respect, a decided advantage over the western, as there are on it many situations which effectually command the river.

#### RED RIVER AND ITS SETTLEMENTS.

On the west side of the Mississippi, seventy leagues from New Orleans, is the mouth of the Red river, on whose banks and vicinity are the settlements of Rapide, Avoyelles, and Natchitoches, all of them thriving and populous. The latter is situate seventy-five leagues up the Red river. On the north side of the Red river, a few leagues from its junction with the Mississippi, is the Black river; on one of whose branches, a considerable way up, is the infant settlement of Ouachita, which, from the richness of the soil, may be made a place of importance. Cotton is the chief produce of these settlements; but they have likewise a considerable Indian trade. The river Rouge, or Red river, is used to communicate with the frontiers of New Mexico.

#### CONCORD, ARKANSAS, ST. CHARLES, ST. ANDREW, &c.

There is no other settlement on the Mississippi, except the small one called Concord, opposite to the Natchez, till you come to the Arkansas river, whose mouth is two hundred and fifty leagues above New Orleans. Here there are but a few families, who are more attached to the Indian trade (by which chiefly they live) than to cultivation. There is no settlement from this place to New Madrid, which is itself inconsiderable. Ascending the river, you come to Cape Girardeau, St. Genevieve, and St. Louis, where, though the inhabitants are numerous, they raise little for exportation, and content themselves with trading with the Indians and working a few lead mines. This country is very fertile, especially on the banks of the Missouri, where there have been formed two settlements, called St. Charles and St. Andrew, mostly by emigrants from Kentucky. The peltry procured in the Illinois is the best sent to the Atlantic market, and the quantity is very considerable. Lead is to be had with ease, and in such quantities as to supply all Europe, if the population were sufficient to work the numerous mines to be found within two or three feet from the surface in various parts of the country. The settlements about the Illinois were first made by the Canadians, and their inhabitants still resemble them in their aversion to labor, and love of a wandering life. They contain but few negroes compared with the number of the whites; and it may be taken for a general rule, that, in proportion to the distance from the capital, the number of blacks diminishes below that of the whites; the former abounding most on the rich plantations in its vicinity.

#### GENERAL DESCRIPTION OF UPPER LOUISIANA.

When compared with the Indiana Territory, the face of the country in Upper Louisiana is rather more broken, though the soil is equally fertile. It is a fact, not to be contested, that the west side of the river possesses some advantages not generally incident to those regions. It is elevated and healthy, and well watered with a variety of large, rapid streams, calculated for mills and other water-works. From Cape Girardeau, above the mouth of the Ohio, to the Missouri, the land on the east side of the Mississippi is low and flat, and occasionally exposed to inundations; that on the Louisiana side, contiguous to the river, is generally much higher, and in many places very rocky on the shore. Some of the heights exhibit a scene truly picturesque. They rise to a height of at least three hundred feet, faced with perpendicular *lime* and *free-stone*, carved into various shapes and figures by the hand of nature, and afford the appearance of a multitude of antique towers. From the tops of these elevations the land gradually slopes back from the river, without gravel or rock, and is covered with valuable timber. It may be said, with truth, that for fertility of soil no part of the world exceeds the borders of the Mississippi: the land yields an abundance of all the necessaries of life, and almost spontaneously; very little labor being required in the cultivation of the earth. That part of Upper Louisiana which borders on North Mexico is one immense *prairie*. It produces nothing but grass. It is filled with buffalo, deer, and other kinds of game. The land is represented as too rich for the growth of forest trees.

It is pretended that Upper Louisiana contains in its bowels many silver and copper mines, and various specimens of both are exhibited. Several trials have been made to ascertain the fact; but the want of skill in the artists has hitherto left the subject undecided.

The salt works are also pretty numerous: some belong to individuals; others to the public. They already yield an abundant supply for the consumption of the country, and, if properly managed, might become an article of more general exportation. The usual price per bushel is one dollar and a half in *cash* at the works. The price will be still lower as soon as the manufacture of the salt is assumed by Government, or patronized by men who have large capitals to employ in the business. One extraordinary fact, relative to salt, must not be omitted. There exists, about one thousand miles up the Missouri, and not far from that river, a *salt mountain*. The existence of such a mountain might well be questioned, were it not for the testimony of several respectable and enterprising traders who have visited it, and who have exhibited several bushels of the salt to the curiosity of the people of St. Louis, where some of it still remains. A specimen of the same salt has been sent to Marietta. This mountain is said to be one hundred and eighty miles long, and forty-five in width, composed of solid rock salt, without any trees, or even shrubs on it. Salt springs are very numerous beneath the surface of this mountain, and they flow through the fissures and cavities of it. Caves of saltpetre are found in Upper Louisiana, though at some

distance from the settlements. Four men, on a trading voyage, lately discovered one several hundred miles up the Missouri. They spent five or six weeks in the manufacture of this article, and returned to St. Louis with four hundredweight of it. It proved to be good, and they sold it for a high price.

The geography of the Mississippi and Missouri, and their contiguity for a great length of way, are but little known. The traders assert that, one hundred miles above their junction, a man may walk from one to the other in a day; and it is also asserted that, seven hundred miles still higher up, the portage may be crossed in four or five days. This portage is frequented by traders who carry on a considerable trade with some of the Missouri Indians. Their general route is through Green Bay, which is an arm of Lake Michigan; they then pass into a small lake connected with it, and which communicates with the Fox river; they then cross over a short portage into the Ouisconsin river, which unites with the Mississippi some distance below the falls of St. Anthony. It is also said that the traders communicate with the Mississippi above these falls, through Lake Superior; but their trade in that quarter is much less considerable.

#### CANAL OF CARONDELET.

Behind New Orleans is a canal about a mile and a half long, which communicates with a creek called the bayou St. Jean, flowing into Lake Pontchartrain. At the mouth of it, about two and a half leagues from the city, is a small fort called St. Jean, which commands the entrance from the lake. By this creek the communication is kept up through the lake and the Rigolets to Mobile and the settlements in West Florida. Craft drawing from six to eight feet water can navigate to the mouth of the creek; but, except in particular swells of the lake, cannot pass the bar without being lightened.

#### ST. BERNARDO.

On the east side of the Mississippi, about five leagues below New Orleans, and at the head of the English bend, is a settlement known by the name of the Poblacion de St. Bernardo, or the Terre aux Bœufs, extending on both sides of a creek or drain, whose head is contiguous to the Mississippi, and which flowing eastward, after a course of eighteen leagues, and dividing itself into two branches, falls into the sea and Lake Borgne. This settlement consists of two parishes, almost all the inhabitants of which are Spaniards from the Canaries, who content themselves with raising fowls, corn, and garden-stuff for the market at New Orleans. The lands cannot be cultivated to any great distance from the banks of the creek, on account of the vicinity of the marsh behind them, but the place is susceptible of great improvement, and of affording another communication to small craft of from eight to ten feet draught, between the sea and the Mississippi.

#### SETTLEMENTS BELOW THE ENGLISH TURN.

At the distance of sixteen leagues below New Orleans, the settlements on both banks of the river are of but small account. Between these and the fort of Plaquemines the country is overflowed in the spring, and, in many places, is incapable of cultivation at any time, being a morass almost impassable by man or beast. This small tongue of land extends considerably into the sea, which is visible on both sides of the Mississippi from a ship's mast.

#### COUNTRY FROM PLAQUEMINES TO THE SEA, AND EFFECT OF THE HURRICANES.

From Plaquemines to the sea is twelve or thirteen leagues. The country is low, swampy, chiefly covered with reeds, having little or no timber, and no settlement whatever. It may be necessary to mention here, that the whole lower part of the country, from the English Turn downward, is subject to overflowing in hurricanes, either by the recoiling of the river, or reflux from the sea on each side; and, on more than one occasion, it has been covered from the depth of two to ten feet, according to the descent of the river, whereby many lives were lost, horses and cattle swept away, and a scene of destruction laid. The last calamity of this kind happened in 1794; but, fortunately, they are not frequent. In the preceding year the engineer who superintended the erection of the fort of Plaquemines was drowned in his house near the fort, and the workmen and garrison escaped only by taking refuge on an elevated spot in the fort, on which there were, notwithstanding, two or three feet of water. These hurricanes have generally been felt in the month of August. Their greatest fury lasts about twelve hours. They commence in the southeast, veer about to all points of the compass, are felt most severely below, and seldom extend more than a few leagues above New Orleans. In their whole course they are marked with ruin and desolation. Until that of 1793, there had been none felt from the year 1780.

#### PASSES, OR MOUTHS OF THE MISSISSIPPI.

About eight leagues below Plaquemines the Mississippi divides itself into three channels, which are called the passes of the river, viz: the East, South, and Southwest passes. Their course is from five to six leagues to the sea. The space between is a marsh, with little or no timber on it; but, from its situation, it may hereafter be rendered of importance. The East Pass, which is on the left hand going down the river, is divided into two branches about two leagues below, viz: the Pass à la Loutre, and that known to mariners by the name of the Balise, at which there is a small block-house and some huts of the pilots, who reside only here. The first of these secondary channels contains at present but eight feet water; the latter from fourteen to sixteen, according to the seasons. The South Pass, which is directly in front of the Mississippi, has always been considered as entirely choked up, but has ten feet water. The Southwest Pass, which is on the right, is the longest and narrowest of all the passes, and a few years ago had eighteen feet water, and was that by which the large ships always entered and sailed from the Mississippi. It has now but eight feet water, and will probably remain so for some time. In speaking of the quantity of water in the passes, it must be understood of what is on the bar of each pass; for immediately after passing the bar, which is very narrow, there are from five to seven fathoms at all seasons.

#### COUNTRY EAST OF LAKE PONTCHARTRAIN.

The country on the east side of lake Pontchartrain to Mobile, and including the whole extent between the American line, the Mississippi above New Orleans, and the lakes, (with the exception of a tract of about thirty miles on the Mississippi, and as much square, contiguous to the line, and comprehending the waters of Thompson's creek, bayou Sara, and the Amet,) is a poor, thin soil, overgrown with pine, and contains no good land whatever, unless on the banks of a few small rivers. It would, however, afford abundant supplies of pitch, tar, and pine lumber, and would feed large herds of cattle.

#### THE INHABITANTS, AND THEIR ORIGIN.

The inhabitants of Louisiana are chiefly the descendants of the French and Canadians. There are a considerable number of English and Americans in New Orleans. The two German coasts are peopled by the descendants

of settlers from Germany, and a few French mixed with them. The three succeeding settlements, up to Baton Rouge, contain mostly Acadians, banished from Nova Scotia by the English, and their descendants. The Government of Baton Rouge, especially the east side, which includes all the country between the Iberville and the American line, is composed partly of Acadians, a very few French, and of a great majority of Americans. On the west side they are mostly Acadians; at Pointe Coupée and Fausse Rivière they are French and Acadians. Of the population of the Attakapas and Opelousas, a considerable part is American. Natchitoches, on the Red River, contains but a few Americans, and the remainder of the inhabitants are French; but the former are more numerous in the other settlements on that river, viz: Avoyelles, Rapide, and Ouachita. At Arkansas they are mostly French, and at New Madrid Americans. At least two-fifths, if not a greater proportion of all the settlers on the Spanish side of the Mississippi, in the Illinois country, are likewise supposed to be Americans. Below New Orleans the population is altogether French and the descendants of Frenchmen.

#### NEW ORLEANS.

By recurring to the maps, and examining the position of Louisiana, it will appear that the lower part projects considerably into the sea. It has, in all probability, been formed by the sediment brought down by the current and deposited on the flat coast. There is, therefore, on the east side but a very narrow slip along the bank of the river, from the sea to the Iberville. The land is not generally susceptible of cultivation more than a mile in depth from the river; the rest is low and swampy to the lakes and the sea, but in general abounds with cypress timber, which is sawed by mills, which are worked by artificial streams from the Mississippi, in the time of freshets. They generally run five months in the year.

What has been said of the east equally applies to the west side of the river. The soil and situation are nearly the same. After leaving the bank of the river there is an immense swamp, intersected by creeks and lakes, extending to the high lands of Attakapas, and occupying a space of thirty or forty leagues.

The city of New Orleans, which is regularly laid out on the east side of the Mississippi, in latitude 30° north, and longitude 90° west, extends nearly a mile along the river, from the gate of France on the south, to that of Chapitoulas above, and a little more than one-third of a mile in breadth from the river to the rampart; but it has an extensive suburb on the upper side. The houses in front of the town, and for a square or two backwards, are mostly of brick, covered with slate or tile, and many of two stories. The remainder are of wood, covered with shingles. The streets cross each other at right angles, and are thirty-two French feet wide. The squares between the intersections of the streets have a front of three hundred French feet. There is in the middle of the front of the city a *place d'armes*, facing which the church and town-house are built. There are from twelve to fourteen hundred houses in the city and suburbs. The population may be estimated at ten thousand, including the seamen and garrison. It was fortified in 1793; but the works were originally defective, could not have been defended, and are now in ruins. The powder magazine is on the opposite bank of the river.

The public buildings, and other public property in New Orleans, are as follows:

Two very extensive brick stores, from one hundred and sixty to one hundred and eighty feet in length, and about thirty in breadth. They are one story high, and covered with shingles.

A Government house, stables, and garden, occupying a front of about two hundred and twenty feet on the river, in the middle of the town, and extending three hundred and thirty-six feet back to the next street.

A military hospital.

An ill built custom-house of wood, almost in ruins, in the upper part of the city, near the river.

An extensive barrack in the lower part of the city, fronting on the river, and calculated to lodge twelve or fourteen hundred men.

A large lot adjoining the King's stores, with a few sheds in it. It serves as a park for artillery.

A prison, town-house, market-house, assembly room, some ground rents, and the common about the town.

A public school for the rudiments of the Spanish language.

A cathedral church unfinished, and some houses belonging to it.

A charitable hospital, with some houses belonging to it, and a revenue of \$1,500 annually, endowed by an individual lately deceased.

The Canal de Carondelet has been already described.

#### NUMBER OF INHABITANTS.

According to the annexed census, (No. 2.) of Louisiana, including Pensacola and the Natchez, as made in 1785, the whole number of inhabitants amounted to thirty-two thousand and sixty-two, of which fourteen thousand two hundred and fifteen were free whites, one thousand three hundred and three free people of color, and sixteen thousand five hundred and forty-four slaves.

The statement No. 3, from the latest documents, makes the whole number forty-two thousand three hundred and seventy-five; the free whites, twenty-one thousand two hundred and forty-four; the free people of color, one thousand seven hundred and sixty-eight; and the slaves, twelve thousand nine hundred and twenty.

A particular statement respecting the population, &c. of Upper Louisiana, and another containing the census of New Orleans, in this year, are numbered 4 and 5, in the appendix.

These papers certainly exhibit a smaller number than the real population of the country. From an official document, made in July last, and received from Attakapas since the statement No. 3 was formed, it appears that it contained two thousand two hundred and seventy whites, two hundred and ten free people of color, one thousand two hundred and sixty-six slaves; in all, three thousand seven hundred and forty-six souls, instead of one thousand four hundred and forty-seven, as therein stated. It is highly probable that the return for the neighboring district of Opelousas is in the same proportion underrated.

A conjectural estimation, made by a gentleman of great respectability and correct information, residing at Natchez, raises the number of whites in the island of New Orleans, on the west side of the river, and some settlements on the east side, to fifty thousand one hundred and fifty, and the number of blacks to thirty-nine thousand eight hundred and twenty. His statement is also subjoined, No. 6.

It is at all times difficult to obtain the full census of a country, and the impediments are increased in this, from its scattered population. The actual enumeration may, therefore, fall short of the true numbers.

#### MILITIA.

There is a militia in Louisiana. The following is the return of it, made to the court of Spain by the Baron of Carondelet.

From Balise to the city.—Volunteers of the Mississippi—4 companies of 100 men each—complete, -	400
City.—Battalion of the city, 5 companies, -	500
Artillery company, with supernumeraries, -	120
Carabineers, or privileged companies of horse, 2 companies of 70 each, incomplete, -	100
Mulattoes, 2 companies; negroes 1 do. -	300
Mixed legion of the Mississippi, comprehending Galveztown, Baton Rouge, Pointe Coupée, Attakapas and Opelousas, viz:	
2 companies of grenadiers,	
8 companies of fusileers,	
4 companies of dragoons,	
2 companies lately added from Bayou Sara,	
16 companies of 100 men each, -	1,600
Avoyelles, 1 company of infantry, -	100
Ouachita, 1 company of cavalry, -	100
Natchitoches, 1 company of infantry and 1 of cavalry, -	200
Arkansas, 1 company of infantry and cavalry, -	100
Illinois, 4 companies of cavalry and 4 of infantry; these are always above the complement, -	800
Provincial regiment of Germans and Acadians, from the 1st German coast to Iberville, 10 companies, viz: 2 of grenadiers, 8 of fusileers, -	1,000
Mobile, and the country east of Lake Ponchartrain, 2 companies of horse and foot, incomplete, -	120
	5,440

The same gentleman alluded to, page 348, makes the number of the militia to amount to 10,340 men within same limits to which his estimate of the population applies. He distributes them in the several settlements as follows:

1. The island of New Orleans, with the opposite margin and the adjacent settlements, -	5,000
2. The west margin from Manchac, including Pointe Coupée, and extending to the Red River, -	800
3. Attakapas, along the coast, between the delta of the Mississippi and the river Sabine, -	350
4. Opelousas, -	750
5. Red River, including bayou Bœuf, Avoyelles, Rapides, and Natchitoches, -	1,000
6. Ouachita, -	300
7. Concord, -	40
8. Arkansas, -	150
9. New Madrid and its vicinity, -	350
10. Illinois and Missouri, -	1,000
11. The settlements on the east side of the Mississippi, from the American line to the Iberville, and some other settlements, -	600
	10,340

It is to be observed that none of these statements include the country beyond the river Sabine, nor even all those which lie eastwardly of it. Data are also wanting to give them.

#### FORTIFICATIONS.

St. Louis has a lieutenant colonel to command in it, and but few troops. Baton Rouge is an ill constructed fort, and has about fifty men. In describing the canal of Carondelet, the small fort of St. Jean has been mentioned, as has the block-house at the Balise, in its proper place. The fortifications of New Orleans, noticed before, consist of five ill constructed redoubts, with a covered way, palisade, and ditch. The whole is going fast to decay, and it is supposed they would be of but little service in case of an attack. Though the powder magazine is on the opposite side of the river, there is no sufficient provision made for its removal to the city in case of need.

The fort of Plaquemines, which is about twelve or thirteen leagues from the sea, is an ill constructed, irregular brick work, on the eastern side of the Mississippi, with a ditch in front of the river, and protected on the lower side by a deep creek, flowing from the river to the sea. It is, however, imperfectly closed behind, and almost without defence there; too much reliance having been placed on the swampiness of the ground which hardens daily. It might be taken, perhaps, by escalade, without difficulty. It is in a degree ruinous. The principal front is meant to defend the approach from sea, and can oppose, at most, but eight heavy guns. It is built at a turn in the river where ships in general must anchor, as the wind which brings them up so far is contrary in the next reach which they mostly work through; and they would therefore be exposed to the fire of the fort. On the opposite bank are the ruins of a small closed redoubt, called Fort Bourbon, usually garrisoned by a serjeant's command. Its fire was intended to flank that of the fort of Plaquemines, and prevent shipping and craft from ascending or descending on that side. When a vessel appears, a signal is made on one side, and answered on the other. Should she attempt to pass, without sending a boat on shore, she would be immediately fired upon.

#### INDIANS.

The Indian nations within the limits of Louisiana are, as far as known, as follows: and consist of the numbers hereafter specified.

On the eastern bank of the Mississippi, about twenty-five leagues above Orleans, are the remains of the nation of Houmas, or red men, which do not exceed sixty persons. There are no other Indians settled on this side of the river, either in Louisiana or West Florida, though they are at times frequented by parties of wandering Choctaws.

On the west side of the Mississippi are the remains of the Tounicas, settled near, and above Pointe Coupée, on the river, consisting of fifty or sixty persons.

*In the Attakapas.*—On the lower parts of the Bayou Teche, at about eleven or twelve leagues from the sea, are two villages of Chitimachas, consisting of about one hundred souls.

The Attakapas, properly so called, dispersed throughout the district, and chiefly on the bayou or creek of Vermilion, about one hundred souls.

Wanderers of the tribes of Bilexis and Choctaws, on Bayou Crocodile, which empties into the Teche, about fifty souls.

*In the Opelousas, to the northwest of Attakapas.*—Two villages of Alabamas in the centre of the district near the church, consisting of one hundred persons.

Conchates dispersed through the country, as far west as the river Sabina, and its neighborhood, about three hundred and fifty persons.

*On the river Rouge.*—At Avoyelles, nineteen leagues from the Mississippi, is a village of the Biloni nation, and another on the lake of the Avoyelles; the whole about sixty souls.

At the Rapides, twenty-six leagues from the Mississippi, is a village of Choctaws of one hundred souls, and another of Biloxes, about two leagues from it, of about one hundred more; about eight or nine leagues higher up the Red River is a village of about fifty souls. All these are occasionally employed by the settlers in their neighborhood as boatmen.

About eighty leagues above Natchitoches, on the Red River, is the nation of the Cadoquies, called by abbreviation Cados; they can raise from three to four hundred warriors; are the friends of the whites, and are esteemed the bravest and most generous of all the nations in this vast country; they are rapidly decreasing, owing to intemperance and the numbers annually destroyed by the Osages and Choctaws.

There are, besides the foregoing, at least four to five hundred families of Choctaws, who are dispersed on the west side of the Mississippi, on the Ouachita and Red rivers, as far west as Natchitoches, and the whole nation would have emigrated across the Mississippi had it not been for the opposition of the Spaniards and the Indians on that side who had suffered by their aggressions.

*On the river Arkansas, &c.*—Between the Red River and the Arkansas there are but a few Indians, the remains of tribes almost extinct. On this last river is the nation of the same name, consisting of about two hundred and sixty warriors; they are brave, yet peaceable and well disposed, and have always been attached to the French, and espoused their cause in their wars with the Chickasaws, whom they have always resisted with success. They live in three villages; the first is at eighteen leagues from the Mississippi, on the Arkansas river, and the others are at three and six leagues from the first. A scarcity of game on the eastern side of the Mississippi has lately induced a number of Cherokees, Choctaws, Chickasaws, &c. to frequent the neighborhood of Arkansas, where game is still in abundance; they have contracted marriages with the Arkansas, and seem inclined to make a permanent settlement, and incorporate themselves with that nation. The number is unknown, but is considerable, and is every day increasing.

On the river St. Francis, in the neighborhood of New Madrid, Cape Girardeau, Rivière à la Pomme, and the environs, are settled a number of vagabonds, emigrants from the Delawares, Shawnese, Miamis, Chickasaws, Cherokees, Piorias, and supposed to consist in all of five hundred families; they are at times troublesome to the boats descending the river, and have even plundered some of them and committed a few murders; they are attached to liquor, seldom remain long in any place; many of them speak English, all understand it, and there are some who even read and write it.

At St. Genevieve, in the settlement among the whites, are about thirty Piorias, Kaskaskias, and Illinois, who seldom hunt for fear of the other Indians; they are the remains of a nation which, fifty years ago, could bring into the field one thousand two hundred warriors.

*On the Missouri.*—On the Missouri and its waters are many and numerous nations, the best known of which are: The Osages, situated on the river of same name, on the right bank of the Missouri, at about eighty leagues from its confluence with it; they consist of one thousand warriors, who live in two settlements at no great distance from each other; they are of a gigantic stature and well proportioned; are enemies of the whites and of all other Indian nations, and commit depredations from the Illinois to the Arkansas. The trade of this nation is said to be under an exclusive grant. They are a cruel and ferocious race, and are hated and feared by all the other Indians. The confluence of the Osage river with the Missouri is about eighty leagues from the Mississippi.

Sixty leagues higher up the Missouri, and on the same bank, is the river Kansas, and on it the nation of the same name, but at about seventy or eighty leagues from its mouth. It consists of about two hundred and fifty warriors, who are as fierce and cruel as the Osages, and often molest and ill-treat those who go to trade among them.

Sixty leagues above the river Kansas, and at about two hundred from the mouth of the Missouri, still on the right bank, is the *rivière Platte*, or Shallow river, remarkable for its quicksands and bad navigation; and near its confluence with the Missouri dwells the nation of Octolactos, commonly called Otos, consisting of about two hundred warriors, among whom are twenty-five or thirty of the nation of Missouri, who took refuge among them about twenty-five years since.

Forty leagues up the river Platte you come to the nation of the Panjs, composed of about seven hundred warriors in four neighboring villages; they hunt but little, and are ill provided with fire-arms; they often make war on the Spaniards in the neighborhood of Santa Fé, from which they are not far distant.

At three hundred leagues from the Mississippi, and one hundred from the river Platte, on the same bank, are situated the villages of the Mahas. They consisted, in 1799, of five hundred warriors, but are said to have been almost cut off last year by the smallpox.

At fifty leagues above the Mahas, and on the left bank of the Missouri, dwell the Poncas, to the number of two hundred and fifty warriors, possessing, in common with the Mahas, their language, ferocity, and vices. Their trade has never been of much value, and those engaged in it are exposed to pillage and ill treatment.

At the distance of four hundred and fifty leagues from the Mississippi, and on the right bank of the Missouri, dwell the Aricaras, to the number of seven hundred warriors; and sixty leagues above them, the Mandane nation, consisting of about seven hundred warriors likewise. These two last nations are well disposed to the whites, but have been the victims of the Sioux or Nadowessies, who, being themselves well provided with fire-arms, have taken advantage of the defenceless situation of the others, and have on all occasions murdered them without mercy.

No discoveries on the Missouri, beyond the Mandane nation, have been accurately detailed, though the traders have been informed that many large navigable rivers discharge their waters into it far above it, and that there are many numerous nations settled thereon.

The Sioux, or Nadowessies, who frequent the country between the north bank of the Missouri and Mississippi, are a great impediment to trade and navigation. They endeavor to prevent all communication with the nations dwelling high up the Missouri, to deprive them of ammunition and arms, and thus keep them subservient to themselves. In the winter they are chiefly on the banks of the Missouri, and massacre all who fall into their hands.

There are a number of nations at a distance from the banks of the Missouri, to the north and south, concerning whom but little information has been received. Returning to the Mississippi, and ascending it from the Missouri, about seventy-five leagues above the mouth of the latter, the river Moingona, or *rivière de Moine*, enters the Mississippi on the west side, and on it are situated the Ayoas, a nation originally from the Missouri, speaking the language of the Otatachas; it consisted of two hundred warriors before the smallpox lately raged among them.



The Sacs and Renards dwell on the Mississippi, about three hundred leagues above St. Louis, and frequently trade with it; they live together, and consist of five hundred warriors; their chief trade is with Michilimakinac, and they have always been peaceable and friendly.

The other nations on the Mississippi, higher up, are but little known to us. The nations of the Missouri, though cruel, treacherous, and insolent, may doubtless be kept in order by the United States, if proper regulations are adopted with respect to them.

It is said that no treaties have been entered into by Spain with the Indian nations westward of the Mississippi, and that its treaties with the Creeks, Choctaws, &c. are in effect superseded by our treaty with that Power of the 27th October, 1795.

#### OF LANDS AND TITLES.

The lands are held in some instances by grants from the crown, but mostly from the colonial Government. Perhaps not one quarter part of the lands granted in Louisiana are held by complete titles; and, of the remainder, a considerable part depend upon a written permission of a commandant. Not a small proportion is held by occupancy, with a simple verbal permission of the officer last mentioned. This practice has always been countenanced by the Spanish Government, in order that poor men, when they found themselves a little at ease, might, at their own conveniency, apply for and obtain complete titles. In the mean time, such imperfect rights were suffered by the Government to descend by inheritance, and even to be transferred by private contract. When requisite, they have been seized by judicial authority, and sold for the payment of debts.

Until within a few years, the Governor of Upper Louisiana was authorized to make surveys of any extent. In the exercise of this discretionary power, some abuses were committed, and a few small monopolies were created. About three years ago he was restricted in this branch of his duty, since which he has been only authorized to make surveys to emigrants in the following manner: two hundred acres for each man and wife, fifty acres for each child, and twenty acres for each slave. Hence the quantity of land allowed to settlers depended on the number in each family; and for this quantity of land they paid no more than the expense of survey. These surveys were necessary to entitle the settlers to grants; and the Governor, and after him the Intendant at New Orleans, was alone authorized to execute grants, on the receipt of the surveys from the settlers. The administration of the land office is at present under the care of the Intendant of the province.

There are no feudal rights nor noblesse.

It is impossible to ascertain the quantity of lands granted, without calling on the claimants to exhibit their titles; the registry being incomplete, and the maps made by the different surveyors general having been burnt in the fires at New Orleans, of 1788 and 1794, no estimate has been obtained.

All the lands on both sides of the Mississippi, from the distance of sixteen leagues below New Orleans to Baton Rouge, are granted to the depth of forty acres, or near half a league, which is the usual depth of all grants. Some have double and triple grants; that is to say, they have twice or thrice forty acres in depth; and others have grants extending from the Mississippi to the sea or the lakes behind them. In other parts of the country, the people, being generally settled on the banks of creeks or rivers, have a front of from six to forty acres, and the grant almost invariably expresses a depth of forty acres. All the lands ungranted, on the island of New Orleans or on the opposite bank of the Mississippi, are sunken, inundated, and at present unfit for cultivation; but may in part be reclaimed at a future day, by efforts of the rich and enterprising.

#### CULTIVATION OF SUGAR.

The sugar-cane may be cultivated between the river Iberville and the city, on both sides of the river, and as far back as the swamps. Below the city, however, the lands decline so rapidly, that, beyond fifteen miles, the soil is not well adapted to it. Above the Iberville the cane would be affected by the cold, and its produce would therefore be uncertain. Within these limits, the best planters admit that one-quarter of the cultivated lands of any considerable plantation may be planted in cane, one-quarter left in pasture, and the remaining half employed for provisions, &c. and a reserve for a change of crops. One Parisian arpent, of one hundred and eighty feet square, may be expected to produce, on an average, twelve hundredweight of sugar and fifty gallons of rum.

From the above data, admitting that both sides of the river are planted for ninety miles in extent and about three-fourths of a mile in depth, it will result that the annual product may amount, in round numbers, to twenty-five thousand hogsheads of sugar, with twelve thousand puncheons of rum. Enterprising young planters say that one-third, or even one-half, of the arable land might be planted in cane. It may also be remarked, that a regular supply of provisions from above, at a moderate price, would enable the planter to give his attention to a greater body of land cultivated with cane. The whole of these lands, as may be supposed, are granted; but in the Attakapas country there is undoubtedly a portion, parallel to the sea-coast, fit for the culture of the sugar-cane. There vacant lands are to be found, but the proportion is at present unknown.

In the above remarks, the lands at Terre aux Bœuf, on the Fourche, bayou St. Jean, and other inlets of the Mississippi south of the latitude supposed to divide those which are fit from those which are unfit for the cultivation of the cane, have been entirely kept out of view. Including these, and taking one-third instead of one-fourth of the lands fit for sugar, the produce of the whole would be fifty thousand instead of twenty-five thousand hogsheads of sugar.

The following quantities of sugar, brown, clayed, and refined, have been imported into the United States from Louisiana and the Floridas, viz: In 1799, 773,542 pounds; in 1800, 1,560,865 pounds; in 1801, 967,619 pounds; in 1802, 1,576,933 pounds.

#### OF THE LAWS.

When the country was first ceded to Spain, she preserved many of the French regulations; but, by almost imperceptible degrees, they have disappeared; and at present the province is governed entirely by the laws of Spain and the ordinances formed expressly for the colony. Various ordinances promulgated by General O'Reilly, its first Governor under Spain, as well as some other laws, are translated and annexed in the Appendix, No. 1.

#### COURTS OF JUSTICE.

The Governor's court has a civil and military jurisdiction throughout the province; that of the Lieutenant Governor has the same extent in civil cases only.

There are two Alcaldes, whose jurisdiction, civil and criminal, extends through the city of New Orleans and five leagues around it, where the parties have no *fuero militar*, or military privilege; those who have, can transfer their causes to the Governor.

The tribunal of the Intendant has cognizance of admiralty and fiscal causes, and such suits as are brought for the recovery of money in the King's name, or against him.

The tribunal of the Alcalde Provincial has cognizance of criminal causes, where offences are committed in the country, or when the criminal takes refuge there, and in other specified cases.

The ecclesiastical tribunal has jurisdiction in all matters respecting the church.

The Governor, Lieutenant Governor, Alcaldes, Intendant, Provincial Alcalde, and the Provisor in ecclesiastical causes, are, respectively, sole judges. All sentences affecting the life of the culprit, except those of the Alcalde Provincial, must be ratified by the superior tribunal, or Captain General, according to the nature of the cause, before they are carried into execution. The Governor has not the power of pardoning criminals. An auditor and an assessor, who are doctors of law, are appointed to give counsel to those judges; but for some time past there has been no assessor. If the judges do not consult those officers, or do not follow their opinions, they make themselves responsible for their decisions.

The commandants of districts have also a species of judicial power. They hear and determine all pecuniary causes not exceeding the value of one hundred dollars. When the suit is for a larger sum, they commence the process, collect the proofs, and remit the whole to the Governor, to be decided by the proper tribunal. They can inflict no corporeal punishment except upon slaves, but they have the power of arresting and imprisoning when they think it necessary; advice of which, and their reasons, must be transmitted to the Governor.

Small suits are determined in a summary way, by hearing both parties, *viva voce*; but, in suits of greater magnitude, the proceedings are carried on by petition and reply, replication and rejoinder, reiterated until the auditor thinks they have nothing new to say. Then all the proofs either party chooses to adduce are taken before the keeper of the records of the court, who is always a notary public.

The parties have now an opportunity of making their remarks upon the evidence, by way of petition, and of bringing forward opposing proofs. When the auditor considers the cause as mature, he issues his decree, which receives its binding force from the Governor's signature, where the cause depends before him.

There is an appeal to Havana, if applied for within five days after the date of the decree, in causes above a certain value. An ulterior appeal lies to the Audience, which formerly sat at St. Domingo, but which is now removed to some part of Cuba; and from thence to the Council of the Indies, in Spain.

Suits are of various durations. In pecuniary matters, the laws encourage summary proceedings. An execution may be had on a bond in four days; and, in the same space, on a note of hand, after the party acknowledged it, or after his signature is proved. Moveable property is sold, after giving nine days' warning, provided it be three times publicly cried in that interval. Landed property must be likewise cried three times, with an interval of nine days between each, and it may then be sold. All property taken in execution must be appraised, and sold for at least half of the appraisement. In pecuniary matters, the Governors decide verbally, without appeal, when the sum does not exceed one hundred dollars. The Alcaldes have the same privilege, when the amount is not above twenty dollars.

In addition to these courts, four years ago there were established four Alcaldes de Barrio, or petty magistrates; one for each of the four quarters of the city, with a view to improve its police. They hear and decide all demands not exceeding ten dollars; exercise the power of committing to prison; and in cases of robbery, riot, or assassination, they can, by calling on a notary, take cognizance of the affair; but, when this is done, they are bound to remit the proceedings to some of the other judges, and, in all cases whatever, to give them information when they have committed any person to prison.

Most of the suits are on personal contracts, rights to dower, inheritances, and titles to land. Those arising from personal quarrels are generally decided in a summary way. The inhabitants are said not to be litigious.

#### LAWYERS, AND COSTS OF THE COURTS, AND THEIR OFFICERS.

The number of lawyers is small, not exceeding three or four attorneys. Their fees are small. Suits are carried on in writings, called *escritos*, which may be drawn up by the parties themselves, if they please, but they must be presented by the *escribano*, or notary, who is the keeper of the records of the court.

The fees of the judges are twenty-five cents for every half signature or flourish, (which is usually affixed on common occasions;) fifty cents for every whole signature; and two dollars and three-fourths for every attendance, as at a sale, or the taking of evidence.

The fees of the Abogado, or person consulted by the judges on law points, are twelve and a half cents for every leaf of which the process consists, and four dollars for every point of law cited. Those of the attorney, when employed, are sixty-two and a half cents for a simple petition, or *escrito*; but, if it should be necessary to read a process in order to form his petition, and it should require much time and labor, he is compensated in proportion, besides twelve and a half cents per leaf for perusing the papers. For attendance on any business, he is allowed one dollar and fifty cents for the assistance of two and a half hours. The notary has fifty cents for each decree, or order of the judge; twenty-five cents for a notification in his office; and fifty cents for one out of it, but within the city; one dollar and seven-eighths for every attendance of two and a half hours on business, and twenty-five cents additional for every leaf of paper written by him.

A counsellor or two have sometimes resided at New Orleans, but being generally found obnoxious to the officers of the Government, they have not continued there. The counsellor values his own services, and in general exacts large sums. The attorney generally receives from the party who employs him more than is allowed by law.

#### CRIMES, CRIMINAL JURISPRUDENCE, AND PUNISHMENTS.

In cases of petty crimes, the cognizance of the proper court may be said to be final, and without appeal; and most commonly such causes are decided in a summary way. With respect to crimes of deeper dye, more solemnity is used. A person skilled in the laws is always nominated by the court to defend the accused. The trial is not public; but examinations and depositions in writing are taken privately by the auditor, at any time most convenient to himself, at which, nevertheless, the counsel of the accused is admitted to be present. He has also every kind of privilege granted to him in making his defence. Such suits are generally very tedious and expensive, when he is wealthy. The condemned is entitled to an appeal, as in civil cases, provided he gives security for the payment of the future costs. There appears, however, to be a virtual appeal in every capital condemnation, because a stay of execution takes place until the confirmation of the sentence returns from St. Jago de Cuba, where there is a grand tribunal established consisting of five judges, before whom counsellors plead, as in our courts.

Crimes of great atrocity are very rare. Murder, by stabbing, seems to be confined to the Spanish soldiers and sailors. The terror of the magistrate's power restrains assaults, batteries, riots, &c.

Punishments are generally mild. They mostly consist of imprisonment and payment of costs; sometimes the stocks. White men, not military, are rarely, perhaps never, degraded by whipping, and in no case do any fines go into the public treasury. Murder, arson, and aggravated robbery of the King's treasury or effects, are punished

with death. Robbery of private persons, to any amount, is never punished with death, but by restitution, imprisonment, and sometimes enormous costs. Crimes against the King's revenue, such as contraband trade, are punished with hard labor for life, or a term of years, on board the galleys, in the mines, or on the public works.

#### LEARNING.

There are no colleges, and but one public school, which is at New Orleans. The masters of this are paid by the King. They teach the Spanish language only. There are a few private schools for children. Not more than half of the inhabitants are supposed to be able to read and write; of whom not more than two hundred, perhaps, are able to do it well. In general, the learning of the inhabitants does not extend beyond those two arts, though they seem to be endowed with a good natural genius, and an uncommon facility of learning whatever they undertake.

#### THE CHURCH.

The clergy consists of a bishop, who does not reside in the province, and whose salary, of four thousand dollars, is charged on the revenue of certain bishoprics in Mexico and Cuba; two canons, having each a salary of six hundred dollars; and twenty-five curates, five for the city of New Orleans, and twenty for as many country parishes, who receive each from three hundred and sixty to four hundred and eighty dollars a year. Those salaries, except that of the bishop, together with an allowance for sacristans and chapel expenses, are paid by the treasury at New Orleans, and amount annually to thirteen thousand dollars.

There is also at that place a convent of Ursulines, to which is attached about a thousand acres of land, rented out into three plantations. The nuns are now in number not more than ten or twelve, and are all French. There were formerly about the same number of Spanish ladies belonging to the order; but they retired to Havana during the period when it was expected that the province would be transferred to France. The remaining nuns receive young ladies as boarders, and instruct them in reading, writing, and needle-work.

They have always acted with great propriety, and are generally respected and beloved throughout the province. With the assistance of an annual allowance of six hundred dollars from the treasury, they always support and educate twelve female orphans.

#### OF THE OFFICERS OF GOVERNMENT.

The officers, who are merely judicial, have been already mentioned, and therefore some of them will be altogether omitted in this place. The executive officers, appointed by the Governor, for each division of the province, and called Commandants, are generally taken from the army, or the militia. When the settlement is small, some respectable character is appointed to the civil command, and the militia officer has the direction of military matters. Where there is a garrison, the commandant is sub-delegate of the Intendant, and draws upon him for all expenses incurred. In that case he has the charge of all matters relating to the revenue, within his district.

The duty of commandants is to superintend the police, preserve the peace of the district, examine the passports of travellers, and to suffer no strangers to settle within the limits of their command, without regular leave obtained from Government. They are to prevent smuggling; to certify that all lands, petitioned for by the inhabitants, are vacant before they are granted; and, when required, to put the owner in possession. They are besides notaries public; and in their offices it is necessary to register all sales of lands and slaves, and even to make the contracts for those purposes before them. They act as sheriffs, levy executions on property, attend and certify the sale, and collect the proceeds. They also take inventories of the property of intestates. By an ordinance of Baron Carondelet, syndics are established every three leagues, who are subordinate to the commandant, decide small causes, and have the police of roads, levies, travellers, and negroes.

The officers of the General Government are the following: Besides his judicial powers, the GOVERNOR is chief of the army and militia, and the head of the civil Government. He is also President of the Cabildo, or Provincial Council. He appoints and removes, at pleasure, the commandants of districts. He appoints the officers of the militia, who are, nevertheless, commissioned by the King, and he recommends military officers for preferment. He is superintendent of Indian affairs. He promulgates ordinances for the good government and improvement of the province, but he has no power to assess taxes upon the inhabitants without their consent. Until the year 1798, he possessed the sole power of granting lands; but it then passed into the hands of the Intendant.

The CABILDO is an hereditary council of twelve, chosen originally from the most wealthy and respectable families. The Governor presides over their meetings. Their office is very honorable, but it is acquired by purchase. They have a right to represent, and even to remonstrate to the Governor, in respect to the interior government of the province. The police of the city is under their control and direction. In it they regulate the admission of physicians and surgeons to practise. Two members of the Cabildo serve by turn monthly, and take upon themselves the immediate superintendence of markets, bakers, streets, bridges, and the general police of the city. This council distributes among its members several important offices, such as Alguazil Mayor, or High Sheriff, Alcalde Provincial, Procureur General, &c. The last mentioned is a very important charge. The person who holds it is not merely the King's attorney, but an officer peculiar to the civil law. He does not always prosecute; but, after conviction, he indicates the punishment annexed by law to the crime, and which may be, and is mitigated by the court. Like the chancellor in the English system, he is the curator and protector of orphans, &c.; and, finally, he is the expounder of the law, the defender of the privileges belonging to the town, province, or colony, and the accuser of every public officer that infringes them. The Cabildo is also vested with a species of judicial authority, for which, and for a further elucidation of its constitution, and the functions of the officers springing from it, see the appendix No. 1.

The INTENDANT is chief of the departments of finance and commerce, and exercises the judicial powers already mentioned. He is entirely independent of the Governor, and no public moneys can be issued without his express order. The land office is under his direction.

The Contador, Treasurer, and Interventor, are officers subordinate to the Intendant. The first has four clerks under him, and keeps all accounts and documents respecting the receipt and expenditure of the revenue; and is, therefore, a check upon the Intendant. The treasurer is properly no more than a cashier, and is allowed one clerk. The interventor superintends all public purchases and bargains. The administrador is also subordinate to the Intendant, and, with a number of inferior officers, manages every thing respecting the custom-house. Every clerk in these offices receives his commission from the King.

The AUDITOR is the King's counsel, who is to furnish the Governor with legal advice in all cases of judicial proceedings, whether civil or military.

The ASSESSOR's functions are similar to those of the auditor, and are properly applicable to the Intendant's department.

Both of the officers last mentioned are also the counsellors of some of the other tribunals, as before intimated.

A SECRETARY of the Government, and another of the Intendancy.

A SURVEYOR GENERAL.

A HARBORMASTER.

A STOREKEEPER, who takes charge of all public moveable property.

An INTERPRETER of the French and Spanish languages, and a number of other inferior officers.

All appointments in the province, with a salary of more than thirty dollars per month, are made by the King; and most of those with a lower salary, by the Governor or Intendant, as belongs to their respective departments. There are no officers chosen by the people.

The salaries and perquisites of the principal officers are as follows:

Governor, annually,	-	-	-	6,000 salary,	2,000 perquisites.
Intendant,	-	-	-	4,000	none.
Auditor,	-	-	-	2,000	2,000
Contador,	-	-	-	2,000	none.
Assessor,	-	-	-	1,200	1,000
Treasurer,	-	-	-	1,200	none.
Administrador,	-	-	-	1,200	none.
Secretary of Government,	-	-	-	600	2,000

The commandants of districts receive each one hundred dollars from the King annually, unless they are possessed of a military employment or pension.

#### TAXES AND DUTIES.

Instead of paying local taxes, each inhabitant is bound to make and repair roads, bridges, and embankments through his own land.

A duty of six per cent. is payable at the custom house on the transfer of shipping. It is ascertained upon the sum the buyer and seller declare to be the real consideration. As no oath is required from either, they seldom report more than half the price.

The following taxes are also payable in the province:

Two per cent. on legacies and inheritances, coming from collaterals, and exceeding two thousand dollars.

Four per cent. on legacies, given to persons who are not relatives of the testator.

A tax on civil employments, the salaries of which exceed three hundred dollars annually, called *media annata*, amounting to half of the first year's salary. By certain officers it is to be paid in two annual instalments, and by others in four. The first person appointed to a newly created office pays nothing, but the tax is levied on all who succeed him.

Seven dollars is deducted from the sum of twenty, paid as pilotage by every vessel entering or leaving the Mississippi; but the treasury provides the boats, and pays the salary of the pilots and sailors employed at the Balise. The remainder of the twenty dollars is thus distributed: to the head pilot four dollars, to the pilot who is in the vessel four dollars, and five dollars to the crew of the row-boat that goes out to put the pilot on board, or take him ashore.

A tax of forty dollars per annum for licenses to sell liquors.

A tax on certain places when sold, such as those of regidor, notary, attorney, &c.

But the principal tax is that of six per cent. levied on all imports and exports, according to a low tariff. The proceeds of which nett about one hundred and twenty thousand dollars, whilst all the other taxes are said not to yield more than five or six thousand dollars annually.

#### EXPENSES AND DEBT.

The expenses of the present Government, comprehending the pay and support of the regiment of Louisiana, part of a battalion of the regiment of Mexico, a company of dragoons, and one of artillery, which form the garrison of the country, including Mobile, the repairs of public buildings and fortifications, the maintenance of a few galleys to convey troops and stores throughout the province, Indian presents, and salaries of officers, clergy, and persons employed for public purposes, amount to about six hundred and fifty thousand dollars. A sum, in specie, which does not generally exceed four hundred thousand dollars, is annually sent from Vera Cruz; but this, together with the amount of duties and taxes collected in the province, leaves usually a deficiency of one hundred or one hundred and fifty thousand dollars, for which certificates are issued to the persons who may have furnished supplies, or to officers and workmen for their salaries. Hence a debt has accumulated, which, it is said, amounts at present to about four hundred and fifty thousand dollars. It bears no interest, and is now depreciated thirty per cent. The latter circumstance has taken place not from want of confidence in the eventual payment of the certificates, but from the uncertainty of the time when, and the want and general value of specie. The whole of this debt is said to be due to the inhabitants, and to American residents. It would have been long since paid off, but for a diversion of the funds, destined for that purpose, to different and external objects.

#### IMPORTS AND EXPORTS.

The productions of Louisiana are, sugar, cotton, indigo, rice, furs and peltry, lumber, tar, pitch, lead, flour, horses and cattle. Population alone is wanting to multiply them to an astonishing degree. The soil is fertile, the climate salubrious, and the means of communication between most parts of the province certain, and by water.

The following has been received as a sketch of the present exports of Louisiana, viz:

20,000 bales of cotton, of three cwt. each, at twenty cents per pound,	-	\$1,344,000, increasing.
45,000 casks of sugar, ten cwt. each, at six cents per pound,	-	302,400, increasing.
800 casks of molasses, one hundred gallons each,	-	32,000, increasing.
Indigo,	-	100,000, diminish'g rapidly.
Peltry,	-	200,000
Lumber,	-	80,000
Lead, corn, horses, and cattle, uncertain.	-	
All other articles, suppose,	-	100,000
		<u>\$2,158,000</u>

According to official returns in the Treasury of the United States, there were imported into our territory from Louisiana and the Floridas merchandise to the following amounts, in the several years prefixed:

In 1799 to the value of	-	-	-	-	-	\$507,132
In 1800 to the value of	-	-	-	-	-	904,322
In 1801 to the value of	-	-	-	-	-	956,635
In 1802 to the value of	-	-	-	-	-	1,006,214

According to the same authority, which makes the total of the exports to amount to two million one hundred and fifty-eight thousand dollars, the imports, in merchandise, plantation utensils, slaves, &c. amount to two and a half millions; the difference being made up by the money introduced by the Government to pay the expenses of governing and protecting the colony.

According to the returns in the Treasury of the United States, exports have been made to Louisiana and the Floridas to the following amount, in the years prefixed:

In 1799 to the value of	-	-	-	-	-	\$3,056,268 in foreign articles.
In 1799 to the value of	-	-	-	-	-	447,824 in domestic articles.
						<u>\$3,504,092</u>
In 1800,	-	-	-	-	-	\$1,795,127 in foreign articles.
In 1800,	-	-	-	-	-	240,662 in domestic articles.
						<u>\$2,035,789</u>
In 1801,	-	-	-	-	-	\$1,770,794 in foreign articles.
In 1801,	-	-	-	-	-	137,204 in domestic articles.
						<u>\$1,907,998</u>
In 1802,	-	-	-	-	-	\$1,054,600 in foreign articles.
In 1802,	-	-	-	-	-	170,110 in domestic articles.
						<u>\$1,224,710</u>

It is to be observed, that if the total of the imports and exports into and from these provinces, (of which the two Floridas are but a very unimportant part, with respect to both,) be as above supposed, viz:

Imports,	-	-	-	-	-	\$2,500,000
Exports,	-	-	-	-	-	2,158,000
						<u>\$4,658,000</u>
Making, together,						-

The duty of six per cent. ought alone to produce the gross sum of two hundred and seventy-nine thousand four hundred and eighty dollars; and that the difference between that sum and its actual nett produce arises partly from the imperfect tariff by which the value of merchandise is ascertained, but principally from the smuggling, which is openly countenanced by most of the revenue officers.

#### MANUFACTURERS.

There are but few domestic manufactures. The Acadians manufacture a little cotton into quilts and cottonades; and in the remote parts of the province the poorer planters spin and weave some negro cloths of cotton and wool mixed. There is one machine for spinning cotton in the parish of Iberville, and another in the Opelousas, but they do little or nothing. In the city, besides the trades which are absolutely necessary, there is a considerable manufacture of cordage, and some small ones of shot and hair powder. There are likewise in, and within a few leagues of the town, twelve distilleries for making taffia, which are said to distil annually a very considerable quantity; and one sugar refinery, said to make about two hundred thousand pounds of loaf sugar.

#### NAVIGATION EMPLOYED IN THE TRADE OF THE PROVINCE.

In the year 1802, there entered the Mississippi two hundred and sixty-eight vessels of all descriptions, eighteen of which were public armed vessels, and the remainder merchantmen, as follows, viz:

	American.	Spanish.	French.
Ships, -	48	14	
Brigs, -	63	17	1
Polacres,	-	4	
Schooners,	50	61	
Sloops,	9	1	
	<u>170</u>	<u>97</u>	<u>1</u>

Of the number of American vessels, twenty-three ships, twenty-five brigs, nineteen schooners, and five sloops came in ballast, the remainder were wholly or in part laden.

Five Spanish ships and seven schooners came in ballast. The united tonnage of all the shipping that entered the river, exclusive of the public armed vessels, was thirty-three thousand seven hundred and twenty-five register tons.

In the same year there sailed from the Mississippi two hundred and sixty-five sail, viz:

				American.	Tons.	Spanish.	Tons.
Ships,	-	-	-	40*	8,972	18	3,714
Brigs,	-	-	-	58	7,546	22*	1,944
Schooners,	-	-	-	52	4,346	58	3,747
Sloops,	-	-	-	8	519	3*	108
Polacres,	-	-	-	-	-	3*	240
				158	21,383	104	9,753

		French.	Tons.			Total.	Tons.
Schooners,	-	3	105	Americans,	-	158	21,383
				Spanish,	-	104	9,753
				French,	-	3	105
				Grand total,	-	265 sail,	31,241

The tonnage of the vessels which went away in ballast, and that of the public armed ships, are not included in the foregoing account; these latter carried away masts, yards, spars, pitch, tar, &c., at least one thousand tons.

In the first six months of the present year, there entered the Mississippi one hundred and seventy-three sail, of all nations, four of which were public armed vessels, viz: two French and two Spanish, whose tonnage is not enumerated.

				American.	Tons.	Spanish.	Tons.	French.	Tons.
Ships,	-	-	-	23	5,396	14	3,080	5	1,002
Brigs,	-	-	-	44	5,701	20	2,173	8	878
Polacres,	-	-	-	-	-	3	480	2	436
Schooners,	-	-	-	22	1,899	18	1,187	7	488
Sloops,	-	-	-	4	278	3	167	-	-
				93	13,264	58	7,087	22	2,804

				Total of ships.		Total of tons.	
American,	-	-	-	93	-	13,264	-
Spanish,	-	-	-	58	-	7,087	-
French,	-	-	-	22	-	2,804	-
Grand total,				173		23,155	

In the same six months there sailed from the Mississippi one hundred and fifty-six vessels, viz:

				American.	Spanish.	French.
Ships,	-	-	-	21	18	2
Brigs,	-	-	-	28	31	1
Polacres,	-	-	-	-	4	-
Schooners,	-	-	-	17	26	5
Sloops,	-	-	-	2	1	-
				68	80	8

#### COASTING TRADE.

There is a considerable coasting trade from Pensacola, Mobile, and the creeks and rivers falling into, and in the neighborhood of, Lake Pontchartrain, from whence New Orleans is principally supplied with ship timber, charcoal, lime, pitch, and tar, and partly with cattle; and the places before named are supplied with articles of foreign growth and produce in the same way from Orleans. The vessels employed are sloops and schooners, some of which are but half-decked, from eight to fifty tons; five hundred of which, including their repeated voyages, and thirteen galleys and gunboats, entered the bayou St. Jean last year. There is likewise a small coasting trade between the Attakapas and Opelousas, and New Orleans, by way of the Balise, which would much increase if there was any encouragement given by Government, to clear away a few obstructions, chiefly caused by fallen timber, in the small rivers and creeks leading to them.

\* One in ballast.

8th CONGRESS.]

No. 165.

[1st Session.]

## REPRINTING OF THE LAWS, JOURNALS, AND OTHER DOCUMENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 14, 1803.

Mr. SAMUEL L. MITCHELL made the following report:

The committee to whom was referred, on the 29th ultimo, the resolution of the House directing an inquiry to be made as to the expediency of reprinting the laws, journals, and other public documents, have, according to order, taken the same into consideration, and prepared thereon a report, which they respectfully submit to the consideration of the House.

First, of the statutes. It appears that there are on hand in the Department of State only seventy-seven entire sets of the first *five* volumes; of the *four* first of those there are also a few sets, but they are irregular. There are no copies left of the laws of the seventh Congress, that is, of the acts of the two last sessions, but such as are subject to legal appropriations. It was upon the reason of the case only that new members of the Legislature have been furnished with complete copies of the printed laws. Such copies have latterly been purchased by the Department of State, and paid for out of the money appropriated for the contingencies of that office. As far as can be judged, the copies are becoming scarce in the market, and, in a very short time, it will be impossible to buy them. It does not appear to the committee that any law at present exists which would authorize a new edition of the statutes at the public expense. The act for the more general promulgation of the laws, passed 3d March, 1795, is inoperative as to this object at present.

That there must be provision made for a republication of the laws of the United States, is too evident to be urged upon the consideration of the House. It may, nevertheless, be not unseasonable to submit a few considerations on the manner of executing this edition. There is a great deficiency in the three first volumes, inasmuch as statutes which are repealed or have expired are printed only by their titles. If the statute-book, published by authority, is to contain the whole body of legislative acts of Congress, which it might be expected to do, then every law and resolve which has passed the two Houses, and received the Presidential approbation, ought to be reprinted in its time and order, whether now in force or not. Thus the nation would be furnished with, what some would deem a great desideratum, the statutes *at large*. To these should be prefixed the constitution and amendments; and all the treaties and conventions subjoined in chronological series, with marginal abstracts, tables of contents, and indexes.

The expense of this new edition, especially if executed upon this enlarged plan, will considerably exceed the cost of the former edition, printed by Follwell, in Philadelphia. The price paid for five thousand copies of the three volumes then published, was fifteen thousand four hundred dollars, as appears by the charge on the books of the Register of the Treasury. The price for a new edition of those three volumes, and the additional three which contain the laws which have been enacted since that time, would be increased to a sum at least double that amount: and this even upon the estimate that none of the repealed, expired, or private acts were to be inserted. It is estimated that ten thousand copies will be wanted for public use. These ten thousand copies, if printed on a type like that of the present fifth volume, are estimated to cost thirty-one thousand six hundred and forty-eight dollars, in sheets; to this must be added the price of binding, which, upon the average between boards, sheep, and calf, is estimated at forty-five cents per book. To which must be added somewhat of extra charge, for printing treaties in foreign tongues, and setting the indexes in smaller type, amounting, however, to no great matter of difference. The binding of fifty thousand books thus coming to twenty-two thousand five hundred dollars, and added to the price of the printed sheets, will amount to a sum of fifty-four thousand one hundred and forty-eight dollars for ten thousand copies of the laws, as they now stand in our books, supposing no augmentation of matter to be made.

On investigating this subject, three modes of publication have successively been contemplated by the committee:

1st. The publication of the statutes *at large*; 2d. A digest of the laws of the United States; 3d. An edition of the public acts *only*, now in force, and which constitute the actual supreme law of the land. The latter of these recommends itself by the qualities of conciseness, clearness, economy, and despatch. For obvious reasons, the superintendence of the edition, the correctness of the proof-sheets, and the employment of a printer to execute the work, with authority to conduct all the details of the undertaking, ought to be vested in the Secretary of State, who is the keeper of the enrolled originals, and the publisher of their contents to the nation. To carry into effect this object, the following proposition is submitted:

*Resolved*, That the Secretary for the Department of State shall, after the end of the next session of Congress, cause to be printed and collated, at the public expense, a complete edition of laws of the United States, to consist of \_\_\_\_\_ copies, comprising the constitution, public acts in force, and treaties, together with marginal abstracts, tables of contents, and indexes, to be distributed as Congress shall direct.

Secondly, of the journals. The committee submit herewith a correct list of the journals of the different sessions of Congress, since their first publication under our present happy federal constitution. By this it appears that but a single complete set of these national records remains among our archives. All the rest are broken, and are lying in very different numbers on the shelves of the Capitol. It would be highly desirable to multiply and perpetuate these memorandums of our Congressional history, and to diffuse them through the States. Although not replete with every thing that the historical inquirer searches for, they have nevertheless a substantial use and value, and show the progress of legislation and laws in this new and unexampled Government.

*The following is an inventory of the journals of the House of Representatives, taken November 8th, 1803.*

	No. of copies.		No. of copies.
*1st Congress, { 1st Session, -	1	5th Congress, { 1st Session, -	329
{ 2d Session, -	4	{ 2d Session, -	349
{ 3d Session, -	133	{ 3d Session, -	124
†2d Congress, { 1st Session, -	33	6th Congress, { 1st Session, -	132
{ 2d Session, -	27	{ 2d Session, -	110
3d Congress, { 1st Session, -	145	7th Congress, { 1st Session, -	13
{ 2d Session, -	271	{ 2d Session, -	17
4th Congress, { 1st Session, -	329		
{ 2d Session, -	305		

\* There are four copies of the 1st, 2d, and 3d sessions, bound together.

† There are four copies of the 1st and 2d sessions, bound together.

Pressed as Congress is at this time, by demands upon the Treasury of a more serious nature, it does not appear that the reprinting the journals would, at this time, be seasonable. The following resolution is thereupon submitted to the House:

*Resolved*, That it is inexpedient, at present, to reprint the journals of the House.

Thirdly, of other public documents. With concern the committee find that several State papers, belonging to this class, are already become very scarce. Certain of the early reports from the heads of Departments, which may be considered as the germs whence our system of laws have sprouted, are already dissipated and gone; so that none but office copies are to be found, and even those extremely few. The more excellent of these appear worthy of republication. A list of them is herewith submitted, consisting of select reports, made soon after the establishment of the Government, by the Secretary of State, the Secretary of the Treasury, and the Attorney General.

*Reports by the Secretary of State.*

				Folio pages.
July 4,	1790,	On the uniformity of weights and measures	-	24
February 1,	1791,	On the cod and whale fisheries	-	33
November 10,	1791,	On the quantity of lands unsettled in the United States not claimed by Indians or citizens	-	11
				<u>68</u>

*Reports by the Secretary of the Treasury.*

January 9,	1790,	On the support of public credit	-	53
July 20,	1790,	On the disposition of vacant lands	-	4
December 13,	1790,	On further provision for public credit,	-	4
December 13,	1790,	On a plan for a national bank,	-	22
January 28,	1791,	On the establishment of a mint,	-	22
December 5,	1791,	On the subject of manufactures,	-	61
				<u>166</u>

*By the Attorney General.*

December 27,	1790,	On judiciary system,	-	35
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But, desirable as it is to multiply copies of these valuable documents, the committee are unwilling to press the House for an immediate order for printing them. They, therefore, submit the following resolution:

*Resolved*, That the further consideration of reprinting the other public documents be postponed until the next session of Congress.

[8th CONGRESS.]

No. 166.

[1st SESSION.]

ARREST OF ZACHARIAH COX BY THE GOVERNOR OF THE MISSISSIPPI TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 24, 1803.

*To the House of Representatives of the United States:*

NOVEMBER 24, 1803.

In conformity with the desire, expressed in the resolution of the House of Representatives of the 15th instant, I now lay before them copies of such documents as are in possession of the Executive, relative to the arrest and confinement of Zachariah Cox, by officers in the service of the United States, in the year 1798. From the nature of the transaction, some documents relative to it might have been expected from the War Office; but if any ever existed there, they were probably lost when the office and its papers were consumed by fire.

TH: JEFFERSON.

*Extract of a letter from Governor Sargent to the Secretary of State, dated*

MISSISSIPPI TERRITORY, August 20, 1798.

To one act I have been constrained since my arrival, which will be explained to you fully] by the enclosures marked A, B, C, D, E, F, upon which I request immediate instructions. Mr. Cox was at large within the Territory, and an armed party at his command. Before my arrival his coming was talked of amongst some few disaffected persons here, and that he was to assume the Government for the State of Georgia. He is now in close confinement, but with every indulgence that a State prisoner could expect; for I am not disposed to torture even a criminal. I wish ardently for the President's instruction in this business as early as possible, for until I may receive it, Mr. Cox will be continued a prisoner.

*Copy of the enclosure marked A, a letter from General Wilkinson to Governor Sargent.*

DEAR SIR:

HEAD-QUARTERS, MASSAC, August 2, 1798.

I arrived here yesterday, and find that subsequent to your departure, but previous to my arrival, Mr. Cox had contrived, through the agency of a Colonel Shelby, of Kentucky, (who it seems has taken part in his usurpa-



tions) to obtain leave to pass this post, with his boats and thirty-five men; but he at the same time secretly, and in violation of the act to regulate trade, &c., with the Indians, landed an armed force near the mouth of the Tennessee river, and marched them across the country, to rendezvous below this place, where they were embarked.

Without making question of the latent views of this usurper, it will suffice to justify his arrest, that he has taken a position on the lands guaranteed to the Indians by the treaty of Holston and Hopewell, and that he has there assembled, organized, and arrayed an armed force, enlisted for twelve months; and that he has created tribunals, which have proceeded to inflict punishments unknown to the nation.

But, sir, when with these lawless acts we combine the present critical state of our country, and take into consideration the powers which an armed rabble will have to perpetrate mischief at this distance from the seat of Government and our military resources, prudential considerations and national expediency imperiously prescribe to us the adoption of the necessary means of prevention. The interests of the occasion will excuse the unreserve of my style to your excellency, whose more matured judgment will correct the errors of my opinions.

I have strong evidence of an extensive confederacy in this business, from Georgia to the Monongahela, which it is expected will be matured for efficient operation by December; we must stifle the monster in embryo, or extensive calamities may ensue; Cox's followers begin to doubt his stability, but are reluctant to let go the lure by which he has attracted them; to unmask the monster, and blow up the whole combination, it is only necessary to seize this chief actor, and to hold him in safe custody.

From very many, I enclose to you a few documents to exhibit to you the treasonable course which things had taken in this quarter; and on the facts which I have stated, I conceive you will find ample ground for Mr. Cox's arrest, in the law of the 19th May, 1796, to regulate trade and intercourse with the Indians, &c., which also subjects military to your will in such case.

I make this communication to you by express, in the hope it may reach you before Cox passes Natchez, and by the same conveyance shall warn the Spanish officers that his movements are unauthorized by, and his designs unknown to the United States.

I shall look for the pleasure of taking you by the hand in about thirty days; and, in the mean time, with my best wishes for your health,

I have the honor to be, with much respect and esteem, your excellency's most obedient servant,

JAS. WILKINSON.

His Excellency W. SARGENT.

*Copy of the enclosure marked B, a letter from R. Buntin to General Wilkinson.*

SIR:

FORT MASSAC, August 1, 1798.

In pursuance of your excellency's commands, I went on the 30th July last to the town newly formed on the Ohio, between the rivers Cumberland and Tennessee, called Smithland. There I saw a gentleman by the name of Major Guest, who commands at that place, from whom I obtained the following particulars:

That there were six companies of militia organized according to the laws of Kentucky; but I could not learn their exact strength, neither could I learn the reason for their arming and fortifying themselves, unless it was to defend themselves against the Indians; but he informed me, that from the conduct of the officers in the service of the United States, it appeared to him that it was the intention of the Executive to drive the proprietors into the commission of some act that would prove a pretext to forfeit the laws; and he moreover declared that he would, in case any attempt was made on behalf of the United States to drive them from thence, defend the place as long as he had a man able to fire a gun.

That the Indian line does not, according to him, come within a mile and a half of the town in the highest place; and that, following the courses of the Ohio, it does not come within six miles.

That Colonel Cox has gone down the Mississippi, as well on commercial business as to procure meat for the support of the settlement.

That he was permitted to pass Fort Massac with thirty-five men, only one-third of whom were armed; but that seventy-five men more went by land, by permission of Colonel Shelby, of Christian county militia, who at some small distance below, and out of view of the fort, joined and embarked with him. And that in case Major Kingsbury had the last time he was applied to for the purpose refused him, Colonel Cox, permission to pass, he was determined to force his passage down; and that if he was fired on from the garrison or galley, to return the fire, and to fight as long as he had a man to stand by him; and that if he should have proved too strong for the garrison, to destroy it entirely; and that he, Major Guest, told some of the officers so himself.

I was informed by some of the inhabitants, that the terms given the settlers are, a town lot of a quarter of an acre, and one thousand acres of land in the big bend of the Tennessee or Muscle Shoals. One of the inhabitants told Mr. Gregory that they were all sworn to secrecy as to the nature of Colonel Cox's expedition, and that they shortly expected eight six pounders down the Tennessee.

The town of Smithland is situated about three miles below the mouth of Cumberland river, and extends itself about five hundred yards along the Ohio, and about three-quarters of a mile below the first high lands from the Cumberland. Two eminences, being two points of a hill, extend themselves into the town, and which, at the distance of about three hundred and fifty yards back from the shore of the Ohio, meet together in one ridge.

Timber is cut for two block-houses, one of which is to be built on the upper eminence, and the other on a piece of ground a little below the point of the lower eminence, and which in time of high water is surrounded by a small channel from the Ohio.

I am, with the greatest respect and esteem, your excellency's most obliged, humble servant,

R. BUNTIN.

His Excellency General JAMES WILKINSON,

*Commander-in-chief of the army of the United States.*

*Copy of a letter from Major Thomas Girt, (enclosure C.) to the commandant of New Madrid.*

SIR:

SMITHLAND, May 30, 1798.

After my compliments to a gentleman to whom I am an utter stranger, I beg leave to inform your honor that I have the honor to command at this place and settlement, founded by Colonel Zachariah Cox, formerly of Georgia. We first landed in the woods on the 18th of February last, with twelve men. We are now about three hundred and fifty strong; two hundred and twenty-five are effective men; our efforts will be agriculture and commerce, and a friendly intercourse with all our neighbors, of whom we conceive you an interesting one.

Therefore have sent the bearer, Mr. Hiller, who will join himself with some families of the name of Mason, whom we have banished, and are men of bad character wherever they are known. Hiller's business will be to know their intentions, and inform you of them. You may depend on this information.

And I conclude myself, with esteem and regard, your humble servant,

THOMAS GIRT.

The COMMANDANT OF NEW MADRID.

*Copy of a note, (enclosure D,) from Moses Shelby to W. Compton. By the orders of Moses Shelby, County Lieutenant of the 24th regiment of Kentucky Militia.*

SIR: JULY 5, 1798.

You are hereby authorized to call your company to muster, when you think proper, and keep good order. Also, in all cases of invasion or insurrection you will hold yourself in readiness to pursue the enemies of the regiment; at all times holding yourself amenable to the laws of the State of Kentucky, and under my immediate orders.

MOSES SHELBY, Col. 24th regiment.

To Captain WILLIAM COMPTON.

*Copy of a warrant, (enclosure E,) for a non-commissioned officer in Cox's corps.*

SMITHLAND, JUNE 1, 1798.

Reposing special confidence in the courage and fidelity of Jeremiah Wheler, do appoint him second sergeant in my company of emigrants, associating at this place; and he is to be respected accordingly, so long as he conducts himself like a good citizen, consistent with the laws of the United States. I also allow him five hundred acres of land over and above the common allowance for emigrants in that part which is set apart for emigrants on the great bend of the Tennessee river.

M. MITCHELL.

*Governor Sargent's precept for apprehending and securing Zachariah Cox, (enclosure F.)*

SIR: CONCORD HOUSE, NEAR NATCHEZ, MISSISSIPPI TERRITORY, August 18, 1798.

I have to request that you cause Zachariah Cox, said to be in the town of Natchez, to be immediately apprehended, and held in close custody in the fort under your command, until you may receive further instructions in the case from me, or he shall be liberated by the sovereign authority of the United States. For all which this shall be your sufficient warrant.

Given under my hand and seal, day and place before mentioned.

W. SARGENT.

Mr. Cox may receive provisions for his use from the public, but he can have no attendant in whom you have not the most perfect confidence; and communications to and from him must be through the medium of a commissioned officer.

Captain COMM'T GUIAN.

*Governor Sargent to Don Manuel Gayoso de Lemos, Governor General of Louisiana, &c.*

SIR: NATCHEZ, September 28, 1798.

Presuming upon that "inviolable peace and sincere friendship" so happily established between His Catholic Majesty and the United States of America, I hesitate not to request of your excellency that Zachariah Cox, who has been imprisoned within this Territory for the most atrocious misdemeanors, some of them tending to involve the United States in a war with Spain, and who made his escape on the night of the 20th instant, under circumstances so base as extremely to aggravate his guilt to men of honor, and who is said to have taken the way to New Orleans, may be arrested if he is to be found within your excellency's Government, and delivered over to a military escort from the troops of the United States, which General Wilkinson has assured me he will order to be at the national boundary to receive him, whenever it may best suit your excellency's convenience and pleasure.

The compact, sir, subsisting between our nations has most happily provided for rendering ample justice at their respective tribunals, to the subjects and citizens of either, in the recovery of the smallest property, payments of even trifling debts, and damages of what nature soever, that may have been sustained by either party, *whether* the causes of complaint be against our own citizens or subjects, or foreigners who may have taken refuge within our domains.

With such generous, such liberal provision, for matters which most certainly can be of no very great national concern, we must necessarily infer that our sovereigns have never intended any asylum for criminals within the realm. Mr. Cox's conduct cannot be investigated but in the Territory of the United States; if, therefore, your excellency should decline to give him up, (which I cannot believe possible,) it might have the fatal tendency to countenance and encourage every species of villainy within our respective Governments; for it would foster the hope of impunity amongst the most abandoned men.

To establish as sacred and immutable truth that first article of the treaty now subsisting between our nations, I fondly hope your excellency and myself shall pass no occasion of cementing the public amity, by the mutual exchange of good offices. The delivering up of Mr. Cox will rank high in this order, and be considered as rendering very eminent service to the United States and all good government. On my part, I shall but wait an opportunity to demonstrate equal accommodation, and follow the example of your excellency.

If Mr. Cox, sir, who is the subject of the enclosed, should not be within your excellency's Government, or if from any cause I am to fail of success in my present application, I have to request the same may be received in confidence, as an unnecessary alarm to him could produce no good effects whatever.

I am, most respectfully, your excellency's most obedient servant,

WINTHROP SARGENT.

His Excellency DON MANUEL GAYOSO DE LEMOS, Governor General of Louisiana, &c.

NATCHEZ, MISSISSIPPI TERRITORY, *November 7, A. D. 1798.*

Three hundred dollars reward, for apprehending and delivering to the undersigned, or to the commanding officer at Fort Sargent, in the town of Natchez, Mississippi Territory, at any time within the present year, Zachariah Cox, who was confined in said fort for high crimes and misdemeanors against the United States, and made his escape therefrom upon the twenty-sixth of September ultimo.

WINTHROP SARGENT.

*Extract of a letter from Col. Pickering, Secretary of State to Governor Sargent, dated*

DECEMBER 10, 1798.

The proceedings of Zachariah Cox, and his followers, as stated by General Wilkinson's communications, appearing to be aggressions on the Indian land, and consequently breaches of the law for regulating trade and intercourse with the Indian tribes, subject them to arrest and punishment by that law in any State or Territory of the Union where they may be apprehended. The only question that occurs is, whether the warrant of arrest was issued on adequate *proof* of the offence? Proof for their conviction, it is hoped, will be timely found.

8th CONGRESS.]

No. 167.

[1st SESSION.

ARREST OF ZACHARIAH COX BY THE GOVERNOR OF THE MISSISSIPPI TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 28, 1803.

Mr. EARLY, from the committee to whom was referred the memorial and petition of Zachariah Cox, made the following report:

That they have examined the subject-matter of said memorial and petition, so far as the proofs before them have enabled them; that, from the documents referred to them, it does appear that the memorialist was arrested and confined at Natchez, at the time by him stated, by virtue of a warrant from Winthrop Sargent, then Governor of the Mississippi Territory, but in which warrant there is no charge stated, nor any cause assigned. It appears, however, that, previously to the issuing of said warrant, a letter had been written by Brigadier General Wilkinson to Governor Sargent, charging the memorialist, in general terms, with views hostile to the peace and interest of the United States, and in particular with having violated the law regulating trade and intercourse with the Indian tribes, in taking a position upon their land; to substantiate which charge some documents were transmitted with the letter, but which documents, in the opinion of the committee, fall very far short of proof. And from other evidence before the committee, and which accompany this report, it appears that the position complained of was not upon Indian land; and so far as the proofs inpossession of the committee have enabled them to judge, they are of opinion that the arrest and confinement were irregular and oppressive; but whilst this statement and the expression of this opinion appear to have been due to the reputation and feelings of the memorialist, the committee have not been able to discover any principle upon which the Government of the United States should be bound to compensate him for the losses stated by him to have been sustained: his redress must be from a court of justice. The committee, therefore, recommend the adoption of the following resolution:

*Resolved,* That the prayer of the memorialist cannot be granted.

WASHINGTON, *November 26, 1803.*

Mr. Z. Cox having mentioned to me that the committee on his petitions wish to be informed respecting the situation of Smithland, in Kentucky, as it respects the Indian boundary, I am well acquainted with Smithland, living but about twenty miles therefrom; the whole of the settlement made by Mr. Cox there, which is very considerable and respectable, is on this side of the marked line of the Indian boundary on the river Ohio, I should judge five miles; and it is my opinion that line no where comes nearer than that distance to Smithland. Since Mr. Cox left that country, the lands between his settlement and the Indian line have been settled by respectable people; such have been the inhabitants of Smithland since I have become acquainted there.

M. LYON.

*To the Committee on the petition of Z. Cox.*

WASHINGTON, *November 1, 1803.*

*To the honorable the members of the Senate and of the House of Representatives of the United States of America in Congress assembled. The remonstrance and memorial of Zachariah Cox respectfully represents:*

That your memorialist, in the month of August, one thousand seven hundred and ninety-eight, was passing down the river Mississippi, on a voyage to New Orleans, with a cargo of merchandise, conformable, in every respect, to the character and duty of a good citizen, and to the laws and treaties of the United States. On the eleventh day of the same month he arrived at Natchez with his cargo; he continued there until the eighteenth day of that month, demeaning himself with unquestionable order and propriety. In the night of that day, and about the middle of the night, his lodgings were surrounded by a body of armed men, belonging to the army of the United States, and commanded by officers in the service of the United States; he was made a prisoner, and taken into their custody. Your memorialist earnestly demanded the cause for which he was thus seized, but satisfaction was denied him. He was put into close confinement in a block-house, the lower part of which contained six or seven horse thieves, and communicated by a trap-door with that into which your memorialist was thrust. In this miserable situation was your memorialist kept for ten days and ten nights, without being allowed, during the whole of that time, to go out of the

loft of the said block-house. In this period, his health beginning to impair, so much relaxation was obtained as to permit him to walk in the day time; but, excepting this indulgence, he was detained in the same close confinement for thirty-nine days and nights. Repeated applications were made by him to know the cause of his confinement, and answered only by repeated disdain. All access and communication from his friends without were denied him. Some of the most respectable characters in that quarter of the Union interested themselves, as he was afterwards informed, in his sufferings; among these were General George Matthews, Colonel Joseph Pannoll, and Doctor James White. To see him, or to know the cause of his confinement, were refused them with contempt; the best security which could be desired for the appearance in person of your memorialist, on any occasion, and before any tribunal that could be named, was tendered and rejected.

Such, legislators of the Union! was the treatment of a freeman, of an American citizen, within American territory, by American officers; and of a citizen who will challenge the world to prove, with respect to him, a single deviation from rectitude of conduct.

Deprived of every hope, your memorialist languished in this solitude and oppression until the twenty-sixth day of September, one thousand seven hundred and ninety-eight. On that day, an accident occurred which enabled him to effect his own escape; and, entertaining no hesitation in extricating himself, if possible, from the grasp of his merciless persecutors, he determined to avail himself of it, and fled for refuge to New Orleans.

He deemed it his first duty, on his arrival there, to make himself immediately known to the political authority of the place. On presenting himself to His Excellency Don Manuel Gayoso de Lemos, then Governor of the province of Louisiana, that officer was struck with astonishment, and remained silent some minutes; at length he said: "Sir, how, in the name of God, did you come here? I have just received information, from General Wilkinson and others, that one Zachariah Cox, at the head of a lawless banditti, is now invading this province, with no other object than to harass and plunder the inhabitants; and here is my proclamation, warning them of their danger, and calling the militia to be in readiness. The letter which you hand me from the commander of New Madrid explains the error; but how is it possible that General Wilkinson should have given me such information?"

The impartial will judge of the embarrassment of your memorialist when he found the extent of his calumny, and the power of his calumniators; relying, however, in conscious rectitude, he trusted to the good sense of the Spanish officers, and met with justice, honor, and humanity.

Some days after your memorialist had been in New Orleans, a demand of his person was made on the Governor, in the name of General Wilkinson and Winthrop Sargent. Sensible of the gratitude he owed to that officer, your memorialist offered to him, if he considered his public duty required it, voluntarily to surrender himself at Natchez. The answer he received to this proposition was the following, in substance: "The treaty with the United States does not compel me to comply with any such demand; I should conceive it an indignity; the laws of Spain are competent to determine justice. You are now in His Catholic Majesty's dominions, and under my protection; if you have acted improperly, you must abide by the consequences; you are at liberty to stay here as long as you think proper, and to return to the United States when you please; and I feel bound to afford you every aid in my power, so far as my jurisdiction extends."

Words cannot express the grateful impression made on the mind of your memorialist by this magnanimous language and conduct of Governor Gayoso. The malice of his persecutors proved completely abortive.

Having finished his business at New Orleans, your memorialist returned into the United States by the way of the river Mobile. In passing through the Choctaw and Chickasaw tribes of Indians, your memorialist found that a considerable pecuniary reward was offered to those Indians to molest him. On arriving at Nashville, an officer of the army made an affidavit that your memorialist had escaped from confinement at the Natchez; and, on this, a federal judge issued a warrant to arrest him, and your memorialist was detained a further time of two months and twenty-two days, and then discharged, without any charge, crime, or offence being alleged against him.

The merchandise which your memorialist had with him, of considerable value, his barge, his negro servant, for whom he had paid five hundred dollars, with a variety of other articles, fell into the hands of his enemies, the federal officers. The losses of your memorialist, by occasion of this treatment, on a moderate estimate, are not less than nine thousand dollars.

Thus has your memorialist, from a state of affluence, by unjust persecution, been reduced to abject indigence, and deprived of his fame and credit.

The resources of your memorialist would not enable him to reach your honorable body with his complaint previous to the present time; he now comes forward and asks for redress at the bar of his injured country; he prays that an investigation of these transactions may be had; that punishment may reach the guilty; that the fame of your memorialist may be vindicated; and that his pecuniary losses may be made good to him. He is persuaded he will show to his country that he has been uniformly faithful to her, and to her laws; and he trusts that his country will show to him that, however high or potent his enemies, she has both *the will* and *the power* to protect him.

ZACHARIAH COX.

DIGEST OF THE LAWS OF LOUISIANA.

COMMUNICATED TO CONGRESS, NOVEMBER 29, 1803.

To the Senate and House of Representatives of the United States:

NOVEMBER 29, 1803.

I now communicate an appendix to the information heretofore given on the subject of Louisiana. You will be sensible, from the face of these papers, as well as of those to which they are a sequel, that they are not and could not be official, but are furnished by different individuals as the result of the best inquiries they had been able to make, and now given, as received from them; only digested under heads to prevent repetitions.

TH: JEFFERSON.

## APPENDIX No. 1.

*Don Alexander O'Reilly, commander of Benfayou, of the order of Alcantara, Lieutenant General of the armies of His Majesty, Inspector General of Infantry, and, by commission, Governor and Captain-General of the province of Louisiana.*

The process which has been had in consequence of the insurrection which has taken place in this colony, having fully demonstrated the part and influence which the council have taken in those proceedings, countenancing, contrary to duty, the most criminal actions, when their whole care should have been directed to maintaining the people in the fidelity and subordination which are due to their Sovereign; for these reasons, and with a view to prevent hereafter evils of such magnitude, it is indispensable to abolish the said council, and to establish in their stead that form of political Government and administration of justice prescribed by our wise laws, and by which all the states of His Majesty in America have been maintained in the most perfect tranquillity, content, and subordination. For these causes, in pursuance of the power which our Lord the King (whom God preserve) has been pleased to confide to us by his patent, issued at Aranjuez, the 16th April, of the present year, to establish in the military police, and in the administration of justice and of his finances that form of government, dependence, and subordination, which should accord with the good of his service and the happiness of his subjects in this colony: We establish, in his royal name, a city council or cabildo, for the administration of justice and preservation of order in this city, with the number of six perpetual regidores, conformably to the second statute, title 10, book 5, of the Recopilation des Indes; among whom shall be distributed the offices of alferes royal, alcaid mayor provincial, alguazil mayor, depository general, and receiver of penas de camara, or fines for the use of the royal treasury; these shall elect, on the first day of every year, two judges, who shall be styled alcaids ordinary, a syndic procureur general, and a manager of the rents and taxes of the city; such as the laws have established for good government and the faithful administration of justice. And as the want of advocates in this country, and the little knowledge which his new subjects possess of the Spanish laws might render a strict observance of them difficult, and as every abuse is contrary to the intentions of His Majesty, we have thought it useful, and even necessary, to form an abstract or regulation drawn from the said statutes, which may serve for instruction and elementary formulary in the administration of justice and economical government of this city, until a more general knowledge of the Spanish language may enable every one, by the perusal of the aforesaid statutes, to extend his information to every point thereof. In consequence thereof, and with the reserve of His Majesty's good pleasure, we order and command the justices, cabildo, and their officers, to conform punctually to what is required by the following articles:

## SECTION I.

## OF THE CABILDO.

1. The cabildo, at which the Governor shall preside, or, in his absence, the alcaid ordinary, who shall have the first voice, shall assemble at the city hotel (1) on the first day of every year, and proceed to the election of alcaids ordinary and the other officers above mentioned; it shall also assemble every Friday, for the purpose of deliberating on all that may concern the public welfare. The syndic procureur-general shall propose in these assemblies what may appear to him for the welfare of the republic. One or two regidores shall immediately after inform the Governor, if he has not presided, of the resolutions that may have been taken; and, except in pressing cases when the cabildo for very important reasons may assemble at the Governor's dwelling, it shall not assemble in any other place than the city hotel; (2) under the penalty, to the officers who compose it, of being deprived of their employments.

2. In urgent cases, which cannot be deferred until the usual day of meeting, the regidores may hold an extraordinary sitting; they shall be notified to that effect by one of the door-keepers of the cabildo; (3) and if any one of the members shall not have been notified, the resolutions which may have been taken shall, if he shall challenge the same, be void; (4) as also in case the majority should not have been notified, even if those who have not been notified shall not object thereto. No assembly shall ever be held but by order of the Governor, and the assistants shall keep a profound silence in respect to the subject upon which the assembly may have deliberated.

3. The regidores shall have an active voice in the elections, as well as the alcaids of the preceding year, who shall remain in the cabildo until the election of their successors shall be confirmed, and they shall have been received. (5) The alcaid, however, who, in the absence of the Governor, shall exercise the functions of president, (6) shall not have an active voice; and so soon as the elections shall have been determined, the secretary of the cabildo shall give information thereof to the Governor, (7) who alone may decide on the validity of the opposition made by any member to the persons elected to the municipal offices, and confirm the alcaids and other officers.

4. The office of alcaid should be given to capable persons who may have the information necessary to fill worthily a charge so important. (8.) They shall have a house in the city, and shall reside therein. Those who are employed in the militia (9) may be named to those offices; and they may also be given to the regidores, whose employments may not be incompatible with those places. (10)

5. The alcaids, and the other elective officers of the cabildo, cannot be continued in their employments but when all the members without exception shall have given their votes for their continuation. (11) Without this condition, they cannot be re-elected until two years after they shall have quitted the distinguishing badge of their office. (12)

6. Neither the officers of the finances, (13) those who are indebted to the said finances, (14) the sureties of either the one or the other, (15) those who have not attained the age of twenty-six years, (16) nor the new converts to our holy faith, (17) can be elected to the said offices.

7. The election being confirmed by the Governor, the door-keepers shall deliver tickets from the scrivener to the elected, notifying them to attend at the hall of the assembly, in order to take the oath prescribed by law; (18) the form of which will be found annexed to this regulation, and to be received and put in possession of their offices.

8. The scrivener of the Government will keep a book entitled "Resolutions," in which he shall record the elections and the decisions of the assemblies, ordinary and extraordinary; and which shall be signed by all the judges and members who may have assisted thereat. (19.)

(1) Statute 1, title 9, book 4, of the Recopilation des Indes. (2) Stat. 2, title 9, *ibid.* (3) Stat. 2, *ibid.*  
 (4) Stat. 1, title 4, part 1. (5) Stat. 3, title 3, book 5. (6) Stat. 15, title 3, book 5. (7) Stat. 10, *ibid.*  
 (8) Stat. 4, *ibid.* (9) Stat. 8, *ibid.* (10) Stat. 7, title 15, part 1. (11) La Cour Phillipique, sec. 2, num. 36.  
 (12) Stat. 9, title 3, book 3, of the Recopilation des Indes. (13) Stat. 7, *ibid.* (14) Stat. 7, *ibid.*  
 (15) La Cour Phillipique, sec. 2, num. 36. (16) Stat. 2, title 9, book 3, of the Recopilation des Loix des Indes.  
 (17) Stat. 23, title 5, part 1, *ibid.* (18) Stat. 16, title 6, and stat. 3, title 9, book 3, of the Recopilation des Loix de Castile.  
 (19) Stat. 16, title 9, book 4, of the Recopilation des Indes.

9. The regidores cannot give their votes for the said offices in favor of their father, son, brother, step-father, son-in-law, step-son, or step-brother of their wives, (20) although they may be elected by all those who shall be entitled to vote.

10. Whenever the cabildo shall deliberate upon an affair which may personally regard a regidor, or other officer of the cabildo, or even any one of his kindred, or for other particular reasons which might induce a suspicion of partiality, he shall withdraw immediately, and shall not return until the affair shall have been decided. (21.)

11. All decrees, royal provisions, and despatches, which may be addressed to the corporation either by the Governor or other authorized minister, shall be opened in the cabildo only, where they shall be recorded, and the originals preserved in the archives of the said cabildo. (22.)

12. In case of the death or absence of one of the alcaids ordinary, the alferes royal shall exercise the duties of that office during the time that may be wanting to complete the year of him who may be deceased or absent; and, if two alcaids should be wanting at the same time, the other place shall fall of right to the senior regidor, provided he does not hold in the cabildo any office incompatible with that employment, (23) as is specified in the present regulation, under the heads of those several offices.

13. Whenever the regidores may assist in a body, they shall preserve the order following, as also in the cabildo, viz: the alferes royal shall take the first place; (24) the alcaid mayor provincial the next; the alguazil mayor, and the other regidores according to their rank and their seniority.

14. Each regidor, according to his rank, and by turns, shall be charged with the maintenance of the municipal ordinances, and the other dispositions of government for the public good. He shall attend to the prices of provisions, exacting the fines, and putting in force the penalties incurred by the delinquents.

15. Whenever there shall be the question of augmenting the price of meat, with which this city is abundantly and constantly supplied, the cabildo, at a public bidding, shall adjudge the contract to him who shall oblige himself to furnish it on the best terms and for the greatest advantage of the public.

16. The cabildo shall have cognizance of appeals from sentences pronounced either by the Governor, or by the alcaids ordinary where the sum does not exceed 90,000 maravedis; (25) which must be understood as extending only to causes wholly civil, for in criminal cases the appeal must be made to the superior tribunal, which His Majesty will have the goodness to appoint, in consequence of my representations to him on that subject.

17. To legalize similar appeals, the cabildo shall name two regidores, who, in quality of commissioners, and after having taken the oath, shall decide on the justice or injustice of the sentence from which an appeal is made, conjointly with the judge who may have pronounced the same. (26) This nomination shall be made so soon as the cabildo shall be required thereto by the appellant; the form of which, and of the institution of the said appeal, will be detailed in their places.

18. In the first ordinary assembly which may be held after that for the elections of each year, the cabildo shall name two regidores to receive the accounts of the mayordome de propios of the preceding year of the sums which he may have received for account of the city, and of the expenditures by order of the cabildo for the objects to which those sums are destined. They shall have those accounts rendered with the greatest exactitude, and shall oblige the said mayordome to deliver up immediately to his successor the residue of the said account; the said regidores being responsible for the total thereof when the said accounts shall be settled by one of the principal officers of finance. (27)

19. Although the application and expenditure of the propios for the objects to which they are destined belongs to the cabildo, it cannot, even in extraordinary cases, dispose of more than 3,000 maravedis thereof; and when a greater expenditure may be necessary, the consent of the Governor must be previously obtained, without which the said cabildo cannot assign either salary or allowance upon any occasion whatsoever. (28.)

20. The electors in the two jurisdictions being responsible for the injury and detriment which the public may sustain by the bad conduct and incapacity of the elected for the administration of justice and the management of the public interests, should have for their only objects in the election of alcaids ordinary and the other officers the service of God, the King, and the republic; and, to prevent an abuse of that great trust, their choice should be directed to those persons who shall appear most suitable for those offices, by the proofs they may possess of their affection for the King, their disinterestedness, and their zeal for the public welfare.

21. The cabildo is hereby informed that it should exact from the Governors, previous to their taking possession, a good and sufficient surety and a full assurance that they will submit to the necessary inquiries and examinations during the time they may exercise their employments; and that they will pay what may be adjudged and determined in that respect. (29) This article merits the most serious attention of the cabildo, who is responsible for the consequences which may result from an omission or neglect of exacting those securities from the Governor.

22. The offices of regidor and scrivener of the cabildo may be sold; those officers shall also be allowed to assign them in the manner prescribed by the laws of this kingdom. In acknowledgment of this favor, and in consideration of the value that these offices will acquire by the facility of assigning them, by which they will be effectively transferred from one person to another, there shall be paid into the royal treasury, for the first assignment, one-half the sum at which the said offices may be rated, and one-third of the same for every subsequent assignment thereof, exclusive of the royal custom of half annats, (receivable without any deduction in Spain;) (30) which custom shall also be paid by the alcaids ordinary who may be yearly elected to those offices.

23. To render these assignments valid, the assigner should survive the same the term of twenty days, computing from the date thereof; and the assignee should present himself to the Governor within seventy days from the date of the same, provided with an authentic act substantiating the said assignment, as likewise the abovementioned twenty days that the assigner shall have survived the same. Should neither of those precautions be taken, the assigner shall forfeit the said office, which shall be deemed vacant to the profit of the King's demesne; and neither he nor his heirs may lay claim to any portion of the price at which the same may be sold. (31.)

24. The said assignments shall not be valid, unless made in favor of persons known to be capable, (32) of the age of twenty-six years, and possessing the capacity and talents necessary to the common good of the republic, and worthy of the cabildo, on account of the injury which would result therefrom should those officers be deficient in these qualifications. (33) The said assignments shall be carefully executed and preserved by a public notary of the place at which they may be made. (34)

(20) Stat. 5, title 10, book 3, of the Recopilation des Indes.

(21) Stat. 14, title 9, book 4, *ibid.*

(22) Stat. 17 and 18, book 4, *ibid.*

(23) Stat. 13, title 3, book 5, *ibid.*

(24) Stat. 4, title 1, book 4, *ibid.*

(25) Stat. 17, title 12, book 5, *ibid.*

(26) Stat. 2, title 18, book 4, *ibid.*

(27) Stat. 21, title 9, book 4, *ibid.*

(28) Stat. 2, title 13, book 4, *ibid.*

(29) Stat. 9, title 2, book 5, of the Recueil des Loix des Indes.

(30) Stat. 1, title 21, and stat. 4, title 19, book 8, *ibid.*

(31) Statutes 4 and 6, title 21, book 8, Recopilation des Indes.

(32) Stat. 9, title 21, book 8, of the Recopilation des Indes.

(33) Stat. 7, title 20, stat. 10, 11, title 21, book 8, *ibid.*

(34) Statute 7, title 21, book 8, of the Recopilation des Indes.

## SECTION II.

## OF THE ALCAIDS ORDINARY.

1. The alcaids ordinary shall have cognizance of all matters in dispute, either civil or criminal, between inhabitants residing within their jurisdiction, which shall extend throughout the city and the dependencies thereof, excepting those which may come within the cognizance of the ecclesiastical, military, or other special court. (1)

2. The alcaids ordinary cannot interfere in affairs of Government, which come exclusively within the jurisdiction and competency of the governor. (2)

3. In all matters on which the cabildo may deliberate, the alcaids ordinary, who may assist thereat, shall, during their year of office, have an equal vote with the regidores. (3)

4. The alcaids shall appear in public with decency and modesty, bearing the wand of royal justice—a badge provided by law to distinguish the judges. (4) When administering justice they shall hear mildly those who may present themselves, and shall fix the hour and the place of audience, which should be at 10 o'clock in the morning, at the city hotel; (5) and for the decision of verbal causes, in the evening between 7 and 8 o'clock, at their own dwellings, and in none other.

5. One of the principal objects of justice being to prevent, effectually, those disorders which take place during the night, one of the alcaids, assisted by his alguazils and the scrivener, should go the rounds of the city; and, in case a greater force should be necessary, they may not only demand it from those persons who may be present, but also from the corps-de-garde nearest thereto.

6. It is also the duty of the alcaids ordinary to keep a watchful eye upon fornication, and to punish the same, and all other public offences, conformably to the laws; of which a sufficient detail will be given herein.

7. The alcaids may hear and decide verbally in civil causes, when the demand shall not exceed twenty piasters, (6) as also in criminal causes of little importance. They may also hear and decide verbally those which may exceed that sum, in case the parties interested shall consent thereto.

8. Causes legally brought before one of the judges shall be continued and determined in his tribunal, and neither the governor nor any other shall deprive him of the cognizance thereof. (7.) The governor, however, being required thereto by the parties, may, by an order in writing, and suitable to the case, require and summon the alcaid to render speedy justice, conformably to law.

9. In cases of controversy, with respect to jurisdiction, between the governor and one of the alcaids, or between these last, where one of them may claim the cognizance of a cause instituted with the other, either by reason of the said cause having been also instituted in his tribunal, or his supposing the same exclusively within his jurisdiction, they shall draw up a *procès-verbal* of the said controversy, in which they shall set forth their pretensions in a grave and judiciary style. The case shall remain in suspense until the decision of the superior, whom they shall be bound to consult, and to whom they shall deliver an exact copy of the proceeding, unless one of the judges may give way to the claim of the other, and thereby put an end to the said controversy. If, however, in the interval of the decision, one of the judges should proceed in, or take the least cognizance of, the aforesaid cause, he shall forfeit his claim to the same, which shall be immediately vested in the other. (8.)

10. If one of the parties pleading shall except against the alcaid who may have already taken cognizance of a cause, he may not continue the same but in conjunction with the other; and, if this last should also be excepted against, he shall associate himself with a regidor, who shall take an oath to do his duty impartially, and to terminate the cause according to law, and as speedily as possible. Whatever may be done by the alcaid alone, after he may have been excepted against, shall be void and of non-effect. The oath taken by the party to the written act of exception, that he is mistrustful of the alcaid, shall be sufficient to render the same valid; but, if the party shall purpose to exclude him entirely from the hearing of the cause, besides the aforesaid oath, he shall make known and substantiate the ground on which he relies for the support of his pretensions. If the judge should be related, even in the fourth degree, to the adverse party, or in such habits of friendship with him as to excite a suspicion of partiality, or prepossessed against the exceptor, in all these cases he shall be excluded from the hearing of the cause in controversy, which shall be committed to the other alcaid.

11. Two referees appointed, one by the alcaid, and the other by the exceptor, after being sworn to execute their office impartially, shall determine whether the case be of the nature before mentioned; and, if of the said nature, they shall exact the entire exclusion of the alcaid therefrom; and, if a difference should arise between the referees, a third, named by the judge, shall decide therein; which decision shall be indispensably binding.

12. The diversity of cases not permitting a special detail of the forms of proceeding therein, the alcaids shall be guided by the formulary hereunto annexed; and shall consult with the counsellor, to be appointed for that purpose, upon all doubtful cases which may occur in their practice, or which may not be provided for by the said formulary; and shall approach, as nearly as possible, to the spirit of our laws for the administration of justice.

13. The alcaids ordinary, accompanied by the alguazil mayor, and the scrivener, shall, every Friday, make the visitation of the prison. They shall examine the prisoners, the causes of their detention, and the time of their imprisonment. (9) They shall release the poor who may be detained for their expenses, or for small debts; and the jailer shall not exact from them any releasement fee. (10) The alcaids may not set at liberty any of the prisoners detained by order of the governor, or of any other judge, without their express consent.

14. They may not release those who are imprisoned for debts due to the domain; (11) nor for fines imposed by law, unless the sum due shall be previously deposited. (12)

15. The governor, with the alcaids, the alguazil mayor, and the scrivener, shall, yearly, on the eves of Christmas, Easter, and Pentecost, make a general visitation of the prisons, in the manner prescribed by the laws of the Indies. (13) They shall release those who have been arrested for criminal causes of little importance, or for debts, when the debtors are known to be insolvent; and shall allow them a sufficient term for the payment of their creditors.

## SECTION III.

## OF THE ALCAID MAYOR PROVINCIAL.

1. The regidor alcaid mayor provincial shall bear the rod of justice, and shall have cognizance of crimes committed in the inhabited places without the cities and villages. (14) Thefts, robberies, carrying away of property by

(1) Stat. 1, title 3, book 5, Recopilation des Indes. (2) Stat. 11, title 3, book 5, *ibid.* (3) Stat. 15, title 3, book 5, *ib.*  
 (4) Statute 11, title 2, book 5, *ibid.* (5) Statute 13, title 2, book 5, *ibid.* (6) Statute 1, title 10, book 5, *ibid.*  
 (7) Statute 14, title 2, book 3, *ibid.* (8) Statute 8, title 9, book 5, *ibid.* (9) Statute 1, title 7, book 7, *ibid.*  
 (10) Statute 16, title 6, book 7, and statute 17, same title and book. (11) Statute 16, title 7, book 7, Recop. des Indes.  
 (12) Statute 17, title 7, book 7, *ibid.* (13) Statute 1, title 7, book 7, *ibid.* (14) Statute 2, title 13, book 8, Recop. de Castile.



force, rapes, as also treason, malice, accompanied by wounds, or followed by death, setting fire to or burning down of houses or crops, and other crimes of this nature, shall be within the competency of the said alcaid mayor provincial.

2. He may also take cognizance of the aforesaid crimes, although committed in cities, when the offenders have quitted the same, and have withdrawn to the country with their plunder; as also of murders or assaults committed on their officers while in the exercise of their duties, or in the interval thereof, if the same are the effect of malice. (1) If, however, the governor, or one of the judges ordinary of the city, shall have previously taken cognizance thereof, the alcaid mayor provincial shall not interfere therein, by reason that the jurisdiction of the same is vested in the alcaid ordinary. (2) The judge, however, who shall have apprehended the offender, shall have the preference therein, even if the others should have preceded him. (3)

3. Whenever it shall be known that the crime does not concern the tribunal of the Saint Hermandad, the alcaid mayor provincial shall refer the cognizance of the same to one of the alcalds ordinary, without waiting until he may be required thereto. (4)

4. The alcaid mayor provincial shall see that travellers are furnished with provisions at reasonable prices, as well by the proprietors of plantations as by the inhabitants of the places through which they may pass. (5)

5. The principal object in the institution of the tribunal of the St. Hermandad being to repress disorders, and to prevent the robberies and assassinations committed in unfrequented places by vagabonds and delinquents, who conceal themselves in the woods and attack travellers and the adjacent inhabitants, the alcaid mayor provincial should assemble a sufficient number of the commissaries or brothers of the St. Hermandad to clear his jurisdiction of those kinds of people, by pursuing them with spirit, seizing or putting them to flight. (6)

6. For the purpose aforesaid, and conformably to the usage of the other India provinces within the domain of His Majesty, the alcalds mayors provinciaux, their commissaries, and the brothers of the St. Hermandad, shall have the right of arresting, either within or without the city, all runaway negroes and fugitives, and may exact a reasonable fee therefor; which right shall not be vested in any other person save the master of the fugitive slave.

The said fee is so much the more just, inasmuch as the alcaid mayor provincial, to comply with his duty, must, at his own expense, travel through the unfrequented places, for the benefit of the inhabitants.

7. The said officer shall render speedy justice in all matters within his competency, (7) and from his judgment there shall be no appeal; (8) otherwise it would be impossible to remedy the injurious consequences that would result therefrom. But, on the other hand, his judgments shall be pronounced in strict conformity with the spirit of the laws, to which end he shall consult some lawyer; but, in the interim, he shall be guided by the instructions herein contained, which relate to the administration of justice and the forms of proceeding.

8. This office of the Hermandad being created with a view to prevent those disorders which may be committed in unfrequented places, the alcaid mayor should make frequent excursions from the city. This duty consequently renders his employment incompatible with that of alcaid ordinary, to which he cannot be elected, unless he shall have previously obtained permission of the King, to commit to a lieutenant, appointed by himself, the duties of the St. Hermandad.

9. The said officer, and his lieutenants, should take an oath, of the form annexed to this abridgment; he shall account to the governor for the appointments he may have made, and shall notify him of the judgments he may have pronounced, to the end that the same may be put into execution. Although this formality is not prescribed by any law, yet it is necessary for the purpose of preserving harmony and subordination, and for the facility of procuring assistance.

10. In all controversies, with respect to jurisdiction, which may occur between the tribunal of the St. Hermandad, and any other tribunal of the province, the parties shall conform punctually to the instructions which have been given in the particular article which relates to the alcalds ordinary. The instructions which have been given in relation to exceptions against judges, should also be strictly followed, as no altercation should take place on that subject between these officers.

#### SECTION IV.

##### OF THE ALGUAZIL MAYOR.

1. The alguazil mayor is an officer charged with the execution of sentences and judgments rendered, as well for payments ordered, taking possession of goods for sale, and imprisonments, as for the punishment of crimes. He cannot be elected alcaid ordinary, (9) unless he shall have appointed a lieutenant to discharge his duties, in the manner prescribed to the alcaid mayor provincial. (10)

2. Recovery of moneys upon writs of execution, orders for taking possession of goods, and seizures of real property, shall be carefully executed by the alguazil mayor, taking the fees allowed by law, (11) and fixed by the tariff included in the present regulation.

3. The alguazil mayor shall also have the superintendance of the prisons, shall commission the jailers, (12) and keepers of prisons, after having presented them to the governor, that he may judge of their capacity for those offices, (13) under the penalty of being deprived, for one year, of the right of nominating the same; which shall, for that term, be vested in the governor. All the jail fees which the prisoners may pay shall be for the use of the alguazil mayor.

4. The said officer cannot appoint as lieutenants any persons but such as are known to be suitable for those employments, (14) who are young, and do not exercise any mechanical profession; they shall be presented to the governor, and approved by him, and shall take the oath required. (15) The alguazil mayor may not appoint to the said office either the relations or domestics of the judges and officers, (16) but he shall be allowed to change the said lieutenants when he may have just reasons therefor. (17)

5. The alguazil mayor and his lieutenants shall go the rounds, and shall visit the public places, both by night and day, to prevent noises and disputes, (18) under the penalty of being suspended in their offices, and payment of the damages that may result from their negligence. (19) They shall arrest, without other authority, the offenders, and shall give immediate information thereof to the alcalds. (20) They shall not tolerate unlawful games, nor public

(1) Statute 2, title 13, book 8, Recopilacion de Castile.

(2) Statute 10, title 13, book 8, Recopilacion de Castile.

(3) Statute 10, title 13, book 8, *ibid.*

(4) Statute 13, title 13, book 8, *ibid.*

(5) Statute 15, title 13, book 8, *ibid.*

(6) Statute 1, title 15, book 8, Recopilacion de Castile, and statute 1, title 4, book 5, of the Recopilacion des Indes.

(7) Stat. 18, tit. 15, book 8, Recop. des Indes.

(8) Statute 9, title 13, book 8, *ibid.*

(9) Stat. 29, tit. 11, 20, book 2, *ibid.*

(10) Stat. 3, tit. 20, book 2, *ibid.*

(11) Stat. 3, tit. 20, book 2, *ibid.*

(12) Stat. 13, tit. 20, book 2, *ibid.*

(13) Stat. 14, tit. 20, book 2, *ibid.*

(14) Stat. 5, tit. 20, book 2, *ibid.*

(15) Stat. 6, tit. 20, book 2, *ibid.*

(16) Stat. 7, tit. 20, book 2, *ibid.*

(17) Stat. 11, tit. 20, book 2, *ibid.*

(18) Stat. 21, tit. 20, book 2, *ibid.*

(19) Stat. 20, tit. 20, book 2, *ibid.*

(20) Stat. 23, tit. 20, book 2, *ibid.*



and scandalous offences. (1) They are also hereby informed that, although they have the power of arresting any one without other authority, they may not release the same, under the penalty of being deprived of their offices, and of being declared incapable of holding any other. (2)

6. The alguazil mayor shall conform strictly to the articles which relate to the prisons, and to the tariff which specifies the fees which are demandable. He shall also assist with the judges ordinary in the visitations of the prisons, which shall be made at the times prescribed by this regulation.

#### SECTION V.

##### OF THE DEPOSITARY GENERAL.

1. The depositary general whose duties are incompatible with those of a judge cannot be elected alcaid ordinary, unless he may name a lieutenant, who may be charged with the care of the deposits.

2. Before entering upon the said office, the depositary general shall give good and sufficient sureties, who shall answer for the safety of the deposits, and who shall be approved by the governor, the alcalds, and the cabildo. (3) This warranty shall be recorded in the book to be kept by the scrivener of the cabildo, for the recording of the deposits; (4) in which he shall inscribe the day, month, and year, of the said warranty.

3. The governor, the alcalds, and the cabildo, shall carefully examine the books which exhibit the sureties of the depositary general, the state of his property, and that of the said sureties, which shall be certified by the scrivener of the cabildo, in order that the same may be verified the succeeding year, and the necessary order taken thereon. (5)

4. If, by the said examination, it shall be found that the situation of the depositary general, or of his sureties, be such as to excite apprehension, they shall prevent him from exercising the duties of his office, until he shall have rendered his accounts, and given a better security. (6)

5. The depositary general shall deliver on the first order the sums which may have been deposited with him, in the same coin in which he received them; to which the judges, and other officers competent thereto, should pay particular attention. (7)

6. The depositary general shall record the deposits in a book similar to that of the scrivener of the cabildo; (8) he shall receive for the same, and for deposit fees, three per cent., as explained in the commission which he has received for the exercise of his office.

#### SECTION VI.

##### OF THE RECEIVER OF FINES.

1. The receiver of fines (whose duties are incompatible with those of alcaid ordinary) shall have cognizance of all matters in relation thereto, as also of those imposed by the judge; (9) of which last he shall keep and render an account, having for that purpose a book similar to that kept by the scrivener for the same object; in which they shall be entered according to date.

2. For the security of the balance of the account rendered by the receiver of fines, he shall give good and sufficient sureties, (10) in the same manner as the depositary general. Examination shall yearly be made into the situation of the said sureties, which shall be changed if become less substantial.

3. To the end that the receiver may fully discharge the duties of his office, and a certain knowledge be acquired of the funds in his possession, the scrivener, in whose presence the fines will have been laid, shall advise the scrivener of the cabildo of the same, who shall enter them in a book, the leaves of which shall be marked by the governor. (11) After which the scrivener of the cabildo shall inform the receiver thereof, who, by these means, will at once perceive the amount of the sums which he should receive; and the book of the cabildo will serve to make him render an account of the sums which are entered therein.

4. The receiver of fines cannot employ the proceeds thereof without the order or permission of His Majesty, by reason that the same being the property of His Majesty cannot be removed without his approbation. He shall dispose of that portion of them only which have been imposed by the judges (12) in conformity to the orders he may receive, and not otherwise.

5. The receiver shall discharge, out of the aforesaid portion of fines, the drafts which may be drawn by the governor, the alcalds, and the other judges, who shall restrain themselves to the sums which may be necessary. (13)

6. The said receiver shall render a yearly account of the sums he may have received and paid in the execution of his office. His account shall be settled by the officers of finance appointed thereto in this province. (14)

7. He shall be allowed a commission of ten per cent. on all sums which may be recovered and received by himself, or by those commissioned by him, for the recovery thereof. (15)

#### SECTION VII.

##### OF THE PROCUREUR GENERAL.

1. The procureur general of the republic is an officer appointed to assist the public in all their concerns, to defend them, pursue their rights and obtain justice, and to pursue all other claims which have relation to the public cause. (16)

2. In consequence thereof, the procureur general, who is appointed solely for the public good, shall see that the municipal ordinances are strictly observed, and shall endeavor to prevent every matter or thing by which the said public might suffer.

3. For these purposes he shall apply to the tribunals competent thereto, for the recovery of debts and revenues due to the city funds, in quality of attorney for the city. He shall pursue causes with the activity and diligence necessary to discharge him from the responsibility in which he would be placed by the slightest omission.

4. He shall see that the other officers of the council or cabildo discharge strictly the duties of their offices; that the depositary general, the receiver of fines, and all those who are to give sureties, shall give such as are good and sufficient; and in case of decadency therein, he shall demand the renewal thereof, conformably to law.

5. He shall be present at, and shall interpose in, the division of lands, and other public matters (17) to the end that nothing unsuitable or injurious may occur in the distribution of the same.

(1) Stat. 24, tit. 20, b. 2, Recop. des Indes.

(3) Stat. 18, tit. 10, book 4, *ibid.*

(6) Stat. 19, tit. 10, book 4, *ibid.*

(9) Stat. 1, tit. 25, book 2, *ibid.*

(13) Stat. 25, tit. 25, book 2, *ibid.*

(4) Stat. 21, tit. 10, book 4, *ibid.*

(7) Stat. 20, tit. 10, book 4, *ibid.*

(10) Stat. 36, tit. 25, b. 2, *ibid.*

(18) Stat. 39, tit. 25, b. 2, *ibid.*

(12) Stat. 5, tit. 25, book 2, *ibid.*

(15) *Ibid.* (16) Stat. 1, tit. 2, b. 4, *ibid.* (17) Stat. 6, tit. 12, b. 4, *ibid.*

(2) Stat. 28, tit. 20, book 2, *ibid.*

(5) Stat. 18, tit. 10, book 4, *ibid.*

(1) Stat. 21, tit. 10, book 4, *ibid.*

## SECTION VIII.

## OF THE MAYORDOME DES PROPRES.

1. The mayordome des propres shall have the management of, and shall receive all that is comprised within the denomination of city funds; he shall give receipts to debtors, and shall record all sums which he may receive, as also the expenditures he may make for account of the cabildo, in order that he may be able to render his accounts so soon as his year of office shall expire.

2. He shall discharge the drafts of the cabildo, upon the rents of the city, and none other. He shall abstain from furnishing or lending any sums to any individual whomsoever, under the penalty of being responsible therefor, and of being declared incapable of holding any office under the republic.

3. The construction and keeping in repair of bridges, within and without the city, shall not be defrayed out of the city funds; this expense shall be borne by those who shall enjoy the benefit thereof, amongst whom the same shall be proportioned in the manner pointed out by stat. 1, tit. 16, book 4, of the Recopilation des Indes.

4. Whenever any public work shall be undertaken, either by the cabildo or by individuals, care shall be taken that the same may be substantial and durable. (1) A regidor shall be named for that purpose, who, without any requital, shall inspect the said undertaking. (2)

5. The expense of public mourning for the royal family shall be defrayed from the city funds, with all the economy which the cabildo can adapt to these circumstances. (3)

## SECTION IX.

## OF THE SCRIVENER OF THE CABILDO.

1. This officer shall preserve in his archives all the papers which may concern the cabildo, or its proceedings. He shall inscribe in a book all the securities and deposits which have relation to the depositary general; and, in another book, those which relate to the receiver of fines. He shall, also, keep a third book for guardians and their sureties, ordinary and extraordinary, in which he shall also record the patents and commissions by His Majesty, (4) and shall take care to preserve the originals in the archives of the cabildo.

2. The scrivener of the cabildo shall never suffer any paper or act to be removed from his archives, and if the judges should be obliged to have recourse to the same, he shall furnish them a correct copy thereof, but shall never part with the original. (5)

3. The said scrivener of the cabildo, and of the Government, shall note, at the foot of all acts and instruments of writing, and copies of the same which he may deliver, the fees which he has received therefor, under the penalty of forfeiting the same, and of incurring the other penalties established, to prevent him from exacting more than is allowed by the tariff. (6)

4. The scrivener of the cabildo and of the Government shall inscribe, in a separate book, the mortgages upon all contracts which may be made before him or any other; he shall certify, at the foot of each deed, the charge or mortgage under which the sale or the obligation may have been made, conformably to the intention of the law, in order to prevent the abuses and frauds which usually result therefrom.

5. The regidors, the scrivener, and all those who may succeed to any of the venal offices established by the India laws, are hereby informed that the royal ordinances require, that within the term of five years, computing from the date of their commission, they must obtain His Majesty's confirmation, and present the same to the governor of the city or province in which they reside, under the penalty of being deprived of the said offices.

## SECTION X.

## OF THE JAILER AND THE PRISONS.

1. The jailer shall be appointed by the alguazil mayor, and approved by the governor, before entering on the duties of his office. He shall also be presented to the cabildo to be received, and to take an oath to discharge faithfully the duties of the said office, to guard the prisoners, and to observe the laws and ordinances established in this respect, under the penalties therein declared. (7)

2. The said jailer may not enter upon the duties of the said office, until he shall have given good and sufficient sureties in the sum of two hundred piasters, which surety shall warrant that no prisoner detained for debt shall be released without an order from the judge competent thereto. (8)

3. The jailer shall keep a book in which he shall inscribe the names of all the prisoners, that of the judge by whose order they have been arrested, the cause for which they are detained, and the names of those who may have arrested them. (9) He shall reside in prison, and for each considerable fault committed by him he shall pay sixty piasters, applicable one half to the royal chamber, and the other to the informer. (10)

4. It is the duty of the jailer to keep the prison clean and healthy, to supply it with water for the use of the prisoners, (11) to visit them in the evening, (12) to prevent them from gaming or disputing, (13) to treat them well, and to avoid insulting or offending them. (14)

5. It is likewise the duty of the jailer to take care that the female prisoners are separate from the men; (15) that both of them are kept in their respective apartments, and that they are not worse treated than their offence deserves, or than is prescribed by the judges. (16)

6. With respect to his fees, the said jailer shall confine himself strictly to those which are established; he shall take none from the poor under a penalty of the value of the same. (17) He may not, without incurring the same penalty, receive any gratification either in money or goods. (18) He shall avoid entirely either playing, eating, or forming any intimacy with the prisoners, (19) under the penalty of sixty piasters, applicable one-third to the royal chamber, one-third to the informer, and the remaining third to the poor prisoners.

(1) Stat. 4, tit. 16, book 4, of the Recopilation des Indes. (2) Stat. 3, tit. 16, book 4, *ibid.* (3) Stat. 3, tit. 16, book 4, *ibid.*  
 (4) Stat. 21, tit. 10, book 4; stat. 39, tit. 25, book 2; stat. 6, tit. 8, book 5; stat. 16 and 18, tit. 9, book 4, of the Recopilation des Indes. (5) Stat. 20, tit. 9, book 4, *ibid.* (6) Stat. 28, tit. 23, book 2, *ibid.* (7) Stat. 5, tit. 6, book 7, *ibid.*  
 (8) Stat. 4, same tit. and book. (9) Stat. 6, same tit. and book. (10) Stat. 7, same tit. and book. (11) Stat. 8, same tit. & bk.  
 (12) Stat. 11, same tit. and book. (13) Stat. 13, same tit. and book. (14) Stat. 9, same tit. and book. (15) Stat. 2, *ibid.*  
 (16) Stat. 10, *ibid.* (17) Stat. 13 and 14, *ibid.* (18) Stat. 10, *ibid.* (19) Stat. 12, *ibid.*

*Form of the oath to be taken by the governors, the alcalds, and the other judges, when taking possession of their offices.*

Don N., elected governor, or alcaid, &c., (according to the employment or office,) I swear before God, the holy cross, and the evangelists, to uphold and defend the mystery of the immaculate conception of our lady the Virgin Mary, and the royal jurisdiction to which I am attached by my employment. I also swear to obey the royal ordinances and the decrees of His Majesty, faithfully to discharge the duties of my office, to decide according to law in all cases which may come before my tribunal; and for the more certain attainment thereto, I promise to consult with such as are well informed in the law, whenever opportunities may occur in this city; and, lastly, I swear that I will never exact other fees than those fixed by the tariff, and that I will never take any from the poor.

At NEW ORLEANS, November 25, 1769.

DON ALEXANDRE O'REILLY.

Printed by order of His Excellency François Xavier Rodriguez, scrivener of the expedition.

*Instructions upon the manner of instituting suits, civil and criminal, and of pronouncing judgments in general, in conformity to the statutes of the Recopilation de Castile and des Indes, for the government of the judges and parties pleading, until a more general knowledge of the Spanish dialect and more extensive information upon those statutes may be acquired: digested and arranged by Doct. Don Manuel Joseph de Urrustia and the counsellor Don Felix Rey, by order of his excellency Don Alexander O'Reilly, Governor and Captain General of this province, by special commission of His Majesty.*

#### SECTION I.

##### OF CIVIL JUDGMENTS IN GENERAL.

It must, in the first place, be observed that in causes civil or criminal, of any nature whatsoever, persons belonging to any religious order may neither appear, nor make any demand without the permission of their superior. This permission is equally necessary to the son, whose father be living, and whose consent must be obtained; to the slave, who may not act without the consent of his master; to the minor, who must be authorized by his guardian, who may be chosen by himself at the full age of fourteen years, or appointed by the judge, when of an age less advanced; to the wife, who must obtain the permission of her husband; and, lastly, to lunatics and idiots, who must be represented by the guardian appointed by law to the care of their persons and property.

2. It must also be observed that the consent of the father is not necessary to the son, when pleading in his own name for the recovery of property or rights acquired by his services in war, which are styled *castrensés*, or by particular gratification from the prince; or lastly, of those he may have acquired by some public employment, which are styled *quasi castrensés*. But in the case where the son shall demand a maintenance or wish to be emancipated from his father, he shall previously obtain the permission of the judge, by reason of the consideration and great respect due to a father, or other superior. The slave is also allowed the same course of proceeding towards his master, if the latter, in the exercise of his authority, shall exceed the bounds prescribed by law; in which case the slave is entitled to require either his liberty or to be sold. The wife may, also, without the consent of her husband, require her dowry, if he shall be on the point of squandering the same; or an alimony, in the case of separation or ill-treatment.

3. He who may purpose to institute an action at law for a sum exceeding one hundred livres, shall commence the same by a petition setting forth the fact, and the motives upon which he proceeds; he shall also specify whether his demand be for the proceeds of some sale, for money lent, or other similar claim, with every circumstance necessary to the elucidation of the case, and for the information of the judge. He shall conclude by requiring either the return of the money, if lent, or the payment of his demand, and the condemnation of the adverse party to the payment of costs, if he shall unjustly maintain the contrary.

4. The said petition shall be signed by the party or by his proxy, and shall then be presented to the judge, who shall cause the same to be communicated to the party against whom the demand may be made, which proceeding shall have the validity of a citation. The defendant shall make his defence within nine days, computing from the day on which he may have been notified of the demand. He shall draw up a counter-declaration in answer thereto, which shall contain such arguments as tend to defeat the claim of the adverse party, if the same be not indisputable, and shall make his defence in the manner observed by the plaintiff in his introductory petition.

5. If the defendant does not answer within the nine days, the plaintiff shall require judgment by default, by a writing setting forth that the delay has expired; and moving that, no answer having been made, the defendant be condemned by default; and that, consequently, his claim be reputed acknowledged and sufficiently established.

6. If, on the contrary, the defendant shall answer within the nine days, and shall allege that he is not bound to defend the suit as to the merits thereof, by reason that judgment in the case is not within the competency of the judge who has taken cognizance of the same, that the plaintiff cannot plead in his own name, that the term of his engagement has not yet expired, or other similar exceptions, communication thereof shall be made to the plaintiff that he may reply, within six days, thereto. Upon his replication the judge shall decide whether the cause shall be defended as to the merits thereof; in which case, without admitting an appeal, the said cause shall be tried for the merits thereof.

7. But if the defendant, without producing any similar exception, shall set forth pleas tending indirectly to admit the demand, as by alleging that the thing demanded has not become due, that the same has been already paid, or any other pleas, supported by vouchers, which may be admitted before the putting of the cause to issue, the effect of which pleas would discharge him from the demand, the same shall be communicated to the plaintiff, to reply thereto: a copy of which reply shall be delivered to the defendant for a rejoinder to the same; after which the judge shall require the documents, and shall proceed to give judgment.

8. If the fact contested should be admitted to proof, as being doubtful, the same shall be determined within eighty days, at furthest; during which delay the parties shall furnish their proofs, and shall summon each other reciprocally to attend to the administering of the oath to the witnesses.

9. The testimony of the witnesses shall be so secretly given that neither of the parties shall have knowledge of the depositions of his own witnesses, nor of those of the adverse party. The term to which the cause may have been continued having expired, one of the parties shall move that by reason of the said expiration the testimony of the witnesses be made public. This motion shall be communicated to the other party, who shall consent thereto, or if he shall not reply to the same, he shall be condemned by default, in the manner observed when one

of the parties does not reply to the plea of the other. The judge shall order the publication of the said testimony, and the delivery thereof to the parties; observing that the same be first delivered to the plaintiff, that he may, if necessary, strengthen the same.

10. The testimony being made public, should the plaintiff find the witnesses of the defendant inadmissible, as being either his enemies, or the intimate friends or relations of the defendant, or for other causes which may weaken the faith which would otherwise be due to their testimony, he shall draw up a declaration in which his exceptions shall be specified, after taking an oath that he has no intention of offending them; which oath shall be notified to the defendant, who may in reply state his exceptions to the witnesses of the plaintiff. The said exceptions shall then be put to the proof, and forty days may be granted therefor: one-half of the term allowed for the decision of the principal cause.

11. When the term allowed for the admission to proof of the exceptions shall have expired, the publication of the testimony, as in the principal cause, shall not be allowed; but the documents shall be delivered to the plaintiff, that he may set forth his proof; and if he shall establish that the same is more complete than that of the adverse party, a copy thereof shall be given to the defendant, upon whose reply, or in default thereof, the judge shall declare the controversy determined. He shall then order that the parties be summoned for the final decision, which must be given within twenty days, computing from the day on which he may have required the documents in the cause. He shall attentively examine the said documents, and determine the suit by condemning the debtor to payment, or by discharging him from the demand, according to the merits of the case.

12. If judgment be given for a sum not exceeding 90,000 maravedis, an appeal to the cabildo may be made within five days, computing from the day on which the parties may have been notified of the sentence. If the judgment given be for a greater sum, an appeal shall be made to the tribunal to be appointed by His Majesty, in consequence of the representations which have been made to him on that subject. A brief explanation of the manner in which this recourse may be had, will be given at the conclusion of these instructions.

13. If no appeal shall be lodged within the five days allowed, the party, who may have obtained judgment in his favor, shall draw up a writing by which he shall move that no appeal having been made within the legal delay, the judgment be considered definitive; and that, in pursuance thereof, execution be ordered; a copy of which shall be given to the adverse party; and on his reply, or in default thereof, the judge shall pronounce both on the validity of the judgment and the expiration of the delay; after which he shall order that the sentence take effect, and be put into execution.

## SECTION II.

### OF EXECUTIONS.

1. When a debt shall be fully established, and importing a confession of judgment, as by an agreement or obligation made before a notary; by a simple note, legally acknowledged by the drawer; by confession of judgment, although without any written title from the debtor; by a definitive sentence of the court, or by the cash books of the debtor acknowledged by him; in all these cases the creditor shall draw up a declaration setting forth his claim and his action, annexing thereto the document which entitles him to a writ of execution, and moving that, by virtue of the said document, a writ of execution be granted him for the sum due, as also the tenth, and the costs which may be allowed. He shall observe that his declaration contains the oath that the sum demanded is due, and ought to be paid by the debtor.

2. The judge shall examine if the document which entitles the creditor to a recovery imports a confession of judgment; and, if such be the case, he shall order immediate execution, by addressing an order in writing to the alguazil mayor, directing him to summon the debtor to pay the demand, or, in default thereof, his property shall be seized to the value of the same, with the tenth and the costs.

3. By virtue of the said order the alguazil mayor shall summon the debtor; if he complies, the execution shall cease. If otherwise, his property shall be seized and held in custody by the depositary general; unless he shall give good and sufficient security for the payment of the sum in which he is condemned by the sentence. But if he shall not give the security aforesaid, or if he has not property sufficient, he shall be imprisoned, unless exempted therefrom by the privilege of nobility, which is also enjoyed by the military, regidores, officers of finance, women, lawyers, physicians, and other distinguished persons. The alguazil mayor shall note, at the foot of the writ, his proceedings thereon, as also the day and the hour of the same.

4. The property being seized, the creditor shall, by another writing, move that the same be valued by two capable persons, on whom the parties may agree, and that public notice be given that the sale thereof will be made after the usual delay, according to the nature of the property. The said delay shall be of nine days' duration, for personal property, with a public notice every three days; and of thirty days' duration, for real property, of which notice shall be given every nine days; but, if the debtor shall consent, the said notices need not be given.

5. The said term being expired, and public notice being given, the creditor shall require that the debtor be definitively summoned to make opposition, and to prove that the sum demanded is not due or has already been paid. In pursuance thereof the debtor shall be definitively summoned, if he has not previously opposed, which he might do during the time of the seizure, or of his detention in prison.

6. If the debtor shall not make opposition, within three days, computing from the day on which he may have been definitively summoned, he shall be attached by default; but if he shall make opposition, he shall be ordered to prove his exceptions within ten days at furthest, which shall be common to both parties to prove the justice of their pretensions in the manner which to them may seem best.

7. During the said delay, the proofs offered by the two parties shall be received, and they shall cite each other reciprocally to attend at the administering of the oath to the witnesses, in conformity to the provision of section 1, Nos. 8 and 9, for civil judgments in general; with this difference, however, that the said delay may be prolonged at the request of the creditor, and in which case the debtor shall enjoy the benefit of the said prolongation.

8. The term allowed having expired, no further proof shall be allowed, save the confession of the party; and the documents shall be returned to the creditor that he may set forth his right, of which a copy shall be given to the debtor. Upon his reply, or in default thereof, the judge shall require the documents, and shall proceed to give judgment.

9. He shall examine with attention if the exceptions made by the debtor are just, and more fully established than the claim of the plaintiff; and, if such be the case, he shall discharge him from the demand instituted against him. He shall order the restoration of his property, and shall condemn the plaintiff to the payment of costs.

10. If, on the contrary, the debtor has not proved his exceptions, and the sum demanded be found legally due, the judge shall declare the seizure to be valid, and shall order the fourth and last public notice of the sale to be given, and the adjudication of the property to the highest bidder, that from the proceeds of the same the demand of the creditor may be fully discharged, as also the tenth and the costs. The creditor shall, however, be held to give security in the amount of the sum, lest the sentence should be annulled by a superior tribunal.

11. This sentence shall be carried into execution notwithstanding appeal, but shall not prevent the party who may have been aggrieved from appealing to the *cabildo*, provided the sum does not exceed 90,000 maravedis;\* otherwise the appeal must be made to the superior tribunal, to be hereafter appointed by His Majesty.

12. Definitive judgment being pronounced, the day for the fourth and last notice of the sale of the property seized shall be appointed. On the said day the sale shall be made in the presence of the parties, who shall be legally summoned to attend; and the amount of his demand shall be paid to the creditor, who shall give the security aforesaid; the tenth shall be paid to the *alguazil mayor*, and the costs and expenses to the other officers, in conformity to the regulations of the tariff.

13. It must be observed, that, if the debtor discharges his debt within seventy-two hours after the seizure is pronounced to be valid, the tenth shall not be demanded; but in default thereof, the payment of the same may not be dispensed with; and on this account it has been heretofore declared indispensably necessary to note the day and the hour of the proceedings in the seizure.

### SECTION III.

#### OF JUDGMENT IN CRIMINAL CAUSES.

1. When information shall have been obtained of any crime, such as homicide, robbery, &c. having been committed, if no prosecutor shall appear, the judge shall officially draw up a *procès-verbal* containing the knowledge he has acquired of the said crime, and shall order an inquiry to be made into the circumstances of the same; as, for example, in the case of homicide, he shall cause the body to be examined by one or more surgeons, who shall declare whether the wounds have been mortal or otherwise; they shall set forth in what place and in what situation the body was found, and with what instrument it may appear that the crime has been committed. In the case of robbery, an examination shall be made, and the scrivener shall detail and certify the marks of violence on the house or the furniture, indicating that the said crime has been committed. The same statement of facts shall also be made in all other crimes; a formality which is the basis of judicial proceedings, and without which the criminal cannot be prosecuted. The judge shall, at the same time, order that the information be taken and the witnesses heard.

2. When the party injured shall bring forward a complaint, he shall commence by a petition, containing a correct and brief exposition of the fact, and requesting an examination into the circumstances of the crime, in the manner before mentioned, and also that a summary inquiry may be made into the truth of the facts set forth in his petition. The judge shall take order on the said petition in the following words: "Be it done as is required."

3. The judge shall make the said inquiries in person, unless unavoidably prevented; in which case he may intrust the same to the register. If, however, the crime be established, and the criminal unknown, every inquiry, search, and examination necessary to obtain a knowledge of the said criminal shall be made.

4. When the inquiries have been made, and the criminal be known, if two witnesses appear, or one witness of credit, joined to other circumstances indicative of the aggressor, the judge shall direct the body of the said aggressor to be taken into custody, as also an inventory of his property to be taken, and the sequestration of the same in the hands of the depositary general.

5. If the criminal has not been arrested, by reason of either absence or concealment, the judge shall direct that, as by the report of the *alguazil* the said criminal has not been arrested, he be cited by public proclamation, three times repeated, in the manner following.

6. The accused shall first be cited to appear and deliver himself up within nine days; in default of which, the judge shall direct the scrivener to certify that the term has expired, and the jailer to affirm that the offender has not appeared. In consequence of the said certificates, which shall be annexed to the documents in the cause, the accused shall be condemned to the penalty of contumacy; and the judge shall direct that he be again cited to appear within the aforesaid term of nine days. On the expiration of this second delay the scrivener and jailer shall certify as before; after which the judge shall issue an order for his arrest, and direct the publication of the same, as also the continuance of the proclamation aforesaid. These last nine days being expired, the scrivener shall again certify thereto, and the jailer shall affirm that the accused has not appeared at the prison. The judge shall then declare him fully convicted of contumacy; and if there be no prosecutor, a *procureur fiscal* shall be appointed to take the necessary steps in the case; but if there be a prosecutor, the cause shall be committed to him that he may proceed therein as he may think best, and to bring the same before the tribunal, in which provisional judgments are given, and the criminal is cited as if he was present. The proceedings shall then be continued until the definitive sentence either in favor of or against the accused be pronounced.

7. If, however, previous to, or after the sentence, the accused shall present himself at the prison, the cause shall be instituted anew, and the defence of the accused shall be heard with attention; and upon what the prosecutor or the *procureur fiscal* may set forth in opposition thereto, the previous sentence shall be either confirmed or annulled, according to the documents reproduced on the trial.

8. If the criminal be taken after the order for his arrest has been issued, and the *procès-verbal* concluded, the judge shall direct the jailer to certify that the accused is in prison, and the said judge shall, in person, commence the examination by demanding his name, age, quality, profession, country, and residence. If he be under twenty-five years of age, he shall be enjoined to choose a guardian; and, upon his refusal to do so, the judge shall appoint some one thereto, by reason that the said examination cannot proceed without the presence and authority of the said guardian.

9. In the said examination the judge shall charge the accused with the crime, pursuant to the testimony given, and shall start such questions as may tend to the disclosure of the circumstances of the same.

10. The examination concluded, the witnesses, both for and against the accused, shall be heard within the shortest delay possible; which, however, if necessary, may be extended to eighty days, as allowed in civil causes in general. During this delay, the accused on one side, and the prosecutor, or the *procureur fiscal*, (in default of a prosecutor) on the other, shall produce their proof in the manner provided in civil causes; and although these proofs should be private, as also the re-examination of the witnesses, they may communicate to each other the documents in the cause in order to the necessary arrangement of their proceedings.

11. The witnesses being re-examined, and the delay allowed having expired, one of the parties shall require that the testimony be made public. This demand shall be communicated to the other party, by a copy thereof, upon whose answer, or in default thereof, the judge shall direct the publication of the said testimony. The documents shall then be delivered to the prosecutor, or to the *procureur fiscal*, that he may bring his accusation in form, and allege the sufficiency of the proof.

\* The 90,000 maravedis, mentioned both in the regulations and in the present instructions, make 330 piasters, 7 reals, and 2 maravedis, equal to 1654 livres, 7 sols, 9 deniers.

12. The accusation being made, conjointly with the declaration of the sufficiency of the proof, a copy thereof shall be given to the accused, that he may in defence set forth whatever he may think in favor of his case. When the said defence shall have been made, the pleadings shall be considered as concluded, and, consequently, the cause in a state to be determined.

13. If it shall happen that one or both of the parties except against the witnesses produced, they shall proceed in the manner pointed out under the head of civil causes in general, and shall conform precisely to the instructions therein given for similar cases. After the decision on the said exceptions has been made, the determination of the cause shall not be delayed; but the judge shall require the documents, and cite the parties for the definitive sentence.

14. The accused being convicted of the crime, as being fully established on the trial, or by some other proof, in conjunction with his own confession, he may be condemned to the penalty provided by law for the same. The said condemnation shall also take place when two witnesses of lawful age and irreproachable character shall depose that of their certain knowledge the accused has committed the crime; but when there shall appear against the accused but one witness, and other indications or conjectures, he may not be condemned to the penalty provided by law; but some other punishment shall be inflicted as directed by the judge, with due consideration of the circumstances which may appear on the trial; this state of things requires the greatest circumspection, as it must always be remembered that it is better to let a criminal escape than to punish the innocent.

15. After all these precautions, the judge shall pronounce sentence; and although in criminal causes an appeal should not be admitted, yet if the judge shall have doubts, or from some difficulties on the trial he shall think it advisable to submit the same to the examination of a superior, execution shall be suspended, and this second instance shall be conducted as in civil causes.

#### SECTION IV.

#### OF APPEALS.

1. When judgment has been given for a sum or an object, the value of which shall exceed ninety thousand maravedis, an appeal shall be brought by the party who may think himself aggrieved, directly to the tribunal to be hereafter appointed by His Majesty; and when the said appeal shall have been lodged, communication thereof shall be made to the adverse party, who shall plead against the merits of the same: that is to say, whether the sentence shall be suspended or executed, notwithstanding appeal. To determine this point, the judge shall demand the documents, and after examining the same shall pronounce either for or against, as he shall think just; and in urgent and particular cases, such as dowry, alimony, or others of a similar nature, in which appeals should not lightly be admitted, he shall order execution. In this class are also comprised criminal causes, unless such circumstances should occur as are cited at the conclusion of the preceding paragraph; and in which case execution should be suspended until the superior judge may have examined the same, and confirmed the sentence pronounced.

2. If the appeal be admitted, the second trial shall be conducted in the manner following: The judge shall direct the delivery of the documents in the cause to the appellant, that he may declare in what consists the grievance of which he complains; by which is meant that he shall set forth in argument the injury he would sustain by the execution of the sentence, which, for one or more reasons, is not in conformity to the provisions of the law in similar cases, and concluding by moving that the same be annulled. A copy of this declaration shall be given to the other party to reply thereto and confute the arguments of his adversary, by setting forth those tending to prove that the sentence has been pronounced in conformity to law. The judge shall then direct that after having transcribed the documents in the cause, at the expense of the appellant, the originals be transmitted to the tribunal, in which the appeal is to be tried. He shall summon the parties to hear the transcripts compared with the originals, as also to appear in person, or by proxy, at the tribunal to which the said appeal shall be carried, within the delay that may be allowed, according to the distance of the same from this province. The said delay shall commence from the day on which the first registered vessel shall sail from this port for the place where the superior tribunal shall be established; the judge having previously ordered the delivery, on board the said vessel, of the original documents aforesaid. He shall inform the appellant, that if, within the delay allowed, he shall not prove that he appeared before the said tribunal with the original documents, he shall fully and indisputably forfeit his appeal, and that the execution of the sentence shall consequently be ordered on the first requisition of the adverse party. If, however, the appellant shall establish the loss of the vessel in which his documents were embarked, or of the one in which he had transmitted the vouchers of his having appeared at the superior tribunal within the time prescribed; or, in short, any other impediment which may discharge him from the aforesaid obligation, the appeal may not be declared to be abandoned; but on the contrary, a further delay shall be granted; and if the originals have been lost, copies thereof shall be delivered to him, that he may prove his appearance and compliance with whatsoever has been required.

3. In the case of a judgment for a sum not exceeding 90,000 maravedis, exclusively of the costs, the appeal shall be made to the cabildo in this city, and the same shall be conducted in the manner following: Within five days, computing from the day of the signification of the sentence, the appellant shall present his petition, which shall be delivered to the register to annex his certificate thereto; on sight of which the cabildo shall appoint two regidores, in quality of commissioners, to decide on the cause of appeal, conjointly with the judge who pronounced the sentence. The said commissioners shall be bound to accept the said appointment, and shall take an oath that they will impartially discharge the duties of the same.

4. The said document with the certificate shall be delivered to the scrivener in the cause, who shall institute and pursue the appeal. The document shall be delivered to the appellant, that he may deduce and set forth his grievance in the manner explained in the second paragraph; which shall be done within fifteen days at furthest; and communication thereof shall be made to the other party, that he may reply thereto within a further term of fifteen days; so that within thirty days from the appointment of commissioners the cause shall be ready for determination. It must be observed that the aforesaid term of thirty days cannot be prolonged, even with the consent of both parties.

5. The pleadings being concluded in the manner prescribed, the scrivener shall, within two days, deliver the documents to the judges, who shall examine the same, and give judgment within ten days, computing from the expiration of the thirty aforesaid, annulling or confirming, augmenting or diminishing, the previous sentence, as they may think just. After the expiration of the aforesaid ten days, judgment may not be pronounced; or, if given, the same shall be void; and the first sentence shall take full effect, and be executed according to the tenor thereof.

6. If a majority of the three judges appointed shall accord in opinion, their sentence shall be valid and conclusive, and an appeal to any other tribunal shall not be admitted; but the judge who pronounced the first sentence shall cause the second to be executed so soon as the documents shall have been delivered to him for that purpose.

## SECTION V.

## OF PUNISHMENTS.

1. He who shall revile our Savior, or his mother, the most holy Virgin Mary, shall have his tongue cut out, and his property shall be confiscated, applicable, one half to the public treasury, and the other half to the informer. (1)

2. He who, forgetting the respect and loyalty which every subject owes to his King, shall have the insolence to vilify his royal person, or that of the Queen, the hereditary prince, or of the infants, their sons, shall be punished corporally, according to the circumstances of the crime; and the half of his property shall be confiscated to the profit of the public or royal treasury, if he shall have legitimate children; but if he shall have none, he shall forfeit the whole; applicable, two-thirds to the public treasury, and the other third to the accuser. (2)

3. The authors of any insurrection against the King or the State, or those who, under pretext of defending their liberty and rights, shall be concerned or take up arms therein, shall be punished with death, and the confiscation of their property. (3) The same punishments shall also be inflicted on all those who may be convicted of lèse-majesté, or treason. (4)

4. Whosoever shall outrage another by either wounds, cuffs, or blows with a stick, shall be punished as the judge may think suitable to the case and to the rank of both the offender and the offended. But if the abuse consists only in words, and the aggressor be not noble, the judge shall exact the retraction of the same, in the presence of himself and other persons, and, moreover, shall condemn the said aggressor to a fine of 1,200 maravedis, applicable one-half to the public treasury, and the other half to the party offended. If the aggressor be of rank, or enjoys the privileges of nobility, he shall be condemned to a fine of 2,000 maravedis, applicable as aforesaid. The judge, however, may, in lieu of the same, inflict any other punishment which he shall think suitable to the rank of the parties and the nature of the outrage. If no blood has been spilt, nor complaint been made by the offended, or if he shall desist from prosecuting the same, the judge may not interfere therein. (5)

5. He who shall ravish a girl, a married woman, or a widow of reputable character, shall suffer death, and his property shall be confiscated to the use of the person injured; but if the said person be not of reputable character, the judge shall inflict such punishment as he may think suitable to the case. (6)

6. The married woman convicted of adultery, and he who may have committed the same with her, shall be delivered up to the will of the husband; with the reserve, however, that he may not put the one to death without inflicting the same punishment on the other. (7)

7. The man who shall consent that his wife live in concubinage with another, or who shall have induced her to commit the crime of adultery, shall, for the first time, be exposed to public shame, and condemned to a confinement of ten years in some fortress; and for the second time shall be sentenced to one hundred lashes and confinement for life. (8)

8. The same punishment shall also be inflicted on those who carry on the infamous trade of enticing women to prostitution, by procuring them the means of accomplishing the same. (9)

9. He who shall be guilty of fornication with a relation in the fourth degree shall forfeit half his property to the profit of the public treasury, and shall, moreover, be punished corporally, or banished, or in some other manner, according to the rank of the person and the degree of the kindred. If the said crime be committed between parents and their offspring, or with a professed nun, the same shall be punished with death. (10)

10. He who shall commit the detestable crime against nature shall suffer death, and his body shall afterwards be burned, and his property shall be confiscated to the profit of the public and royal treasuries. (11)

11. The woman who shall be publicly the concubine of an ecclesiastic shall be sentenced for the first time to a fine of a mark of silver, and to banishment for one year from the city or from the place where the offence may have been committed. The second time she shall be fined another mark of silver, and banished for two years, and in case of relapse, she shall be punished by one hundred lashes, in addition to the penalties aforesaid. (12)

12. If fornication be committed between bachelors and girls, they shall be admonished by the judge to discontinue every kind of intercourse with each other, under the penalty of banishment of the man, and confinement of the girl, for such time as may be necessary to operate a reformation. If this menace have not the desired effect, the judge shall put the same into execution, unless the rank of the parties requires a different procedure; and in which case the said offence shall be submitted to the consideration of the judges, collectively, to apply the remedy which their prudence and zeal for the repression of such disorders may suggest. They shall punish all other libidinous offences in proportion to their extent, and to the injury occasioned thereby. (13)

13. He who shall break his oath taken, in conformity to law, for the validity of an agreement, shall forfeit the whole of his property to the profit of the public and royal treasuries. (14)

14. False witnesses in civil causes shall be exposed to public shame, and banished for ten years; but in criminal causes, in which false testimony is more important in its consequences, the same shall be punished capitally. If, however, the accused shall not have thereby been sentenced to death, the false witness shall only be exposed to public shame, and be sentenced to perpetual banishment to some presidio. The said punishments may, however, be commuted, when from the rank of the offenders they cannot be condemned to the same. (15)

15. He who shall steal the sacred vessels in a holy place shall suffer death. (16)

16. Assassins and robbers on the highway shall suffer death. (17)

17. The same punishment shall also be inflicted in cases of forcible robbery, which shall be reputed such, when the proprietor or other person shall have made resistance. (18)

18. Robberies of classes other than those comprised in the preceding articles shall be punished corporally, according to the nature of the same, and the rank of the persons. (19)

19. He who shall kill another shall suffer death, unless done in his own defence, or under such circumstances as are explained in statutes 3, 4, 12, tit. 23, book 8, of the Nouvelle Recopilation.

20. He who shall commit wilful murder, or wound another with intent to deprive him of life, although the wounded person may survive, shall suffer death, and shall be dragged to execution at the tail of some animal; (20) and the half of his property shall be confiscated to the profit of the public or royal treasury.

(1) Stat. 2, title 4, book 8, Nouvelle Recopilation. (2) Stat. 3, same title, *ibid.* (3) Stat. 1, title 18, book 8, *ibid.*

(4) Stat. 1, title 18, book 8, *ibid.* (5) Stat. 2 and 4, title 10, book 8, *ibid.* (6) Stat. 3, title 2, part 7, *ibid.*

(7) Stat. 1, title 20, book 8, of the Recopilation de Castile. (8) Stat. 9, same title and book. (9) Stat. 5, title 21, book 8.

(10) Stat. 3, title 18, part 7, and Statute 7, title 10, book 8, de la Recopilation. (11) Stat. 1, title 21, of the same.

(12) Stat. 1, title 19, of same. (13) Mathieu De Re Criminali Contraversia, 59. (14) Stat. 1, title 17, book 8, Nouv. Recop.

(15) Stat. 4 and 7, same title and book. (16) Stat. 18, title 14, part 7. (17) *Ibid.* (18) *Ibid.*

(19) Anto. Gomez, Varias Refol. book 3, cap. 5. (20) Stat. 2, 6, and 10, of the same book.



## SECTION VI.

## OF TESTAMENTS.

1. For the validity of a nuncupative will, it is necessary that the same be received by a notary public, in presence of at least three witnesses, residents of the place; or if there be no notary, there must be present five witnesses residents of the place in which the will shall be made; if, however, it be impossible to procure the last-mentioned number, three may suffice. (1)

2. A testament shall be equally valid when made in the presence of seven witnesses, although they be not residents of the place, and although the same be not made in the presence of a notary. (2)

3. If, after the closing of a will, the testator shall wish to add to, diminish, or change any disposition contained therein, he may do the same effectually by a codicil; observing the same formalities, and in presence of the same number of witnesses required for the validity of the testament itself; but he may not change the name of the heir, unless another will shall be made. (3)

4. If the testator be blind, five witnesses shall be necessary to each of the instruments aforesaid, in order to prevent those deceptions to which those who labor under such a misfortune are exposed. (4)

5. For the validity of a written will, styled in Latin *scriptis*, the testator, on delivering the same to the notary, (who shall seal it,) shall put an endorsement on the cover, stating that the within is his will; which endorsement shall be signed by himself and the seven witnesses, if they can write; and if not, the others shall sign for them; so that there be eight signatures, including that of the scrivener, who shall also put his signature thereto. (5)

6. Before the opening of a will, after the decease of the testator, it is necessary that the judge who shall have knowledge thereof shall certify thereto, and that the witnesses appear before the said judge, and declare, on oath, that they were present when the testator declared the same to be his last will: they shall acknowledge their signatures, or shall declare (if such be the case) that by their request some one has signed for them.

7. As it often occurs that persons, either unable or unwilling to make a will themselves, empower others for that purpose, they are hereby informed, as follows:

8. That such authority must be given in presence of the same number of persons, and with the same formalities required for testaments. (6.)

9. That the person empowered to make a will for another cannot revoke a will previously made by his constituent, unless the said will shall contain a special clause to that effect. (7)

10. That he may neither appoint an heir, bequeath a third or a fifth to any of the children or descendants of his constituent, disinherit any of them, substitute others in their stead, nor name a guardian for them without an express clause and special authority to that effect; by reason that the constituent should himself nominate his heir, and designate, by his will, whatsoever he may wish to be done. (8)

11. That if the testator has not appointed an heir, nor designated one in the power given to make a will for him, the person so empowered may only direct the payment of the debts of the deceased, after which a fifth part of the proceeds of his property shall be distributed for the repose and relief of his soul: the remainder shall be divided amongst the relations of the deceased, who, according to law, shall inherit; or if there be none, the whole shall be applied to pious uses for the benefit of the soul of the deceased, after previously deducting therefrom what is allowed by law to the wife, as dower, bridal presents, *donations proper nuptias*, the half of the profits on the joint estate, and whatever may have fallen to her by succession or donation during the marriage. (9)

12. That if the constituent shall have appointed an heir, the person empowered as aforesaid may not dispose of, in legacies pious or profane, more than the fifth part of the property of the testator, his debts being previously paid, unless by a special clause he may be authorized to dispose of a greater part. (10)

13. That the person empowered should proceed to the completion of the will with which he is charged within four months, if he be in the place in which the power was given, or, if not, within six months; unless he be out of the kingdom; in which last case, one year shall be allowed, computing from the day of the decease of the constituent. All that may be done by the person empowered as aforesaid after the expiration of that term shall be void and of non-effect, even if he shall allege that he had no knowledge whatever of his having been so empowered. But all the other stipulations by the testator, in the said power contained, shall be carried into execution, and the remainder of his property shall be delivered to his relations who inherit *ab intestat*, and who, with the exception of the legitimate children of the descendants or progenitors of the testator, shall give the fifth part of the nett proceeds of the said property for the ease and repose of the soul of the said testator. (11)

14. That the person empowered as aforesaid may not in any manner revoke the will he shall have made by virtue of the authority aforesaid, nor add a codicil, nor any declaration thereto, even if the same should be for pious uses, and notwithstanding he may have reserved the power of revoking, augmenting, diminishing, or changing the disposal he shall have made. (12)

15. To the said testaments, codicils, or powers given to that effect, women, monks, people under the age of fourteen, drunkards, or other disqualified persons, shall not be admitted as witnesses. (13)

16. A testator may bequeath a third or a fifth to any one of his children or other legitimate descendants, by specifying the part of his real or personal property which he designs for that purpose. (14)

17. When a testator shall make a bequest to any of his children or legitimate descendants, he may impose such condition, remainder, or entailment, upon the property bequeathed as he may think proper, in order that his other legitimate descendants, or, in default thereof, his illegitimate descendants, or if there be none of either of those descriptions, his relations may enjoy the benefits resulting therefrom; to the end that the said bequest may never pass to a stranger, unless all the relations in the order aforesaid shall be deceased. (15)

18. The father may also, while living, advance any of his children or legitimate descendants, in the same manner as at his death, or by will; but it is to be understood that he shall make the said advancement but once, and that the same being made during his life cannot be revoked, if settled by agreement and fixed by a public instrument, which should precede the delivery of the object in which consists the advancement; or if having been made with a view to marriage, or for any other similar cause, unless he shall have reserved, by the said instrument, a power to that effect; in which case he may revoke the said advancement. (16)

19. If the father or the mother shall have entered into an agreement not to advance any one of their children, the said agreement shall thereafter be binding; and if they should attempt the said advancement by any public instrument, the same shall be void and of non-effect. If, on the contrary, they shall promise the said advancement,

(1) Stat. 1, tit. 4, book 5, Nouv. Recopilation. (2) Ibid. (3) Stat. 2, same tit. and book. (4) Ibid. (5) Ibid. (6) Stat. 13, tit. 5, book 4. (7) Stat. 8, tit. 4, book 5. (8) Stat. 5, same tit. and book. (9) Stat. 6, same tit. and book. (10) Stat. 11, *ibid.* (11) Stat. 7, & 10, same tit. and book. (12) Stat. 9, *ibid.* (13) Stat. 9, *ibid.* (14) Stat. 2 and 3, tit. 6, book 5, *ibid.* (15) Stat. 11, same tit. and book. (16) Stat. 1, tit. 6, book 5, *ibid.*



in consideration of marriage, or for other similar cause, the right to a third or a fifth shall be good at the decease of the parent, although no mention thereof shall have been made in the will. (1)

20. The said advancement being made during life, or at the point of death, shall be calculated upon the real value of the property at the time of the decease, and not at the time of making the same. (2)

21. All deeds of gift, or legacies, by the father or mother to their children or descendants, during life, or bequeathed by will, shall be reputed on account of the third or the fifth, although the same may not have been expressed. In consequence thereof, they may not bequeath a third or a fifth to any of the other children or descendants, which shall exceed the value of the said legacies or gifts to the former. (3)

22. When any one shall die intestate, and without having empowered another to make a will for him, in the manner hereinbefore explained, if there be no legitimate children, or progenitors who may inherit, the relations by blood and kindred of the fourth degree shall inherit the whole of the property; observing that the nearest relations shall inherit of right, and to the exclusion of those who may be further removed, unless the nearest relations shall be brothers of the deceased; in which case, the children of the other brothers who shall have died previous to the decease of the person intestate, shall take a portion of the whole; that is to say, that if one brother, and three or four children of another brother, be living, the said children shall be entitled to an equal proportion of one-half of the property, and the brother, uncle of the said children, shall inherit the other half, by reason that the nephews succeed by representation of their father, and not in their own right. This rule shall be followed in the division of estates when there may be a greater or less number of heirs; the foregoing being intended for an example. (4)

23. If the deceased shall have neither progenitors nor descendants capable of inheriting, in the order explained in the preceding article, the King shall be his heir, and the property shall be vested in the treasury or royal chamber. (5)

24. Those who have not legitimate descendants may will in favor of their illegitimate children, although they may have progenitors. It must be understood that by illegitimate children are meant those born of a free girl, to whose marriage with the father of the said children no legal impediment existed. Those children shall succeed in their own right, to their mother, and shall inherit the whole of her property, whether she may have died intestate, or otherwise, and shall have a preference over the progenitors, in case she shall have no legitimate children, who would otherwise inherit, to the exclusion of the illegitimate children. (6)

25. Illegitimate children of every description shall incontestably succeed to their mother, if she have no legitimate children or descendants, even to the exclusion of her father or other progenitors. (7)

26. The father and mother having legitimate children or descendants, may not give, by way of maintenance, to their illegitimate children, more than the fifth part of their property; of which proportion they may also dispose for the benefit of their souls, or by a legacy to a stranger; excepting from the foregoing, the children of ecclesiastics, or monks, who cannot in any manner inherit from their parents or kindred, nor pretend to any thing possessed by them during their lives. (8)

27. A son or daughter, while under the authority of the father, being of competent age, that is to say, the son being fourteen, and the daughter being twelve, may will, in the same manner as if they were emancipated from their parent, and may dispose of the third part of their property acquired by succession, donation, or in another manner, unless derived from the father, who shall inherit the remaining two-thirds, in the same manner as the mother or other progenitor. (9)

#### TABLE OF FEES, DEMANDABLE BY JUDGES, LAWYERS, SCRIVENERS, ATTORNEYS, AND THE OTHER OFFICERS OF JUSTICE.

**JUDGES.**—For a signature containing the baptismal and family name of the judge, four reals in piasters fortes of America, as also for the other fees hereafter detailed. They shall put the aforesaid signature to judgments, decrees, warrants, titles, and despatches which they may deliver for another tribunal. They shall exact but two reals in the same money for a signature containing their family name only, and the same for their cipher.

For a sitting of two hours and a half, in cases of inventories, seizures, assessments, public sales, adjudications of real or personal property, *procès-verbaux*, declarations, examinations, and other acts of justice of whatsoever nature, two ducats, equal to twenty-two reals in milled piasters. For affixing the seals, in cases of death, one ducat. If a longer time be necessary for the security of the property, the fee may be augmented in proportion to the time that shall be employed. For the opening of a will, and the examination of the seven witnesses, which should precede the opening of the will, forty-eight reals; viz. forty-four for two sittings, and the other four for the signatures to the two instruments. They shall receive four ducats per diem while employed in the country, to continue until their return to their own houses; they shall be decently entertained, and shall be provided with a horse and other things necessary.

Assessors shall have also two ducats for each sitting in the city, and four for the country, either with or without commission. They shall charge one real per leaf for revising documents, according to the bulk of the same, to the circumstances of the case, and to what may be only a continuation of the usual business.

**THE ALCAID MAYOR PROVINCIAL, AND THE OFFICERS OF THE SAINT HERMANDAD** shall receive the same fees as the other royal judges, for their signatures and their sittings.

**REGIDORS.**—In causes of little importance, which may be brought before the *cabildo* by appeal, two regidors shall be appointed as commissioners, conjointly with the judge who shall have pronounced the previous sentence. In all such cases they shall receive the same fees as the judge for their signatures and sittings.

**THE ALGUAZIL MAYOR.**—In common executions against debtors, they shall require payment, and if the same be not complied with within seventy-two hours from the moment of the summons, the said debtors shall pay, besides the fees to the judge and the other officers of justice, the tenth to the alguazil mayor, which is five milled piasters for the first hundred piasters, and two and a half piasters for every other hundred piasters; so that if the execution be issued for three hundred piasters, he shall take ten for the tenth. He may not, however, exact the same until the creditor be satisfied in the sum for which the execution shall be given.

**THE DEPOSITARY GENERAL** shall take three per cent. on all sums in specie, which may come into his possession by way of deposite, and the same for plate, jewels, or other personal property which may be deposited with him.

For real property, as houses, plantations, and other property yielding revenue, he shall take five per cent. upon the said revenue, which shall be his compensation for the management of said property, for receiving the proceeds thereof, and for rendering an account of the same to the tribunal by whom he is appointed, whenever he shall be

(1) Stat. 1, tit. 6, book 5, *Nouv. Recopilation*. (2) Stat. 7, same tit. and book. (3) Stat. 10, same tit. and book.  
 (4) Stat. 5, tit. 8, same book. (5) Stat. 12, same tit. and book. (6) Stat. 7, same tit. and book. (7) *Ibid*.  
 (8) Stat. 6, tit. 8, book 5. (9) Stat. 4, tit. 4, book 4, tit. 8, book 5.

required thereto. He shall also take five per cent. upon the proceeds of the labor of all slaves in his care, who may not be employed upon the estate.

Whenever bonds or notes shall be deposited with him, he shall take five per cent. upon the sums which he may recover on account of the same.

**LAWYERS.**—The fees of lawyers shall be settled by another lawyer whom the judge shall appoint; and for every sitting their compensation shall be the same as that of the judges and assessors. But when they may be employed in examining documents in order to assist at a court, they shall be paid separately.

**SCRIVENERS** shall have fifteen reals for a sitting in the city, and thirty per diem when employed in the country, to be continued until their return to their own houses, and two reals for each leaf of writing, and shall be furnished with a horse, and decently entertained.

For the opening of a will, the examination of the seven witnesses, which should precede the same, and legacies to the church, fifty-two reals.

For a copy of a decree or of a provision, one real. For an act, two reals. For a notification, citation, or participation, two reals. For a declaration in his own house, six reals; or, if elsewhere, eight reals; and two reals for each leaf of writing either in his own house or elsewhere. For a despatch, two reals per leaf, and eight for the commencement and conclusion of the same. For each leaf of an exemplification of an act, one real and three quartilles, and one real for his signature. For duplicates, or copies of documents drawn from his records, two reals per leaf.

For a bill of sale of slaves, twelve reals. For a sale of personal property, which usually contains two leaves, two piasters; and if the same shall contain more on account of the conditions which the parties may wish to be inserted, he may augment in proportion. For a simple bond, eight reals; for a bond with mortgage, twelve reals; and if there be several mortgages comprised in the said bond, he shall be paid according to the labor and trouble he may have had in drawing up the same. For a receipt, eight reals. For an agreement, according to the number of leaves the same may contain; and if an examination of documents be necessary, the same should be taken into consideration, and the charge should be at least doubled.

For a will containing three or four sheets, four piasters, and augmented in proportion to the number of sheets.

**THE RECORDER OF MORTGAGES.**—For a certificate of a house, plantation, or other real property, eight reals. For a certificate of a slave, from one to the number of eighteen, four reals; and from that number to one hundred, twelve reals for each certificate. For a certificate of a mortgage on a vessel, four reals. For recording in the book of mortgages, those given for the security of payments, either for personal property, slaves, or vessels, four reals; and if the same be of an unusual length, eight reals; but when only a short note to designate the page in which the mortgage is recorded be required, no charge shall be made.

**ATTORNEYS.**—For an introductory demand, five reals. For assisting in the city, at an inventory, sale, adjudication, or seizure, twelve reals; for the same in the country, if employed a whole day, three piasters. If, however, the case requires much writing, they shall be paid according to the time that the lawyer may have been employed in drawing up the said case.

**THE CONTADOR JUDICIAIRE.**—For every five hours employed in preparing an account for settlement, four ducats, making forty-four reals, observing that five hours shall be accounted a day; and out of the aforesaid sum he shall pay four reals to the scrivener for each sheet of twenty-five lines to a page.

**THE ASSESSOR OF COSTS** shall be paid one quartille for each sheet of the documents contained in the cause, the costs of which he shall assess. Four quartilles make a real.

**APPRAISERS OF PERSONAL PROPERTY, SLAVES, AND OTHER EFFECTS.**—To the exchange broker, for the valuation of furniture, houses, slaves, merchandise, &c., eleven reals, notwithstanding the appraisement may require two hours and a half.

**ALARIFS, MASTER CARPENTERS, AND ASSAYERS OF SILVER.**—Alarifs, master carpenters, masons, and joiners, shall have a ducat for every thousand piasters of the amount of the appraisement; and if the same shall exceed four, six, or eight thousand, they shall not demand more than four ducats: but if they be employed in the country, and the appraisement shall not amount to one thousand piasters, they shall have two ducats per diem during the time they may be employed, on account of the distance. If, however, one day only shall be necessary, although the appraisement shall amount to three or four thousand piasters, they shall be paid as if the same had been made in the city; but they shall be furnished with a horse, and shall be decently entertained. The assayer of silver shall have eleven reals for each appraisement, although the articles may be valuable, by reason that little time is required for that purpose.

**THE APPRAISERS OF LAND** shall have two ducats per diem, and the same when they shall value buildings of little consequence in the country, woodland, and fields in grain.

**SURVEYORS** shall have three ducats per diem.

**THE ALGUAZILS** shall have four reals for a summons to appear, and for a demand of payment. They shall also receive the same sum for obtaining documents of every description. They shall have eight reals for arresting and conducting to prison. The sergeant, in this case, shall have the same.

**JAIL FEES.**—The alguazil mayor shall have twelve reals for every free person imprisoned, and eight reals for a slave.

At New Orleans, the 25th November, 1769.

DON ALEXANDER O'REILLY.

*Don Alexander O'Reilly, Commander of Benfayan, of the order of Alcantara, Inspector General of Infantry, appointed, by special commission, Governor and Captain-General of this province of Louisiana.*

Divers complaints and petitions which have been addressed to us by the inhabitants of Opelousas, Attakapas, Natchitoches, and other places of this province, joined to the knowledge we have acquired of the local concerns, culture, and means of the inhabitants, by the visit which we have lately made to the Côte des Allemands, Côte des Acadiens, Iberville, and La Pointe Coupée, with the examination we have made of the reports of the inhabitants assembled, by our order, in each district, having convinced us that the tranquillity of the said inhabitants, and the progress of culture required a new regulation, which should fix the extent of the grants of lands which shall hereafter be made, as well as the enclosures, cleared lands, roads and bridges, which the inhabitants are bound to keep in repair, and to point out the damage by cattle, for which the proprietors shall be responsible. For these causes, and having nothing in view but the public good, and the happiness of every inhabitant, after having advised with persons well informed in these matters, we have regulated all those objects in the following articles:

1. There shall be granted to each newly-arrived family, who may wish to establish themselves on the borders of the river, six or eight arpents in front, (according to the means of the cultivator,) by forty arpents in depth; in order that they may have the benefit of the cypress wood, which is as necessary as useful to the inhabitants.

2. The grantees established on the borders of the river shall be held bound to make, within the three first years of possession, mounds sufficient for the preservation of the land, and the ditches necessary to carry off the water. They shall, besides, keep the roads in good repair, of the width of at least forty feet between the inner ditch which runs along the mound, and the barrier, with bridges of twelve feet over the ditches which may cross the roads. The said grantees shall be held bound, within the said term of three years' possession, to clear the whole front of their land to the depth of two arpents; and, in default of fulfilling those conditions, their lands shall revert to the King's domain, to be granted anew; and the judge of each place shall be responsible to the governor for the superintendance of this object.

3. The said grants can neither be sold nor alienated by the proprietors, until after three years of possession, and until the above-mentioned conditions shall have been entirely fulfilled. To guard against every evasion in this respect, the sales of the said lands cannot be made without a written permission from the governor general, who will not grant it until, on strict inquiry, it shall be found that the conditions above explained have been duly executed.

4. The points formed by the lands on the Mississippi river, leaving in some places but little depth, there may be granted, in these cases, twelve arpents of front; and, on a supposition that these points should not be applied for by any inhabitant, they shall be distributed to the settlers nearest thereto, in order that the communication of the roads may not be interrupted.

5. If a tract belonging to minors should remain uncleared, and the mounds and roads should not be kept in repair, the judge of the quarter shall inquire into the cause thereof. If attributable to the guardian, he shall oblige him to conform promptly to this regulation; but if arising from want of means in the minors, the judge, after having, by a verbal process, obtained proof thereof, shall report the same to the governor general, to the end that the said land may be sold for the benefit of the minors, (a special favor, granted to minors only;) but if no purchaser shall, within six months, be found, the said land shall be conceded gratis.

6. Every inhabitant shall be held bound to enclose, within three years, the whole front of his land which shall be cleared; and for the remainder of his enclosure he will agree with his neighbors, in proportion to his cleared land and his means.

7. Cattle shall be permitted to go at large, from the eleventh of November, to the fifteenth of March of the year following; and at all other times the proprietor shall be responsible for the damage that his cattle may have done to his neighbors. He who may have suffered the damage shall complain to the judge of the district, who, after having satisfied himself of the truth thereof, shall name experienced men to estimate the value of the same, and shall then order remuneration without delay.

8. No grant in the Opelousas, Attakapas, and Natchitoches shall exceed one league in front by one league in depth; but when the land granted shall not have that depth, a league and a half in front by half a league in depth may be granted.

9. To obtain in the Opelousas, Attakapas, and Natchitoches, a grant of forty-two arpents in front by forty-two arpents in depth, the applicant must make it appear that he is possessor of one hundred head of tame cattle, some horses and sheep, and two slaves to look after them; a proportion which shall always be observed for the grants to be made in the said places, but none shall ever be made of greater extent than that declared in the preceding article.

10. All cattle shall be branded by the proprietors; and those who shall not have branded them at the age of eighteen months cannot thereafter claim a property therein.

11. Nothing being more injurious to the inhabitants than strayed cattle, without the destruction of which tame cattle cannot increase, and the inhabitants will continue to labor under those evils of which they have often complained to us; and considering that the province is at present infested with strayed cattle, we allow to the proprietors until the first day of July, of the next year, one thousand seven hundred and seventy-one, and no longer, to collect and kill, to their use, the said strayed cattle; after which time they shall be considered wild, and may be killed by any person whomsoever, and no one shall oppose himself thereto, or lay claim to a property therein.

12. All grants shall be made in the name of the King, by the governor general of the province, who will, at the same time appoint a surveyor to fix the bounds thereof, both in front and depth, in presence of the judge ordinary of the district, and of two adjoining settlers, who shall be present at the survey. The above-mentioned four persons shall sign the verbal process which shall be made thereof, and the surveyor shall make three copies of the same; one of which shall be deposited in the office of the scrivener of the Government and cabildo, another shall be delivered to the governor general, and the third to the proprietor, to be annexed to the titles of his grant.

In pursuance of the powers which our lord the King (whom God preserve) has been pleased to confide to us, by his patent issued at Aranjuez, the 16th April, 1769, to establish in the military, the police, and in the administration of justice, and his finances, such regulation as should be conducive to his service and the happiness of his subjects in this colony, with the reserve of His Majesty's good pleasure, we order and command the governor, judges, cabildo, and all the inhabitants of this province, to conform punctually to all that is required by this regulation.

Given at New Orleans, the 18th February, 1770.

*Regulation concerning the general police, the repair of bridges, roads, and mounds, and the police of slaves; for the use of the commanders of posts and of coasts, and the syndics of the province of Louisiana.*

The astonishing success which has attended certain designing, restless, and enthusiastic persons, and who certainly have nothing to lose, in disseminating injurious reports tending to produce an entire distrust between the Government and the inhabitants, which would infallibly plunge them into all those atrocities which have desolated the French colonies, has induced us to digest a regulation capable of re-establishing order, police, and tranquillity throughout the province.

In pursuance thereof, the Government will establish within every three leagues, at furthest, a syndic chosen from amongst the most industrious and respectable inhabitants of the district, who shall be changed in the month of January of each year, unless he may consent to be continued for the succeeding year, and whose functions shall be subordinate to the commander of the post or of the coast, to whom he shall render a weekly account of the occurrences in his district.

FUNCTIONS OF THE SYNDICS.

Every person who shall have acquired knowledge of an unlawful attempt, either by being an eye-witness thereof, or from hearsay, shall be bound to give information thereof to the syndic of his district, and to require him to take the necessary order thereon, pointing out to him the offender, the place, and those persons who may have knowledge of the same, under a penalty of six piasters, or even being punished to the extent of the law if his silence shall proceed from malice or connivance. Seditious discourses, or those tending to alarm the public mind, shall also be

reported to the syndic of the district in which they may be held, as attempts against the public tranquillity, under the penalty of one hundred piasters; and the syndic who shall not give an account of the same to the commandant or to the Government, shall incur the same penalty. Information being given, the syndic shall proceed to a verbal inquiry, accompanied by two respectable inhabitants, who shall assist him as witnesses. In the present case, the syndic shall have power to oblige the two persons who may be nearest at hand, to assist him as witnesses, under a penalty of four piasters, and being considered unfriendly to good order.

As the necessity of an inquiry into the offence may be urgent, and the syndic may be absent, or his residence at too great a distance, every individual shall in this case have a right to summon his two nearest neighbors to accompany him to the place where the offence may have been committed; and, in case of refusal, they shall incur the penalty aforesaid. The offender, being convicted of the offence, shall be conducted to and accused before the syndic, who shall secure him, and give information thereof or send him to the commandant.

Syndics are authorized to search plantations, houses, negro huts, &c. accompanied by two witnesses, when the case shall require it, and when the informer shall bind himself to find therein the evidences of the truth of his information, and not otherwise; and if the informer shall fail in so doing, he alone shall be responsible to the proprietor.

The syndics shall take cognizance, provisionally and verbally, of all crimes and disorders committed within their districts, notwithstanding the offender shall belong to another district.

The general police, and the security of the district, the repair of bridges, roads, and mounds, the general inspection of coasters, passengers, the provisions, maintenance, subordination, and police of the negro camps, the security of horses, cattle, &c. shall be within the province of the syndics, who shall conform strictly to the articles herein contained in relation to those objects.

Whenever the Government shall think it expedient to convoke the syndics to a general meeting at the capital, or to a private meeting at the residence of the commandant of the post, they shall be accompanied by two persons as evidences of the satisfaction of their district, upon which condition only they shall be entitled to take part in the deliberations; but the evidences shall take no part therein, their duties being to observe that their syndic does not lose sight of the interest of the district. The syndics may not assemble the inhabitants of their district without the permission of the commandant of the post, who shall not make opposition thereto without strong motives, which he shall communicate to the Government. All meetings consisting of more than eight inhabitants, for the purpose of treating of public affairs, is strictly prohibited; and the syndic is enjoined to give information thereof to the Government, under the penalty of being considered a party thereto.

In case a syndic shall incur any one of the penalties provided by this regulation, three individuals shall join him for the purpose of convicting and denouncing him to the commandant of the post, who shall impose the penalty provided, and shall communicate the same to the Government.

A syndic who, through negligence, or from motives of humanity, shall dissemble a fault, or conceal it from the knowledge of the commandant, or shall join with him for that purpose, shall incur the penalty provided for the offender, for having abused the public confidence; and the Government reserves the care of punishing the commandant with still greater severity if he shall be a party thereto.

The commandants of posts, or of the coasts, shall deliver to the Government, the first day of December in each year, a list of the inhabitants in their opinion the most suitable to be elected syndics for the following year; observing that their respective distances from each other must not exceed three leagues, and on which account they shall mention the situation of their plantations; and observing, likewise, that there be some on both sides of the river, as also in the place of residence of the said commandant, or adjacent thereto.

The first day of January, the new syndics, elected by the Government, shall enter upon the duties of their office, previously receiving, in presence of the commandant, this regulation, and the other instructions relative to their employment, from the hands of the syndic of the preceding year.

The persons of the syndics shall be respected by the public; and whosoever shall dare to insult them, menace them, or disobey their orders, shall forfeit forty piasters for the two first-mentioned offences, and one hundred for the third; applicable one-half to the royal treasury, and the other half to defray the expenses of the prison and courts of the district.

Assaults shall be punished to the extent of the laws, when committed on those who are charged with the execution of them.

#### GENERAL POLICE.

All coasters and travellers shall exhibit their passports, and reply to the questions which may be put to them by the syndic of the district, who shall require the same, and shall make himself known, by declaring his family name.

The passport shall specify the number of horses conducted by the traveller, and all articles for sale on board the coaster, as also the number of the crew, who shall be persons known, and for whose conduct the master shall be responsible. Those who shall be found with an unusual number of horses, cattle, or quantity of merchandise, shall be arrested by the syndic of the district, and sent to the commandant of the post or of the coast, who shall give information thereof to Government.

A passenger who may be necessitated to change horses, to purchase others, or cattle, merchandise, &c. should have the same endorsed on his passport by the syndic of the district in which the said exchange or purchases may have been made.

A coaster who shall during his voyage leave any of his crew on shore, or take others on board, must have an endorsement to that effect made on his passport. Every person found without a passport shall be arrested by the syndic, examined, and delivered to the commandant of the post.

Every traveller, coaster, &c. previous to circulating any news of importance, shall make a relation thereof to the syndic of the district, who shall require his name, and shall permit him to divulge the same, or shall forbid him if the circulation thereof would be injurious to the public tranquillity or the good of the State, and shall render an account thereof to Government, previously holding the said traveller or coaster responsible for the result.

Pocket pistols, poignards, large knives, sword canes, and other similar weapons, are forbidden by law, under penalty of the presidio; and the syndics shall arrest those who may wear them.

The syndics shall be acquainted with the brand or marks on the animals of their district, and shall cause those to be taken up which shall be found without the mark of the proprietor, or with another strange mark; in this last case they shall inform the commandant thereof, who shall communicate the same to the other syndics, to the end that the proprietor may be acquainted therewith.

Any person convicted of having detained, stolen, or killed any kind of tame animal which shall not belong to him, without having given information thereof to the syndic of his district, shall be sentenced to return the same,

if alive, and to a fine equal to one-half the value thereof; one-third of which shall go to the use of the proprietor, another third to the royal treasury, and the remaining third to defray the expenses of the courts and prison of the district; or, if the animal be dead, he shall pay four times the value thereof, which shall be applied as aforesaid.

It is absolutely forbidden, under the same penalty, to shoot at any tame animals without permission of the syndic, who shall not grant the same without the knowledge of the commandant, and then only when the cattle are known to be strayed and ravaging the grain fields.

The turning out of cattle is forbidden from the 15th of March, to the 15th of November; if, however, the inhabitants of a district shall unanimously agree to prolong the time, the syndic may, with the knowledge of the commandant, depart from this article; in all other cases, it shall be optional with the inhabitant either to kill the tame animal found in his grain fields, in presence of two witnesses, or to be indemnified for the damages, by the award of two or three capable persons, one of whom shall be named by himself, another by the proprietor of the animal, and the third by the syndic, in case the two first shall be divided in opinion; observing that the award shall be made upon the supposed value of the grain when arrived at maturity, and that the animal shall be returned to the proprietor thereof.

Every proprietor having an exclusive right to the enjoyment of his property, none other shall fish, hunt, or go within his enclosures, without his permission, under the penalty of restitution of game, fish, &c. and of a fine of four piasters, applicable one-half to the expenses of the courts and prison of the post, and the other half to the royal treasury, to be imposed by the syndic of the place; and, in case of repetition, the same shall be doubled, trebled, &c.

The syndic shall be entitled to command the patrols of his district when the case shall require it, and with the knowledge of the commandant; no one shall refuse to serve in his turn under a penalty of six piasters, applicable one-half to the person who shall have taken his place, and the other half to the royal treasury; and whosoever shall refuse to conduct a prisoner from one plantation to another on his way to the residence of the commandant of the post, shall incur the same penalty, which shall be disposed of as aforesaid.

For the more speedy execution of justice, the syndics shall take cognizance, in the first instance, of all matters in dispute the amount of which shall not exceed ten piasters; all others shall be brought before the commandant of the post, who may not give judgment for more than fifty piasters, and shall refer those exceeding that amount to the Government, by reason that the law requires that they shall not be decided without the advice of an assessor or a lawyer.

At every post not provided with a prison the commandant shall call a meeting of the syndics, at which he shall preside, for the purpose of selecting a plan for the building; which being adopted by a majority of the meeting, shall be published and posted up during nine days; after which, they shall proceed to the erection of a prison proportionate to the population of the place, the expenses of which shall be defrayed by the inhabitants, according to their means.

The prison of the post shall always be situated near the residence of the commandant, that he may provide for the maintenance thereof, as also that of the prisoners insolvent; to which objects a part of the fines imposed on the infringers of this regulation is appropriated. The commandants shall, in the months of July and January, account to the Government for the fines they have received, and shall at the said times pay into the royal treasury the amounts applicable thereto.

As the dissemination of false reports on the coasts is one of the most efficacious means resorted to by the disturbers of the public tranquillity to obtain proselytes, it would be proper that the syndics should subscribe for the *Moniteur*, from which they would obtain correct information upon the events of the day, and should communicate the same to the inhabitants of their district.

It would not be less useful, that, whenever any doubt shall arise in the public mind upon the propriety of any proceeding of the Government, the syndics should give information thereof to the commandant of the post, who would communicate the same to the Government of the province, whose reply would satisfy all those possessed of integrity and zeal for the public welfare.

#### BRIDGES, ROADS, AND MOUNDS.

The keeping in repair of bridges, roads, and mounds being indispensable for the facility of transportation, for the convenience of the inhabitants and travellers, and for the preservation of the fruits of the earth, the syndics shall direct their whole attention to that object with an impartiality and firmness proof against all reproach and worldly considerations.

Now, inasmuch as experience has demonstrated that the greater part, fearful of reproach and of making themselves enemies, have hitherto neglected an object so essential, and have confined themselves at most to communicating to the Government the negligences of certain inhabitants, every syndic who shall be convicted of having neglected to proceed against those inhabitants who shall refuse immediately to repair their bridges, roads, and mounds, in conformity to the present regulation, shall himself be condemned to make the repairs aforesaid, and shall be responsible for the accidents which may result from his negligence.

The syndics, accompanied by the commandant of the posts and their witness, shall, in the month of July, make a strict examination of all the mounds and roads in their district; shall direct the repairs which each inhabitant is bound to make, of which they, as well as the commandant, shall keep an account; and shall notify the interested that those who shall not have complied with their directions previous to their second visit in December, (in which they shall also be accompanied by the commandant and the same witnesses) shall be obliged to pay for the labor and food of the negroes of the district who shall be employed for that purpose, by order of and under the inspection of the syndic, besides the fine of one hundred piasters hereinbefore mentioned. The syndics shall require from the inhabitants that their negroes be employed on Sundays for the purpose above mentioned, and they may not refuse in consideration that the price of their labor shall be faithfully paid to the negroes. So soon as a gap shall be perceived, the syndic of the district shall issue orders to all the inhabitants of his district to furnish the number of negroes which he may think necessary, in proportion to their means, without waiting for the orders of the commandant or of the governor. Whosoever shall refuse shall be responsible for the ravages occasioned by the waters, which might have been stopped if immediate assistance had been given, and shall besides incur the before-mentioned fine of one hundred piasters for disobedience. If the negroes of the district are insufficient, the syndic shall give immediate information thereof to the governor or the commandant, who shall issue orders to the inhabitants who might be incommoded by the waters to furnish negroes, in proportion to their means.

The labor and food of the negroes employed in stopping a gap shall be paid by the proprietor of the land, at the rate of four escalins\* per day, and one escalin for food.

Holes between the mounds and the river shall be carefully stopped at low water, and filled up by a talus. The drains shall be as far removed as the nature of the ground will permit from the foot of the mound, which they would totally weaken, and would expose to be undermined by the quantity of craw-fish which frequent them.

\* Eleven escalins make one dollar.

All horses, mules, cows, steers, and hogs, found on the mounds without a conductor, shall be taken up by the proprietor of the mound, and delivered to the syndic, who shall not return the same to the owner, without exacting a fine equal to one-half the value thereof, applicable one-third to the proprietor of the mound, another third to the royal treasury, and the remainder to the expenses of the courts and prison of the district. The appraisement shall be made by two or three capable persons, one of whom shall be appointed by the owner of the animal, another by the proprietor of the mound, and, if those two be divided in opinion, a third shall be appointed by the syndic.

#### POLICE OF SLAVES.

The disastrous events proceeding from the present war should, with redoubled force, impress upon the minds of the inhabitants the necessity of attention to their slaves, and of keeping them in that state of content and subordination which would alienate them from the wish of acquiring a freedom which has cost so much blood to those of St. Domingo. To prevent, on the one hand, that excessive indulgence with which the slaves of some plantations are treated, introducing insubordination and insolence, and thereby exhibiting a bad example to the others; and, on the other, to provide against the hardships and inhumanity of some masters of little reflection, who, infringing the first law, that of nature, expose their slaves to the influence of despair; the commandants and syndics are required to direct their whole attention to the internal police of the plantations, and to cause the following directions to be strictly observed, under the penalty of personal responsibility to the Government, and of incurring the reproaches of both their own consciences and of the public, if, by an ill-placed complaisance or neglect, their country should hereafter be exposed to the disasters which have ruined the French colonies.

Every slave shall punctually receive the barrel of corn allowed by the usage of the colony, and which quantity is voluntarily augmented by the greater part of their masters.

The syndics shall take measures to induce the planters of their district to allow their negroes a portion of their waste lands, by which they will not only add to their comforts, but increase the productions of the province, and that time will be usefully employed which would otherwise be devoted to libertinism.

Every slave shall be allowed half an hour for breakfast, and two hours for dinner; their labor shall commence at break of day, and shall cease at the approach of night. Sundays shall be the privilege of the slaves, but their masters may require their labor at harvest, &c., on paying them four escalins per diem.

The slaves who have not a portion of waste lands shall receive punctually from their master a shirt and trowsers of linen for the summer, and a great-coat and trowsers of wool for the winter.

No person shall cause to be given, at once, more than thirty lashes to his slave, under the penalty of fifty piasters; but the same may be repeated, if necessary, with an interval of one day.

It is permitted to shoot at an armed runaway negro who shall refuse to stop when required, or who cannot otherwise be taken, even if he be not armed; at a negro who shall dare to defend himself against his master or overseer; and, lastly, at those who shall secretly enter a plantation with intent to steal.

Whosoever shall kill a slave, unless in one of the cases before mentioned, shall be punished to the extent of the law; and if he shall only wound him, he shall be punished according to the circumstances of the case, and shall, besides, allow the slave to seek another master; no one being permitted to dispose of the life of a man at his pleasure: as, for example, when a slave, threatened with thirty lashes, shall fly before his master, he is not yet guilty of any crime, and very often has no other intention than to gain time to soften his master, or to implore the pity of some intercessor. With what shadow of justice could the law permit a master, transported with passion, to kill or wound this unfortunate, solely for endeavoring to escape a rigorous chastisement? Intrigues, plots of escape, &c., arising in general from the negroes of one plantation frequenting those of another, the inhabitants are forbidden, under the penalty of ten piasters, to allow any concourse or resort of negroes to their plantations for the purpose of dancing, &c.; and the amusements of their own slaves, which shall be allowed only on Sundays, shall terminate always before night.

A slave shall not pass the bounds of his master's land, without his permission in writing, under the penalty of twenty lashes.

To prevent those disputes and animosities occasioned by the slaves of one planter being chastised by another, no person shall be allowed to punish a negro not belonging to him, without the consent of his master, or of the syndic of the district, under the penalty of thirty piasters.

Every slave arrested without a permission or passport shall be sent to the syndic, who shall order that he be punished and returned to his master. If the residence of the syndic be too remote, the person who may have arrested the slave shall give information thereof, in writing, to the syndic, requesting permission to punish him, and shall conform to the tenor of his reply; after which the slave shall be returned to his master.

A slave who shall ride the horse of his master, or of any other person, without permission, shall be punished with thirty lashes during two days; that is to say, with an interval of one day.

Slaves are not permitted to be proprietors of horses, under penalty of the confiscation thereof, one half to the use of the treasury, and the other half to defray the expenses of the courts and prison; and the master who shall tolerate the same shall incur a fine of four piasters for each horse.

Fire-arms are prohibited to slaves, as also powder, ball, and lead, under the penalty of thirty lashes during three days, and confiscation thereof, one half to the use of the royal treasury, and the other half to defray the expenses of the courts and prison.

An inhabitant may not have more than two hunters; and he shall oblige them to deliver up their arms and ammunition on their return from the chase, under the penalty of fifty piasters if his hunter shall be arrested without a passport, or if his arms and ammunition be found in the camp.

Slaves may not sell any thing without the permission of their master, not even the productions of the waste lands allowed them, under pain of twenty-five lashes, and a fine of double the value of the thing sold; and the white person who shall have purchased the same shall incur the forfeiture thereof, and shall be brought before the syndic.

No white person, negro, or free mulatto, shall be allowed entrance into a camp without the permission of the master, nor to sell any thing to the slaves on the borders of the river, under pain of being arrested by the proprietor of the plantation, and transported with all his merchandise to the residence of the syndic, who shall examine his passport and merchandise, and shall sentence him to a fine of fifteen piasters; and if he have not money sufficient to discharge the same, he shall be confined fifteen days in the prison of the post, or be at the disposal of the commandant.

Rum, fire-arms, and ammunition shall be seized when in possession of coasters, by the syndic, and delivered to the commandant, who shall sell the same at public auction for the use of the royal treasury, and to defray the expenses of the courts and the prison.

The syndic shall, from time to time, visit the negro camps in his district, both by night and by day, and shall punish with thirty lashes the slaves belonging to other plantations, who shall be found therein without the permission of both masters. White persons, free negroes and mulattoes shall be sent to the commandant of the post, who shall punish them by fifteen days' imprisonment.

When an inhabitant shall be informed that there are runaway negroes in a certain place, he shall give notice thereof to the syndic, who shall have authority to assemble as many as fifteen armed inhabitants, without the permission of the commandant, for the purpose of arresting them; but he shall immediately after give notice thereof to the commandant. Patrols, or other military proceedings, may not be had without the permission of the syndic, under the penalty of twenty piasters.

A slave may not complain to the Government, without having previously made his complaint to the syndic of the district and to the commandant, under pain of thirty lashes upon the public square; but the said persons shall be obliged to receive his complaint, and to grant him strict justice.

Whosoever shall shoot at a slave shall be obliged to give notice thereof to the syndic within four hours, under the penalty of fifty piasters, applicable one half to the royal treasury, and the other half to defray the expenses of the prison and of the post; the syndic shall advise the commandant of the circumstances within twenty-four hours, and the last-mentioned shall give information thereof to the Government within a like term, under the penalty of fifty piasters, to be incurred by the syndic or commandant, if either shall fail therein.

As there are plantations the masters of which are mostly absent, the syndic shall attend thereto, and shall charge some inhabitant with the care of the slaves, and to make the necessary visits both by night and by day; such cases excepted, no person shall have authority to visit plantations, granaries, negro camps, dwelling-houses, or huts of whites, negroes, mulattoes, or mestives, without permission in writing from the syndic of the district; by reason that all property is sacred, and every house an asylum, which the authority of the law can only enter for the public advantage.

Free people of color, enjoying by law the same advantages with the other members of the nation with which they are incorporated, may not be molested in the possession of their property, injured, or ill-treated under the penalties provided by law for the safety and security of the property of white persons.

The syndics and commandants of posts shall be watchful of their conduct, and shall require that deference and attention which is due from them to the members of that society whom they formerly served, and which has admitted them to its bosom. The syndics shall not tolerate any want of attention to the whites, but shall deliver them over to the commandant of the post, who shall punish them with imprisonment, but never by the lash, or by any other corporal punishment.

The syndics shall also observe that all free people of color labor either in the field, or at some trade within their district, and shall send the indolent and vagabonds to the commandant of the post, who shall fix them at the capital, where they shall be employed upon the king's buildings, and other public works.

In case a syndic shall be sick, or obliged to be absent from the district, he shall commit the duties of his office to a respectable inhabitant, and shall give notice thereof to the commandant of the post.

All fines herein specified shall be equally divided, and applied to the royal treasury, and to defray the expenses of the courts and prison of the post. Those persons who may be insolvent shall remain in prison as many days as there shall be piasters composing their debt.

NEW ORLEANS, 1st June, 1795.

BARON DE CARONDELET.

APPENDIX No. 2.

*Census of Louisiana in the year 1785.*

Districts.	Whites.	Free people of color.	Slaves.	Total.
Balize to the city, - - - - -	387	67	1,664	2,118
New Orleans, - - - - -	2,826	563	1,631	5,028
St. Bernardo, - - - - -	584	2	-	586
Bayou St. Jean, - - - - -	91	14	573	678
Costa de Chapitoulas, - - - - -	1,128	263	5,645	7,036
First German Coast, - - - - -	561	69	1,273	1,903
Second German Coast, - - - - -	714	5	581	1,300
Catahanose, - - - - -	912	18	402	1,332
Fourche, - - - - -	333	-	273	606
Valenzuela, - - - - -	306	-	46	352
Iberville, - - - - -	451	-	222	673
Galveztown, - - - - -	237	-	5	242
Baton Rouge and Manchac, - - - - -	68	2	100	170
Pointe Coupée, - - - - -	482	4	1,035	1,521
Attakapas and Opelousas, - - - - -	1,204	22	1,182	2,408
Ouachita, - - - - -	198	-	9	207
Avoyelles, - - - - -	149	138	-	287
Rapides, - - - - -	63	-	25	88
Natchitoches, - - - - -	404	8	344	756
Arkansas, - - - - -	148	31	17	196
Illinois, - - - - -	1,139	18	434	1,591
Natchez, - - - - -	1,121	-	438	1,559
Mobile and Tombigbee, - - - - -	325	51	461	837
Pensacola, - - - - -	384	28	184	596
	14,215	1,303	16,544	32,062



## APPENDIX No. 3.

*Census of the districts or posts of Louisiana and West Florida.*

Names and situation of the posts or districts.	Whites.	Free people of color.	Slaves.	Total.
Balize to New Orleans, - - - - -	-	-	-	2,388
San Bernardo, or Terre aux Bœufs, on a creek running from the English Turn, east, to the sea and Lake Borgne, - - - - -	-	-	-	661
City of New Orleans and suburbs, as per detail No. 1, - - - - -	3,948	1,335	2,773	8,056
Bayou St. Jean and Chantilly, between the city and Lake Pontchartrain, - - - - -	-	-	-	489
Coast of Chapitoulas, or along the banks of the Mississippi, six leagues upwards, - - - - -	-	-	-	1,444
First German Coast, from six to ten leagues upwards, on both banks, - - - - -	688	113	1,620	2,421
Second German Coast, from ten leagues, and ending at sixteen do. - - - - -	883	21	1,046	1,950
Catahanose, or First Acadian Coast, commencing at 16 leagues above the city, and ending at twenty-three, on both banks, - - - - -	1,382	-	818	2,200
Fourche, or Second Acadian coast, from twenty-three to thirty leagues above town, Valenzuela, or settlements on the Basin de la Fourche, running from the west side of the Mississippi to the sea, and called in old maps the Fourche, or Rivière des Chilimachas, - - - - -	677	-	464	1,141
Iberville parish, commencing at about thirty leagues from Orleans, and ending at the river of the same name, - - - - -	1,797	-	267	2,064
Galveztown, situated on the river Iberville, between the Mississippi and Lake Maurepas, opposite the mouth of the Amite, - - - - -	658	13	386	1,057
Government of Baton Rouge, including all the settlements between the Iberville and the line of demarcation, - - - - -	213	8	26	247
Pointe Coupée, and False river behind it, fifty leagues from Orleans, on the west side of the Mississippi, - - - - -	958	16	539	1,513
Attakapas, on the rivers Teche and Vermilion, &c. to the west of the Mississippi, and near the sea, - - - - -	547	-	1,603	2,150
Opelousas, adjoining to, and to the northeast of the foregoing, - - - - -	859	58	530	1,447
Ouachita, on the river of the same name, or upper part of the Black river, which empties into the river Rouge, - - - - -	1,646	-	808	2,454
Avoyelles, on the Red river, about — leagues from the Mississippi, - - - - -	-	-	-	361
Rapides, on the Red river, about — leagues higher up, - - - - -	336	2	94	432
Natchitoches, on the Red river, about seventy-five leagues from the Mississippi, - - - - -	584	-	169	753
Concord, an infant settlement on the banks of the Mississippi, opposite Natchez, - - - - -	785	-	846	1,631
Arkansas, on the river of the same name, about twelve leagues from its mouth, - - - - -	Unk'n.	-	-	-
Spanish Illinois, or Upper Louisiana, from La Petite Prairie, near New Madrid, to the Missouri, inclusive, as per detail No. 2, - - - - -	335	5	48	388
Mobile, and country between it and Orleans, and borders of Lake Pontchartrain, - - - - -	4,948	197	883	6,028
Pensacola, exclusive of the garrison, not exceeding - - - - -	-	-	-	800
	-	-	-	300
	21,244	1,768	12,920	42,375

MEMORANDUM.—This census is taken from the latest returns, but is manifestly incorrect—the population being underrated. From some places there have been no returns for the last seven years; and, from those made this year, it is easy to see that certain causes induced the inhabitants to give in short returns of their slaves and of their own numbers. The Spanish Government is fully persuaded that the population at present considerably exceeds 50,000 souls.



APPENDIX No. 4.

Statement of the population of the settlements of Upper Louisiana, with the births, marriages, deaths, stock and productions of the year 1799.

Names of the settlements.	Whites.	Free mulattoes.	Free negroes.	Slaves.	Total.	Marriages.	Births.	Deaths.	PRODUCTIONS.					Horned cattle.	Horses.	Exports for New Orleans.		
									Bushels of wheat.	Bushels of Indian corn.	Pounds of tobacco.	Bushels of salt.	Pounds of lead.					
St Louis, - -	601	50	6	268	925	9	52	20	{	4,300	10,300	1,650	-	-	1,140	215	1,754 packs of shaved skins, of 100 lbs. each, valued at, \$70,160 8 packs bear skins, - 256 18 packs buffalo robes, - 540 36,000 lbs. lead, - 2,160 2,000 lbs. flour, - 60 <hr/> \$73,176	
Carondelet, - -	181	-	-	3	184					3,300	2,760	4,500	-	-	198	45		
St. Charles, - -	840	-	-	55	895	15	41	11	{	6,645	12,170	4,053	-	-	1,202	241		
St. Fernando, - -	259	-	-	17	376					5,800	2,350	750	-	-	230	57		
Marais des Liards, - -	337	-	-	42	379	5	34	7	{	1,019	1,604	6,800	-	-	629	153		
Maramée, - -	115	-	-	-	115					200	6,370	3,150	-	-	229	125		
St. Andrews, - -	361	5	27	-	393	-	-	-	-	-	730	16,950	5,465	-	-	574		122
St. Genevieve, - -	636	1	2	310	949	5	64	14	{	16,400	21,450	1,999	965	150,000	1,253	268		
New Bourbon, - -	445	-	1	114	560					1,680	14,300	300	-	-	20,000	595		83
Cape Girardeau, - -	416	105	-	-	521	-	-	-	-	-	510	16,200	-	-	707	200		
New Madrid, - -	711	-	-	71	782	-	-	-	-	-	47,765	-	-	-	1,188	243		
Little Meadow, - -	46	-	-	3	49	-	-	-	-	-	-	2,675	-	-	35	-		
	4,748	161	36	883	6,028	34	191	52	{	88,349	84,534	28,667	965	170,000	7,980	1,763		

MEMORANDUM.

St. Louis is situated on the Mississippi, five leagues below the mouth of the Missouri.  
 Carondelet is two leagues below St. Louis, on the Mississippi.  
 St. Charles is on the Missouri, about seven leagues from its mouth, and about six from St. Louis by land.  
 St. Fernando or Harissaret, is three or four leagues from St. Louis, in a valley, on one of the roads from St. Louis to St. Charles.  
 Marais des Liards is four leagues from St. Louis, and about a league to the west of the foregoing.  
 Maramée is on the river of the same name.  
 St. Andrews is situated about five leagues above St. Charles, on the Missouri.  
 St. Genevieve is opposite Kaskaskias, and on the banks of the Mississippi.  
 New Bourbon is about a league below St. Genevieve.  
 New Madrid is on the Mississippi, fifteen leagues below the mouth of the Ohio.  
 Little Meadow is seven leagues below New Madrid, on the banks of the river.

MEMORANDUM.

All the fine furs are shipped to Canada, as well as a great quantity of deer and bear skins, where they bring a better price than in New Orleans; and this being a contra-band trade, no notice is taken of it in the above account of exports, which is the official one.

## APPENDIX No. 5:

*Census of the city of New Orleans, exclusive of seamen and the garrison.*

Date.	Quarters.	Whites.	Free people of color.	Slaves.	Total.
1803.	First quarter, - - - -	745	203	546	1,494
	Second quarter, - - - -	891	-	951	1,842
	Third quarter, - - - -	722	787	579	2,088
	Fourth quarter, - - - -	440	219	225	884
	Suburb of St. Charles, - - - -	70	-	170	240
	Suburb of St. Louis, - - - -	380	126	302	808
			3,248	1,335	2,773
	Whole number of persons not domiciliated, -	700	-	-	700
		3,948	1,335	2,773	8,056

N. B. This census appears to be incorrect, as, by some unaccountable mistake, the number of free people of color in the second quarter is not included; and, on the whole, the population is thought to be underrated.

## APPENDIX No. 6.

	Whites.	Blacks.	Militia.
1. The island of New Orleans, with the opposite margin and settlements adjacent, computed at - - - -	25,000	25,000	5,000
2. The west margin, from Manchac, including Pointe Coupée, and extending to the Red river, - - - -	4,000	5,000	800
3. Attakapas, along the seacoast, between the delta of the Mississippi and the western boundary, - - - -	1,600	2,000	350
4. Opelousas, on the north of Attakapas, - - - -	3,750	3,500	750
5. Red river, including bayou Bœuf, Avoyelles, Rapides, and Natchitoches, (the two first bounding on Opelousas,) - - - -	5,000	3,000	1,000
6. Ouachita river, (falling into the Red river from the north,) - - - -	1,200	100	300
7. Concord, a settlement on the margin of the river, opposite to Natchez, - - - -	200	70	40
8. Arkansas river, - - - -	600	-	150
9. New Madrid and vicinity, - - - -	1,750	50	350
10. Illinois and Missouri, - - - -	4,000	500	1,000
Total, - - - -	47,150	39,220	9,740
NOTE.—The settlements of Baton Rouge and New Feliciana, on the east side of the river, lying between the line of demarcation, lat. 31°, and the Iberville, including some establishments on the river Amite, &c., contain - - - -	3,000	600	600
	50,150	39,820	10,340

8th CONGRESS.]

No. 169.

[1st SESSION.]

EXTENSION OF THE POWERS OF THE JUDGES OF THE UNITED STATES IN THE TERRITORIES, AND APPEALS FROM THEIR DECISIONS TO THE SUPREME COURT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 29, 1803.

Mr. BOYLE, from the committee to whom was referred a resolution directing an inquiry into the expediency of vesting the powers usually exercised by a court of equity in the judges of the United States, within the Indiana and other Territories, and also into the expediency of allowing writs of error and appeals from the judgments and decrees of said judges to the Supreme Court of the United States, made the following report:

That courts without equitable jurisdiction will inevitably, in some instances, become the instruments of iniquity, instead of the administrators of justice. Fraud, accident, and hardship, ingredients in many of those transactions of human life, which constitute the basis of litigation; entrenched within legal forms and veiled with specious, but deceitful appearances, are many times not within the reach of a tribunal, vested with common law powers only. To develop, and relieve against them, an equitable jurisdiction is necessary. It may be proper also to observe, that

persons may avail themselves of the powers of a court of equity to obtain more complete relief, by coercing the specific execution of contracts fairly made, and rescinding those that are bottomed upon deceit, than a court of law is competent to grant; add to that, *trusts*, which frequently become sources of forensic controversy, are matters properly cognizable in courts of equitable jurisdiction.

The committee, therefore, have agreed respectfully to submit to the consideration of the House the following resolution:

*Resolved*, That it is expedient to vest the powers usually exercised by a court of equity in the judges of the United States in the Indiana and other Territories.

As to the second matter referred to them for their inquiry, the committee beg leave to observe, that the attainment of a uniformity of decision in any section of country subject to the same laws and usages, is one of the principal objects of the institution of a Supreme Court, with appellate jurisdiction. Where there are many courts dispersed over a country, though subject to the same laws and usages, yet, without one common tribunal, which shall have power to revise and correct the judgments and decrees of the inferior courts, their decisions will be various and contradictory. But to attain this uniformity of decision in each Territorial Government, it is not necessary to allow writs of error or appeals to the Supreme Court of the United States, because each Territory has a supreme court (relatively speaking) within itself, which is composed of three judges, and has, or may have, appellate jurisdiction over all others erected in the Territory, whereby it may preserve that uniform rule of decision so desirable.

Correctness, or propriety of decision, is the only other object the attainment of which can be aided by allowing writs of error and appeals from the Territorial courts to the Supreme Court of the United States. The committee are not informed, nor do they believe, that there is any unusual want of confidence in the courts of the Territories. They are aware that hardship and injustice will result to individuals in some instances from the erroneous decisions of those courts, but it has not occurred to them that an appeal will insure infallible relief. Infallibility is not the attribute of any earthly tribunal. So vast is the distance from the Territorial courts to the Supreme Court of the United States, that the mischief resulting from the necessary delay, expense, and inconvenience of prosecuting or defending writs of error and appeals cannot, in the opinion of the committee, be compensated by any advantage to be derived from the revision of the judgments and decrees of the courts of the Territories by the Supreme Court of the United States.

It is obvious to those who have had an opportunity of observing the spirit which often prevails with litigants, that the right of appeal would sometimes be made use of as an instrument of vexation and oppression, where the distance is so great from the inferior to the superior court.

The committee, therefore, upon the second matter referred to them, agree to submit the following resolution:

*Resolved*, That it is inexpedient to allow writs of error and appeals from the judgments and decrees of the courts of the Indiana and other Territories to the Supreme Court of the United States.

## DISAGREEMENT OF A JOINT COMMITTEE OF CONFERENCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 29, 1803.

Mr. JOHN RANDOLPH, from the committee appointed on the part of the House of Representatives to confer with the committee appointed on the part of the Senate, on the amendments to the bill entitled "An act fixing the salaries of certain officers therein mentioned," disagreed to by the House of Representatives, and insisted on by the Senate, reported:

That the amendments in question go to raise the salaries of the Postmaster General and his assistant from \$3,000 and \$1,700 respectively, to \$4,000 and \$2,000. The committee are of opinion that it would be inexpedient to concur with these amendments, for the following reasons:

1. That the office of Postmaster General, which is of very inferior consequence to that of Comptroller of the Treasury, would thereby be compensated by a salary superior to that of the Comptroller, and superior in proportion to the duties of Postmaster General, to the compensation of all the other great officers of the State, when the duties of those officers are taken into consideration.

2. Because the Assistant Postmaster General is, in fact, but the chief clerk of that Department; because his duties are of a nature very inferior to those of the chief clerk of the Department of State, in whom a high confidence is necessarily reposed, the abuse of which might prove incalculably detrimental to the best interests of the Government. The present emoluments of the chief clerk of the Department of State are \$1,850 per annum, and the proposed amendment would give to an officer merely ministerial a greater compensation. The same observations might be extended to the chief clerk of the Treasury Department. The committee, therefore, respectfully recommend the adoption of the following resolution:

*Resolved*, That this House adhere to their disagreement to the first, second, third, and fourth amendments proposed by the Senate to the bill entitled "An act fixing the salaries of certain officers therein mentioned."

8th CONGRESS.]

No. 171.

[1st Session.]

APPLICATION TO PROHIBIT THE IMPORTATION OF SLAVES INTO THE TERRITORY OF LOUISIANA.

COMMUNICATED TO THE SENATE, JANUARY 23, 1804.

*To the Senate and House of Representatives of the United States of America in Congress assembled:*

The American convention for promoting the abolition of slavery, and improving the condition of the African race, beg leave respectfully to propose for your consideration the utility and propriety of passing such laws as shall prohibit the importation of slaves into the Territory of Louisiana, lately ceded to the United States.

Your memorialists feel themselves deeply impressed with this important subject, and they deem it their duty to solicit, most earnestly, your serious attention to the proposition. They believe that wisdom and sound policy are so intimately united by their Eternal Parent, that man cannot separate them with impunity. If wisdom urge the performance of any particular act, if it command the formation and establishment of any specific law, the soundest policy will be evinced by obedience to that injunction.

True virtue, the offspring of wisdom, teaches man to love his fellow-man, and enjoins him to perform all that may be within the compass of his abilities for the general happiness of his species. When national Governments comply with this benevolent and sublime law, they become the providential instruments of national blessings; but when they oppose or disregard its dictates, their constituents must necessarily feel, sooner or later, all the calamities which follow such opposition or neglect.

Our ancestors have, unhappily, entailed on some of our States the evils of slavery; many of our fellow-citizens in those States we believe are mournfully sensible of the magnitude of their burden, but they know and feel that man may commit error with more facility than he can eradicate its consequences. Your memorialists entreat you to reflect on, to consider with impartial attention, the dangers and difficulties before you; and beseech you, with deep concern, to preserve the country, whose regulations depend on your wisdom, from similar calamities.

They also respectfully suggest to you, that while the constitution of the United States declares all men equally entitled to liberty, they cannot conceive our Government as acting consistently with its declarations, if it shall, in any instance, authorize man to enslave unoffending man. In compliance with that distinguishing principle of our national constitution, a former Congress judged it expedient to introduce among its regulations, for the government of the Northwestern Territory, a provision resembling that which your memorialists now suggest to you.

There is another consideration to which your memorialists feel themselves bound to call your attention. While the Governments of Europe are shaken by civil discord, or surrounded by the incalculable cruelties and horrors of national warfare, a beneficent and overruling Providence has been pleased to preserve for our country the blessings of peace, to grant us new proofs of his goodness, and to place us in a condition of prosperity, unrivalled in the records of history. Does it not become the duty of a nation, so crowned with the blessings of peace, and plenty, and happiness, to manifest its gratitude, to the whole world, by acts of justice and virtue? For the true honor of our country, from benevolence towards the future possessors of our newly acquired soil, your memorialists hope you will hear and grant their request. And with all the respect which is due to the representatives of a free people, they subscribe themselves, cordially, your friends and fellow-citizens.

Signed by order and on behalf of the convention.

MATTHEW FRANKLIN, *President.*  
OTHNIEL ALSOP, *Secretary.*

Attest:

PHILADELPHIA, January 13, 1804.

8th CONGRESS.]

No. 172.

[1st Session.]

APPLICATION FOR DIVORCES IN THE DISTRICT OF COLUMBIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 17, 1804.

Mr. NICHOLSON, from the committee to whom were referred the several petitions of Marcella Stanton, of Ann Alricks, and of Judith Crow, late Judith Sayse, of the District of Columbia, made the following report:

That the petitioners respectively pray that an act may pass to divorce them from their husbands. The committee have not thought it necessary to inquire into the merits of the cases brought to their view, as they are of opinion, that if any provision be made, it should be of a general nature. They, therefore, submit the following resolution:

*Resolved,* That the District Court of the District of Columbia ought to be invested with a power to grant divorces in certain cases.

[8th CONGRESS.]

No. 173.

[1st SESSION.]

## SLAVERY, ELECTIVE FRANCHISE, AND PUBLIC LANDS IN INDIANA TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 17, 1804.

Mr. RODNEY, from the committee to whom were referred a letter from William Henry Harrison, president of the general convention of the representatives of the people of the Indiana Territory, also a memorial and petition from the said convention, together with the report of a former committee on the same subject at the last session of Congress,\* made the following report:

That, taking into their consideration the facts stated in the said memorial and petition, they are induced to believe that a qualified suspension, for a limited time, of the sixth article of compact between the original States and the people and States west of the river Ohio, might be productive of benefit and advantage to the said Territory.

They do not conceive it would be proper to break in upon the system adopted for surveying and locating public lands, which experience has proved so well calculated to promote the general interest. If a preference be given to particular individuals in the present instance, an example will be set, by which future claimants will obtain the same privilege. The committee are, nevertheless, of opinion, that after those lands shall have been surveyed, a certain number of townships should be designated, out of which the claims stated in the memorial ought to be satisfied; and that, for the encouragement of actual settlers, the right of pre-emption should be secured to them.

They consider the existing regulations, contained in the ordinance for the government of the Territory of the United States, which requires a freehold of fifty acres as a qualification for an elector of the General Assembly, as limiting too much the elective franchise. They conceive the vital principle of a free Government is, that taxation and representation should go together after a residence of a sufficient length to manifest the intention of becoming a permanent inhabitant, and to evince, by conduct orderly and upright, that a person is entitled to the rights of an elector. This probationary period should not extend beyond two years.

It must be the true policy of the United States, with the millions of acres of habitable country which she possesses, to cherish those principles which gave birth to her independence, and created her a nation, by affording an asylum to the oppressed of all countries.

One important object desired in the memorial, the extinguishment of the Indian title to certain lands, has been happily accomplished; whilst the salt spring below the mouth of the Wabash river has also been placed in a situation to be productive of every reasonable advantage.

After a careful review, and an attentive consideration of the various subjects contemplated in the memorial and petition, the committee respectfully submit to the House the following resolutions, as embracing all the objects which require the attention of Congress at this period:

*Resolved*, That the sixth article of the ordinance of 1787, which prohibited slavery within the said Territory, be suspended, in a qualified manner, for ten years, so as to permit the introduction of slaves, born within the United States, from any of the individual States: *Provided*, That such individual State does not permit the importation of slaves from foreign countries: *And provided further*, That the descendants of all such slaves shall, if males, be free at the age of twenty-five years, and, if females, at the age of twenty-one years.

2. *Resolved*, That every white free man, of the age of twenty-one years, who has resided within the Territory two years, and within that time paid a territorial tax which shall have been assessed six months before the election, shall enjoy the right of an elector of members of the General Assembly.

3. *Resolved*, That in all cases of sales of land within the Indiana Territory, the right of pre-emption be given to actual settlers on the same.

4. *Resolved*, That the Secretary of the Treasury be, and he is hereby, required to cause an estimate to be made of the number and extent of the claims to lands under the resolution of Congress of the 29th of August, 1788, and the law of the 3d of March, 1796, and to lay the same before this House.

5. *Resolved*, That provision, not exceeding one thirty-sixth part of the public lands within the Indiana Territory, ought to be made for the support of schools within the same.

6. *Resolved*, That it is inexpedient to grant lands to individuals for the purpose of establishing houses of entertainment, and opening certain roads.

7. *Resolved*, That it is inexpedient, at this time, to vest in the Legislature of Louisiana Territory the salt spring below the mouth of the Wabash river.

8. *Resolved*, That compensation ought to be made to the attorney general of the said Territory for services performed by him on behalf of the United States.

\* See Public Lands, No. 76.

[8th CONGRESS.]

No. 174.

[1st SESSION.]

## CONTESTED ELECTION OF THOMAS LEWIS, A REPRESENTATIVE FROM VIRGINIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1804.

Mr. FINDLEY, from the Committee of Elections, to whom were referred the memorial of Andrew Moore, of the State of Virginia, complaining of an undue election of Thomas Lewis, returned to serve in this House, as one of the members for the said State; as also sundry depositions and other papers transmitted from several counties in the State of Virginia, in the case of the said contested election, made the following report:

That at an election held on the several days in the month of April, in the year one thousand eight hundred and three, directed by the law of the State of Virginia, for a member of the House of Representatives of the United

States, for the district composed of the counties of Botetourt, Rockbridge, Kenawha, Greenbrier and Monroe, in the western district of Virginia, it appears:

That at the polls taken in the county of Botetourt, Thomas Lewis had one hundred and fifty-five votes, and that Andrew Moore had three hundred and five votes.

That out of the persons who voted for Thomas Lewis, twenty-three were unqualified to vote; and that out of the persons who voted for Andrew Moore, twenty-eight were unqualified to vote.

That of the polls taken in the county of Rockbridge, Thomas Lewis had sixty-five votes; and Andrew Moore had three hundred and twenty-one votes.

That out of the persons who voted for Thomas Lewis, there were four persons unqualified to vote; and out of the persons who voted for Andrew Moore, there were twenty persons unqualified to vote.

That of the polls taken in the county of Kenawha, Thomas Lewis had one hundred and sixty-one votes; and Andrew Moore one vote.

That out of the persons who voted for Thomas Lewis, there were ninety persons unqualified to vote.

That of the polls taken in the county of Greenbrier, Thomas Lewis had five hundred and thirty-nine votes; and Andrew Moore had one hundred and three votes.

That out of the persons who voted for Thomas Lewis, two hundred and two were unqualified to vote; and out of the persons who voted for Andrew Moore, thirty-two were unqualified to vote.

That of the polls taken in Monroe county, Thomas Lewis had eighty-four votes; and Andrew Moore had one hundred and two votes.

That out of the persons who voted for Thomas Lewis, thirty-six were unqualified to vote; and out of the persons who voted for Andrew Moore, forty-four were unqualified to vote. Hence it appears:

That all the persons who voted for Thomas Lewis in the several counties aforesaid, which compose the western district of the State of Virginia, were one thousand and four; and that all the persons who voted for Andrew Moore, in the said counties, were eight hundred and thirty-two.

It further appears, on a deliberate scrutiny, that of the above votes, three hundred and fifty-five persons voted for Thomas Lewis, who were unqualified to vote; and that one hundred and twenty-four voted for Andrew Moore, who were unqualified to vote; and

That by deducting the unqualified votes from the votes given for each of the parties at the elections, Thomas Lewis has six hundred and forty-nine good votes; and Andrew Moore has seven hundred and eight good votes; being fifty-nine votes more than Thomas Lewis: Whereupon,

Your committee are of opinion, that Thomas Lewis, not being duly elected, is not entitled to a seat in this House; and they are further of opinion, that Andrew Moore, who has the highest number of votes after deducting the before-mentioned unqualified votes from the respective polls, is duly elected, and entitled to a seat in this House.

8th CONGRESS.]

No. 175.

[1st SESSION.]

### WEIGHTS AND MEASURES.

COMMUNICATED TO THE SENATE, FEBRUARY 23, 1804.

COMMONWEALTH OF PENNSYLVANIA.—*In the House of Representatives:*

LANCASTER, *February 6th*, 1804.

WHEREAS the population, agriculture, commerce, and manufacturers of this country have increased to a degree affording a pleasing prospect of future prosperity and happiness, and a great addition to the territory of the United States acquired: and whereas a uniform standard of weights and measures throughout the United States, and the territory thereunto belonging, would be attended with many advantages to the community at large, and much expense to individuals saved, if this desirable object was soon obtained: and whereas it is provided by the 8th section of the 1st article of the constitution of the United States, that Congress shall have power to fix the standard of weights and measures, and this House being desirous that this important subject should be brought into the view of the National Legislature, without further delay: therefore,

*Resolved*, That the representatives of this State in the Congress of the United States be, and they are hereby, requested to use their endeavors to obtain a law fixing the standard of weights and measures throughout the United States, and territories thereunto belonging.

*Resolved*, That the Speaker of this House be, and he hereby is, directed to transmit a copy of these resolutions to the representatives of this State in the Congress of the United States.

Extract from the journal.

MATTHEW HUSTON, *Clerk of the House of Representatives.*

8th Congress.]

No. 176.

[1st Session.]

## CONTESTED ELECTION OF SAMUEL D. PURVIANCE, A REPRESENTATIVE FROM NORTH CAROLINA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 29, 1804.

Mr. FINDLEY, from the Committee of Elections, to whom were referred a representation of Duncan McFarland, of the State of North Carolina, complaining of an undue election of Samuel D. Purviance, returned to serve in this House as a member for the seventh election district in the said State; as also sundry depositions and other papers, transmitted from the counties of Montgomery and Cumberland, being part of the aforesaid seventh district, in the case of the said contested election, made the following report:

That at an election held at the times and places directed by a law of the State of North Carolina, for the election of a member to serve in the eighth Congress for the seventh district of said State, among other complaints alleged by Duncan McFarland, it is proved by testimony legally taken in presence of William McCarroll, the voluntary agent of Samuel D. Purviance, that at the elections held at the different election districts into which the county of Montgomery is by law divided, that the inspectors and clerks of the elections, held at the several election divisions of the said county of Montgomery, not only neglected but refused to take the oath obliging them to act with justice and impartiality, as directed by an act of assembly of North Carolina, passed in the year 1802, notwithstanding that they were thereto required by Duncan McFarland, at the opening of the election; therefore, the committee, without deciding on the other complaints made against the said elections, consider the neglect and refusal to take the oath prescribed by law as sufficient ground to set aside the election held for the said county of Montgomery.

That, with respect to the elections held at the election districts in and for the county of Cumberland, of the congressional district aforesaid, a notification was given, according to law, by William Cochran, Esq. on the application of Duncan McFarland, on the 5th day of October, 1803, to Samuel D. Purviance, informing him of the times and places where depositions were to be taken, in support of the complaint of Duncan McFarland, against the election of the said Samuel D. Purviance.

That, agreeably to the notification, William McCarroll attended and acted as the voluntary agent of Samuel D. Purviance: That from the examination taken on this notification, sufficient cause does not appear to change the state of the poll so as to set aside the elections held in and for the said county of Cumberland.

That all the witnesses not appearing agreeably to the said notification, a second notification was left at the house of Samuel D. Purviance for said Samuel D. Purviance or William McCarroll, directed to said McCarroll his friend, on the 2d of November, 1803, appointing another examination of witnesses, on the 22d, 23d, 29th, and 30th days of that month. Of this notification Samuel D. Purviance, then in Congress, was not informed until the 23d, viz: the day after which the examination was to commence, and he had authorized no agent; and neither William McCarroll nor any other person attended as his voluntary agent.

That on the first day of December, a third notification was left at the house of Samuel D. Purviance, for the said Samuel D. Purviance or William McCarroll, his agent or friend, directed to the said William McCarroll, to attend on the 9th and 10th days following, to the further examination of witnesses, as aforesaid; but the notification did not, nor could not reach Samuel D. Purviance, then in Congress, in due time, and neither William McCarroll, nor any other agent in behalf of Samuel D. Purviance, attended.

It further appears to the committee, that although various irregularities and abuses are set forth in the depositions, taken agreeably to the second and third notifications, are alleged to have been practised at the said election, yet that Samuel D. Purviance had not such notice as put it in his power to attend the said examination of witnesses, or to appoint an agent so to do.

It further appears from the documents, that depositions were taken, and examinations made by magistrates who were not named in the notification, issued by the magistrate to whom the application was made, and without a certificate of the matters and proceedings had by him in that behalf, as the law enacted by Congress provides. It also further appears, that part of the testimony so taken is in the hand-writing of Duncan McFarland, one of the parties, and signed by the mark of the deponent, inconsistent with the act aforesaid, which provides that the magistrate shall cause the examination to be reduced to writing in the presence of the parties or their agents, which the committee are of opinion does not authorize the writing the examination by the parties themselves.

Influenced by the aforementioned facts and circumstances, the committee are of opinion, that the aforesaid testimony respecting the election held in and for the said county of Cumberland cannot be admitted or acted upon by the House.

By comparing the certified records of the lists of taxables with the list of votes given at the election now contested, it appears that the number who voted exceed the number of taxables in the county, viz: the number of persons who voted is 1,159, and the number of free taxable polls taken from the last return of taxables is 1,117; but the committee discover that the tax list of any year, agreeably to the laws of North Carolina, are not a perfect record of those who are entitled to vote, because citizens who at any time formerly had paid taxes, by the laws of that State appear to the committee to continue to enjoy the privilege of voting, though they might for many years have ceased to pay taxes.

Therefore, your committee are of opinion, that there is not sufficient legal testimony to set aside the election of Cumberland county, so as to vacate the seat of Samuel D. Purviance.

[8th CONGRESS.]

No. 177.

[1st SESSION.]

## IMPORTATION OF SLAVES INTO LOUISIANA.

COMMUNICATED TO CONGRESS, MARCH 8, 1804.

*To the Senate and House of Representatives of the United States:*

MARCH 7, 1804.

I communicate to Congress an extract of a letter from Governor Claiborne to the Secretary of State, with one which it covered, for their information, as to the present state of the subject to which they relate.

TH: JEFFERSON.

*Extract of a letter from Governor Claiborne to the Secretary of State, dated*

NEW ORLEANS, January 31, 1804.

A vessel arrived at this port a few days since, with fifty African negroes for sale. I immediately applied to a Mr. Leonard, the late Spanish contadore at this place, a man of great integrity of character for information, as to the laws and customs of Spain, relating to the African trade, and received from him a letter upon the subject, which is herewith enclosed. Finding, from Mr. Leonard's communication, that the bringing of African slaves to Louisiana had been permitted by the Spanish authority, and doubting whether I was vested with power to forbid their sale, the importer has been left to pursue his own wishes.

SIR:

NEW ORLEANS, January 25, 1804.

In reply to your excellency's request for information, relative to the arrangement of the Spanish Government of this province, concerning the importation of slaves, I beg leave to represent:

That by an order of His Majesty, dated at Aranjuez, the 24th of January, 1793, the prohibition which restrained the importation of slaves was expressly removed, free of duties, to favor the commercial interest of His Majesty's subjects, and the said order was promulgated in due form by the Intendant of this province, Don Ramon de Loper y Angulo, on the 29th of November, 1800.

Subsequent to the retrocession of the province to France, but pending the existence and the exercise of the Spanish authorities, three vessels have arrived, and been admitted into this port with slaves for sale, consigned to John Francis Merecu, viz: the French brig African, Peter Farmuel, master, charged with one hundred and forty-three Africans, the French brig La Confiance, John Louis Sacray, master, charged with one hundred and seventy Africans, and the French brig Sally, Augustus Guibert, master, charged with one hundred and fifty Africans.

It is proper for me to observe to your excellency, that the Royal Edict required Spanish bottoms and Spanish masters for this commerce, but the Spanish authorities which existed but after the retrocession had been formally announced, considered it their duty to pursue the obvious spirit of this edict, which had for its object the particular interest and accommodation of His Majesty's marine and his subjects, and therefore they deemed it both reasonable and just, that these privileges and advantages which had been graciously intended for Spanish Louisiana should not be withheld from French Louisiana during the existence of their temporary authority.

To this candid exposition of facts, I will beg leave, with great deference, to add the opinion that should a change of policy be found expedient by the Government of the United States, it should be promulgated a reasonable time anterior to the interdiction of such commercial expeditions as may have been projected under and permitted by the Government of France or Spain, previous to the sale and transfer of the province by the French Government to the United States.

I have the honor to be, &amp;c.,

GILBERT LEONARD.

His Excellency WILLIAM C. C. CLAIBORNE.

[8th CONGRESS.]

No. 178.

[1st SESSION.]

## EXPLORATION OF LOUISIANA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 8, 1804.

Mr. SAMUEL L. MITCHELL, from the Committee on Commerce and Manufactures, on the resolve of the House of Representatives, directing them to inquire into the expediency of authorizing the President of the United States to cause certain remote and unknown parts of Louisiana to be explored, made the following report:

By a series of memorable events the United States have lately acquired a large addition of soil and jurisdiction. This is believed, besides the tracts on the east side of the Mississippi, to include all the country which lies to the westward between that river and the great chain of mountains that stretch from north to south, and divide the waters running into the Atlantic from those which empty into the Pacific Ocean; and beyond that chain between the territories claimed by Great Britain on the one side, and by Spain on the other, quite to the South Sea.

It is highly desirable that this extensive region should be visited, in some parts at least, by intelligent men. Important additions might thereby be made to the science of geography. Various materials might thence be derived to augment our knowledge of natural history. The Government would thence acquire correct information



of the situation, extent, and worth of its own dominions, and individuals of research and curiosity would receive ample gratification as to the works of art and productions of nature which exist in those boundless tracts.

There is no need of informing the House that already an expedition, authorized by Congress at the second session of the seventh Congress, has been actually undertaken, and is going on, under the President's direction, up the Missouri. The two enterprising conductors of this adventure, Captains Lewis and Clark, have been directed to attempt a passage to the western shore of the South Sea; from them, on their return, in 1805, a narrative full of instruction may be expected. It is also understood that a survey has been ordered to be made of the Mississippi, from the mouth of the Ohio to the falls of Saint Anthony. Of this a correct map may be expected within a reasonable time. The like also is hoped, in the course of a moderate period, from the latter place to the source of the Mississippi, and thence to the Lake of the Woods.

Men of political research have, in like manner, long known that the course of the Mississippi downwards to the Gulf of Mexico, has been well delineated by Captain Hutchings; and that more recently, by the assiduous observations of Mr. Ellicott, the turnings and windings of that river, southward of its junction with the Ohio, and the territorial line on the 31st degree of north latitude, to the northwestern angle of Florida, have been exhibited in a perspicuous and scientific manner. Along the coast of the ocean too, from Perdido Bay to the Bay of Saint Bernard, navigators have viewed the shores and coast so often, that there is little left to explore.

But, although there is so much really known, or in a train of investigation, concerning Louisiana, there are still some parts upon which it would be desirable to possess additional information. The tracts alluded to are those which remain principally in their original obscurity, and strongly attract the eye of the adventurer. Their pathless forests may be advantageously penetrated along the channels of the Arkansas and the Red River, two of those large and long water courses which intersect them. An expedition of discovery up these prodigious streams and their branches might redound as much to the honor, and more to the interest of our Government, than the voyages by sea round the terraqueous globe have done for the polished nations of Europe who authorized them. Such liberal enterprises will befit the present season of prosperity, and may be expected to succeed best during the reign of peace.

The Red River was visited many years ago, and even settled as high as Natchitoches. This old establishment is laid down in some of the maps, as being only seven leagues distant from the station of Adais, the capital of the province of Tecas, and situated on the river Mexicano. Red River is described as difficult to ascend when the waters are low; but when high a traveller may, by means of them, penetrate where he pleases. More than half a century ago, it was said that along its banks were many inferior lakes, and drowned lands that abounded with alligators and fishes; that its shores were inhabited by plenty of bisons, bears, tigers, wolves, deer, and several other species of untamed beasts; as well as by turkeys, geese, swans, ducks, and other kinds of wild fowl; and that all manner of indigenous fruit trees and grape vines sprout up luxuriantly from the soil. To these accounts, which are common to most other parts of the American wilderness when first visited by civilized men, other facts and considerations are now to be added. The nation has been lately told, on respectable authority, that the Red River is navigable by boats one thousand miles beyond Natchitoches. It is reported to run through a country abounding in rich prairies, where neat cattle and horses range in innumerable herds as independent as the natural inhabitants. There is reason to presume the head of this stream lies concealed in the southwestern corner of the newly ceded territory. The limits of Louisiana in that quarter are obscure and undefined. And it is worthy of legislative consideration, whether the latitude and longitude of the Red River source ought not to be ascertained under the authority of the nation. It may be expected that individuals will venture upon such undertakings for the gratification of their own speculative curiosity, and by discreet management the journeys of such persons will minister to the national wants, and to general instruction, with but a trifling appropriation from the Treasury.

The Arkansas, which has been already traced above one thousand miles, also seems worthy of being explored with more care and to a greater extent than has hitherto been done. A spacious plain and valley incrustated annually (like the soil in some spots about the Persian Gulf) with native salt, in quantity sufficient to impregnate a branch of the Arkansas, and occasionally the river into which it falls, with its briny quality, and to make it a salt river down to the settlement of Ouisarque, for considerably more than six hundred miles of its course, might be mentioned as no ordinary occurrences. The masses of virgin silver and gold that glitter in the veins of the rocks which underlay the Arkansas itself, and mingle with the minerals near certain other of its streams, and offer themselves to the hand of him who will gather, refine, and convert them to use, are no less uncommon and wonderful. These extraordinary productions might be dwelt upon to considerable length, in this report; but, credible as both the relations are, the committee forbears to offer any thing more than that the existence of a salt river, precious mines and ores, and of some other remarkable objects, are stated upon solid and credible testimony. Omitting these things as not necessary to be urged to Congress, the committee considers that the latitude, longitude, and relative situation of the source of the Arkansas, are themselves of sufficient moment to render their attainment very desirable.

Without writing a sentence on the advantages of tracing the streams of the Black river, the White river, the Mexicano, and of other rivers, to their sources, the committee submits the following opinion:

That it will be honorable and useful to make some public provision for further exploring the extent, and ascertaining the boundaries of Louisiana: and,

That a sum not exceeding \_\_\_\_\_ dollars be appropriated for enabling the President of the United States to cause surveys and observations to be made on the Red River and the Arkansas, or either of them, or elsewhere in Louisiana, as he shall think proper, for these purposes.

[8th CONGRESS.]

No. 179.

[1st SESSION.]

CONTESTED ELECTION OF THOMAS MANN RANDOLPH, A REPRESENTATIVE FROM VIRGINIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 9, 1804.

Mr. FINDLEY, from the Committee of Elections, to whom were referred, during the present session, a memorial of Samuel J. Cabell, of the State of Virginia, complaining of an undue election of Thomas Mann Randolph, one of the members returned to serve in this House for the said State; and also sundry depositions and other papers transmitted from the counties of Amherst, Albemarle, and Fluvanna, in the State of Virginia, in the case of the said contested election, made the following report:

That, having examined the depositions and papers referred to them, they discover that the land lists of all the counties of which the district is composed are wanting, and the lists of voters of all the counties but one (viz: Fluvanna county) are also wanting. The committee also inform the House that, by letters from the memorialist of the 13th of October, and 3d of November, the committee were requested not to proceed, until he could procure and transmit further documents. That by another letter from the memorialist of the 5th of January, accompanied with a protest against documents then before the committee, he again made a request that the committee would defer taking the subject under consideration. Afterwards the memorialist was notified, by the direction of the committee, to be prepared, and to attend the committee himself, or by his agent, in order to obtain a decision: he has not complied with the notification, and the committee observe no facts, from examining the documents submitted to them, sufficient to invalidate the claim, or set aside the returns of Thomas Mann Randolph. Therefore, the committee are of opinion that Thomas Mann Randolph, returned as a member for the congressional district composed of the counties of Albemarle, Amherst, and Fluvanna, in the State of Virginia, is entitled to his seat in this House.

[8th CONGRESS.]

No. 180.

[1st SESSION.]

EXTRA ALLOWANCES TO DISTRICT ATTORNEYS AND ASSISTANT COUNSEL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 24, 1804.

TREASURY DEPARTMENT, *March 24, 1804.*

The SECRETARY OF THE TREASURY, in obedience to the resolution of the House of Representatives of the 3d instant, respectfully reports:

That the annexed statement (A) exhibits in detail all the moneys which, since the establishment of the present Government, have been paid at the Treasury either for extra allowances to district attorneys, or as fees to other attorneys employed singly or as assistant counsel, or for legal advice in the business of the United States; and amounting altogether to five thousand and twenty-two dollars and sixteen cents.

That some other allowances of a similar nature have been made by the collectors of customs, and principally by the supervisors of the internal revenues, in relation especially to suits instituted in the State courts, as may appear from the statement B, of the credits allowed on that account to the supervisor of Pennsylvania; and that those allowances, being considered as charges on the revenue, and being paid by the officers out of the moneys collected by them, cannot be ascertained except by an examination of all the accounts of every collector and supervisor—an investigation which will necessarily consume some months, and the result of which shall be laid before Congress at their next session.

That no other allowances, but those which are exhibited in the statement A, and the annexed note *a*, have been paid or authorized by the present Secretary of the Treasury for fees to the assistant counsel, or extra allowance to district attorneys; that no payments whatever have been made or authorized by him for legal advice, nor have any such, to his knowledge, been made or authorized, since he has been in office, by any other public officer, or been claimed at the Treasury by any person whatever.

All which is respectfully submitted.

ALBERT GALLATIN.

(A.)

*A particular statement of all the moneys which, since the establishment of the present Government, have been paid at the Treasury of the United States, as fees to assistant counsel, and for legal advice in the business of the United States, in which is distinguished the several sums, when paid, for what services, and to whom paid, respectively.*

Date of warrant or payment.	No. of warrant.	To whom paid.	For what services.	Amount.
Oct. 26, 1792,	2186	Edmund Randolph,	Attorney general, for expenses incurred attending a court (circuit) held at Yorktown, in Pennsylvania, by order of the President of the United States,	\$54 00
June 25, 1793,	2883	William Bradford,	Late attorney general for the State of Pennsylvania, for his counsel and attorney's fees on sundry suits commenced by him on behalf of the United States against sundry persons, in the years 1784, 1787, and 1788,	151 40
Aug. 19, 1794,	3962	Alexander Campbell,	Attorney for the district of Virginia, being for his compensation for attendance at Norfolk, eight days in January last, in order to take depositions respecting the capture of a British vessel alleged to have been taken by a French privateer,	64 00
Feb. 18, 1795,	4552	William Rawle,	Attorney for the district of Pennsylvania, being the amount of compensation charged by him for sundry opinions, and other services rendered to the Treasury Department, from April, 1792, to May, 1794; and also for fees as attorney for the United States, in various suits at law with individuals,	416 00
Feb. 20, 1795,	4558	William Rawle,	Being for his compensation and expenses attending the militia army against the insurgents, by order of the President,	608 33
March 4, 1796,	5836	Alexander Campbell,	For his fees, as agreed with the Attorney General, for arguing the cause before the Supreme Court, in February term, 1796, respecting the constitutionality of the act imposing duties on carriages,*	233 33
March 7, 1796,	5844	Jared Ingersoll,	For do. do. do.*	233 33
March 9, 1796,	5848	Alexander Hamilton,	For do. do. do.*	500 00
Sept. 8, 1796,	6454	John Hall,	Attorney for Charles Hall, attorney at law, for services rendered under the direction of the judge and attorney of the district, on the trials of persons charged with being concerned in the insurrection in the western parts of Pennsylvania,	300 00
Sept. 13, 1796,	6459	Jonathan Hervey Hurst,	Attorney at law, for services rendered under the direction of the judge and attorney of the district, on the trials of persons charged with being concerned in the insurrection in the western parts of Pennsylvania,	150 00
Oct. 6, 1796,	6570	General Henry Miller,	Attorney for Ralph Bowie, attorney at law for do. do.	200 00
Oct. 10, 1796,	6579	P. De Haven,	Attorney for Thomas Duncan, attorney at law for do. do.	100 00
Nov. 10, 1796,	6624	Edward Jones,	Agent for Richard Harrison, attorney for the district of New York, for the fees and costs in a cause against Andrew Bostwick, and in two causes against the schooner La Vengeance,	287 27
Jan. 12, 1798,	7901	Tench Coxe,	Late commissioner of the revenue, being so much paid by him to Jared Ingersoll, for his advice how to proceed against Robert Worrall, who had attempted to corrupt him in the execution of his duty,	20 00
Jan. 12, 1798,	7902	Thomas Swann,	Being so much allowed him as counsel for the United States on an examination of John Perry and Robert Hamilton, at Alexandria, in Virginia, charged with fitting out privateers within the United States, with an intent to cruise against nations with whom the said States are at peace,	30 00
June 20, 1799,	9848	George Simpson,	Attorney for David Leonard Barnes, attorney for the district of Rhode Island, for his advice and extra services to the collectors of the districts of Newport and Providence, in said State,	50 00
May 20, 1800,	812	William Henry,	For his services and expenses in the fall of 1799, and spring of 1800, in examining and taking recognizances of witnesses in relation to the opposition to the direct tax in Northampton county, Pennsylvania,	162 00

\* In order to obtain a final decision on that question, a case was agreed with the defendant in the circuit court, on which an appeal was made to the Supreme Court. The condition of that agreement was, that the United States should pay all the expenses incident to the appeal. Messrs. Campbell and Ingersoll argued the cause in favor of the defendant. The Attorney General and Mr. Hamilton in behalf of the United States.

## A—Continued.

Date of warrant or payment.	No. of warrant.	To whom paid.	For what services.	Amount.
June 15, 1801,	1901	William Rawle,	- For his services as counsel in sundry suits instituted in behalf of the United States, and prosecuted to judgment, after he had resigned his office as attorney for the district of Pennsylvania, his successor being previously engaged in behalf of the defendants,	\$150 00
Nov. 25, 1801,	2410	Jared Ingersoll,	- Attorney at law, for his services in sundry suits instituted in behalf of the United States, and prosecuted after he had resigned his office as attorney for the district of Pennsylvania, his successor being previously engaged on behalf of the defendants,	300 00
July 9, 1802,	3127	Harrison G. Otis,	- Late attorney for the district of Massachusetts, allowed him for extra services in defending before the State court a suit brought by Cabot and others against William Bingham, late agent of the United States at Martinique,	100 00
Feb. 17, 1803,	3668	George Blake,	- Attorney for the district of Massachusetts, being the amount allowed him for extra services in defending before the State court a suit brought by Cabot and others against William Bingham, late agent for the United States at Martinique, including a fee of fifty dollars paid Samuel Dexter for conducting an indictment against Joseph Johnson for perjury at the circuit court last October term, the district attorney being disqualified to prosecute, by being required to testify as a witness,	212 00
March 14, 1804,	4614	David Harris,	- Being so much paid by him on 1st December, 1802, to Luther Martin, Esq. as a fee for acting as counsel to assist the district attorney on behalf of the United States, in sundry suits brought by the United States for protested bills of exchange, (a)	400 00
March 14, 1804,	4615	Alexander J. Dallas,	- Being allowed him for his services as counsel to assist the attorney general on behalf of the United States, in the case respecting duties on sugar refined in the United States before the 30th June, 1802, and not removed from the refineries previous to that day, (a)	300 00
				\$5,022 16

(a) These two last items, and a fee of five hundred dollars, to be paid to Mr. Dallas, as counsel, to assist the Attorney General, in the cases to be argued before the Supreme Court, respecting the right of priority of the United States, secured to them by the statute of March 3, 1797, constitute all the expenses incurred under the direction of the Secretary of the Treasury for fees to assist counsel.

A. G.

TREASURY DEPARTMENT, REGISTER'S OFFICE, March 15, 1804.

JOSEPH NOURSE, Register.

## B.

The supervisor of the district of Pennsylvania has received credit on the settlement of his accounts at the Treasury, for the following:

This sum paid by Collector Meetkirke to James Ross, as a fee, by order of Inspector Nevil,	-	\$100 00
This sum paid by Collector Hughes to Thomas Duncan, in the case of <i>Republica vs. J. Magee</i> , in the quarter sessions of Mifflin county. Indictment for misdemeanor in resisting the collector of the revenue in making distress for excise due by him,	-	60 00
This sum paid to Thomas Duncan for instituting and conducting the suit, <i>H. Miller, supervisor, vs. Isaac Richardson</i> ,	-	50 00

The following sums have been suspended from the accounts of the supervisor, for further explanation.

This amount paid to Steele and I. H. Brackenridge, attorneys, for their services as counsel,	-	\$180 00
This amount paid to William Rawle, in suit against William Brown, distiller,	-	36 00

TREASURY DEPARTMENT, REVENUE OFFICE, March 23, 1804.

I certify, that on an examination of the accounts of the supervisor of Pennsylvania, from the 1st July, 1791, to the 31st July, 1802, the above appear to be all the charges made by him for payments to counsel.

JOHN BROWN, Principal Clerk.

8th CONGRESS.]

No. 181.

[2d SESSION.]

## COMMITTEES TO APPOINT THEIR CHAIRMAN IN CERTAIN CASES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 24, 1804.

Mr. DAWSON, from the committee to whom was referred a motion for "empowering each of the committees of the House to appoint a chairman by plurality of votes in all cases where the first-named member of the committee shall be absent, or excused by the House," reported the following resolution:

*Resolved*, That the member first named on each of the standing and select committees of this House shall be the chairman thereof; and, in case of his absence, or of his being excused by the House, the committee shall then appoint the member, by a majority of votes, who shall be their chairman.

[NOTE.—See further report, No. 184.]

8th CONGRESS.]

No. 182.

[2d SESSION.]

## CONTESTED ELECTION OF JOHN HOGE, A REPRESENTATIVE FROM PENNSYLVANIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 10, 1804.

Mr. FINDLEY, from the Committee of Elections, to whom was referred the petition of the citizens of Washington therein named, against the election of John Hoge, as a representative in Congress for the district of Washington, in Pennsylvania, made the following report:

That William Hoge, member of the House of Representatives for the eighth Congress, having, by letter to the Governor of the State of Pennsylvania, dated the 15th of October, resigned his seat in Congress, the Governor, in pursuance of the provisions made in the second section of the first article of the constitution of the United States, issued a writ of election to supply the vacancy which had thus taken place. That the said writ was issued on the 22d day of October, and the election directed to be held on the 2d day of November, eleven days after the date of the said writ. That the writ was brought by the mail to the prothonotary's office in Washington on the 30th of October, but not proclaimed by the sheriff until the 31st.

It appears to the committee, that though by the second section of the first article of the constitution of the United States, it is made the duty of the Executive authority of the respective States to issue writs of election to fill vacancies, yet, by the fourth section of the aforesaid article, it is made the duty of the Legislature of each State to prescribe the times, places, and manner for holding such elections. It appears, however, that several elections, to supply vacancies in Congress, have been heretofore held in Pennsylvania; yet, on examining the laws of that State, it appears that no law exists prescribing the times, places, and manner of holding elections to supply such vacancies as may happen in the representation in Congress; and consequently, if the election of John Hoge is, on this account, set aside, no election can be held to supply the vacancy until the Legislature of the State enact a law for that purpose.

By the law for the general election of representatives to Congress for Pennsylvania, the sheriff is to give thirty days' notice before the election, and to make the returns within thirty days after it. This election is held near five months before the expiration of the existing Congress. By the law of said State, for supplying vacancies in the State Legislature, the speakers of the respective Houses shall issue writs to supply vacancies that may happen, giving at least ten days' notice. The Governor, in the case now before the committee, has directed the election to be held on the same day, &c., on which the electors for President and Vice-President were to be chosen. There is no proof before the committee of any abuse in the manner of conducting the election in obedience to the writ issued by the Governor.

While the committee are of opinion that the Legislature of Pennsylvania ought to have appointed as near as might be the times, as well as the places and manner of holding elections to supply vacancies in Congress, and that in ordinary cases a longer period ought to intervene between the time of public notice and the day of holding the election; yet considering the special circumstances connected with the election of John Hoge, and particularly that the election took place on the day fixed by the State Legislature for the appointment of electors for the State of Pennsylvania, the committee are of opinion that John Hoge is entitled to a seat in this House.

8th CONGRESS.]

No. 133.

[2d SESSION.]

REMONSTRANCE OF THE PEOPLE OF LOUISIANA AGAINST THE POLITICAL SYSTEM  
ADOPTED BY CONGRESS FOR THEM.

COMMUNICATED TO THE SENATE, ON THE 31st OF DECEMBER, 1804.

We, the subscribers, planters, merchants, and other inhabitants of Louisiana, respectfully approach the Legislature of the United States with a memorial of our rights, a remonstrance against certain laws which contravene them, and a petition for that redress to which the laws of nature, sanctioned by positive stipulation, have entitled us.

Without any agency in the events which have annexed our country to the United States we yet considered them as fortunate, and thought our liberties secured even before we knew the terms of the cession. Persuaded that a free people would acquire territory only to extend the blessings of freedom, that an enlightened nation would never destroy those principles on which its Government was founded, and that their Representatives would disdain to become the instruments of oppression, we calculated with certainty that their first act of sovereignty would be a communication of all the blessings they enjoyed, and were the less anxious to know on what particular terms we were received. It was early understood that we were to be American citizens; this satisfied our wishes; it implied every thing we could desire, and filled us with that happiness which arises from the anticipated enjoyment of a right long withheld. We knew that it was impossible to be citizens of the United States without enjoying a personal freedom, protection for property, and, above all, the privileges of a free, representative Government, and did not, therefore, imagine that we could be deprived of these rights even if there should have existed no promise to impart them; yet it was with some satisfaction we found these objects secured to us by the stipulations of treaty, and the faith of Congress pledged for their uninterrupted enjoyment. We expected them from your magnanimity, but were not displeased to see them guaranteed by solemn engagements.

With a firm persuasion that these engagements would be soon fulfilled, we passed under your jurisdiction with a joy bordering on enthusiasm, submitted to the inconveniences of an intermediate dominion without a murmur, and saw the last tie that attached us to our mother country severed with less regret. Even the evils of a military and absolute authority were acquiesced in because it indicated an eagerness to complete the transfer, and place beyond the reach of accident the union we mutually desired. A single magistrate, vested with civil and military, with executive and judiciary powers, upon whose laws we had no check, over whose acts we had no control, and from whose decrees there is no appeal; the sudden suspension of all those forms to which we had been accustomed; the total want of any permanent system to replace them; the introduction of a new language into the administration of justice; the perplexing necessity of using an interpreter for every communication with the officers placed over us; the involuntary errors, of necessity committed by judges uncertain by what code they are to decide, wavering between the civil and the common law, between the forms of the French, Spanish, and American jurisprudence, and with the best intentions unable to expound laws of which they are ignorant, or to acquire them in a language they do not understand, these were not slight inconveniences, nor was this state of things calculated to give favorable impressions or realise the hopes we entertained; but we submitted with resignation, because we thought it the effect of necessity; we submitted with patience, though its duration was longer than we had been taught to expect; we submitted even with cheerfulness, while we supposed your honorable body was employed in reducing this chaos to order, and calling a system of harmony from the depth of this confused, discordant mass. But we cannot conceal, we ought not to dissemble, that the first project presented for the Government of this country tended to lessen the enthusiasm which, until that period, had been universal, and to fix our attention on present evils, while it rendered us less sanguine as to the future. Still, however, we wished to persuade ourselves that further inquiry would produce better information; that discussion would establish our rights, and time destroy every prejudice that might oppose them. We could not bring ourselves to believe that we had so far mistaken the stipulations in our favor, or that Congress could so little regard us, and we waited the result with anxiety which distance only prevented our expressing before the passing of the bill. After a suspense which continued to the last moment of the session, after debates which only tended to show how little our true situation was known, after the rejection of every amendment declaratory of our rights, it at length became a law, and, before this petition can be presented, will take effect in our country.

Disavowing any language but that of respectful remonstrance, disdaining any other but that which befits a manly assertion of our rights, we pray leave to examine the law for erecting Louisiana into two Territories and providing for the temporary government thereof, to compare its provisions with our rights, and its whole scope with the letter and spirit of the treaty which binds us to the United States.

The first section erects the country south of the thirty-third degree into a Territory of the United States by the name of the Territory of Orleans.

The second gives us a Governor appointed for three years by the President of the United States.

The fourth vests in him and in a council, also chosen by the President, all legislative power, subject to the revision of Congress, specially guarding against any interference with public property either by taxation or sale.

And the fifth establishes a judiciary, to consist of a supreme court, having exclusive criminal and original jurisdiction without appeal for all causes above the value of one hundred dollars, and such inferior courts as the Legislature of the Territory may establish. The judges of the superior court are appointed by the President to continue in office four years.

This is the summary of our constitution; this is so far the accomplishment of a treaty engagement to "incorporate us into the Union, and admit us to all the rights, advantages, and immunities of American citizens." And this is the promise performed, which was made by our first magistrate in your name, "that you would receive us as brothers, and *hasten* to extend to us a participation in those invaluable rights which had formed the basis of your unexampled prosperity."

Ignorant as we have been represented of our natural rights, shall we be called on to show that this Government is inconsistent with every principle of civil liberty?

Uninformed as we are supposed to be of our acquired rights, is it necessary for us to demonstrate that this act does not "incorporate us in the Union," that it vests us with none of the "rights," gives us no advantages, and deprives us of all the "immunities" of American citizens.

If this should be required, we think neither task will be difficult.

On the first point we need only appeal to your declaration of independence; to your constitution; to your different State Governments; to the writings of your revolutionary patriots and statesmen; to your own professions

and public acts; and finally, legislators, to your own hearts, on which the love of civil liberty and its principles are, we trust, too deeply engraved to be ever totally effaced.

A Governor is to be placed over us whom we have not chosen, whom we do not even know, who may be ignorant of our language, uninformed of our institutions, and who may have no connexions with our country, or interest in its welfare.

This Governor is vested with all executive, and almost unlimited legislative power; for the law declares that, "by and with the advice and consent of the legislative body, he may change, modify, and repeal the laws," &c. But this advice and consent will no doubt in all cases be easily procured from the majority of a council selected by the President or Governor, and dependent on him for their appointment and continuance in office; or if they should prove refractory, the power of prorogation frees him from any troublesome interference, until a more prudent selection at the end of the year shall give him a council better suited to his views. The true legislative power, then, is vested in the Governor alone, the council operates as a cloak to conceal the extent of his authority, to screen him from the odium of all unpopular acts, to avoid all responsibility, and give us the faint semblance of a representative assembly, with so few of its distinguishing features, that unless the name were inscribed on the picture it would be difficult to discover the object for which it was intended.

Taxation without representation, an obligation to obey laws without any voice in their formation, the undue influence of the executive upon legislative proceedings, and a dependent judiciary, formed, we believe, very prominent articles in the list of grievances complained of by the United States, at the commencement of their glorious contest for freedom; the opposition to them, even by force, was deemed meritorious and patriotic, and the rights on which that opposition was founded were termed fundamental, indefeasible, self-evident, and eternal; they formed, as your country then unanimously asserted, the only rational basis on which Government could rest; they were so plain, it was added, as to be understood by the weakest understanding; not capable of alienation, they might always be reclaimed; unsusceptible of change, they were the same at all times, in all climates, and under all circumstances; and the fairest inheritance for our posterity, they should never, it was firmly asserted, they should never be abandoned but with life.

These were the sentiments of your predecessors; were they wrong? Were the patriots who composed your councils mistaken in their political principles? Did the heroes who died in their defence seal a false creed with their blood? No, they were not wrong! The admiration of the world, the respect still paid to the living, the veneration accorded to the memory of the dead, attest the purity of their principles, and prove the truth of those maxims, which rendered their lives a blessing to their country, and their deaths glorious in its defence.

Are truths, then, so well founded, so universally acknowledged, inapplicable only to us? Do political axioms on the Atlantic become problems when transferred to the shores of the Mississippi? or are the unfortunate inhabitants of these regions the only people who are excluded from those equal rights acknowledged in your declaration of independence, repeated in the different State constitutions, and ratified by that of which we claim to be a member? Where, we ask respectfully, where is the circumstance that is to exclude us from a participation in these rights? Is it because we have not heretofore enjoyed them? This, on the contrary, would seem a reason to hasten the communication, to indemnify us by a futurity of freedom, for the years we have been deprived of it, and enable us, experimentally, to compare the blessings of a free Government with the evils of another kind of dominion. But the present situation of affairs forms no pleasing contrast with that which is past; and if we did not count with confidence on a change in the system you have adopted, the prospect before us would not afford matter for consolatory anticipation; for though a period is fixed for the absolute government placed over us, though a year may terminate the equally objectionable system which succeeds it, yet what is to follow? Liberty? Self-government? Independence? and a participation in the advantages of the Union? If these were offered to us as the reward of a certain term of patience and submission, though we could not acquiesce in the justice of the procedure, we should have some consolation in our misfortunes; but no manifestation of what awaits us at the expiration of the law is yet made.

We may then again become the victims of false information, of hasty remark, or prejudiced opinion; we may then again be told that we are incapable of managing our own concerns, that the period of emancipation is not yet arrived, and that *when, in the school of slavery, we have learned how to be free, our rights shall be restored*. Upon the topic to which this leads we are reluctant to speak; but misrepresented and insulted, it cannot be deemed improper to show how groundless are the calumnies which represent us as in a state of degradation, unfit to receive the boon of freedom. How far any supposed incapacity to direct the affairs of our own country would release the United States from their obligation to confer upon us the rights of citizenship, or upon what principle they are to become the judges of that capacity, might, we believe, fairly be questioned; for we have surely not become less fit for the task since the signature of the treaty than we were before that period; and that no such incapacity was then supposed to exist, is evident from the terms of that instrument, which declares that we are to be admitted as soon as possible, according to the principles of the constitution. If the United States, then, may postpone the performance of this engagement until, in their opinion, it may be proper to perform it, of what validity is the compact, or can that be called one of which the performance depends only on the will of the contracting party?

But if capacity is to be the criterion, and information the preliminary requisite of our admission, let us respectfully inquire what is the nature of this capacity and information, and where it will most probably be found. By the distribution of powers between the General and State Governments, the former have the exclusive superintendance of all external relations, and of those internal arrangements, which regard the several States in their national capacity; the residuary powers, retained by the States, are more limited in their operations, and require in their exercise a species of information to be derived only from local sources. The purest principles will be misapplied, the best intentions will be ill directed, the most splendid efforts of genius will prove ineffectual, without an intimate knowledge of the manners, customs, pursuits, and interests of the people, to whom they are applied, or in whose favour they are exerted. Should this reasoning be just, it would appear to follow that local information should be preferred in a State legislator to splendid acquirement, when they cannot be united; and although we give the representatives of the United States all the superiority they claim and justly merit, yet we cannot be accused of presumption, in supposing that we know somewhat more of our own country and its local interests than men who are acquainted with it only from report. It will not, we trust, be answered that the members of the council must be selected from the inhabitants; we have already shown what share this council will probably have in legislation, and the residence of one year is certainly too short to attain information, or secure any thing like a permanence of attachment.

If this local knowledge is necessary to legislate wisely, how much more so is it in order to select discreetly those on whom this task must devolve. The President must necessarily depend on the information of his agents here, without any personal knowledge of the men he must choose. How can he detect imposition, or counteract prejudice? How defeat intrigue, or secure himself from the reproach of having confided our interests to men in whom we have no confidence? We might contrast these inconveniences with the evident advantages of a choice made by the people themselves, and the conviction would be irresistible that the latter possess exclusively that species of

information, with respect to character, conduct, circumstances, and abilities, which is necessary to a prudent choice of their representatives; but we presume enough has been said to show that among a people not absolutely sunk in ignorance, the kind of knowledge indispensable to good government, or a selection of rulers, can only be found at home; that the best abilities, and the purest intentions will not replace it abroad, and that without it all legislation is tyrannical and oppressive. Convinced of this truth, we find the advocates for our subjection driven to an argument at which we have before hinted. To deprive us of our right of election, we have been represented as too ignorant to exercise it with wisdom, and too turbulent to enjoy it with safety. Sunk in ignorance, effeminated by luxury, debased by oppression, we were, it was said, incapable of appreciating a free constitution, if it were given, or feeling the deprivation, if it were denied.

The sentiments which were excited by this humiliating picture may be imagined, but cannot be expressed, consistent with the respect we owe to your honorable body. We were willing, however, to ascribe it to the want of correct information, but we could not avoid wondering that it should be so very defective as to have drawn from the names of some districts in our country an argument as to the language spoken in them, which proved fatal to an important amendment to the bill. We could not imagine what had excited the idea of our effeminacy and profusion; and the laborious planter, at his frugal meal, heard with a smile of bitterness and contempt the descriptions published at Washington of his opulence and luxury.

As to the degree of information diffused through the country, we humbly request that some more correct evidence may be produced than the superficial remarks that have been made by travellers or residents, who neither associate with us nor speak our language; many of us are native citizens of the United States, who have participated in that kind of knowledge which is there spread among the people; the others generally are men who will not suffer by a comparison with the population of any other colony. Some disadvantages as to education in the higher branches of literature have lately attended us, owing to the difficulty of procuring it, but the original settlement of the province was marked by circumstances peculiarly favorable in this respect; it was made at no distant date, at a period when science had attained a great degree of perfection, and from a country in which it flourished; many individuals possessing a property and rank, which suppose a liberal education, were among the first settlers; and perhaps there would be no vanity in asserting, that the first establishment of Louisiana might vie with that of any other in America for the respectability and information of those who compose it. Their descendants now respectfully call for the evidence which proves that they have so far degenerated as to become totally incompetent to the task of legislation.

For our love of order and submission to the laws we can confidently appeal to the whole history of our settlement, and particularly to what has lately passed in those dangerous moments when it was uncertain at what point our political vibrations would stop; when national prejudice, personal interest, factious views, and ambitious designs, might be supposed to combine for the interruption of our repose; when, in the frequent changes to which we have been subject, the authority of one nation was weakened before the other had established its power. In those moments of crisis and danger, no insurrection disturbed, no riot disgraced us; the voice of sedition was silent; and before a magistrate was appointed, good morals served instead of laws, and a love of order instead of civil power; it is then as unjust to tax us with turbulence as it is degrading to reproach us with ignorance and vice. But let us admit, that by some train of reasoning to which we are strangers, by some incomprehensible fatality, we are cut off from our national rights, and form an unfortunate exception to those general principles on which your revolution and Government are founded; that there is no clause for us in the great charter of nature, and that we must look for our freedom to another source; yet we are not without a claim; one arising from solemn stipulation, and, according to our ideas, full, obligatory, and unequivocal.

The third article of the treaty lately concluded at Paris, declares that "the inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyments of all the rights, advantages, and immunities of citizens of the United States, and in the mean time they shall be protected in the enjoyment of their liberty, property, and the exercise of the religion they profess."

Your honorable body seems to have adopted a construction of this article, which would suspend its performance until some period fixed by the principles of the constitution, and to have read the article thus: "the inhabitants shall be incorporated into the Union, and admitted to the enjoyment of all the rights, &c., as soon as the principles of the federal constitution will permit." We, on the contrary, contend that the words "according to the principles of the federal constitution," as they are placed in the sentence, form no limitation, that they were intended as a description of the kind of rights we were to enjoy, or at most relate to the mode in which they were to be conferred, and that the article contemplates no other delay to our reception than will be required to pass the necessary laws and ascertain the representation to which we are entitled.

The inhabitants of the ceded territory are to be "incorporated into the Union of the United States;" these words can in no sense be satisfied by the act in question. A Territory governed in the manner it directs may be a province of the United States, but can by no construction be said to be incorporated into the Union. To be incorporated into the Union must mean to form a part of it; but to every component part of the United States the constitution has guaranteed a republican form of Government, and this, as we have already shown, has no one principle of republicanism in its composition; it is therefore not a compliance with the letter of the treaty, and is totally inconsistent with its spirit, which certainly intends some stipulations in our favor. For if Congress may govern us as they please, what necessity was there for this clause, or how are we benefited by its introduction? If any doubt, however, could possibly arise on the first member of the sentence, it must vanish by a consideration of the second, which provides for their admission to the rights, privileges, and immunities of citizens of the United States. But this Government, as we have shown, is totally incompatible with those rights. Without any vote in the election of our Legislature, without any check upon our executive, without any one incident of self-government, what valuable "privilege" of citizenship is allowed us, what "right" do we enjoy, of what "immunity" can we boast, except, indeed, the degrading exemption from the cares of legislation, and the burden of public affairs?

Will it be said that though our right be admitted, yet Congress are to determine the period when it shall be conferred? This, we apprehend, would not only be contrary to the words of the treaty, but would be a solecism in itself. The words "according to the principles of the federal constitution, to the enjoyment of the rights," &c., certainly mean to such rights as are secured by the principles of the constitution, or that we are to be admitted to their enjoyment in such manner as the same principles direct; and at any rate, the words "as soon as possible," can never be construed, so as to give a right of deferring it indefinitely. If it may be procrastinated for two years, we see no reason, why it may not be deferred for twenty, or a hundred, or totally omitted. That our verbal construction is the true one will be evident from pursuing the other exposition to its consequences. If the treaty means to say that we shall be admitted as soon as the principles of the constitution will permit, we must look into that instrument to discover what restrictions oppose its immediate performance. We should naturally expect, if this reasoning be true, to find some period limited before which we could not become members of the Union, some requisites of population or other circumstance to be previously attained or performed; but, on the



contrary, the power of admitting new States is vested in Congress, without any restriction whatever that can be applicable to the present case; there is, therefore, nothing that can satisfy these words, if they are construed as a limitation; nothing but the will of Congress is referred to in the constitution. This construction, then, would prove that the United States had stipulated to admit us into the Union as soon as they should think proper; but a treaty implies a compact, and what compact can arise from a stipulation to perform or not perform, as the party shall deem expedient? This would be such a solecism in argument, such a confusion of terms as must make us doubt the propriety of any construction that leads to them, and we feel ourselves justified in a persuasion, that the treaty intended to incorporate us into the Union so soon as the laws necessary for that purpose could be passed.

We know not with what view the territory north of the thirty-third degree has been severed from us, and carried with it the distinguishing name which belonged to us, and to which we are attached; the convenience of the inhabitants we humbly apprehend would have been better consulted by preserving the connexion of the whole province until a greater degree of population made a division necessary. If this division should operate so as to prolong our state of political tutelage, on account of any supposed deficiency of numbers, we cannot but consider it as injurious to our rights, and therefore enumerate it among those points of which we have reason to complain.

If there is force in our reclamations, on the great question of fundamental rights; if we are entitled to legislate for ourselves as a member of the Union, and to establish the forms on which that legislation shall be conducted, by framing a constitution suited to our own exigencies, then no further observations need be made on other parts of the law, for the right of local legislation implies that of making the alterations we might deem expedient; then our judiciary would become independent, the executive power would be properly circumscribed, and the legislative guarded against encroachment.

There is one subject, however, extremely interesting to us, in which great care has been taken to prevent any interference even by the Governor and council, selected by the President himself. The African trade is absolutely prohibited, and severe penalties imposed on a traffic free to all the Atlantic States who choose to engage in it, and as far as relates to procuring the subjects of it from other States, permitted even in the Territory of the Mississippi.

It is not our intention to enter into arguments that have become familiar to every reasoner on this question. We only ask the right of deciding it for ourselves, and of being placed in this respect on an equal footing with other States. To the necessity of employing African laborers, which arises from climate, and the species of cultivation pursued in warm latitudes, is added a reason in this country peculiar to itself. The banks raised to restrain the waters of the Mississippi can only be kept in repair by those whose natural constitution and habits of labor enable them to resist the combined effects of a deleterious moisture, and a degree of heat intolerable to whites; this labor is great, it requires many hands, and it is all important to the very existence of our country.

If, therefore, this traffic is justifiable any where, it is surely in this province, where, unless it is permitted, cultivation must cease, the improvements of a century be destroyed, and the great river resume its empire over our ruined fields and demolished habitations.

Another subject not indeed growing out of this law, but of great moment to us, is the sudden change of language in all the public offices and administration of justice. The great mass of the inhabitants speak nothing but the French; the late Government was always careful, in their selection of officers, to find men who possessed our language, and with whom we could personally communicate; their correspondence with the interior parts of the province was also carried on chiefly in our own language; their judicial proceedings were indeed in Spanish; but being carried on altogether by writing, translations were easily made; at present, for the slightest communication, an interpreter must be procured; in more important concerns, our interest suffers from not being fully explained; a phrase, a circumstance seemingly of little moment, and which a person uninterested in the affair will not take the trouble to translate, is frequently decisive, and produces the most important effects. That free communication so necessary to give the magistrate a knowledge of the people, and to inspire them with confidence in his administration, is by this means totally cut off, and the introduction of *viva voce* pleadings into the courts of justice subjects the party who can neither understand his counsel, his judge, nor the advocate of his opponent, to embarrassments the most perplexing, and often to injuries the most serious.

We have thus stated the great sources of discontent which have arisen from the measures your honorable body has been pleased to pursue. Did we suppose them the effect of a settled design to oppress, of a determination to disregard our natural and stipulated rights, we are persuaded we should do as much injustice to your views, as the strongest expressions would do to our feelings of indignation and grief; but we will not insult you by a suspicion so injurious to your motives; the want of true information with respect to us, opinions founded on a superficial acquaintance with our country, and prejudiced relations with our habits and manners, on reports the most unfounded, even as to our language, these alone have given rise to the measures of which we complain, and when these impressions shall have been effaced, we have the fullest confidence that their effects will cease, and the language of remonstrance will be changed to that of congratulation and thanks.

Deeply impressed, therefore, with a persuasion that our rights need only be stated to be recognised and allowed; that the highest glory of a free nation is a communication of the blessings of freedom; and that its best reputation is derived from a sacred regard to treaties; we pray you, Representatives of the people, to consult your own fame and our happiness, by a prompt attention to our prayer; we invoke the principles of your revolution, the sacred, self-evident, and eternal truths on which your Governments are founded; we invoke the solemn stipulations of treaty; we invoke our own professions and the glorious example of your fathers, and we adjure you to listen to the one and to follow the other, by abandoning a plan so contradictory to every thing you have said, and they have taught; so fatal to our happiness, and the reputation of your country. To a generous and free people we ought not to urge any motive of interest, when those of honor and duty are so apparent; but be assured that it is the interest of the United States to cultivate a spirit of conciliation with the inhabitants of the territory they have acquired. Annexed to your country by the course of political events, it depends upon you to determine whether we shall pay the cold homage of reluctant subjects, or render the free allegiance of citizens, attached to your fortunes by choice, bound to you by gratitude for the best of blessings, contributing cheerfully to your advancement, to those high destinies to which honor, liberty, and justice, will conduct you, and defending, as we solemnly pledged ourselves to do at the risk of fortune and life, our common constitution, country, and laws.

We, therefore, respectfully pray that so much of the law above mentioned, as provides for the temporary government of this country, as divides it into two Territories, and prohibits the importation of slaves, be repealed.

And that prompt and efficacious measures may be taken to incorporate the inhabitants of Louisiana into the Union of the United States, and admit them to all the rights, privileges, and immunities, of the citizens thereof.

And your petitioners, as in duty bound, will ever pray for the happiness and prosperity of the United States.

Conformable to the original deposited in the House of Representatives.

P. SAUVE,  
L. DERBIGNY,  
DESTREHAN.

[The following remonstrance was communicated to the House of Representatives, January 4, 1805.]

*To the honorable the Senate, and the honorable the House of Representatives of the United States in Congress assembled: The remonstrance and petition of the representatives elected by the freemen of their respective districts in the District of Louisiana, humbly show:*

That your petitioners, as well as those whom they represent, were filled with the most lively pleasure at the first rumour of the cession of Louisiana to the United States. When it no longer became us to doubt of the event, and when we were informed that Congress were making laws to organize the newly-acquired territory, we experienced emotions of gratitude, and anticipated for ourselves and our posterity all the blessings which result to the people of the United States from the wisdom and magnanimity of an enlightened and free government.

While we were indulging these fond expectations, unmingled with distrust or fear, the act of the last session of your honorable Houses, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," came to our knowledge, and snatched from our eager grasp the anticipated good. The dictates of a foreign Government! an incalculable accession of savage hordes to be vomited on our borders! an entire privation of some of the dearest rights [enjoyed by *freemen!* These are the leading features of that political system which you have devised for us; for those very men whom in a solemn treaty you had stipulated to call and to treat as fellow-citizens; yet the American colors are hoisted in our garrisons, this far-famed signal of liberty to all to us alone exhibits a gloomy appearance, and makes us more sensible of the immeasurable interval between us and political happiness. May we not be long doomed, like the prisoners of Venice, to read the word LIBERTY on the walls of prisons! We trust to your wisdom and goodness; you are the guardians of our constitutional rights, and we repose our hopes in you as in the sanctuary of honor.

The right of the people peaceably to assemble and petition the Government for a redress of grievances, is declared and warranted by the first amendment to the constitution. To this constitution we appeal; we learned from you to resist, by lawful means, every attempt to encroach on our *rights and liberties*; the day we became Americans, we were told that we were associated to a free people. We cannot suppose that the language of men jealous of their freedom can possibly be unwelcome to your ears.

By the third article of the treaty between the United States and the French republic, it is agreed "that the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion they profess."

Your petitioners beg leave to represent to your honorable Houses, that according to the principles contained in the third article of the treaty above quoted, they conceive that had not Congress thought proper to divide Louisiana into two Territories, they should now be entitled by their population to be incorporated in the Union as an independent State.

In the ordinance for the government of the Territory of the United States, northwest of the river Ohio, article the fifth, it is ordained, "that whenever any of the States to be formed out of the Northwestern Territory shall have sixty thousand free inhabitants therein, such State shall be admitted by its delegates into the Congress of the United States, on an equal footing with the original States in all respects whatever, and shall be at liberty to form a permanent constitution and State government, *provided*, The constitution and government so to be formed shall be republican, and in conformity with the principles contained in these articles; and so far as it can be considered consistent with the general interest of the confederacy such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand." Your petitioners are informed, moreover, that at the time of the admission of the State of Ohio in the Union, said State, conformable to the last clause of the fifth article of the ordinance above quoted, did not contain more than from thirty-three to forty thousand free inhabitants; which proportion, if adhered to in our case, as it seems to us it should have been, the United States having bound themselves by the third article of the treaty above quoted to admit us as soon as possible into the Union, would have given us a right to be immediately incorporated in the Union of the United States.

We find neither in the constitution of the United States, nor in the treaty with the French republic, any provisions by which Congress may have been authorized to make such division.

We find in the treaty nothing but the plain and unequivocal obligation in Congress, to incorporate the ceded territory into the Union of the United States, and admit it as soon as possible, according to the principles of the federal constitution to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; but if Congress had a right to divide Louisiana into two Territories last year, they may claim next year the right to divide it into four, into eight Territories. Whenever the population of one of those Territories shall amount to very near the population required by the constitution of the United States, to entitle that Territory to be admitted in the Union as an independent State, Congress may again claim the right to subdivide said Territory. Your petitioners, if the principle should be granted, see no end to the oppression likely to result from such a precedent; and ill-fated Louisiana is condemned to drag along for ages the fetters of an endless territorial infancy, never (to use the expression of one of the most strenuous advocates of American independence,) to be hardened into the bone of manhood.

Under ordinary circumstances, your petitioners would have been disposed to sacrifice some of those rights, secured to them by a solemn treaty, to the convenience of the United States; but the provisory laws enacted by Congress for the district of Louisiana seem to us to be characterised by such an unusual spirit of severity as to oblige your petitioners (if those laws should be enforced) to pray for the unconditional fulfilment of those express engagements contained in the treaty of cession, and for those other benefits to which they are entitled as freemen of the United States. But had not your petitioners the unconditional provisions of a treaty to rest their rights upon, still they might have expected a Government founded on more liberal principles from the representatives of a free people, who, on a great occasion, had previously declared to the world these truths to be self-evident: "That all men are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of Government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new Government, laying its foundations on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."

Little as we are acquainted with the United States, we know by heart your declaration of independence; we recollect the noble deeds of the heroes who bled in your glorious revolution; we are no strangers to the constitution of the United States, and the bills of right, and constitutions of the several States in the Union; and it was upon those highly respectable and absolutely binding authorities, that we had anticipated the blessings of freedom.

In order to enforce their pretensions, your petitioners are sensible that it becomes incumbent on them to submit to your honorable Houses a comparative view of the constitutions enacted by Congress, at different times, for the

different Territories, which were erected previously to the erection of the district of Louisiana; from that statement, extracted from your own records, your honorable Houses cannot help being convinced that the act respecting the district of Louisiana alone, instead of the open, disinterested countenance of a fond adoptive mother exhibited to our sister territories, bears the stern, distrustful look of a severe, imperious master; and if your honorable Houses will be so good as to follow your petitioners through this interesting review, you will be fully satisfied that the humble remonstrances of your petitioners rest on the rock of American liberty and independence.

Although your petitioners lament that the principle should now appear consecrated by practice, that governors and judges should, contrary to every principle of liberty, and to the principles of the constitution of the United States, which took care to separate them, unite in their hands the three powers, legislative, executive, and judicial, yet your petitioners would have submitted in silence to whatever had been adopted by Congress, and submitted to by the people. But arbitrary measures without a precedent call loudly for the most energetic remonstrances to your honorable Houses.

By the twelfth section of the act erecting Louisiana into two Territories, and providing for the temporary government thereof, "the Executive power, now vested in the Governor of the Indiana Territory, is to extend to and be exercised in Louisiana." Your petitioners beg leave to state that they have read, with the utmost attention, the laws enacted at different times, for the provisory government of the several Territories of the Union; and that far from observing in those laws any thing like trusting the Governor of a neighboring State or Territory with the government of a newly-erected Territory, they find, on the contrary, that Congress paid the most scrupulous respect to the interest and feelings of the inhabitants by the wisest precautions, in not only obliging the Governor to reside in the Territory which he governs, but also in obliging him to hold a freehold estate in the same Territory. In the ordinance for the government of the Territory of the United States, north-west of the river Ohio, we find this provision: "Be it ordained by the authority aforesaid, that there shall be appointed from time to time by Congress, a Governor whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein in one thousand acres of land, while in the exercise of his office."

In the act authorizing the establishment of a Government in the Mississippi Territory we find, "and the President of the United States is hereby authorized to establish therein a Government in all respects similar to that now exercised in the Territory northwest of the river Ohio." And in the act to divide the Territory of the United States northwest of the river Ohio, we find: "Sec. 2. *And be it further enacted,* That there shall be established within the said Territory a Government in all respects similar to that provided by the ordinance of Congress, passed on the 13th day of July, 1787, for the Government of the Territory of the United States northwest of the river Ohio."

In the act erecting Louisiana into two Territories, the executive power in the district of Orleans is vested in a Governor, who shall reside in the Territory, &c.

Here, then, are the laws of the three Territories, erected previously to the erection of the district of Louisiana, and the laws of the district of Orleans, erected by the very same act. Those laws make it necessary for the Governor, who is liable to be called upon for the discharge of his official duties by every citizen of the Territory, to reside in said Territory. The law with respect to three of those Territories does not stop there. Congress were fully sensible that the inhabitants of those Territories would place more confidence in men who, like the inhabitants themselves, should have a direct interest in the welfare of the country, by their own possessions in it; and to the indispensable condition of residence in the Territory, they made it necessary for the Governor, while in the exercise of his office, to have a freehold estate therein in one thousand acres of land.

The extension of the executive power given to the Governor of the Mississippi Territory over the district of Orleans can hardly be adduced as a precedent; for, ever since the extension of his jurisdiction, the Governor of the Mississippi Territory has habitually resided in the district of Orleans, of which he was Governor in fact; whilst the administration of the Government of the Mississippi Territory was left in the hands of a secretary. But admitting, for argument's sake, that it might be construed into a precedent, your petitioners beg leave to observe to your honorable Houses that the circumstances of the two Territories cannot be compared. There are hardly two hundred and forty miles from Natchez to Orleans. An easy and speedy communication can be had at all times between the two places, both by land and by water. The laws of both Territories may be very similar in many important respects, by which the property of the inhabitants may be affected. Slavery prevails in both Territories. On the contrary, the point of Louisiana nearest to the place where the Governor of the Indiana Territory makes his habitual residence is not less than one hundred and sixty-five miles distant, and there is not a house to be met with on the road; impassable at many seasons of the year, owing to the number of creeks and rivers which sometimes overflow their banks, sometimes are entirely covered with ice; so that we may conclude that, did not justice and sound policy prohibit the alliance in contemplation, nature itself loudly proclaims its impracticability. Your honorable houses may judge at what an immense distance some parts of Louisiana must be from the Governor, to whom an appeal lies in many cases affecting the property and even the life of individuals.

What would it be, if, arriving at Vincennes in those circumstances, an inhabitant of Louisiana was told of His Excellency's being at Detroit, six hundred miles further? Besides, the laws of both Territories must be very dissimilar in a number of respects. Slavery cannot exist in the Indiana Territory, and slavery prevails in Louisiana; and here your petitioners must beg leave to observe to your honorable Houses that they conceive their property of every description has been warranted to them by the treaty between the United States and the French republic. Your petitioners are informed that a law respecting slavery has been passed by Congress for the district of Orleans, similar in many respects to the one formerly made for the Mississippi Territory. Is not the silence of Congress with respect to slavery in this district of Louisiana, and the placing of this district under the Governor of a Territory where slavery is proscribed, calculated to alarm the people with respect to that kind of property, and to create the presumption of a disposition in Congress to abolish at a future day slavery altogether in the district of Louisiana?

The same wise precaution which induced Congress to make the residence of the Governor and the holding of property in the Territory where he exercises his office necessary, extends likewise, in the three Territories erected previously to the erection of the district of Louisiana, to the secretary and judges of the said Territories. In the same third section of the ordinance for the Government of the Territory of the United States northwest of the river Ohio, we find, "there shall be appointed, from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein in five hundred acres of land, while in the exercise of his office," &c.

And again, in the same third section, "there shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their office."

These provisions extend likewise to the Mississippi Territory, as may be seen by a reference to an act authorizing the establishment of a Government in the Mississippi Territory; and to the Indiana Territory, as may be

seen by a reference to an act of Congress to divide the Territory of the United States northwest of the Ohio into two separate Governments.

Your petitioners cannot consider it as necessary to add any other reasons to those given already, and which appear to them grounded upon justice, in order to determine your honorable Houses immediately to repeal that part of the act providing for the government of the district of Louisiana, which places this district under the administration of the Governor, Secretary, and Judges of the Indiana Territory. To say more on the subject might appear to doubt your disposition to do justice to the request of your petitioners, and to your justice alone they are determined to appeal.

How far the extraordinary measures, contemplated by the fourteenth section of the bill erecting Louisiana into two Territories, may, in the opinion of Congress, have been rendered necessary by circumstances, it does not belong to your petitioners to determine. Were those measures only severe, we should oppose to them only the articles of compact between the original States and the people of the Northwestern Territory. Article second of said compact expressly declares: "That in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said Territory, that shall, in any manner whatever, interfere with or affect private contracts or engagements, *bona fide* and without fraud, previously formed."

In the fourth article of the same compact it is provided "That non-resident proprietors shall in no case be taxed higher than residents."

Here Congress not only acknowledge that they have no right to make a law interfering with or affecting private contracts or engagements, *bona fide* and without fraud, previously formed, but so tender are they of the right of property, that they even go so far as to provide that non-resident proprietors shall in no case be taxed higher than residents.

How different is the condition of the Louisianians! Congress, in the fourteenth section of the act erecting Louisiana into two Territories, seems to acknowledge the validity of some incipient titles to land, for what else can mean these words? "Or to make null and void any *bona fide* act or proceedings to obtain a grant for lands done by an actual settler, agreeably to the laws, usages, and customs of the Spanish Government." Act or proceedings cannot certainly mean any thing else than the incipient titles of which we are speaking.

Now, suppose such act or proceeding, agreeably to the laws, usages, and customs of Spain, to have actually taken place, three years were granted by the Spanish Government after having obtained a full or incipient grant for making a settlement thereon. There may be, and there are, American emigrants, who, some time previously to the 20th day of December, 1803, may have bought from the original proprietor, or rather holder of that incipient title, his right to said lands. There may be, and there are, some, who have obtained those incipient titles in their own name, and who, ignorant as they must have been of a law not enacted at the time, and taking it for granted that Congress would allow the same space of time which was allowed by the Spanish Government for making a settlement upon lands obtained from the Spanish Government, may have returned to the eastern part of the United States in order to prepare every thing necessary for their removal, and with an intention of coming back to Louisiana in the following spring to settle upon those lands which they had bought *bona fide* and without fraud. But perhaps Congress, who, in the beginning of the fourteenth section, had declared null and void every act and proceeding subsequent to the treaty of St. Ildefonso, made the 1st day of October, 1800, of whatsoever nature, towards the obtaining any grant, title, or claim to such lands, and under whatever authority transacted or pretended, be, and have been, from the beginning, null, void, and of no effect in law or equity, may insist that since the sovereignty of the lands in Louisiana was vested in the United States, the 1st day of October, 1800, and since, more than three years elapsed from the 1st day of October, 1800, to the 20th day of December, 1803, they have unquestionably a right to expel from the lands they claim any man who, according to the conditions of the Spanish Government, has made no improvement on the lands he might have obtained on the 20th day of December, 1803; and as to Congress being pleased to confirm such in itself an insufficient title to any actual settler, it is a favor which they may or may not grant, without binding themselves to extend it to the representative of the original holder, unless the express condition of an improvement has been fulfilled; but if your honorable Houses give leave to your petitioners to remind you that, by the first article of the treaty of St. Ildefonso, "His Catholic Majesty promises and engages, on his part, to cede to the French republic six months after the full and entire execution of the conditions and stipulations herein relative to His Royal Highness the Duke of Parma, the colony or province of Louisiana, with the same extent that it has now in the hands of Spain, and that it had when France possessed it." It will be manifest to your honorable Houses that the King of Spain did not renounce his sovereignty over Louisiana on the 1st day of October, 1800.

At what period of time an absolute renunciation of Louisiana was made by the King of Spain your petitioners cannot ascertain; but they humbly conceive that the sovereignty of the United States in Louisiana did not begin previously to that absolute and unconditional renunciation on the part of the King of Spain.

And if your honorable Houses consider, moreover, that time sufficient must be allowed for the Spanish Government to make known its final treaty with the French republic to its agents in Louisiana, (authorized, your petitioners humbly conceive, to grant lands in its name until they received official notice of the treaty which ceded Louisiana to France,) and that it is not probable that a Government at a considerable distance can be in a greater hurry to take steps by which it divests itself of the sovereignty of a country, than the Government which has just acquired that country, and which is on the spot, has taken to have its sovereignty acknowledged there, and that ten months and ten days elapsed after the treaty between the United States and the French republic before the United States took possession of Louisiana, your honorable Houses must conclude that there may have been grants for lands obtained from the Spanish Government, as to which those who have obtained them may have yet more than one year to comply with the laws, usages, and customs of the Spanish Government. But your petitioners (we mean the few who have any knowledge at all of the law respecting Louisiana, enacted during the last session of your honorable Houses) find themselves placed between the necessity either of not complying with the conditions on which they received lands from the Spanish Government, or of acting in direct contradiction to a law enacted by your honorable Houses; and yet what do those grants amount to which were given since the 1st day of October, 1800? If your honorable Houses will be pleased to call upon your officers in Louisiana for a correct statement of the quantity of land given since that epoch by the officers of the Spanish Government, your honorable Houses will be satisfied that there has been but a very inconsiderable quantity of land thus disposed of, and disposed of chiefly in favor of hard laboring men, who, owing to the various rumors which ran all over the country ever since the cession of France was spoken of, the country belonging sometimes to Spain, sometimes to France, sometimes to the United States, sometimes to Spain again; at an immense distance from every source of information, very often not understanding the language of their neighbors; discouraged at first from exhausting their whole in making improvements on lands to which they had obtained an incipient title, from what they conceived the precariousness of those titles, likely to result from the interference of such, or such a power to which they were told Louisiana

belonged; prevented by your law from complying with the conditions of Spain, when they had not it any longer in their power to doubt that the country was ultimately to remain to the United States, and who, at the very moment their confidence had begun to revive, find themselves, whatever they may do, liable to be punished by a free and enlightened nation for having listened to the dictates of prudence and placed confidence in the United States.

Your petitioners beg leave to observe further, that it was only on the 10th day of March, 1804, that the United States took possession of the district of Louisiana; it should seem of course that the inhabitants of Louisiana could not be bound by any law of the United States, previously at least to that epoch: Yet your honorable Houses, by a law approved by the President, on the 26th day of March, 1804, deprive of his property, and if he does persist in his claim after the first day of October next, condemn to a fine not exceeding one thousand dollars, and to suffer an imprisonment not exceeding one year, any man who shall have attempted a settlement on lands to which he may not have obtained as yet a complete title, if he has made or attempted a settlement any time posterior to the 20th day of December, 1803, that is, more than three months before the law which condemns him was enacted; and if your honorable Houses reflect that the act erecting Louisiana into two Territories, is only to take place on the first day of October, 1804, it will result that a man may be guilty by doing an act indifferent in itself, in virtue of a law which is to take place more than nine months subsequently according to the law itself, before the provision of that law can be enforced, and that, too, in the very face of the third article of the ninth section of the constitution of the United States, which declares, "That no bill of attainder, or *ex post facto* law, shall be passed."

The 15th section of the law erecting Louisiana into two Territories authorizes the President of the United States "to stipulate with any Indian tribes, owning lands on the east side of the Mississippi, and residing thereon, for an exchange of lands, the property of the United States, on the west side of the Mississippi, in case the said tribes shall remove and settle thereon."

Had the United States bound themselves to exterminate from the face of the earth every inhabitant of Louisiana, your petitioners do not conceive, that they could have taken a more effectual step towards the fulfilment of the engagement, than the measures contemplated by the 15th section of the law, respecting the district of Louisiana. But by the treaty with the French republic, the United States have engaged to maintain and protect us in the free enjoyment of our liberty and property. Great God! a colony of Indians to maintain and protect us in our liberties and properties! And we hear, at the same time, that troops have been ordered from some parts of this district of Louisiana; and at this moment, the garrison of New Madrid is reduced (not from death or sickness, from which they have kept entirely free, but in virtue of orders received from the commanding officer at Fort Massac,) to fifteen men. In the mean time, depredations and assassinations by the Indians have already begun: it is not a week since your petitioners received the news, that within forty miles of this place the Indians had wantonly assassinated three men. A week before, we heard of another set, on the river St. Francis, who committed against one of our scattered settlers every sort of depredation; killing his cattle of every description, destroying all his property of every kind, stripping him and all his family entirely naked, and after glutting themselves with what provisions they found in the house throwing all the rest into the fire. What a time have your honorable Houses chosen for the exchange in contemplation! A plan, wearing the most threatening aspect to our lives and properties—a plan not only alarming in its immediate effects, but pregnant with evils of a most dangerous nature in its remote consequences.

Your petitioners humbly conceive, that the tribes of Indians living in your populous States cannot possibly prove, at any time, dangerous to their white inhabitants, principally dispersed and scattered as they are upon an immense, and, in many parts, very thickly inhabited territory: But your honorable Houses must be sensible that it would be far otherwise with respect to any habitual residence those now scattered Indians could make on the west side of the Mississippi. The Indians will be by the measures contemplated connected together, and our white settlers must, for a very considerable time to come, remain dispersed at an immense distance from each other; an easy and defenceless prey to the bloody rage of the merciless tomahawk. Is this protection? Is this justice? Is this equity? Would your honorable Houses acknowledge in all the powers of Europe the right to collect in one body all their convicts, amounting in number (if such a number could be found) to twice or perhaps three times your own population, and to vomit them on your shores? The narrow and limited view of your petitioners does not allow them to see any the least difference between the conduct of the powers of Europe in that case, and your conduct with respect to us; except that in one case the powers of Europe are not bound by any treaty to protect you, and the Government of the United States is bound to protect us. Your petitioners might add that convicts might possibly be reclaimed, but experience teaches us that the Indians, when conscious of their strength, the nearer they approach to civilization the more inclined they feel to resume at the first opportunity their naturally cruel and savage disposition.

Your petitioners do not doubt but that some grand political ends were expected to be answered by the provision in the fifteenth section of the bill, erecting Louisiana into two Territories, but were those ends as advantageous as in the humble opinion of your petitioners they are disastrous—"Nothing," said Aristides to the Athenians, "could be more advantageous than the proposition of Themistocles but nothing could be more unjust." Your honorable Houses are well acquainted with the determination of the Athenian people.

Your petitioners have thus gone through the painful, yet they conceive indispensable task of remonstrating against grievances, in compliance with the duty they owed to their country, to themselves, and to posterity. Your petitioners are sensible that in the discussion of interests of such magnitude, involving their dearest rights, they may perhaps appear to have deviated a little, either in some of their conclusions or expressions, from the respect they never intended to refuse to the highest authority of their country: but let your honorable Houses remember that your petitioners feel themselves injured, deeply injured. Could they tamely submit, could they even represent with more moderation in such a case, you yourselves would not consider them worthy to be admitted into a portion of the inheritance of the heroes who fought and bled for the independence of America.

Your petitioners ask, 1st, For the repeal of the act erecting Louisiana into two Territories, and providing for the temporary government thereof.

2dly. That legal steps should be immediately taken for the permanent division of Louisiana.

3dly. That a Governor, secretary, and judges, should be appointed by the President, who shall reside in the district of Louisiana, and hold property therein to the same amount as is prescribed by the ordinance respecting the Territory northwest of the river Ohio.

4thly. That the Governor, secretary, and judges, to be thus appointed, for the district of Louisiana, should, in preference, be chosen from among those who speak both the English and the French languages.

5thly. That the records of each county, and the proceedings of the courts of justice in the district of Louisiana should be kept, and had in both the English and French languages, as it is the case in a neighboring country, under a monarchical Government, and acquired by conquest.

6thly. That supposing the district of Louisiana to be divided into five counties, ten members, two from each county, shall be elected by the people having a right to vote in each county, according to the rules prescribed by

the ordinance respecting the Northwestern Territory every two years, or such another number as Congress may appoint, which said members shall, jointly with the Governor, form the legislative council of said district of Louisiana.

7thly. That Congress would acknowledge the principle of our being entitled, in virtue of the treaty, to the free possession of our slaves, and to the right of importing slaves into the district of Louisiana, under such restrictions as to Congress in their wisdom will appear necessary.

8thly. That Congress, taking into consideration the distance at which we live from the seat of the General Government, which does not allow the General Government to be informed with respect to the true interest of this country but through the agents of that same Government, Congress should enact a law authorizing this district of Louisiana to send an agent or delegate to Congress, whose powers as to speaking and voting in the House Congress may circumscribe as to them may seem proper.

9thly. That funds should be appropriated for the support, and lands set apart or bought for the building and maintaining of a French and English school in each county, and for the building of a seminary of learning, where not only the French and English languages, but likewise the dead languages, mathematics, mechanics, natural and moral philosophy, and the principles of the constitution of the United States should be taught. Independent of the obligation of spreading knowledge, upon which alone a free Government can stand in a country till now unacquainted with your laws and language, a powerful additional interest will result, in the opinion of Congress, from the teaching principally of mathematics and natural philosophy, when your honorable Houses reflect that Louisiana abounds with mines of every description, which can never be worked to any advantage without the powerful engines supplied by these two sciences.

10thly. That every private engagement, conformable to the laws of Spain, entered into during the time Louisiana was ruled by the laws of Spain, shall be maintained.

11thly. That any judgment which was considered as final, according to the Spanish law, shall not be revised by any of the tribunals to be established in Louisiana by the United States.

12thly. That any judgment from which an appeal might be had, according to the Spanish law, to any superior tribunal, may be appealed from to a tribunal of equal dignity within this Territory, or the United States, and that a final judgment be had, conformably to the laws of Louisiana, at the time the suits were first brought into court.

And now your petitioners trust their remonstrances and petition to the justice of your honorable Houses, and they do not entertain the least doubt but that a nation, who, in their declaration of independence, has proclaimed that the governors were intended for the governed, and not the governed for the governors; a nation who complained so loudly of their right of representation, a right inestimable to them, and formidable to tyrants, only being violated; a nation who presented it to the world, as one of their reasons of separation from England, that the King of England had endeavored to prevent the population of their States; a nation who waged war against her mother country for imposing taxes on them without their consent; a nation who styles the Indians "the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions," will not be deaf to their just complaints; and, by redressing their grievances, will deserve forever the most unbounded affection of the inhabitants of this district of Louisiana.

Elated with these hopes, your petitioners conceive, that they cannot end their present remonstrance and petition in a more suitable manner than by renewing to you the oath they had administered to them on the first day of their meeting together in General Assembly, by the first civil commandant of this district of Louisiana.

And we all swear "to be faithful to the United States, to maintain with all our power the constitution of the United States, and to obey the laws made and to be made by Congress for the district of Louisiana."

Signed at St. Louis, the twenty-ninth day of September, in the year of our Lord one thousand eight hundred and four, and of the American independence the twenty-ninth.

- Richard Jones Waters, } *Deputies of New Madrid.*
- Eligius Fromentin, }
- Christopher Hays, } *Deputies of Cape Girardeau.*
- Andrew Ramsey, }
- J. S. J. Beauvais, } *Deputies of Ste. Genevieve.*
- P. D. Etchemendy, }
- Charles Gratiot, }
- P. Provenchere, } *Deputies of St. Louis and its*
- Augustus Chouteau, } *Dependencies.*
- Richard Caulk, }
- David Musick, }
- Francis Cottard, }
- Warren Cottle, } *Deputies of St. Charles and*
- A. Reynal, } *its Dependencies.*
- F. Saucier, }
- Timothy Kibby, }

[Document, accompanying a representation and petition of the Representatives elected by the freemen of the Territory of Louisiana, presented the 4th January, 1805.]

*We, the Representatives of the district of Louisiana, in General Assembly met,—To all whom these presents may come:*

Know ye, that Mr. Augustus Chouteau and Mr. Eligius Fromentin have been, and are hereby, declared unanimously chosen as the deputies, delegates, and agents, general and special, for the inhabitants of Louisiana, for the purpose of presenting to the honorable the Congress of the United States our humble petition; and to support and defend, on all occasions and in all respects, the interest of this district; and to make, in behalf of said district, all such demands and proceedings which they, our said delegates, in their judgment, may judge proper and conducive to the public good.

In testimony whereof, we have given to them, the said Augustus Chouteau and Eligius Fromentin, these presents, and do hereby, as aforesaid, delegate and entrust to them, and each of them, jointly and generally, all the authority, powers, and delegations, necessary to fulfil the trust and commission of full and complete delegates and agents.

And in witness whereof, we have hereunto subscribed our names at St. Louis, the thirtieth day of September, in the year of our Lord one thousand eight hundred and four, and of the American independence the twenty-ninth.

Richard J. Waters, <i>from New Madrid.</i>	}	<i>of Cape Girardeau.</i>
Christopher Hays,		
Frederick Bollinger,		
Andrew Ramsey,	}	<i>Ste. Genevieve.</i>
Stephen Byhe,		
J. S. J. Beauvais,		
P. D. Etchemendy,	}	<i>St. Louis' Dependencies.</i>
Charles Gratiot,		
P. Provenchere,		
David Musick,	}	<i>St. Charles and Dependencies.</i>
Francis Cottard,		
Antoine Reynal,		
F. Saucier,		
Warren Cottle,		
Timothy Kibby, <i>Femme Osage.</i>		

St. Louis, September 30, 1804.

We, the President and Secretary, being duly elected, do certify that the above and within named deputies, are returned as legally elected from the different districts to which they belong, and whose credentials are deposited among the records of a General Assembly, held and begun the 13th of this month, and ending this day, which General Assembly was held for the purpose of taking into consideration some grievances which were supposed to exist, and to make remonstrances and petitions against the same, to the General Government, agreeably to constitutional law.

P. PROVENCHERE, *Secretary.*

CHARLES GRATIOT, *President.*

St. Louis, September 30, 1804.

I, Amos Stoddard, captain in the corps of the United States' artillerists, and first civil commandant of Upper Louisiana, do by these presents certify, that Charles Gratiot and Peter Provenchere, Esqs., are personally known to me as respectable inhabitants of this district, and that their signatures as President and Secretary at the bottom of the preceding instrument of writing, intended to be presented to the Congress of the United States, are the true signatures of those gentlemen, and that respect ought to be paid to what they affirm.

AMOS STODDARD,  
*Captain, first civil commandant, Upper Louisiana.*

[Document in the French language, accompanying a representation and petition of the Representatives elected by the freemen of the territory of Louisiana, presented the 4th January, 1805.]

[TRANSLATION.]

St. Louis, November 2, 1804.

Summary of the quantity of land granted in the district of Louisiana, from its establishment to this date, the documents of which are lodged in the surveyor's office.

Lands given up by Messrs. St. Ange, Le Fevre, and Labussiere, under the French Government,	5,710 60
Lands given up by the Spanish Lieutenant Governors:	
By Don Pedro Piernas, - - - - -	940
Don Francisco Cruzat, - - - - -	740
Don Francisco de Leyba, - - - - -	2,800
Don Francisco Cruzat, - - - - -	32,180
Don Manuel Perez, - - - - -	4,504
Don Zenon Trudeau, - - - - -	14,985
	56,149 00
	61,859 60
Lands given up with unregistered titles, by the Lieutenant Governors, Don Zenon Trudeau and Charles Dehaul Delassus, from about the 3d of February, 1795, to the 9th March, 1804, the time of possession being taken by the authority of the United States, the originals of which are in the hands of those interested, with my certificate of survey.	
District of St. Louis, in which is comprised St. Ferdinand, Fallow Marshes, St. Andre, the point of the Missouri, &c. - - - - -	158,832 00
Left bank of the Missouri and Mississippi, comprising the establishment of St. Charles, Sioux landing, the dwellings on the river Femme Osage, ditto at Cuivres, ditto at Dardenne, &c. &c. - - - - -	421,375 66
District of Ste. Genevieve, - - - - -	90,814 86
District of New Bourbon, - - - - -	75,117 47
District of Cape Girardeau, - - - - -	59,894 89
Encampment of L'Esperance, and Ecorre à Margot, - - - - -	800 00
Titles of cessions for unsurveyed lands registered at the surveyor's office, belonging to different districts, - - - - -	168,900 00
District of New Madrid, both what is surveyed, - - - - -	1,037,594 48
And what is not surveyed, is to be given by Captain Amos Stoddard, - - - - -	110,133 00
Register of all the titles of land unsurveyed, of the district of Louisiana, ordered by Captain Amos Stoddard, - - - - -	400,845 00
	1,348,572 48



Registers made at the surveyor's office since the 1st day of October of this year, one grant,	3,500 00
A title granted by the Baron de Carondelet to M. Julien Dubue, at the Spanish mine, Meadow of the Dog, distant about three hundred miles from this city, dated 10th November, 1796, for eight leagues of land upon the river Mississippi, extending three leagues in depth.	169,344 48
Note. For the titles which may have been omitted, owing to their being neither surveyed nor registered, more or less,	200,000 00
	<u>\$1,921,416 48</u>

ANT. SOULARD, *Surveyor General of the district of Louisiana.*

5th CONGRESS.]

No. 184.

[2d SESSION.

EXTRA ALLOWANCES TO DISTRICT ATTORNEYS AND ASSISTANT COUNSEL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 15, 1805.

SIR:

TREASURY DEPARTMENT, *January 14, 1805.*

In obedience to the resolution of the House of Representatives of the 3d of March, 1804, a statement was transmitted on the 24th of March, 1804, exhibiting the payments made at the Treasury for fees to assistant counsel and for legal advice in the business of the United States.\* I have now the honor to transmit a statement of the moneys paid for similar purposes by the collectors of the customs, and the supervisors of the revenue, from the establishment of the present Government to the 31st of December, 1803.

I have the honor to be, very respectfully, sir, your obedient servant,

ALBERT GALLATIN.

The Honorable the SPEAKER of the *House of Representatives.*

\* See No. 180.



A statement of moneys which, since the establishment of the present Government, have been paid by the collectors of the customs, and the supervisors of the revenue, as fees to assistant counsel, and for legal advice in the business of the United States, distinguishing the several sums when paid, for what services, and to whom paid, respectively.

Date of payment.	By whom paid.	To whom paid.	For what services.	Amount paid by supervisors.	Amount paid by collectors.
4th quarter, 1790,	The collector of Wilmington, Del.	George Read, - -	For services previous to his appointment of attorney for the district of Delaware,	-	\$10 00
4th quarter, 1790,	Do Wilmington,	George Read, - -	Attorney for the district of Delaware, for his fees in the case United States vs. Ad. Caldwell,	-	20 00
4th quarter, 1792,	Do Savannah,	Joseph Clay, Jun. - -	For his services as counsel on the part of the libellants against seized wines,	-	20 00
1st quarter, 1793,	Do Providence,	David L. Barnes, - -	For his assistance in managing the defence against W. Arnold, &c. in the case of the brig Neptune,	-	20 00
3d quarter, 1793,	Do New York,	Richard Harrison, attorney, -	For opinions furnished the collector in relation to the revenue laws,	-	17 60
3d quarter, 1793,	Do Providence,	David L. Barnes, do -	For services in the suit against W. Arnold and brig Neptune,	-	10 00
1st quarter, 1794,	Do Providence,	Harrison G. Otis, do -	For services in the suit against W. Arnold and brig Neptune,	-	70 00
1st quarter, 1794,	Do Providence,	David L. Barnes, do -	For services in the suit against W. Arnold and brig Neptune,	-	50 00
1st quarter, 1794,	Do Providence,	Samuel Eddy, do -	For services in the suit against W. Arnold and brig Neptune,	-	12 00
3d quarter, 1794,	Do Providence,	David L. Barnes, do -	For services in the suit against W. Arnold and brig Neptune,	-	50 00
2d quarter, 1794,	Do Portland,	Silas Lee, do -	For services in causes against schooner Friendship and brig Abby,	-	8 00
3d quarter, 1794,	Do Camden,	William Hill, do -	Fees, in suit against one puncheon of rum and two barrels of sugar,	-	50 00
4th quarter, 1794,	Do Frenchman's bay,	Daniel Davis, do -	Counsel for collector, in his libel against schooner Polly and cargo,	-	30 00
4th quarter, 1794,	Do Frenchman's bay,	George Thatcher, do -	Counsel for collector, in his libel against schooner Polly and cargo,	-	30 00
4th quarter, 1794,	Do New York,	Richard Harrison, do -	Opinions in writing on certain cases in the cause of the schooners Prince and Liberty and cargo,	-	65 40
4th quarter, 1796,	Do Philadelphia,	William Rawle, do -	Opinions on certain cases, and costs of suit,	-	119 00
1st quarter, 1797,	Do Newport,	A. Giles, marshal, - -	Fee paid district attorney in case United States against brig Enterprise,	-	25 00
1st quarter, 1797,	Do Newport,	L. Channing ax. W. Channing,	Late attorney district of Rhode Island, for his fees in various suits,	\$420	
			And for legal advice given the collectors of Newport and Providence, in relation to the duties of their office,	100	
					520 00
2d quarter, 1797,	Do Wilmington, Del.	George Read, attorney, -	For his fees and opinions in sundry cases,	-	109 35
2d quarter, 1797,	Do Berm'da Hundr'd	John Marshall, do -	For his opinion in the case of an emancipated slave,	-	10 00
2d quarter, 1797,	Do Berm'da Hundr'd	Edmund Randolph, do -	For his opinion in the case of an emancipated slave,	-	5 00
4th quarter, 1797,	Do Charleston,	Thomas Parker, do -	Fee for his services in the business of the wharf owners,	-	30 00
2d quarter, 1798,	Do Philadelphia,	William Rawle, do -	For his services in two suits, and legal opinion concerning bonds,	-	48 00
2d quarter, 1798,	Do Wiscasset,	Silas Lee, do -	For advice, libel, managing, and arguing a cause against schooner Hero,	-	60 00
4th quarter, 1798,	Do Newbern,	William Hill, do -	For his fees in four suits,	-	100 00
4th quarter, 1798,	Do Wilmington, Del.	James A. Bayard, do -	For assisting in prosecuting a suit against the cargo of brig Gratitude,	-	50 00
1st quarter, 1799,	Do Penobscot,	Daniel Davis, do -	For arguing a cause, the United States vs. Jonathan Larabee,	-	10 00
1st quarter, 1799,	Do Penobscot,	Silas Lee, do -	For his fees in the cause, United States vs. sloop Friendship,	-	80 00
1st quarter, 1799,	Do Penobscot,	Isaac Parker, do -	For cash paid by him to T. Parsons and W. Tudor, Esqrs., for their advice respecting sloop Friendship,	\$40	
			And for drawing libel against John Bonner,	10	
					50 00
1st quarter, 1799,	Do Penobscot,	John Lowell, Jun. do -	For his services in the cause United States vs. schooner Friendship,	-	10 00
2d quarter, 1799,	Do Philadelphia,	William Rawle, do -	For compensation for his own services, and assistant counsel employed by permission, in trying the information filed against brig Express and cargo,	-	300 00
3d quarter, 1799,	Do Philadelphia,	William Rawle, do -	For compensation for trying information filed against brig Amiable Adde,	-	50 00
3d quarter, 1799,	Do New London,	Pierpont Edwards, do -	For his fees in two suits against seized sugars, &c.	-	60 00
4th quarter, 1799,	Do Philadelphia,	William Rawle, do -	For his compensation in trying information against schooner Neptune,	-	40 00
2d quarter, 1800,	Do Penobscot,	Silas Lee, do -	For attendance and managing the libel against sloop Speedwell,	-	53 00
2d quarter, 1800,	Do Penobscot,	Daniel Davis, do -	For his services in aid of same suit,	-	20 00

## STATEMENT—Continued.

Date of payment.	By whom paid.	To whom paid.	For what services.	Amount paid by supervisors.	Amount paid by collectors.	
2d quarter, 1800,	The collector of Penobscot,	Isaac Parker, attorney,	For advice respecting seizure of sloop Speedwell,	-	20 00	
4th quarter, 1800,	Do Biddeford,	John Davies, do	For his fee on John Blunt's writ of error on action for penalty,	-	20 00	
1st quarter, 1801,	Do Boston,	John Davies, do	For counsel fees on the libel <i>vs.</i> nine bales of goods,	-	30 00	
3d quarter, 1801,	Do Wilmington, Del.	George Read, do	For his fees, instituting, prosecuting, and trying an action for debt, for penalties brought in behalf of the United States <i>vs.</i> John E. Forrester, master of brig Mentor, the mate, and James Gaw, a passenger, for unlading part of the cargo without authority,	-	70 00	
3d quarter, 1801,	Do Wilmington, Del.	James A. Bayard, do	For counsel fee on the prosecution U. States against 17 gold watches, and for services in the suit of the U. States against Ben. Le Compte, the claimant of said watches, for a penalty, &c.	-	50 00	
3d quarter, 1801,	Do Wilmington, Del.	C. A. Rodney, do	Counsel fee and services in the above suit,	-	50 00	
1st quarter, 1793,	The supervisor of Delaware,	Nicholas Ridgeley, do	For opinions furnished the supervisor in relation to the excise laws,	\$15 00		
		Joseph Miller, do				
		William Perry, do				
4th quarter, 1798,	Do New York,	Richard Harrison, do	For his opinion in writing on three questions proposed by the supervisor,	8 00		
2d quarter, 1799,	Do North Carolina,	William Duffy, do	His fee in defending a suit brought against the supervisor by James Patterson, at the court for Hillsborough district,	24 00		
4th quarter, 1799,	Do Virginia,	James Ross, do	Fee in defending Z. Biggs, collector in Ohio county, in suit by W. Buchanan,	50 00		
4th quarter, 1799,	Do Virginia,	Henry Purviance, do	Fee in defending Z. Biggs, collector in Ohio county, in suit by W. Buchanan,	23 33		
4th quarter, 1799,	Do Virginia,	John Relf, do	Fee in defending Z. Biggs, collector in Ohio county, in suit by W. Buchanan,	23 33		
2d quarter, 1800,	Do Virginia,	Edward Jordan, sheriff,	Of Lunenburg county, for counsel's fees paid by him in relation to supposed violations of stamp act,	23 33		
					166 99	
					<u>\$2,619 34</u>	

NOTE.—The collector of New York (Joshua Sand) charges, in his account ending July 19, 1801, the sum of \$267 31, fees paid to Richard Harrison, district attorney, which is suspended by the accounting officers of the Treasury.

The payments made by the supervisor of Pennsylvania having been already exhibited in statement B, accompanying a communication from the Secretary of the Treasury to the Speaker of the House of Representatives of the 24th of March, 1804, in compliance with a resolution of the House of the 3d of same month, is not included in the above.

Amount of said statement B,	-	-	-	-	\$210 00
Suspended in statement B,	-	-	-	-	216 00
Supervisors' payments above,	-	-	-	-	166 99
					<u>592 99</u>
Amount of payments by collectors, as above,	-	-	-	-	2,452 35
Amount suspended, per note,	-	-	-	-	267 31
					<u>2,719 66</u>

Total paid by collectors and supervisors, \$3,312 65

TREASURY DEPARTMENT, REGISTER'S OFFICE, *January 12, 1805.*

I do certify that the foregoing statement exhibits all the payments which have been made by the collectors of the customs and the supervisors of the revenue, from the commencement of the present Government to the 31st of December, 1803.\*

\* Excepting the following accounts, which have not been adjusted at the Treasury: The collector of Portland, from the 1st of April to the 5th of May, 1803. The supervisor of Pennsylvania, from the 1st of August, 1802. The supervisor of the northwest district, from 1st July, 1802.

JOSEPH NOURSE, *Register.*

8th Congress.]

No. 185.

[2d Session.]

## DISTRICT OF COLUMBIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 22, 1805.

*To the Senate and House of Representatives of the United States: The memorial of delegates appointed by various sections of the District of Columbia respectfully represents:*

That their constituents, at the commencement of the present session, with a view to ascertain the general opinion on such objects as might require the interposition of Congress, and which, by being presented in one view, might supersede numerous petitions on subordinate points, so apt to distract the attention and unnecessarily consume time claimed by national concerns, empowered your memorialists to take into consideration the situation of the District, and submit whatever, in their opinion, its welfare required.

Your memorialists accordingly met at an early period and made considerable progress in the business confided to them, when their deliberations were arrested by the propositions offered for a re-session of the District. As soon as a decision was made upon them your memorialists resumed their sittings, and now embrace the earliest opportunity in their power of inviting the attention of the Legislature to the results of their deliberations. In submitting these they beg leave to state that they have refrained from noticing any objects, an attention to which is not, at the present time, of indispensable importance to the interests of the District.

The object which, from its superior interest, first engaged their attention, is the administration of justice. By a recurrence to the laws of Congress it appears that, in organizing the judiciary system of the United States, fees were allowed to the officers of the courts established in the respective States equal to those allowed in the supreme courts thereof, with an addition of one-third, together with other emoluments. The reason of this liberal allowance was doubtless the high grade of suits generally carried before those tribunals, and the great extent of country they embraced. When Congress assumed jurisdiction over this small Territory, the same fees, it is presumed from inadvertence, were allowed to the officers of the circuit court of the District of Columbia as those allowed in the other circuits. Previous to this time, that portion of the District, which at present forms the county of Washington, was charged with fees similar in amount to those paid in the county courts of Maryland; and that portion, which now forms the county of Alexandria, was charged with the same fees as those paid in the county courts of Virginia. By this provision the fees have been increased in some instances to double, and in other instances to three times the amount paid under the States to which the portions of the District were attached. Local and peculiar circumstances, so far from creating any reason for this augmentation, strongly enforce a diminution. Among these are:

The small size of the District;

Its compact population;

The increased number of suits before the circuit court from the extension of its cognizance to controversies for sums exceeding twenty dollars, the greater part of which arise between tradesmen and mechanics in moderate circumstances.

Without going into detail, it may be proper to state, that, where the defendant immediately on being served with writ satisfies the demand against him, the costs are seldom less than ten dollars; that, in a suit where the debt is not contested, but which is carried into court solely for delay, the costs amount to thirty-three dollars, even in cases where the debt does not exceed twenty-one dollars. In the case of an appeal from the decision of a magistrate on a demand of thirteen dollars, which was reversed by the court, the costs incurred by the defendant amounted to about one hundred and thirty dollars, nearly one-third of which was in compensation to witnesses.

Your memorialists need scarcely, after the statement of these facts, and the mass of corroborating facts herewith submitted, say, that the existing system presses with a weight upon the District that threatens in a short time to destroy the industry of the honest citizen or drive him from it. In order to remove these evils, your memorialists pray a reduction of the fees of the officers of the circuit court, in the county of Washington, to the rates payable to the officers of the county courts of Montgomery and Prince George's, in the State of Maryland, at the time of the assumption of the jurisdiction by Congress; and of those of the officers of the circuit court in the county of Alexandria to the rates payable to the officers of the county court of Fairfax, in the State of Virginia, at the same period.

It is respectfully submitted whether the impartial administration of justice does not require the repeal of so much of the act of Congress, entitled "An act additional to, and amendatory of, an act concerning the District of Columbia," as repeals the act providing for the compensation of the justices of the peace thereby created; and as directs execution on magistrates' judgments to issue from the clerk's office, and allows him a compensation therefor; and likewise so much thereof as relates to the compensation of jurors in the county of Washington; which repeal, your memorialists have no hesitation in saying, will give general satisfaction to their constituents.

Experience having proved the existence of various defects in the militia system, it is recommended as the means of obviating them, and of rendering the system more acceptable to the inhabitants of the District, that it be so altered as to reduce the number of musters from eight, as now directed to be held, to five; that is, three musters in company, one in battalion, and one in legion; to reduce the number of courts for assessing fines from six, as now directed to be held, to four; that is, two battalion and two legionary courts; to make the persons of delinquents liable to arrest and imprisonment, not exceeding twenty-four hours, for each day's non-attendance, where property is not shown whereon to assess the fines; and to devolve the collection of fines on the marshal of the District, as practised in the first instance, instead of collectors appointed by military courts, as is now the case.

Your memorialists further request that validity may be given in the District of Columbia to letters testamentary and of administration, granted in any part of the United States, in which the testator or intestate resided at the time of his death; and that owners of slaves residing within the District may be permitted to remove them from time to time from one county thereof to the other, without incurring any penalty or forfeiture.

Inconveniences having arisen from the want of competent authority, to lay out and keep in repair roads within the county of Washington, it is requested that adequate provision be made for this interesting object.

Your memorialists are duly impressed with the lateness of the period of their application, and its possible interference with an attention to objects under the consideration of Congress; but they are likewise impressed with a belief that a sincere disposition exists to promote the general interests of the District, and so far as they can be ascertained, to consult the wishes of its inhabitants; having, however, made no request, not dictated by considerations of great weight, and justified by a regard for the interest of their constituents, they entertain the hope that their representation will obtain the early attention of Congress.

JANUARY 18, 1805.

C. CONINGHAM, *President*,  
N. KING, *Secretary*.

The committee appointed on the 19th November, 1804, to whom was referred a resolution directing certain inquiries to be made respecting the administration of law, and the fees allowed to the officers of the district court, offer the following report as the result of their labors:

They have, from Herty's Digest of the Laws of Maryland, ascertained the fees payable to the clerks of the county courts of the State, and reduced them from tobacco to the currency of the United States, (in paper marked A.)

They have, also, from the same source obtained the fees payable to the sheriffs in Maryland, in the money of the United States, (in paper marked B.)

They have, from the law of Congress, chap. 125, sec. 1, passed on the 28th February, 1799, made an extract, (C.) of the fees allowed to the marshal; which they have also entered in paper B, for the purpose of making the comparison between them, and the fees received by the sheriffs of Maryland for similar services.

They have from the same law, ascertained the fees of the clerk of the district court, (in extract D.) These are entered, where for similar services, in the paper A, for the purpose of comparing the compensation of clerk of the district court with the clerks of the county courts of Maryland.

The paper marked E shows the number of suits on the docket, at each court or term since the establishment of the county court for the county of Washington; from this it will appear that at the three courts holden in 1801, quarter yearly, there were 763 appearances, 384 imparlances, 193 trials, 8 appeals, and 71 criminal cases. At the three courts held in 1802, two of which were quarter yearly, and the third six months thereafter, there were 1,119 appearances, 657 imparlances, 746 trials, 23 appeals, and 96 criminal cases. At the two half-yearly courts holden in 1803, there were 880 appearances, 723 imparlances, 462 trials, 17 appeals, and 93 criminal cases. That at the July term in 1804, there were 467 appearances, 316 imparlances, 267 trials, 7 appeals, and 65 criminal cases.

Desirable as it is your committee cannot obtain "the nature and amount of those suits, with the expenses attending them, and the sums recovered," without paying a large sum in fees to the clerk of the court for searches, &c. or they would willingly have taken on themselves the labor of extracting all the information which the documents would afford. Nor can they, from the same causes, obtain the facts relative to cases of insolvency, and which might throw light upon their causes, and show how far it is through the instrumentality of the judiciary establishment of the District that they occur.

The number of criminal cases which appear on the docket may be averaged at about ninety in each year, but the committee have not been able to ascertain the amount of fines imposed.

The marshal has been obliging enough to furnish the committee with (F) the amount of compensation paid to grand and petit jurors at March term, 1802; it being \$711 75 cents. One of the committee being referred to the marshal's office, from the clerk's, for this information, took the liberty of asking other information at the same time, which it was supposed might be obtained from that source (G.) The application was made to the deputy marshal at the office, as accident rather than design had led him there. Although unable to obtain the facts wanted, the committee believe the disposition lay with the marshal and deputy, to furnish any information in their possession; but not having complete returns of fees, judgments, &c. in the office, they could not satisfy the inquiries of the committee.

From a professional gentleman your committee have obtained the following information on the subject of uncontested claims: "That where the defendant is served with a writ, provided he immediately pays the debt, the costs are seldom less than ten dollars." And that the expenses attendant on a suit in the circuit court of the District of Columbia, in Washington county, on a debt of twenty-one dollars, where the defendant does not deny it, but only wishes to obtain time by carrying it into court, are nearly as follows: The plaintiff's costs, seventeen dollars sixteen cents, and the defendant's, seven dollars thirty-seven cents, being twenty-four dollars and fifty-three cents incurred to the time of judgment. On execution issuing to the clerk and marshal for issuing, poundage, serving *feri facias*, swearing appraisers, &c., a further expense of about seven dollars ninety-seven cents will be incurred; making, in all, the sum payable by the defendant to be about fifty-four dollars and forty-nine cents, instead of the original debt of twenty-one dollars! (I.)

The committee have not succeeded in their endeavor to ascertain the expense of a suit where an average number of witnesses were summoned, and the proceedings are protracted by appeal, delay, &c., but as an illustration of the effect of these principles, in a case not pursued to the extremity, they refer to the statement H, given by a citizen of Washington, of the expense he was involved in, by defending himself against what he considered as a gross imposition, and where he was supported in the belief by a previous adjudication. A claim of thirteen dollars was tried before a magistrate, and judgment given in favor of the defendant. The plaintiff by appeal carried the cause into court; about four witnesses were examined; the judges determined on the appeal, reversed the decision of the magistrate, and the defendant had to pay about one hundred and thirty dollars.

At the first establishment of the court, the legal appearance fee of an attorney was fixed at ten dollars. This was, however, at one of the succeeding terms reduced to six dollars and sixty-seven cents, at which sum it now stands.

On reviewing the information thus obtained, it has suggested certain observations, which the committee deem it proper to submit to the consideration of the delegation. The sudden transition from the economical county courts of the State of Maryland to the more dignified judiciary system given to the District, however flattering to our vanity, is not calculated to give satisfaction to those whom necessity impels into its vortex, or who take into view our real situation. For notwithstanding the per diem allowance to the marshal, and the clerk of the court, we find their fees vastly more than the State officers received. By a comparison of the fees allowed to our federal officers, with those paid to the officers of the county courts of Maryland, it appears that the clerk of the court receives about two hundred and fifty per cent. advance; and the marshal's fees are nearly double what the sheriff of Maryland used to receive. This great increase of compensation can scarcely have been dictated by considerations of our local situation, for, in a district only ten miles square, and where the population is more collected than usual in counties of a State, it cannot be supposed that additional labor would be imposed on the clerk, or on the marshal in the discharge of his duty; the reason of the case seems to point to a contrary conclusion. The circumstance of this District being established as the seat of the General Government, must increase its population by the removal of strangers into it, many of whom will be tradesmen and mechanics, whose small debts will constitute a large proportion of the business of the courts, and on whom this increase of expense in prosecuting their claims must operate with peculiar hardship. If, on the other hand, these fees were given under the expectation, that from the smallness of the counties in the District few suits would be instituted, and that the compensation of the officers ought therefore to be increased to enable them to live, the result seems to show that expectation was erroneous; as, either from the extension of the jurisdiction to sums of twenty dollars, or the description of the inhabitants, the Washington county docket must afford a reasonable portion of business.

The great labor, and perhaps impossibility of procuring all the facts relative to the expense of prosecuting, and the amount recovered, has prevented the committee from obtaining an accurate statement; yet from the docket



out of the sight of the marshal and his deputies during the morning of the day when they ought to be attending to their business, lest they be summoned on the jury for the day: and the marshal is obliged to take those whom chance or design has thrown in his way; and they are sometimes travellers, strangers to our habits, our manners, and our laws; who serving against their will may be more anxious to be discharged than solicitous to do justice.

The inconveniences felt from the operation of that portion of the law which prohibits imprisonment for debts under twenty dollars, arise in a great measure from our peculiar local situation. Subject to an influx of strangers by the buildings going on, and the vessels of the United States discharging their seamen in this city, debts of this description to a very considerable amount are contracted by single men with our citizens: many of these contemplating but a transitory residence, and finding the operation of this law, have the dishonesty to avail themselves of it, although they possess sufficient to discharge their debts; and instances of this kind of robbery, aggravated by insult, are not infrequent. Enemies as your committee are to every thing tyrannical in the execution of the law, they are induced to believe, that the effect of this indulgence is neither favorable to humanity nor justice; that it is more an introduction to dishonesty than a provision of humanity in favor of the unfortunate: for few indeed have been the instances of committing a father of a family to prison for a small debt. The law, however, now favors the idle vagabond, shakes the confidence which ought to exist among our citizens, and in many instances is supposed to prevent that lenity and indulgence to the unfortunate, and those having families, which they formerly received. When the confidence of the citizen has been several times abused, he will of necessity withdraw it from others, and the innocent will suffer from the injustice of the depraved.

The committee, therefore, recommend the passing of the following resolution, as declaratory of the sense of the delegation on the subject of the foregoing report:

*Resolved*, That in the opinion of the delegates of the district of Columbia the repeal of so much of the act of Congress, entitled "An act additional to, and amendatory of, An act concerning the District of Columbia, as repeals the law providing for the compensation of justices of the peace thereby created," would be just, proper, and beneficial to the county of Washington; as would also, the repeal of so much of the fourth section of said act as directs executions on magistrates' warrants to issue from the clerk's office, and allows the clerk a fee therefor.

DANIEL REINTZEL,  
NICHOLAS KING.

(A.)

Clerk's fees.

Services rendered.	In county courts of Maryland.	In district court of Columbia.
Issuing writ and return,	\$0 16 $\frac{1}{2}$	\$0 26 $\frac{1}{2}$
Filing every declaration, if not recorded,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
A copy, if demanded, per side,	0 6 $\frac{1}{2}$	0 8 $\frac{1}{2}$
Every appearance entered, of either party,	0 6 $\frac{1}{2}$	0 13
Entry of every imparlance,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
For every continuance or reference, to be charged on plaintiff only,	0 5	0 8 $\frac{1}{2}$
Every subpoena, including all persons applied for at the same time,	0 10	0 26 $\frac{1}{2}$
Rule to plead, or trial moved for and entered,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
For making up issue or issues, in every suit, when done by the clerk,	0 10	0 40
Entering and signing judgment,	0 25	0 57
A <i>venire facias</i> for jurors, if issued by order of court,	0 10	0 35 $\frac{1}{2}$
Entering the pannel,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
Copy pannel,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
Taxing and signing bill of costs,	0 8 $\frac{1}{2}$	0 17 $\frac{1}{2}$
Copy thereof, if demanded with the articles at large,	0 8 $\frac{1}{2}$	0 17 $\frac{1}{2}$
Issuing execution and filing the same, without any charge for copy of judgment,	0 16 $\frac{1}{2}$	0 31
For filing every special bail taken in or out of court,	0 3 $\frac{1}{2}$	0 17
A writ of inquiry of damages, per side,	0 6 $\frac{1}{2}$	0 17 $\frac{1}{2}$
For entering an appeal,	0 6 $\frac{1}{2}$	0 17 $\frac{1}{2}$
Return of <i>certiorari</i> or <i>habeas corpus</i> , and copy of record, per side,	0 6 $\frac{1}{2}$	0 17
Entering a writ of error,	0 6 $\frac{1}{2}$	0 22
Every oath taken in court,	0 5	0 8 $\frac{1}{2}$
Proving a deed or writing,	0 6 $\frac{1}{2}$	-
For entering <i>feri facias</i> , per side,	0 6 $\frac{1}{2}$	0 17
The same fee in <i>eligitis</i> ,	0 6 $\frac{1}{2}$	0 17
Recording the marks of cattle or hogs,	0 5	-
Recording a conveyance, per side,	0 6 $\frac{1}{2}$	0 17
Allowance of <i>habeas corpus</i> ,	0 6 $\frac{1}{2}$	0 17
For all searches, the <i>first year nothing</i> .	-	-
For all searches above one year, if found,	0 16 $\frac{1}{2}$	0 31
If copy taken, then per side,	0 6 $\frac{1}{2}$	0 17
Every <i>fi. fa.</i> , per side, without any charge for search or copy of judgment,	0 6 $\frac{1}{2}$	0 17
Short copy judgment, if expressly demanded,	0 16 $\frac{1}{2}$	0 35 $\frac{1}{2}$
Attachment and <i>feri facias</i> ,	0 30	0 57
<i>Habeas corpus</i> , and filing the same and return,	0 3 $\frac{1}{2}$	0 48 $\frac{1}{2}$
<i>Duces tecum</i> and return, per side,	0 66 $\frac{1}{2}$	0 17
Taking security or condemnation, entering action agreed, discontinued, struck off, or abated,	0 3 $\frac{1}{2}$	0 4 $\frac{1}{2}$
Commission to examine evidences and return, per side,	0 6 $\frac{1}{2}$	0 17
A continuance or reference to be charged to plaintiff only,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
For filing every special plea,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
If recorded, per side,	0 6 $\frac{1}{2}$	0 8 $\frac{1}{2}$
For filing every replication,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
For filing rejoinder, sur-rejoinder,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
And for every other pleading, for making up issue for each,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
For filing demurrer, and rejoinder in demurrer,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
For filing every account,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
For recording or copying generally,	0 6 $\frac{1}{2}$	0 17 $\frac{1}{2}$
For entering return of every writ or other process,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
For filing every other paper,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
For every rule by order of court,	0 3 $\frac{1}{2}$	0 8 $\frac{1}{2}$
	\$3 45	\$8 16 $\frac{1}{2}$

The above table of the fees of the clerk of the county courts of Maryland is taken from Herty's Digest of the Laws, and the tobacco fees there allowed are reduced into cents, or the currency of the United States. The corresponding fees of the clerk of the district court of Columbia are taken from the fee-bill of the general court of Maryland in the same work, and one-third added thereto, agreeably to the law fixing the fees of the officers of the district courts of the United States. These are also reduced from tobacco, as kept in Maryland, to the currency of the United States, as more familiar to citizens of other States. The amount of each column is taken as a mean of comparison of the fees paid to the clerk while we remained subjected to Maryland, with those now imposed by the United States, making about 250 per cent. advance.

By the act of Congress fixing the fees, passed the 28th February, 1799, an additional compensation of five dollars a day during the courts, and ten cents a mile travelling to them from his residence is allowed.

*Cryer's fees.*

For what services.	County court, Maryland.	District court, Columbia.
Swearing every jury, - - - - -	\$0 60	\$2 35
Swearing every bailiff, - - - - -	0 6 $\frac{2}{3}$	0 22 $\frac{2}{3}$
Every other oath, - - - - -	0 5	0 11
For special bail, - - - - -	0 33 $\frac{1}{3}$	1 19 $\frac{2}{3}$
Clearing every prisoner by proclamation, if required, - - - - -	0 50	1 33 $\frac{1}{3}$
Recording every recognizance, - - - - -	0 26 $\frac{2}{3}$	0 44 $\frac{2}{3}$
	\$1 81 $\frac{2}{3}$	\$5 55 $\frac{2}{3}$

The above fees are made out in the same manner and rates as in the preceding table of clerk's fees.

Instead of the above fees, the cryers in the United States and bailiffs are to have two dollars a day by act of 28th February, 1799.

(B.)

*The marshal's fees, under the acts of Congress.*

For what services.	Sheriff's fees in Maryland, being the marshal's fees where others are not fixed.	Sheriff's fees, where others have been given to the marshal.	The marshal's fees, where they differ from those of the sheriff.
Serving a writ and return, - - - - -	\$0 45	\$0 45	\$2 00
Taking bail-bond, - - - - -	0 22	0 22	0 50
Collecting officers' fees, 6 per cent.			
For every commitment and releasement, - - - - -	0 26 $\frac{2}{3}$	0 26 $\frac{2}{3}$	0 50
Empannelling a jury, - - - - -	1 50		
Serving <i>feri facias</i> , including persons summoned, - - - - -	0 38 $\frac{2}{3}$	0 38 $\frac{2}{3}$	2 00
Serving citation, - - - - -	0 38 $\frac{2}{3}$	0 38 $\frac{2}{3}$	0 50
Executing a warrant of survey, per day, - - - - -	1 25		
Summoning evidences to prove the bounds of land, each, - - - - -	0 38 $\frac{2}{3}$	0 38 $\frac{2}{3}$	0 50
If empowered to swear evidences, for each person, - - - - -	0 16 $\frac{2}{3}$		
Serving a subpoena and return, - - - - -	0 38 $\frac{2}{3}$	0 38 $\frac{2}{3}$	0 50
For keeping a prisoner in gaol, and finding him victuals, per day, - - - - -	0 20		
Serving a writ of possession in ejectment and return, - - - - -	1 86	1 86	2 00
Serving an ejectment and return, - - - - -	0 85	0 85	2 00
Serving an attachment and return, - - - - -	0 63 $\frac{1}{3}$	0 63 $\frac{1}{3}$	2 00
Serving a writ of <i>estrepement</i> and return, - - - - -	1 25	1 25	2 00
Serving <i>ne execat</i> and return, - - - - -	3 33 $\frac{2}{3}$		
Serving a copy of declaration, or short note, - - - - -	0 06 $\frac{2}{3}$		
Summoning appraisers, each, - - - - -	0 38 $\frac{2}{3}$	0 38 $\frac{2}{3}$	0 50
Swearing the same, for every oath, - - - - -	0 16 $\frac{2}{3}$		
Serving an attachment on judgment, or execution and return, - - - - -	0 13 $\frac{1}{3}$	0 13 $\frac{1}{3}$	2 00
Executing a writ <i>ad quod damnnum</i> , &c., per day, - - - - -	1 25		
Empannelling a jury on the same, - - - - -	3 00		
Swearing them, for every oath, - - - - -	0 16 $\frac{2}{3}$		
Taking an inquisition, and returning the same with the writ, - - - - -	1 25		
Serving a writ of restitution and return, - - - - -	1 86 $\frac{2}{3}$	1 86 $\frac{2}{3}$	2 00
Empannelling a jury to inquire of forcible entry, &c. - - - - -	3 00		
For each person summoned as an evidence, - - - - -	0 38 $\frac{2}{3}$	0 38 $\frac{2}{3}$	0 50
For summoning chain-carriers, each, - - - - -	0 38 $\frac{2}{3}$		
For swearing chain-carriers, each oath, - - - - -	0 16 $\frac{2}{3}$		
For an arrest on warrant and return in criminal cases, - - - - -	0 30		
For serving <i>duces tecum</i> , and return, - - - - -	0 30		
Return on an attachment, when mesne process, - - - - -	0 13 $\frac{1}{3}$		
For laying an attachment in any garnishee's hands, for each garnishee, - - - - -	0 38 $\frac{2}{3}$		
For goods and chattels which are taken on attachment, the same fees as chargeable in execution. - - - - -			
Returning <i>feri facias</i> , or replevin, each, - - - - -	0 13 $\frac{1}{3}$		
The same fees upon a <i>fi. fa.</i> or replevin as on attachment; also, the same fees on appraisement and sale of goods distrained and sold for rent. - - - - -			
Serving writ of <i>retorno habendo</i> and return, - - - - -	1 25	1 25	2 00

## MARSHAL'S FEES—Continued.

For what services.	Sheriff's fees in Maryland, being the marshal's fees, where others are not fixed.	Sheriff's fees, where others have been given to the marshal.	The marshal's fees, where they differ from those of the sheriff.
Serving writ of <i>distringas</i> and return, - - -	\$1 25	\$1 25	\$2 00
Serving a return of <i>eligiti</i> or <i>liberati</i> , - - -	1 25	1 25	2 00
Empannelling a jury on <i>eligiti</i> or extent, - - -	3 00		
For swearing the same, each, - - -	0 16 $\frac{2}{3}$		
Serving writ of restitution, - - -	1 86 $\frac{2}{3}$	1 86 $\frac{2}{3}$	00
Summons in partition for every person summoned and return, - - -	0 38 $\frac{2}{3}$	0 38 $\frac{2}{3}$	0 50
Serving writ of partition and return, - - -	0 38 $\frac{2}{3}$	0 38 $\frac{2}{3}$	2 00
Empannelling jury thereon, - - -	3 00		
Swearing the jury, each, - - -	0 16 $\frac{2}{3}$		
Attendance, per day, - - -	1 25		
Serving an attachment in partition and return, - - -	1 50	1 50	2 00
Returning inquiry of damages, - - -	1 25		
Empannelling jury thereon, - - -	3 00		
Swearing the jury, each, - - -	0 16 $\frac{2}{3}$		
Attendance, per day, - - -	1 25		
Proclamation of rebellion and return, - - -	1 50		
Serving with, and return, - - -	1 25	1 25	2 00
And the same fees allowed as in replevins. .			
		\$18 99	\$34 00

The fees in the foregoing table are all reduced from tobacco into the currency of the United States. From this it will appear that in those cases where the marshal's fees differ from the sheriff's, they are nearly doubled, and that they are what constitutes the principal duties of his office; and that the marshal has, in addition, five dollars per day for attending court, and four dollars for summoning the grand jury.

These fees are from Herty's Digest of the Laws of Maryland and the United States.

## (C.)

*Marshal's fees, by act of Congress, February 28, 1799, chapter 125, section 1.*

For the service of writ, warrant, attachment, or process, for each person so named, - - -	\$2 00
For his travel in serving, per mile, - - -	0 05
For each bail-bond, - - -	0 50
For summoning witnesses or appraisers, each, - - -	0 50
For every commitment or discharge of a prisoner, - - -	0 50
For every proclamation to the admiralty, - - -	0 30
For sales of vessels or other property, under 500 dollars, 2 $\frac{1}{2}$ per cent.; over that, 1 $\frac{1}{2}$ per cent.	
Summoning a grand jury, - - -	4 00
For attending circuit court, per day, - - -	5 00

For all other services not herein enumerated, except as shall be hereafter provided, such fees and compensations as are allowed in the supreme court of the State where such services are rendered.

## (D.)

*Clerk's fees of a circuit and district court. Act of the United States, passed February 28, 1799, chapter 125.*

"The same fees as are allowed in the supreme court of said State, with an addition thereto of one-third of the same fees; and five dollars per day for his attendance at any circuit or district court, and at the rate of ten cents per mile from the place of his abode."

By the same act the criers and bailiffs are allowed two dollars per day.



## (E.)

A statement of suits on the several dockets, C. C. District Columbia, Washington county, exclusive of capital offences.

Terms.	Appearances.	Imprl.	Trials.	Appeals.	Criminals.
June term, 1801, - - -	200	-	-	-	3
September term, " - - -	300	195	-	4	32
December term, " - - -	263	189	193	4	36
	763	384	193	8	71
March term, 1802, - - -	272	146	329	7	27
July term, " - - -	386	235	216	8	24
December term, " - - -	461	276	201	8	45
	1,119	657	746	23	96
July term, 1803, - - -	514	331	245	11	61
December term, " - - -	366	392	217	6	32
	880	723	462	17	93
July term, 1804, - - -	467	316	267	7	65

The number of appearances is the number of suits brought, including as well those not served as those which are served. And the subsequent courts include the appearances of the former courts not executed.

The appeals are brought forward from every court; at least such as are untried.

## (H.)

THADDY HOGAN }  
vs. }  
WILLIAM RHODES. }

Thaddy Hogan sued for the loan of a bed, while it was held for the marshal, who had attached it in consequence of judgment against Hogan. Hogan's claim was about thirteen dollars; brought before a magistrate, who gave judgment against Hogan. Hogan carried it into the court by appeal, where the judges reversed the judgment of the magistrate, and Rhodes had to pay about one hundred and thirty dollars.

Determined in July, 1803.

The above statement was made by William Rhodes to N. King, for the purpose of being laid before the delegation, on Monday, 26th November, 1804.

N. K.

## (I.)

## EXPENSES OF AN UNCONTENDED SUIT.

Estimate of expenses attendant on a suit in the circuit court of the District of Columbia, for Washington county.

A debt of \$21 00.

The instant a defendant is served with a writ, provided he immediately pays the debt, the costs are seldom less than - - - - - \$10 00

The expenses of a writ: To the clerk (which varies as the length of the pleadings vary) 465 lbs of tobacco - - - - - \$7 92  
Attorney's fee - - - - - 6 67  
Marshal for serving the writ, bail-bond and leaving copy nar. - - - - - 2 57

Plaintiff's costs - - - - - 17 16  
Defendant's costs—Attorney - - - - - 6 67  
Clerk 42 lbs - - - - - 0 70  
7 37

Thus far to the time of judgment - - - - - \$24 53

An execution issues against the defendant, debt - - - - - \$21 00  
Cost - - - - - 24 53

45 53  
Clerk's fees for issuing execution - - - - - 58<sup>2</sup>/<sub>3</sub>  
Marshal's for serving - - - - - 2 00  
Poundage, or 26. 67 - - - - - 2 00  
7½ per cent 18. 86 - - - - - 1 30  
5 30

If a *fi. fa.* add cost for swearing appraisers - - - - - 51 82  
2 67

\$54 49

*Copy of presentment by grand jury, July term 1804.*

DISTRICT OF COLUMBIA, }  
County of Washington, } July term, 1804.

We, the grand inquest of the United States for the district and county aforesaid, do on our oaths present as a grievance, *so much* of the act of Congress, entitled "An act additional to, and amendatory of, an act" entitled "An act concerning the District of Columbia," as goes to repeal certain parts of two acts of Congress, whereby compensation was allowed to justices of the peace and to jurors.

We also present, as a further grievance, the exorbitant fees allowed to the attorney general, the gentlemen of the bar, the marshal and the clerk as practised in the circuit court of said county.

The above presentment is founded on the inconsistency of requiring services of one description of persons without compensation and providing for others so liberally, as to be productive of serious injury and evil to a considerable portion of the community.

We further present as a grievance, so much of the act of Congress, as exempts the persons of debtors for sums not exceeding twenty dollars from imprisonment, and the method now exercised of summoning *daily* petit jurors.

It is respectfully solicited that the honorable court will order the above presentment to be published in the city and Georgetown newspapers, and also to have the same laid before Congress at their next session.

THOMAS CORCORAN, *Foreman.*

True copy. Test:

URIAH FORREST, *Clerk.*

8th CONGRESS.]

No. 186.

[2d SESSION.]

### EXTENSION OF PATENT AND COPY RIGHTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 22D OF JANUARY, 1805.

Mr. CROWNINSHIELD, from the Committee of Commerce and Manufactures, to whom was referred the petition of Oliver Evans, of the city of Philadelphia, submitted the following report:

The petitioner has invented many useful improvements on merchant flour mills, for which he obtained a patent, dated January 7, 1791. This patent expired on the 7th of the present month. He states that he has also made several valuable improvements on steam engines, explanations and drawings of which have been exhibited to the committee. The petitioner represents, that, owing to the great extent of the United States, and the difficulties usually attending the introduction of improvements in new countries, he has not yet been able to collect any considerable sums from his patent; and having found it necessary to impose on himself a condition not to expend in new inventions and discoveries any more than the nett profits derived from old ones, he finds himself compelled to ask for the extension of his patent right for the improvement in merchant flour mills, with a view that he may appropriate the proceeds towards completing his further inventions on steam engines, which (in his opinion) are, in their operation, from five to ten times more powerful than any others heretofore invented, in proportion to size and weight; and he avers that he has conceived still greater improvements on steam engines, (which he has not yet put in practice,) to lessen their expense, and cause them to last longer, increase their power, and diminish the consumption of fuel to about one-fourth part.

The petitioner appears to possess a mind capable of conceiving, and a strong propensity for making, new discoveries and inventions, and the greater part of his life seems to have been devoted to improvements in labor-saving machines; and, if he could be encouraged to persevere, it is highly probable his discoveries may be rendered useful to his country, and, at the same time, profitable and honorable to himself.

He is desirous that his patent may be extended for the term of seven years, without injuring those who have already purchased the right of using it; and, if this privilege could be granted, he is convinced that it would enable him to complete his other valuable discoveries, which otherwise, he apprehends, from the great expense attending them, he may be obliged to abandon or at least to delay their completion for several years.

The committee have been favorably impressed with the representations made to them by the petitioner, and would venture to recommend that his patent right for the improvement on merchant flour mills be extended seven years from the 7th instant. At the same time, the committee are aware (should the petitioner obtain the extension of his patent) that numerous applications will be made to Congress by other patentees for the same indulgence, and as the authors of books, maps, and charts are allowed to renew their patents for the further term of fourteen years, and seeing no objection to a general provision calculated to meet the reasonable requests of persons who have made very valuable or important discoveries, they ask leave to report a bill on the subject.

## REVISION OF THE POLITICAL SYSTEM ADOPTED FOR LOUISIANA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 25, 1805.

Mr. JOHN RANDOLPH, from the committee to whom was referred the memorial of sundry planters, merchants, and other inhabitants of Louisiana,\* made the following report:

The grievances which have been felt by the memorialists are of a nature which your committee believe to be inseparable from those sudden transitions of Government to which late political events have subjected the inhabitants of Louisiana. By them, however, they are ascribed to a denial, on the part of the United States, of those rights and immunities to which they declare themselves entitled, in virtue of the third article of the treaty which transferred them to our dominion, and to the immediate enjoyment of which they now claim to be admitted. It is only under the torture, that this article of the treaty of Paris can be made to speak the language ascribed to it by the memorialists, or countenance for a moment that charge of breach of faith, which they have conceived themselves justified in exhibiting against the Government. By that article it is stipulated that "the inhabitants of the ceded Territory shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

"They shall be incorporated into the Union, and admitted—to what? To the enjoyment of all the rights, &c., of American citizens. When? As soon as it can be done in conformity with the principles of the federal constitution; meanwhile they are to be protected, &c."

Could any doubt be excited of the soundness of this construction of the English context, it would be instantly dissipated by a recurrence to its counterpart in the French language,† if the manifest absurdity of the concluding words of the article, which would result from an opposite interpretation, should fail to remove it. For what necessity could exist for a provision securing to the inhabitants of Louisiana the temporary enjoyment of certain minor privileges, when their *immediate* admission to all the rights of American citizens was one of the conditions on which their country was transferred to the United States by France? Whether the words "as soon as possible, according to the principles of the federal constitution," be understood to refer to any change, which, in conformity with its own principles, might at some future period be made in that instrument, or to that provision of the constitution which requires the rule of naturalization to be uniform, they are equally fatal to the claim urged by the memorialists of their right to an immediate participation of those benefits which they cannot possess in their full extent, until admitted to their enjoyment by the principles of the constitution. The imputation, therefore, of a want of good faith in the Government of the United States is not more unsupported by the language of the third article of the treaty of Paris than it is repugnant to the uniform tenor of the American character, from the commencement of the national existence.

But because the memorialists may have appreciated too highly the rights which have been secured to them by the treaty of cession, the claims of the people of Louisiana on the wisdom and justice of Congress ought not (in the opinion of your committee) to be thereby prejudiced. Relying on the good sense of that people to point out to them, that the United States cannot have incurred a heavy debt in order to obtain the Territory of Louisiana merely with a view to the exclusive or especial benefit of its inhabitants, your committee at the same time earnestly recommend that every indulgence, not incompatible with the interests of the Union, may be extended to them. Only two modes present themselves, whereby a dependent province may be held in obedience to its sovereign state—force and affection. The first of these is not only repugnant to all our principles and institutions of Government, but it could not be more odious to those on whom it might operate, than it would be hostile to the best interests, as well as the dearest predilections, of those by whom, in this instance, it would have to be exercised. The United States are not the property of an hereditary despot, or the rich prize of a military adventurer, whose favorites and followers may batten on the spoil of plundered provinces won by the blood and treasure of their exhausted subjects, but they form the patrimony of a free and enlightened people, who control, while they constitute the only fund from which the men and the money of which military power is composed can be drawn. It can never be the interest, therefore, of the people of the United States to subject themselves to the burthens, and their liberties to the dangers, of a vast military force, for the subjugation of others. The only alternative, then, which presents itself, is believed to be not more congenial to the feelings, than to the best interests of the Union. So long as their authority pervades the Territory of Louisiana, so long as their laws are respected and obeyed therein, your committee are at a loss to conceive how the United States are more interested in the internal government of that Territory than of any State in the Confederacy. By permitting her inhabitants to form their own regulations, the voice of discontent would be hushed, faction (if it exist) disarmed, and the people bound to us by the strong ties of gratitude and interest. The spirit of disaffection, should it be excited at any future period by ambitious and unprincipled men, would be in direct hostility to the obvious interests of the people of Louisiana, whilst the ability of the Union to repress it would remain unimpaired.

In considering this subject, the committee have not been inattentive to those forms of provincial government which have heretofore obtained in the remote territories of the United States. But they have found nothing in them worthy of imitation. The second grade, as it is termed, is of the two less liable to objection, but there are many of its features which they are unable to recommend. Their object is to give to Louisiana a government of its own choice, administered by officers of its own appointment. In recommending the extension of this privilege to the people of that country, it is not the intention of the committee that it should be unaccompanied by wise and salutary restrictions. Among them may be numbered a prohibition of the importation of foreign slaves, a measure equally dictated by humanity and policy; restrictions against the establishment of any form of Government, other than a representative republic; against violations of the liberty of conscience, the freedom of the press, and the trial by jury; against the taxation of the lands of the United States; to which may be added (for further security) that such of the laws as may be disapproved by Congress, within a limited time after their passage, shall be of no force and effect. These, however, are objects which may be embraced in any bill which the wisdom of the Legislature

\* See No. 183.

† Les habitans des Territoires cédés seront incorporés dans l'union des Etats Unis, et admis aussitôt qu'il sera possible, d'après les principes de la constitution fédérale, a la jouissance de tous les droits, avantages, et immunités des citoyens des Etats Unis, et, en attendant, ils seront maintenus et protégés," &c. Treaty of Paris, of the 30th of April, 1803, Art. III.

may see fit to pass upon the subject. They will be proper subjects of consideration after the determination of the principal question, the extension of self-government to the people of Louisiana. Your committee, therefore, submit the following resolution:

*Resolved*, That provision ought to be made by law for extending to the inhabitants of Louisiana the right of self-government.

[The following paper was subsequently presented to the House by the committee.]

After having considered with respectful attention the observations of the committee on the third article of the treaty of cession of Louisiana, we avail ourselves of the permission they have given us, to make such remarks as we conceive may be of some use towards the elucidation of the question on which is principally founded the claim of our constituents.

We have diligently and carefully examined the articles of the constitution of the United States, which have been pointed to us as having more or less relation to the present subject.

The first is the article which speaks in a direct and unquestionable manner of the admission of new States into the Union, in these words: "New States may be admitted by the Congress into this Union, &c." This article, the only one which expresses a clause respecting the admission of new States, makes no kind of restriction which can be applicable to Louisiana, and so far we find nothing that can prevent its incorporation.

The next article which has been quoted to us establishes the power of Congress to dispose of and make all needful rules respecting the Territory or other property belonging to the United States. This, we humbly conceive, has no relation whatever with the situation of the inhabitants of Louisiana, and is evidently relative only to the disposal and management of the property of the United States.

Subsequently, it has been suggested that certain rules and regulations established in the year 1787, respecting the Territory northwest of the Ohio, are applicable to us because they are considered as a part of the constitutional laws, and, consequently, must be observed with respect to Louisiana, which is to be admitted into the Union according to the *principles* of the constitution.

This observation leads to two queries: First, Is the ordinance of 1787 to be considered as a part of the *principles* of the constitution? Second, Is it applicable to Louisiana?

Without questioning whether the ordinance of 1787 ought to be considered as an integral part of the rules established by the constitution, though it appears to us extremely doubtful, we beg leave to say that it cannot be ranked among the *principles* of the constitution. The *principles* of the constitution we humbly conceive to be the fundamental laws common to all the members of the federation. This is only a local regulation, which far from having any thing to do with the *principles* of the constitution, has been made, on the contrary, for those who could not enjoy yet the rights secured by the *principles* of the constitution.

But in whatever light that ordinance may be considered, it can by no means be applicable to Louisiana. It is clearly and unquestionably limited to the Territory northwest of the Ohio; and unless it should have been stipulated afterwards in the constitution that that regulation would be applicable to any other Territory thereafter to be acquired, it must have remained a local and private rule.

On the other hand, we do not conceive what similitude can be found between our country and those territories. The Territory northwest of the Ohio, acquired by the right of war, was a vast desert almost without any inhabitants, and was the absolute property of the United States. There was no compact, no contract of any kind stipulated by any nations in favor of any population. The United States, being bound by no stipulation whatever, were at full liberty to make such government as they thought fit for that Territory. But the case of Louisiana is evidently different. It is a country which contains already a numerous population established in it since nearly one hundred years. It becomes a part of the United States by a solemn treaty, containing a positive clause in favor of its inhabitants. Now, to pretend that this engagement goes no further than applying to them the ordinances made for territories, in favor of which no stipulation existed, would be, we conceive, reducing to nothing the third article of the treaty of cession of Louisiana. That article does not stipulate that the inhabitants of the ceded Territory shall be admitted into the Union according to the acts made by Congress to regulate the rights of the inhabitants of the Territory northwest of the Ohio; it expresses, on the contrary, that the Louisianians shall be incorporated into the Union according to the *principles* (the elemental laws) of the constitution. It is, therefore, in the constitution that we must look to find on what principles the Louisianians are to be incorporated in.

Other remarks have been made by the committee tending to show that the incorporation of the inhabitants of Louisiana into the Union cannot be executed without the consent of three-fourths of the several States. Without pretending to enter into any discussion upon subjects of that magnitude, the consideration of which appertains exclusively to the sovereign body of Congress, we will take the liberty to suggest respectfully that the treaty stipulates our incorporation into the Union, that the United States have accepted that condition, and that to place it, at the present period, in the power of the individual States to refuse that incorporation, would be exposing the Federal Government to the danger of not fulfilling their promise.

After having briefly stated the principal remarks which have occurred to our memory respecting the suggestions of the committee, we beg leave to present, with all due deference and respect, our own interpretation of the third article of the treaty of cession of our country.

We consider, in the first place, that the clause, which is the ground of our claim, is a stipulation made expressly in favor of the inhabitants of Louisiana then existing, because the French Government had no right to stipulate the incorporation of the *future* citizens of Louisiana. We think that the words "as soon as possible, according to the principles of the constitution," evidently express that this incorporation is to be executed without any unnecessary delay, and that it is to take place on the same *principles* by which the constitution has regulated the rights of the individual States, and of the citizens of the United States, in relation to the federal compact. We humbly think that any interpretation tending to procrastinate the incorporation of the *present* inhabitants of Louisiana into the Union is directly opposite to the spirit of the third article of cession of our country, the object of which is unquestionably to secure that advantage to the inhabitants who are annexed to the United States by that treaty; that, consequently, any condition depending on future circumstances ought to be inadmissible, because it would expose the inhabitants, who existed in Louisiana when the treaty was made, to be kept out of the enjoyment of rights which have been stipulated for them.

Such is our opinion which we respectfully submit to the committee, praying them to accept our thanks for the permission they have given us to express our sentiments on the subject, and to make some allowance for the disadvantage under which we labor to express them in a language which is not altogether familiar to us.

L. DERBIGNY, }  
P. SAUVE, } Agents of the inhabitants  
DESTREHAN, } of Louisiana.

8th CONGRESS.]

No. 133.

[2d Session.]

## CANAL FROM THE HEAD TO THE FOOT OF THE RAPIDS OF THE OHIO RIVER.

COMMUNICATED TO THE SENATE, JANUARY 23, 1805.

IN SENATE OF THE UNITED STATES, *January 28, 1805.*

Mr. DAYTON, from the committee to whom was referred the memorial of Benjamin Hovey, in behalf of himself and his associates, reported:

That it appears from the representation of the said memorialists, that they have formed an association for commencing, and so far as in their power for completing, a work of no less magnitude than that of opening a passage for vessels of burden from the head to the foot of the rapids of the Ohio river, by a canal and locks on the west side thereof; and their prayer is, that Congress would be pleased to afford them such aid and encouragement as may be deemed commensurate to the undertaking, either by a donation of twenty-five thousand acres of land, or the privilege of a right of pre-emption to one hundred thousand acres, to be located in four several tracts within the Indiana Territory, at the same prices for which the other lands of the United States are sold, but upon more liberal terms of credit, and without demand of interest. Your committee, all of whom have personally visited, and paid some attention formerly to this difficult and dangerous part of the navigation of the Ohio, impressed with a belief of the practicability of the undertaking, of its vast benefit and importance to our whole country, especially to that part of it which is connected with the western waters, and that it must necessarily enhance the value, and greatly increase the sales of the public lands, feel no hesitation in recommending a compliance with the request of the memorialists, by either making to them a gratuitous donation, or granting a right of pre-emption on the terms and to the extent prayed for. As, however, these associates, although believed to be highly respectable in point of numbers, character, and property, have not yet been regularly organized and incorporated, your committee forbear to offer any specific proposition upon the subject, as the foundation of an act of the Legislature, believing that such a measure would be premature and improper, until those necessary preliminary steps have been taken by the memorialist and those who are or may be associated with him.

[NOTE—See further report, No. 20.]

8th CONGRESS.]

No. 139.

[2d Session.]

## APPLICATION FOR EXTENDING THE JURISDICTION OF THE CIRCUIT COURTS IN FAVOR OF ALIENS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 31, 1805.

Mr. CLAYTON, from the committee to whom was referred the petition of sundry British merchants and others, subjects of his Britannic majesty, submitted the following report:

The object of this petition is to procure an act for extending the jurisdiction of the circuit courts of the United States, so that the said courts shall have cognizance of "all cases arising under treaties," and of controversies in which an alien is a party, without restriction as to sum, though the matter in dispute, exclusive of costs, should be under the sum or value of five hundred dollars; or that some other competent tribunal, to take cognizance of such causes, be established under the authority of the United States.

The petitioners ground their application to the Legislature on the following authorities, viz:

The second section of the third article of the constitution of the United States, which establishes the judicial power of the United States.

The fourth article of the definitive treaty of peace between the United States and his Britannic majesty, wherein "it is agreed that creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money, of all *bona fide* debts heretofore contracted;" and,

The second article of the convention, made the 8th day of January, 1802, which recognizes and confirms the said fourth article of the definitive treaty.

As reasons for making this application, in support of which they have presented a view of the section of the constitution and the articles of the treaty and convention, which have been recited, the petitioners alleged "that a number of small debts are due from individuals, widely dispersed throughout the State of Virginia, to British creditors, contracted before the peace of 1783, and that for want of a tribunal, whose jurisdiction shall embrace debts of a smaller magnitude than five hundred dollars, they and their agents are exposed to much trouble, incur a heavy expense, and frequently with the eventual and entire loss of debts, supported by such documents and principles as have, in a number of similar cases, insured them a recovery in the federal circuit court. That the inferior and some of the superior courts of the commonwealth are not influenced by any uniform course of decision, so that claims resting upon precisely the same principles of law and evidence receive different decisions in the different courts; and that these courts do not in practice respect the decisions of the circuit court and the Supreme Court of the United States, on the construction of the said fourth article of the British treaty, in relation to British debts."

The committee deem it their duty, first to consider, whether such a provision, as that which is solicited by the petitioners, be expedient and proper, as a general regulation, before they inquire how far the special cases alluded to in the petition have a claim to the measure. As connected with this view of the subject, a principle of the federal constitution presents itself, which is believed to merit serious attention. It is to be remarked that in the

formation of this constitution, it appears to have been a fundamental principle of great and leading influence, that the powers of the General Government should be so apportioned as not to produce any unnecessary diminution in the powers of the State Governments. In conformity with this principle, the powers originally appertaining to those Governments are left in their possession, except those, by the exercise of which the general purposes of the Union might be contravened; they are therefore delegated to the Federal Government. This principle strongly characterizes the distribution of the legislative power, and it is to be traced in that part of the constitution which prescribes the limits of judicial power; although, in assigning to that power the objects of its jurisdiction, the principle does not operate so extensively as it does in assigning to the legislative power the objects of its jurisdiction. We find that the judicial power does not extend to controversies between citizens of the same State, except in the particular cases where lands are claimed under grants of different States, and obvious is the reason. The State courts, as they always were, so are they still equally competent to the cognizance of, and a due administration of justice in all such cases, while they are more convenient to the parties litigant. A transfer of jurisdiction to the federal courts in these cases would unnecessarily diminish the authority of the States, and is not necessary to the purposes of the Union; it remains, therefore, exclusively vested in the State courts. We find that the power does not extend to controversies between citizens of different States; but here the jurisdiction is not exclusively vested in the Federal Government; in the exercise of it, this Government only participates with the State Governments. So far, however, as this concurrent jurisdiction is actually exercised, the sphere of State authority is contracted. This authority dwindles and shrinks into narrower limits, as such jurisdiction descends lower in the scale of controversies, embracing in its descent a greater variety of cases. Thus the increment of federal authority produces a proportionate decrease of State authority. To extend this process further than a due administration of justice requires it to deviate from an important fundamental principle of the constitution.

It is presumable, that inasmuch as the Federal Government was instituted for the benefit of every citizen within the United States, this concurrence of jurisdiction, in the cases last recited, might have been considered as one of the purposes proper to be provided for in this system; that a citizen of one State having a matter of controversy within the territorial limits of another State, and with a citizen of that State, might take his option of resorting either to the State or to the federal tribunal for its adjustment and decision. A similar consideration might have induced the extension of jurisdiction to the federal tribunal, in controversies between citizens of the same State claiming lands under grants of different States. In cases of this description the extension might have been as strongly recommended on the ground of convenience to the parties, as in ordinary controversies between citizens of different States. Yet, while regard is thus had to the convenience of those who, residing in one State have to prosecute in another State, the convenience of the parties on the other side ought not to be entirely neglected; equal attention is due to each; and the Legislature will respect both alike in the arrangements it makes towards carrying the power into execution. If citizens of one State are entitled, from the nature and general design of the Government, to draw those of another State before the federal tribunal, in matters of controversy between them, it is believed to be a question of no inconsiderable moment how far a provision for that purpose may be extended, without operating a greater inconvenience on the one side than any rightful claim to such provision on the other side would justify. This question involves an estimate of the degree of interest which may constitute a proper subject of controversy between the parties litigant before such tribunal. It is believed, that in making this estimate the just rule of calculation is deduced from the following considerations, viz:

The inconveniences to which the parties on one side will generally be subjected from attendance on a single court, sitting at one particular place in the State, contrasted with the situations of the State courts, so numerous and so dispersed, that almost every man finds one convenient to him; and,

The excess of costs and charges incident to prosecutions in the former beyond those which are incurred from prosecutions in the latter courts.

From this view of the question, which presents itself to the committee as a correct one, their impressions are, that matters of controversy between citizens of different States, which do not involve a very considerable interest to the parties, ought not to be subjected to the jurisdiction of the courts of the United States; that, where the interest involved is considerable, a provision extending their jurisdiction to such cases might operate a degree of oppression to the parties on one side, while those on the other side could derive no greater benefits than what are afforded by the State courts. If this be a well-founded opinion, can subjects or citizens of a foreign State have a better claim to such provisions? If neither the principles of the constitution, nor any sound maxims of distributive justice are favorable to the idea of extending the jurisdiction of the federal courts to controversies of minor importance between American citizens residing in different States, can those principles or maxims be more favorable to such enlargement of jurisdiction, as to similar controversies wherein aliens are parties? Every consideration, opposed to such a measure in relation to the former cases, must resist that idea with at least equal force, when applied to the cases last mentioned. No good reason, in the opinion of this committee, can exist in favor of recommending such a discrimination.

Having contemplated this subject, on general principles, and having made the foregoing deductions, the committee then directed their attention to the peculiar situation of the petitioners, as stated in their memorial. In respect to the trouble and expense to which they allege their agents and themselves are exposed in prosecuting suits, for the recovery of their debts, in different courts of the commonwealth of Virginia, it is to be remarked that, if the inconveniences suggested should be removed from them by the establishment of the tribunal they solicit, what would be the consequence? From their own showing, it is evident that a considerable number of individuals, a number much greater than their own number, together with that of their agents and those they represent, would be exposed to greater inconveniences, trouble, and expense in attending court at one particular place, from many of whom that place would necessarily be very remote. To grant the prayer of the petitioners merely on this ground of complaint, would be to oppress a considerable number of citizens, for the accommodation of a much smaller number of persons who are not citizens. A principle which would justify this step is a sort of principle totally inadmissible by this committee as a rule by which to decide on what is just and proper.

As to the allegation that they have frequently incurred "entire loss of debts supported by such documents and principles, as have in similar cases ensured their recovery in the federal court," the committee would observe that, however such different decisions may have taken place, it is not admitted, as a necessary inference, that the decisions complained of were not as just as those from which recoveries were obtained. And as to that part of the petition which complains that some of the State courts are influenced by no "uniform course of decision," in cases supported by the "same principles of law and evidence," the committee would remark that, if such be the fact, (of which, however, no evidence has been submitted,) the inconvenience cannot be peculiar to the petitioners; it must extend to all the citizens of the State, who have controversies in the different courts. The committee cannot perceive any propriety in making a provision for the sole purpose of meeting their special cases.

As another ground of complaint, it is stated, that the courts of Virginia do not "in practice respect the decisions of the circuit and supreme courts of the United States," in relation to British debts. While the

committee think it proper to observe that this part of the complaint is also unsupported, but by the mere allegation of the petitioners, they would remark, at the same time, that it is not deemed material to inquire into that circumstance, in order to make up their own opinion as to the competency of those courts to administer justice between the parties, in deciding the cases in question.

In whatever point of view this subject is considered, this committee perceive no just ground to disapprove of the policy which dictated the existing limits in the jurisdiction of the circuit courts, so as to deem it proper to recommend any extension of that jurisdiction, or the establishment of any other tribunal, to meet the wishes of the petitioners. They therefore submit the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petition.

8th CONGRESS.]

No. 190.

[2d Session.

INQUIRY WHETHER A MILITARY APPOINTMENT CONFERRED ON A MEMBER OF THE HOUSE OF REPRESENTATIVES HAD BEEN ACCEPTED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 1, 1805.

*To the House of Representatives of the United States:*

JANUARY 31, 1805.

In compliance with the desire of the House of Representatives, expressed in their resolution of yesterday, I have to inform them that, by a letter of the 30th of May last, from the Secretary of War to Samuel Hammond, a member of the House, it was proposed to him to accept a commission of colonel commandant for the district of Louisiana, when the new Government there should commence. By a letter of the 30th June, he signified a willingness to accept; but still more definitively by one of October 26th, a copy of which is, therefore, now communicated. A commission had been made out for him, bearing date the 1st day of October last, and forwarded before the receipt of his letter of October 26. No later communication has been received from him, nor is any thing later known of his movements.

TH: JEFFERSON.

SIR:

VARELLO, NEAR AUGUSTA, GEORGIA, *October 26, 1804.*

Your favor of the 17th ultimo is this moment received, and its contents noticed. I had written to you on the 30th June, in reply to your letter of the 30th May. As I had no reply to that letter, on the 1st of August I transmitted a duplicate thereof, under cover of letter, requesting that you would favor me with a line in reply as early as convenient after its receipt; and, as I had heard nothing from you the first week in this month, I then wrote you again, soliciting a reply to my former communication, and expressed my surprise that I had received no instructions relative to the appointment which had been proposed for me, and which I had concluded to accept.

I am now to conclude that neither of my letters had been received prior to the date of your last letter, which is now before me. There must have been some improper management in some of the post offices between us. My first letter was put into the Augusta post office the day of its date; the second, covering a duplicate, was put into the post office at Campbelltown on the day of its date; and my last was delivered to the Augusta deputy post master on the day of its date. Their detention has been a serious inconvenience to me; indeed, I have been much embarrassed to determine whether I ought to prepare to commence my journey to the city of Washington to attend the approaching session of Congress, or to direct my arrangements for executing the trust proposed for me. I had finally concluded to set out for Washington on Monday next, believing, that if it had been expected I should go to St. Louis before the end of the session, I should before then receive instructions to that effect.

Your letter changes my route, and will delay my leaving this a few days, as a different mode of travelling will be necessary. I shall, however, hasten my departure as much as possible, and shall expect to find the necessary instructions at St. Louis; and, as soon after my arrival there as opportunity will serve, I shall write you. The journey, at this season of the year, through the mountains and wilderness, will be uncomfortable and difficult. I think an inquiry should be made into the causes of delay in the post offices. Your last letter has been more than double the time in coming to hand than it ought, or than is usual from Washington; say from 17th September to 26th October. The public must experience some inconvenience on such occasions as well as individuals. I shall be happy to hear from you occasionally when I arrive at St. Louis, and during my stay there, when public duty will allow the time, and inclination prompt it.

Accept my sincere wishes for your health and prosperity,

And am, with esteem and much respect, your obedient fellow-citizen,

S. HAMMOND.

The Hon. H. DEARBORN.

8th CONGRESS.]

No. 191.

[2d SESSION.]

## BRIDGE ACROSS THE POTOMAC RIVER AT WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 4, 1805.

Mr. JOSEPH CLAY, from the committee to whom were referred the several petitions of sundry inhabitants of the District of Columbia, praying that a company may be incorporated for the purpose of erecting a bridge over the river Potomac, and the remonstrance of other inhabitants of the District against the same, made the following report:

That doubts had formerly been entertained by some of the members of your committee of the right of Congress to legislate on the subject referred to their consideration; but inasmuch as an exercise of power, as long as that exercise is uncontroverted, may perhaps be considered as deciding the question of right, your committee are of opinion that a late law renders an investigation of the legitimate powers of Congress in the case unnecessary. The only inquiry is, what would be the advantages or disadvantages attending the erecting of a bridge over the Potomac.

It appears to your committee that, by the proposed bridge, a saving of several miles of distance over a very bad road between the seat of Government and the town of Alexandria would be made; that, consequently, the southern mail would be transmitted to and from the city of Washington with greater expedition and security than at present; the communication between Alexandria and the northern cities would be rendered more easy and safe, and the general interests of the commerce of the United States, as far as respects the transmission of mercantile information between the northern and southern sections of the Union, would be much promoted. The commerce of Georgetown, it is alleged, will be materially injured by any obstruction which may be caused in the navigation of the river Potomac, and that the erection of a bridge would be an obstruction of such a nature as almost to destroy that commerce. That the inhabitants of that town, having generally settled there with views connected with the exercise of mercantile profession, those views would be counteracted, and their property considerably diminished in value. Your committee have little doubt but that the delay in ascending and descending the river, produced by the erection of the contemplated bridge, would, in some measure, affect the trade of Georgetown; but that trade is so small that it could scarcely have any great operation on the value of property, or on the prosperity of the town. Georgetown owes its present flourishing state to its vicinity to the city of Washington, and not to any commercial profit arising from the enterprise of its inhabitants. And although some small individual injury might be the effect of erecting a bridge, yet that injury would be far more than counterbalanced by the public benefits arising from the measure. Your committee, therefore, recommend the following resolution:

*Resolved*, That the prayer of the petitioners that a company should be incorporated for the purpose of erecting a bridge over the river Potomac is reasonable, and ought to be granted.

[NOTE.—See further report, No. 200.]

8th CONGRESS.]

No. 192.

[2d SESSION.]

## EXTENSION OF THE RIGHT OF SUFFRAGE IN THE MISSISSIPPI TERRITORY, AND AN INCREASE OF THE MEMBERS OF THE GENERAL ASSEMBLY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 9, 1805.

Mr. LATTIMORE, from the committee to whom was referred the memorial of the Legislative Council and House of Representatives of the Mississippi Territory, made the following report:

The memorialists represent that, by that part of the ordinance for the Government of the Mississippi Territory, which requires a freehold in fifty acres of land as a qualification of an elector of representatives, many of their respectable citizens, who are possessed of considerable personal property, houses, town lots, and small tracts of land, are deprived of their elective franchise; and that, by the act authorizing the establishment of a Government in the said Mississippi Territory, the apportionment of representatives is very unequal in the different counties mentioned in that act; they, therefore, solicit that the aforesaid ordinance may be so amended that, having been a citizen of one of the United States, and having resided in the Territory one year next preceding an election, or, if not a citizen of one of the United States, having resided two years in the Territory, and, in either case, having paid a county or territorial tax, assessed at least six months previous to such election, may be the qualification required of an elector of representatives; and that the aforementioned act, authorizing the establishment of a Government in the Mississippi Territory, may be so amended that the General Assembly of the said Territory may have power to apportion the representatives in the different counties, according to the number of free male inhabitants above the age of twenty-one years, in such counties; so that there shall not be less than ten, nor more than twelve, of the whole number of representatives.

From a recurrence to the ordinance for the Government of the Mississippi Territory, it appears that there is no difference between the qualifications required therein, and those solicited in the memorial, except the freehold in fifty acres of land, which has been already mentioned. The only question, therefore, relative to this part of the subject, is, whether it be expedient to dispense with such a qualification.

If the possession of property were at all essential to the qualification of an elector of representatives, your committee cannot see any good reasons why persons possessing considerable personal property, houses, town lots, and tracts of land less than fifty acres, and otherwise qualified, should be precluded from a participation in the right of suffrage with those who possess a freehold in fifty acres of land, which the ordinance requires. But, believing it



inexpedient to limit the exercise of that right by any species of property qualification, your committee conceive that it ought to be extended agreeably to the wishes of the memorialists.

In the first section of the act of May the 10th, 1800, supplemental to the act authorizing the establishment of a Government in the Mississippi Territory, it is "*Provided*, That, until the number of free male inhabitants of full age, in the said Territory, shall amount to five thousand, there shall not be returned to the General Assembly more than nine representatives."

Your committee have no means of ascertaining the number of inhabitants of the above description, at this time, in the Mississippi Territory. But believing that no objection, except that of some additional expense to the Territory, can arise to the admission of two or three additional representatives, they can perceive no necessity for a continuance of the restrictive provision above quoted. Nor can they perceive any impropriety in authorizing the Legislature of the Territory to apportion the representatives in the manner requested. And your committee ask leave to report a bill for effecting the purposes which they herein consider as expedient.

8th CONGRESS.]

No. 193.

[2d SESSION.

## LIST OF PATENTEES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 22, 1805.

SIR:

DEPARTMENT OF STATE, *February 18, 1805.*

In pursuance of the resolution of the House of Representatives of the United States, dated the 23d of January last, I have the honor of transmitting a list of the names of persons who have invented any new and useful art, machine, manufacture, or composition of matter, or any improvement thereon, and to whom patents have issued for the same from this office, with the dates and general objects of such patents.

I have the honor to be, sir, with the greatest respect, your obedient servant, &c.

JAMES MADISON.

To the Hon. the SPEAKER of the House of Representatives of the U. S.

## LIST OF PATENTS.

Subjects of the patents.	Names of the patentees.	Dates of patents.
Making pot and pearl ashes, - - - -	Samuel Hopkins, -	July 31, 1790.
Manufacturing candles, - - - -	Joseph S. Sampson, -	Aug. 6, 1790.
Manufacturing flour and meal, - - - -	Oliver Evans, -	Dec. 18, 1790.
Punches for types, &c. - - - -	Francis Baily, -	Jan. 29, 1791.
Improvement in distilling, - - - -	Aaron Putnam, -	Jan. 29, 1791.
Driving piles for bridges, - - - -	John Stone, -	Mar. 10, 1791.
Thrashing grain and corn, machine for, - - - -	Samuel Mulliken, -	Mar. 11, 1791.
Breaking and swingling hemp, &c. - - - -	Samuel Mulliken, -	Mar. 11, 1791.
Machine for cutting and polishing marble, &c. - - - -	Samuel Mulliken, -	Mar. 11, 1791.
Machine for raising a nap on cloths, &c. - - - -	Samuel Mulliken, -	Mar. 11, 1791.
Machine for spinning flax, hemp, &c. - - - -	George Parkinson, -	Mar. 17, 1791.
Improvement in tide mills, - - - -	Jonathan Dickerson, -	July 30, 1791.
Machine for making nails, - - - -	Sam. Briggs, Sen. & Jr. -	Aug. 2, 1791.
Machine for thrashing wheat, &c. - - - -	William Thompson, -	Aug. 2, 1791.
Diminishing the friction of spindles, - - - -	Robert R. Livingston, -	Aug. 4, 1791.
Making the extract of barks, - - - -	John Biddis and Thos. Bedwell, -	Aug. 10, 1791.
Improved bedstead, - - - -	Ludwig C. Kuhn, -	Aug. 10, 1791.
Manufacturing boots, - - - -	Peter Gordon, -	Aug. 10, 1791.
Propelling boats by cattle, - - - -	Henry Voight, -	Aug. 10, 1791.
Manufacturing gunpowder, - - - -	Henry Keyser, -	Aug. 10, 1791.
Horizontal hollow water wheel for mills, - - - -	James Macomb, -	Aug. 26, 1791.
Improvement of Dr. Barker's mill, - - - -	James Rumsay, -	Aug. 26, 1791.
Improved mode of working mills, - - - -	James Rumsay, -	Aug. 26, 1791.
Improvement of Savary's steam engine, - - - -	James Rumsay, -	Aug. 26, 1791.
Bellows, - - - -	James Rumsay, -	Aug. 26, 1791.
Generating steam, - - - -	James Rumsay, -	Aug. 26, 1791.
Propelling boats or vessels, - - - -	James Rumsay, -	Aug. 26, 1791.
Propelling boats, &c. by steam, &c. - - - -	John Fitch, -	Aug. 26, 1791.
Improved boiler of the steam engine, - - - -	Nathan Read, -	Aug. 26, 1791.
Improvement in distilling, - - - -	Nathan Read, -	Aug. 26, 1791.
Boiler for generating steam, - - - -	John Stevens, Jun. -	Aug. 26, 1791.
Improvement in Captain Savary's steam engine, - - - -	John Stevens, Jun. -	Aug. 26, 1791.
Application of steam to work bellows, - - - -	John Stevens, Jun. -	Aug. 26, 1791.
Improvement of Savary's steam engine, - - - -	Englehart Cruse, -	Aug. 26, 1791.
Machine for cleaning docks or harbors, - - - -	Peter Zacharie, -	Nov. 24, 1791.
Machine for spinning cotton, - - - -	William Pollard, -	Dec. 30, 1791.
Cleansing whale oil, - - - -	Benjamin Folger, -	Jan. 2, 1792.
Spinning and twisting thread, - - - -	Obadiah Herbert, -	Jan. 28, 1792.

## LIST OF PATENTS—Continued.

Subjects of the patents:	Names of the patentees.	Dates of patents.
Steam jack, - - - - -	John Bailey, -	Feb. 23, 1792.
Hardening and tempering steel, - - - - -	David Hartley, -	Feb. 24, 1792.
Improvement in making bricks, - - - - -	David Ridgeway, -	March 7, 1792.
Canvass conductor to be used when houses are on fire, - - - - -	Samuel Green, -	Mar. 28, 1792.
Weaving of wire, - - - - -	T. Kirk, & R. Leslie, -	May 9, 1792.
Machine for sawing wood and bark, - - - - -	Thomas Farrington, -	May 9, 1792.
Preservation of plants from frost, &c. - - - - -	George Morris, -	July 10, 1792.
Machine called "the wheel of knives," for shearing and raising the nap on cloths, - - - - -	Samuel G. Dorr, -	Oct. 20, 1792.
Hand-mill for picking millstones, - - - - -	Solomon Hodge and Jonathan Dorr, -	Oct. 23, 1792.
Improved machine for manufacturing tobacco, - - - - -	James Caldwell and Christ. Batterman, -	Jan. 26, 1793.
Improvement in windmills, - - - - -	Joseph Pope, -	Jan. 26, 1793.
Manufacturing bricks, - - - - -	Christopher Colles, -	Jan. 26, 1793.
Improved mode of turning a spit, - - - - -	Samuel Morey, -	Jan. 29, 1793.
Double pendulum for ships, - - - - -	Robert Leslie, -	Jan. 30, 1793.
Clock pendulum, - - - - -	Robert Leslie, -	Jan. 30, 1793.
Double pendulum, - - - - -	Robert Leslie, -	Jan. 30, 1793.
Manufacturing oiled silk and linen, &c. - - - - -	Ralph Hodgson, -	Feb. 1, 1793.
Manufacturing rhus or sumach, - - - - -	Rich'd R. Saltonstall, -	Feb. 28, 1793.
Improvement in paper moulds, - - - - -	John Carnes, Jun. -	April 11, 1793.
Furnace for pot and pearl ashes, - - - - -	Edward Ryan, -	April 29, 1793.
Moulds for claying sugar, - - - - -	Jona. Williams, Jun. -	Mar. 13, 1793.
Manufacturing rhus or sumach, - - - - -	R. R. Saltonstall, -	May 1, 1793.
Stove of cast iron, - - - - -	Robert Heterick, -	June 11, 1793.
Improvement in making bricks, - - - - -	Apollos Kinsley, -	Feb. 1, 1793.
Construction and tone of bells, - - - - -	Robert Leslie, -	Feb. 2, 1793.
Applying and regulating the sails of ships, boats, &c. - - - - -	Joseph S. Sampson, -	July 5, 1793.
Manufacturing brick and pantile, - - - - -	Samuel Brouwer, -	Aug. 17, 1793.
Machine for propelling vessels, &c. - - - - -	Abijah Babcock, -	Dec. 2, 1793.
Disputed claim for a machine to work in a current of water, &c. decided in favor of John Clarke. - - - - -	Daniel Stansbury, -	
Manufacturing nails, - - - - -	Apollos Kinsley, and John Clarke, -	Dec. 31, 1793.
Weaving and beating sail-duck, - - - - -	Thomas Perkins, -	Feb. 7, 1794.
Improvement in distilling spirituous liquors, - - - - -	James Davenport, -	Feb. 14, 1794.
Round saw, - - - - -	Joseph Simpson, -	March 4, 1794.
Machine for ginning cotton, - - - - -	Zachariah Cox, -	Mar. 14, 1794.
Mode of preventing the progress of fire, - - - - -	Eli Whitney, -	Mar. 14, 1794.
Improvement in manufacturing paper, &c. - - - - -	Benjamin Taylor, -	Mar. 23, 1794.
Composition for flooring houses, &c. - - - - -	John Biddis, -	Mar. 21, 1794.
Improvement in carriages, to be propelled by the mechanical powers, - - - - -	Rich'd Robotham, -	April 12, 1794.
Machine for thrashing grain, &c. - - - - -	John J. Staples, -	April 25, 1794.
Construction of bellows, - - - - -	William Hodgson, -	April 28, 1794.
Manufacturing of candles, - - - - -	James Drake, -	May 19, 1794.
Manufacturing cordage, - - - - -	Richard Robotham, -	June 2, 1794.
New mode of grinding bark, - - - - -	George Parkinson, -	June 16, 1794.
Improvement in the method of working pumps, - - - - -	John Markley, -	July 19, 1794.
Improvement in a steam still, - - - - -	Elisha Rigg, -	July 29, 1794.
New mode of propelling vessels, - - - - -	Alexander Anderson, -	Sept. 2, 1794.
Mode of making salt, - - - - -	Benjamin Wynkoop, -	Sept. 13, 1794.
Improvement in hydraulics, - - - - -	James Fennel, -	Sept. 24, 1794.
Improvement in a thrashing machine, - - - - -	Joshua Hatheway, -	Oct. 29, 1794.
Improvement in stills, - - - - -	James Wardrop, -	Nov. 5, 1794.
Tempering mortar and making bricks, - - - - -	John Kincaid, -	Nov. 25, 1794.
Machine for cutting nails, - - - - -	Apollos Kinsley, -	Dec. 20, 1794.
Improvement in the mode of breaking hemp and flax, - - - - -	Jacob Perkins, -	Jan. 16, 1795.
Improvement in shearing woollen and other cloths, - - - - -	Samuel Mulliken, -	Jan. 15, 1795.
Machine for cutting nails, - - - - -	Samuel Kellogg, -	Jan. 31, 1795.
New mode of catching fish, - - - - -	Josiah G. Peerson, -	March 23, 1794.
Improvement in the application of steam, - - - - -	Joseph Ellicott, -	March 25, 1795.
Construction of a caboose, - - - - -	Samuel Morey, -	March 25, 1795.
Improvement in the manufacturing of cordage, - - - - -	John Youle, -	May 25, 1795.
Improvement in propelling boats, - - - - -	John Pitman, -	May 25, 1795.
Propelling boats, &c. with horses, - - - - -	Daniel Keller, -	May 25, 1795.
Nautical ventilators, - - - - -	Wm. Peter Sprague, -	June 19, 1795.
Tinned sheet copper condensing worm, - - - - -	Benjamin Wynkoop, -	June 19, 1795.
Improvement in making nails, - - - - -	John Taylor, -	June 30, 1795.
Improvement in sawing and polishing marble, &c. - - - - -	Jared Byington, -	Jan. 15, 1796.
Manufacturing seal skins, - - - - -	Jonathan Dickerson, -	Jan. 9, 1796.
Removing pains, &c. by metallic points, - - - - -	James Eaton, -	Feb. 16, 1796.
Raising water by wind, - - - - -	Elisha Perkins, -	Feb. 19, 1796.
Machine for cleaning wheat, &c. &c. - - - - -	Samuel Morey, -	April 11, 1796.
Improvement in tanning leather, - - - - -	Benjamin Tyler, -	April 15, 1796.
Improved mode of forming a yellow color, - - - - -	James Davis, -	April 14, 1796.
Composition of "bilious pills," - - - - -	Thomas Bedwell, -	April 20, 1796.
Machine for cutting nails and brads, - - - - -	Samuel Lee, Jun. -	April 30, 1796.
Improvement in manufacturing sumach, - - - - -	Peter Zacharie, -	May 4, 1796.
Improvement in bolting cloths, - - - - -	Joseph Hillard, -	May 12, 1796.
Improvement in the cotton gin, - - - - -	Robert Dawson, -	May 12, 1796.
Cleaning clover and other seeds, &c. - - - - -	Hodgen Holmes, -	May 12, 1796.
Improvement in piano-fortes, - - - - -	Jonathan Roberts, Jun. -	Feb. 13, 1796.
Improvement in burr millstones, - - - - -	Jas. Sylvanus McLean, -	May 27, 1796.
New invented steam-engine and boiler, - - - - -	Oliver Evans, -	May 28, 1796.
	Elijah Backus, -	May 31, 1796.

## LIST OF PATENTS—Continued.

Subjects of the patents.	Names of the patentees.	Dates of patents.
Stays for removing distortions in the spine, - - -	Lunden McKechnie, - - -	July 1, 1796.
Improvement in sawing and polishing marble, &c. - - -	Joseph Francis Mangin, - - -	July 2, 1796.
Machine for scouring rice and other grain, - - -	Robert Grant, - - -	Oct. 17, 1796.
Improvement in making salt, - - -	George James, - - -	Nov. 16, 1796.
Improvement in manufacturing pot ash, - - -	Edward Ryan, - - -	Nov. 16, 1796.
Improvement in concentrating the volatile parts of calcareous earth, stones, &c. - - -	John Fowler, - - -	Nov. 16, 1796.
Improvement in manufacturing cut nails, - - -	Peter Cliff, - - -	Nov. 16, 1796.
Machine for heading and cutting nails, - - -	Isaac Garretson, - - -	Nov. 16, 1796.
Improvement in a printing press, - - -	Apollos Kinsley, - - -	Nov. 16, 1796.
Improvement in splitting sheep skins, - - -	James Stansfield, - - -	Nov. 16, 1796.
New method of ruling books and paper, - - -	Mark Isambard Brunel, - - -	Nov. 16, 1796.
Improvement in pumps, - - -	Theobald Bourke, - - -	Nov. 16, 1796.
Manufacturing pot ash, - - -	William Frobisher, - - -	Nov. 17, 1796.
Improvement in forging bolts and round iron, - - -	Clement Rentgin, - - -	Nov. 17, 1796.
Improvement in a loom for weaving cloth, - - -	Amos Whittemore, - - -	Nov. 17, 1796.
A "perambulator" for measuring a ship's way, - - -	Amos Whittemore, - - -	Nov. 19, 1796.
Machine for cutting nails, - - -	Amos Whittemore, - - -	Nov. 19, 1796.
Improvement in manufacturing nails, - - -	John Bigelow, - - -	Nov. 19, 1796.
Improvement in cutting and heading nails, &c. - - -	George Chandlee, - - -	Dec. 12, 1796.
Conjurer for cooking and boiling, - - -	Thomas Passmore, - - -	Dec. 23, 1796.
Improvement in manufacturing cut nails, - - -	Daniel French, - - -	Dec. 23, 1796.
Improvement in manufacturing wrought nails, - - -	Daniel French, - - -	Dec. 23, 1796.
Improvement in heading nails, - - -	Jared Byington, - - -	Dec. 23, 1796.
Improvement in heading nails, - - -	Jason Frost, - - -	Dec. 23, 1796.
Machine for separating scoured rice, - - -	James Dellet, - - -	Dec. 23, 1796.
Improvement in ginning cotton, - - -	Robert Watkins, - - -	Dec. 23, 1796.
Improvement in ginning cotton, - - -	John Murray, - - -	Dec. 23, 1796.
Improvement in making soap, - - -	John Nazro, - - -	Jan. 6, 1797.
Extracting alkali from marine salt and kelp, - - -	John Nazro, - - -	Jan. 6, 1797.
Improvement in bridges, - - -	Charles Wilson Peale, - - -	Jan. 21, 1797.
Improvement in cutting and heading nails, - - -	James Spence, - - -	Feb. 16, 1797.
Improvement in cutting and polishing marble, &c. - - -	Joseph F. Mangin, - - -	Feb. 16, 1797.
Improvement in stoves, - - -	James McCallmont, - - -	Feb. 20, 1797.
Improvement in scouring or skinning rice, - - -	Samuel Mulliken, - - -	Feb. 20, 1797.
Improvement in chimneys, - - -	Richardson Stuart, - - -	Feb. 24, 1797.
Improvement in bridges, - - -	John Fowler, - - -	Feb. 24, 1797.
Improvement in cutting and heading nails, - - -	Jesse Kersey, - - -	Feb. 24, 1797.
Improvement in mixing colors and painting, - - -	Lawrence Allwine, - - -	Feb. 24, 1797.
Improvement in stoves, - - -	Thomas Hirst, - - -	March 11, 1797.
Machine for thrashing wheat, &c. - - -	William Booker, - - -	March 11, 1797.
Improvement in a tide water wheel, - - -	Silas Betts, - - -	March 18, 1797.
Improvement in washing clothes, - - -	Nathaniel Briggs, - - -	March 28, 1797.
Improvement in stoves, - - -	Caleb Wheaton, - - -	March 29, 1797.
Improvement in fire engines, - - -	Jesse Kersey, - - -	April 13, 1797.
Improvement in boring pumps - - -	Caleb Leach, - - -	April 13, 1797.
Combination of astringent woods and vegetables in distilling, &c. - - -	Fitch Hall, - - -	April 17, 1797.
Improvement in propelling boats and vessels by steam engines, - - -	Jehosaphat Starr, - - -	April 23, 1797.
Improvement in propelling carriages, - - -	William Faris, - - -	April 29, 1797.
Antibilious pills, - - -	Benjamin Duvall, - - -	May 3, 1797.
Improvement in constructing and rigging vessels, - - -	Isaac Garretson, - - -	May 29, 1797.
Improvement in bridges, - - -	John Stickney, - - -	June 3, 1797.
Improvement in manufacturing wool cards, &c. - - -	Amos Whittemore, - - -	June 5, 1797.
Improvement in looms, &c. - - -	David Grieve, - - -	June 8, 1797.
Raising a nap on cloths, - - -	Walter Burt, - - -	June 23, 1797.
Rollers for slitting and other mills for rolling iron, - - -	Benjamin Seymour, - - -	June 26, 1797.
Improvement in straightening iron hoops - - -	Benjamin Seymour, - - -	June 26, 1797.
Pendulous bellows for pumping ships, - - -	Benjamin Wynkoop, - - -	June 26, 1797.
Improvement in making candles - - -	Joseph S. Sampson, - - -	June 26, 1797.
Improvement in ploughs, - - -	Charles Newbold, - - -	June 26, 1797.
Mode of preserving butter - - -	Moses Johnson, - - -	June 30, 1797.
Improvement in forming bricks, tiles, &c. - - -	John Hawkins, - - -	July 11, 1797.
Improvement in extracting teeth, - - -	Thomas Bruff, - - -	July 1, 1797.
Improvement in making shingles, boards, &c. - - -	Bill Jarvis, - - -	July 8, 1797.
Improvement in cutting tobacco, - - -	Apollos Kinsley, - - -	Aug. 12, 1797.
Improvement in heading and cutting nails, - - -	Jonathan Nevill, - - -	Aug. 12, 1797.
Improvement in saw-mills, - - -	Henry Dulheuer, - - -	Aug. 18, 1797.
Improvement in mills, - - -	Jonathan W. Curtiss, - - -	Aug. 24, 1797.
Improvement in fire-places, - - -	Charles Wilson Peale, - - -	Nov. 16, 1797.
Improvement in saddles, - - -	Thomas Stickney, - - -	Nov. 16, 1797.
Improvement in breaking dough and paste, - - -	Daniel Pettibone, - - -	Nov. 16, 1797.
Improvement in thrashing grain, - - -	Richard R. Eliot, - - -	Nov. 16, 1797.
Improvement in clocks, time-keepers, and watches, - - -	Eli Terry, - - -	Nov. 17, 1797.
Improvement in making window sashes, - - -	Stephen Parsons, - - -	Nov. 20, 1797.
Machine for propelling boats, - - -	John Martin, - - -	Nov. 21, 1797.
Improvement in bridges, - - -	Timothy Palmer, - - -	Dec. 17, 1797.
A spiral wheel for working in tide water - - -	Elias Ring, - - -	Dec. 10, 1797.
A soap stone stove, - - -	William Payne, - - -	Dec. 10, 1797.
Improvement in making nails - - -	Lester Fling, - - -	Dec. 19, 1797.
Machine for cutting and heading nails - - -	Nathan Read, - - -	Jan. 8, 1798.
Improvement in grinding coffee, - - -	Thomas Bruff, Sen. - - -	Jan. 8, 1798.
Machine for printing paper, leather, &c. - - -	John Dixey, - - -	Jan. 24, 1798.
Improvement in cutting and pointing comb-teeth, - - -	Isaac Tryon, - - -	Feb. 22, 1798.
Improvement in windmills - - -	Charles Holden - - -	Mar. 15, 1798.
Machine for dipping candles - - -	Samuel Blydenburgh, - - -	Mar. 22, 1798.

## LIST OF PATENTS—Continued.

Subjects of the patents.	Names of the patentees.	Dates of patents.
Steam saw mill	Robert McKean,	Mar. 24, 1798,
Mill for sawing boards	Aaron Clarke,	Mar. 30, 1798,
Screw engine for throwing water	Elijah Orsabee,	Mar. 21, 1798.
Improvement in raising water from fountains,	John Manning,	April 10, 1798,
Regulating the action of the tide on his spiral wheel,	John Martin,	April 27, 1798.
Machine for raising water,	Mark Isambard Brunel,	April 27, 1798.
Machine for removing rocks, &c.	Isaac Lazell,	May 18, 1798.
A double steam engine,	James Smallman and Nicholas J. Roosevelt	May 31, 1798:
Machine for thrashing wheat, &c.	Thomas C. Martin,	June 2, 1798.
Machine for propelling vessels,	Charles Stoulinger,	June 2, 1798.
Water wheel flume for large streams,	Walter Brewster,	June 7, 1798.
An oblique pump	Jonathan Hunt,	June 7, 1798.
"A tallow lamp,"	John Love,	June 11, 1798.
A composition for pills,	Samuel Cooley,	June 6, 1798.
Improvement in stoves,	John Godfrey and William Lane,	July 14, 1798.
Method of preserving vessels, &c. from worms,	Raphael Peale,	Dec. 14, 1798.
Improvement in making bread,	William Banks,	Dec. 14, 1798.
Machine for cutting screws,	David Wilkinson,	Dec. 14, 1798.
Improvement in manufacturing paper	Cyrus Austin,	Dec. 14, 1798.
Pipes and pumps for conveying water,	Mark Reeve,	Dec. 14, 1798.
Machine for clearing docks and harbors,	Stephen Colver,	Dec. 14, 1798.
Machine for heaving down vessels, raising weights, &c.,	Stephen Colver,	Dec. 14, 1798.
Machine for raising water,	Joseph Huntley,	Jan. 10, 1799.
Machine for writing with two pens,	Mark Isambard Brunel,	Jan. 17, 1799.
Method of regulating windmills,	Thomas Thompson,	Jan. 3, 1799.
Machine for making nails,	Seth Hart,	Jan. 4, 1799.
Machine for manufacturing salt,	John Sears,	Jan. 24, 1799.
Improvement in a coal stove,	Henry Abbott,	Jan. 24, 1799.
Machine for cultivating corn, beans, &c.,	Eliakim Spooner,	Jan. 25, 1799.
Machine for planting corn, &c.,	Eliakim Spooner,	Jan. 25, 1799.
Improvement in a horizontal water wheel,	Ezekiel Reed,	Feb. 14, 1799.
Improvement in steelyards,	Benjamin Dearborn,	Feb. 14, 1799.
Preparation of steel for cutting glass,	Benjamin Duval,	Feb. 14, 1799.
Improvement in making nails,	Jacob Perkins,	Feb. 14, 1799.
A flax and hemp mill,	Benjamin Tyler,	Feb. 26, 1799.
Improvement in casting iron,	William Hancock,	Feb. 26, 1799.
Extracting oil from cotton seeds,	Charles Whiting,	Mar. 2, 1799.
Improvement in sharpening axes, &c.,	John Shotwell,	Mar. 16, 1799.
A check to detect counterfeits,	Jacob Perkins,	Mar. 19, 1799.
Improvement in propelling boats,	Josiah Shackford,	Mar. 21, 1799.
Machine for dressing cloth,	Isaac Sanford,	Mar. 27, 1799.
Obtaining force from water by steam,	Samuel Morey,	Mar. 27, 1799.
Machine for making combs,	Phineas Pratt,	April 12, 1799.
Improvement in his water engine,	Samuel Morey,	April 24, 1799.
Double-centred mill for wind or water,	Benjamin Dearborn,	April 30, 1799.
New method of cutting clay for tiles,	Andrew W. Duty,	May 8, 1799.
Machine for raising water,	William Farris,	May 17, 1799.
"Machine to keep a ship's distance at sea,"	Chester Gould,	May 27, 1799.
Improvement in making ropes,	Michael Wigglesworth,	June 26, 1799.
"Bilious pills,"	Samuel H. P. Lee,	June 26, 1799.
Improvement in washing clothes,	Ezra Weld,	June 26, 1799.
Napping hats,	James Long,	Aug. 5, 1799.
Purifying spermaceti oil	Richard Robotham,	Aug. 14, 1799.
A capstan fire engines,	Samuel Eli Hamlin,	Aug. 30, 1799.
Federal balloon,	Moses McFarland,	Oct. 28, 1799.
Manufacturing of paper,	Robert R. Livingston	Oct. 28, 1799.
Universal pump,	Apollos Kinsley,	Oct. 28, 1799.
Boat for descending rapid streams,	Daniel Keller,	Nov. 5, 1799.
Pumps for ships, mines, &c.,	John Stickney,	Nov. 29, 1799.
Saw mill,	Thomas Payne,	Dec. 2, 1799.
Extracting oil from palma christi,	John G. Gebhard,	Feb. 4, 1800.
Hawks's pills,	John Hawks,	Dec. 14, 1799.
Runners and bows for sleighs and sledges,	Abijah Wilder,	Dec. 14, 1799.
Improvement in mills,	Haviland Chase,	Dec. 16, 1799.
"Effeminate ropery for spinning rope yarn,"	John Pitman,	Dec. 24, 1799.
Improvement on stoves and grates,	Oliver Evans,	Jan. 16, 1800.
Machine for spinning rope yarn and twine,	Stephen Gorham,	Feb. 4, 1800.
Composition to preserve wood, brick, &c.,	Silas Constant,	Feb. 4, 1800.
Machine for pounding rice, gunpowder, &c.,	Benjamin Bolitho,	Feb. 7, 1800.
Metal boxes for wood or iron to turn in,	William Shotwell,	Feb. 7, 1800.
Improvement in piano-fortes,	John J. Hawkins,	Feb. 12, 1800.
Method of covering salt vats from the weather,	Hatil Killey, 2d,	Feb. 12, 1800.
Extracting the essence of sumach, fera, &c. for tanning,	Nathaniel Ladd,	Feb. 12, 1800.
Engine for throwing water,	Patrick Lyon,	Feb. 12, 1800.
Raising or lifting hides in tanning,	James Cox,	Feb. 20, 1800.
Improvement in grist mills,	Benjamin Tyler,	Feb. 20, 1800.
Improvement in dyeing blue,	John Percy,	Mar. 3, 1800.
Lathe or loom for weaving,	William Harris,	Mar. 15, 1800.
Machine for manufacturing sumach,	Comfort Hoyt, Jun.	April 7, 1800.
Improvement in coach collars,	Wm. Hottenstein	April 10, 1800.
Stop cock,	Peter Walker,	April 10, 1800.
Improvement in the manufacture of boots and shoes,	Dean Howard,	April 10, 1800.
Improvement in the elastic truss for ruptures,	Silas Stone,	May 6, 1800.

## LIST OF PATENTS—Continued.

Subjects of the patents.	Names of the patentees.	Dates of patents.
Engine for reducing silk, cotton, worsted, and cloth, to their original state to be manufactured, - - - - -	John Biddis, -	May 6, 1800.
Silent-moving time keeper, - - - - -	Simeon Jocelin, -	May 8, 1800.
Improvements in the construction of ships and vessels, - - - - -	Jeremiah Brown, -	May 14, 1800.
Machine for making bricks and tiles, - - - - -	George Hadfield, -	May 15, 1800.
Metal amulets, - - - - -	Edward West, -	May 19, 1800.
Machine for splitting hides and skins, - - - - -	Thomas O. Harrison, -	May 19, 1800.
Mould board of a plough, - - - - -	Robert Smith, -	May 19, 1800.
Cogs, &c. for pulleys, &c. - - - - -	Wm. Shotwell, -	June 24, 1800.
Machine for cutting tobacco, - - - - -	Peter Lorillard, -	June 28, 1800.
Kiln for drying grain, - - - - -	Jas. Deneale, Jun. -	July 10, 1800.
Improvement in burning lime, &c. - - - - -	Peter Lossing, -	Aug. 4, 1800.
Machine for cooking, - - - - -	Frederick Butler, -	Aug. 22, 1800.
Machine for cutting and heading nails, - - - - -	Frederick Young, -	Aug. 23, 1800.
"Lavater," machine for washing and wringing clothes, - - - - -	Ezra Weld, -	Sept. 17, 1800.
Machine for cutting tanner's bark, - - - - -	Jonathan Kilborn, -	Aug. 23, 1800.
Improvement in chimneys, - - - - -	David Cooley, Jun. & Gabriel N. Philips, -	Aug. 25, 1800.
Improvement in manufacturing bricks, - - - - -	Richard Mansfield, -	Oct. 24, 1800.
Raising water for mills, - - - - -	Aaron Brookfield, -	Oct. 24, 1800.
Improvement in musical instruments, - - - - -	John J. Hawkins, -	Oct. 24, 1800.
Telegraph, (description filed,) - - - - -	Jonathan Grout, Jun. -	Oct. 24, 1800.
Obtaining force from water, with the assistance of steam, - - - - -	Samuel Murray, -	Nov. 17, 1800.
Hanging windows without weights, - - - - -	William Young, -	Nov. 20, 1800.
Machine for breaking flax, - - - - -	John Cannon, -	Jan. 17, 1801.
Jaundice bitters, - - - - -	Jesse Wheaton, -	Jan. 17, 1801.
Cotton gin, - - - - -	Ebenezer Whiting, -	Jan. 22, 1801.
Improvement in sheathing vessels, - - - - -	Henry Guest, -	Jan. 26, 1801.
Brewing with Indian corn, - - - - -	Alexander Anderson, -	Jan. 26, 1801.
Condensor for heating wash in distilling, - - - - -	Alexander Anderson, -	Jan. 26, 1801.
Axle tourniquet, - - - - -	Joseph Strong, -	Jan. 29, 1801.
Improvement in the construction of stoves, - - - - -	William Henderson, -	Feb. 12, 1801.
Improvement in evaporation, - - - - -	Thomas Bedwell and Benjamin Henfrey, -	Feb. 12, 1801.
Machine for making and heading nails, - - - - -	Michael Garber, -	Feb. 20, 1801.
Hydraulic machine for raising water, - - - - -	Barnabas Langdon, -	Feb. 20, 1801.
Improvement in boats to ascend rivers, &c. - - - - -	David Grieve, -	Feb. 30, 1801.
Increasing the surface of evaporation for the purpose of distilling, - - - - -	Benjamin Henfrey, -	Mar. 2, 1801.
Boring machine for posts for fencing, - - - - -	Richard Weems, -	Mar. 16, 1801.
Veneering plough for cabinet work, - - - - -	William Stillman, -	Mar. 16, 1801.
Hydraulic engine, - - - - -	John Strong, -	Mar. 24, 1801.
Making and discharging chain and cleaver shot, - - - - -	Israel Hatch, -	Mar. 24, 1801.
Cut nails from iron hoops, &c. rendered tough, - - - - -	Nathan Kent, -	May 1, 1801.
Stove, screw, and reel grain drying machine, - - - - -	David Ellicott, -	May 1, 1801.
Impellent pump, - - - - -	Solomon Thayer, -	June 9, 1801.
Nails milled out of heated rods, - - - - -	Jesse Reed, -	June 9, 1801.
Extract of bark for dyeing, &c. - - - - -	Samuel Downing, -	June 12, 1801.
Forcing pump, - - - - -	John Eveleth, -	June 13, 1801.
Portable vapor bath, - - - - -	Charles W. Peale, -	July 16, 1801.
Infusing oil into leather, &c. - - - - -	Henry Guest, -	July 16, 1801.
A beaming machine, - - - - -	Jeremiah Ladd, -	July 17, 1801.
Mill for grinding painters' colors, &c. - - - - -	Caleb Greene, -	July 23, 1801.
Machine for extracting grain from straw, &c. - - - - -	Christopher Hoxie, -	Aug. 20, 1801.
A machine for raising water, - - - - -	William Palmer, -	Aug. 25, 1801.
Improvement for cooling and conveying up meal, &c. - - - - -	Gurdon F. Saltonstall, -	Aug. 21, 1801.
Metallic fluted gin rollers for cleaning cotton, - - - - -	Gurdon F. Saltonstall, -	Sept. 2, 1801.
Manufacturing spoons, - - - - -	Thomas Bruff, -	Sept. 14, 1801.
Giving motion to wheels within cylinders, &c. - - - - -	James Sharples, -	Sept. 15, 1801.
Mechanical powers for the use of windmills, &c. - - - - -	James Sharples, -	Sept. 15, 1801.
Manufacturing potash, - - - - -	Thomas Power, -	Sept. 19, 1801.
Moveable suspended beam and scale, - - - - -	Samuel Wallis, -	Sept. 21, 1801.
Air pump ventilator for ships, mines, &c. - - - - -	Richard Robotham, -	Oct. 10, 1801.
Machine for ruling paper, &c. - - - - -	Richard Robotham, -	Oct. 10, 1801.
A syphonic steam machine, - - - - -	John Poole, -	Oct. 13, 1801.
Construction of stills, - - - - -	Michael Krafft, -	Oct. 28, 1801.
Machine for cutting and heading nails, - - - - -	William Leslie, -	Nov. 5, 1801.
Improvement in a windmill, - - - - -	John A. Morton, -	Dec. 16, 1801.
Improvement in a ship's pump, - - - - -	George Clymer, -	Dec. 22, 1801.
Making paper from carriers' shavings, - - - - -	Joseph Condit, Jun. -	Dec. 23, 1801.
Improvement in the art of engraving, - - - - -	Joseph Hutton and Gideon Fairman, -	Jan. 8, 1802.
Improvement in a windmill, - - - - -	Rufus Hathaway, -	Jan. 20, 1802.
Improvement in a timepiece, - - - - -	Simon Willard, -	Feb. 3, 1802.
A machine for churning, - - - - -	Isaac Baker, -	Feb. 20, 1802.
Improvement in boxes for carriages, - - - - -	Thos. B. Whitlock, -	Feb. 23, 1802.
Improvement in paddles for propelling boats, - - - - -	Richard Claiborne, -	Feb. 23, 1802.
Improved mode of carrying fish in warm weather, - - - - -	Nathaniel Robbins, -	Mar. 11, 1802.
Machine for cutting and grinding bark, - - - - -	Jacob Warrell, -	Mar. 17, 1802.
Manufacturing starch from potatoes, - - - - -	John Biddis, -	Mar. 22, 1802.
Improvement in a grist mill, - - - - -	John W. Holly, -	Mar. 27, 1802.
Improvement in a saw mill, which returns the log after each cut, - - - - -	Moses Coates, -	April 1, 1802.
Improvement on a block making gang lathe, - - - - -	Ebenezer Whiting -	April 1, 1802.
Machine for ginning cotton, - - - - -	William Bell and Sam. de Montmollin, -	April 7, 1802.
Machine for churning, - - - - -	Joel Pierce, -	April 10, 1802.

## LIST OF PATENTS—Continued.

Subjects of the patents.	Names of patentees.	Date of patents.
Improvement being a cheap mode of obtaining light from fuel,	Benjamin Henfrey,	April 16, 1802.
Extracting the essence of bark for dyeing,	Samuel Downing,	April 19, 1802.
Machine for cleaning clover seed,	Asher Spicer,	April 22, 1802.
Improvement in a saw-mill,	Hez. Richardson, Jr. and Levi Richardson,	April 28, 1802.
Machine for rolling iron round, &c.	Henry Abbott,	May 4, 1802.
Improvement in casting close stoves,	Henry Abbott,	May 4, 1802.
Improvement in flat roofs for houses and balconies,	Henry Johnson,	May 10, 1802.
Mode of improving spirits,	Burgis Allison,	May 12, 1802.
Scientific steelyards,	Lewis Dupré,	May 12, 1802.
Machine for manufacturing salt,	Benjamin Ellicott,	May 12, 1802.
New plan for printing music,	Andrew Law,	May 12, 1802.
Machine for cutting fur for the use of hatters,	Nicholas Young,	May 14, 1802.
Machine for cutting nails,	Edward West,	July 6, 1802.
Improvement in heading and cutting nails,	Edward West,	July 6, 1802.
Improvement in a gun lock,	Edward West,	July 6, 1802.
Improvement in a steamboat,	Edward West,	July 6, 1802.
Improvement in pumps,	Jacob Perkins,	July 9, 1802.
Machine for cleaning wheat,	Stephen Stilwell,	July 9, 1802.
Machine for cleaning out docks,	John Greenleaf,	July 13, 1802.
Method of rolling iron for nails,	Jesse Reed,	July 15, 1802.
Improved machine for thrashing and cleaning wheat,	Ezekiel Miller,	July 19, 1802.
Machine for making bricks,	Ezekiel Miller,	July 17, 1802.
Machine for cleaning clover seed,	Martin Miller,	July 19, 1802.
Machine for thrashing grain,	Joseph Pope,	July 22, 1802.
Antibilious pills,	Thomas H. Rawson,	July 24, 1802.
Machine for making nails,	Nathan Fobes,	Aug. 2, 1802.
Improvement in a trigonometrical quadrant,	James Templeton,	Aug. 17, 1802.
Improvement in a still,	William Paine,	Aug. 24, 1802.
Improvement called a fire-stop,	Elisha Putnam,	Aug. 24, 1802.
Economical house and ship steam kitchen,	Nicholas Boureau,	Aug. 30, 1802.
Astronomical quadrant,	Matthew C. Groves,	Sept. 3, 1802.
Machine for heading nails,	Benjamin S. Walcott,	Sept. 4, 1802.
Improvement in fastening, in raising, and supporting window sashes,	Leonard Kennedy,	Sept. 7, 1802.
An evaporating furnace,	John Richardson,	Sept. 13, 1802.
Machine for pressing cotton or other bale goods,	Jacob Idler,	Sept. 24, 1802.
A steam engine, (improvement in,)	Samuel Briggs, Jun.	Oct. 9, 1802.
Machine for raising water, (a perpetual motion)	John Baptiste Aveilhé,	Oct. 14, 1802.
Improvement in splitting skins,	Asa W. Chickering,	Nov. 29, 1802.
Improvement in extracting neutral salts from alkaline,	Benjamin Gorton,	Nov. 29, 1802.
Improvement in erecting dry docks,	John Gardiner,	Dec. 3, 1802.
Machine for making nails,	William Caruthers,	Dec. 13, 1802.
Improvement in the construction of mill wheels,	James Cowen,	Dec. 14, 1802.
Improvement in stills,	John Staples,	Dec. 15, 1802.
Improvement in making salt,	Valentine Peers,	Dec. 18, 1802.
Improvement in a boiling cistern,	Timothy Kirk,	Dec. 20, 1802.
Antibilious stomach cordial,	Simon Lozarus,	Dec. 21, 1802.
Improvement in the manner of welding cast steel to iron, &c.	Daniel Pettibone, Eze- kiel Chapman, and Josiah Nichols,	Dec. 22, 1802.
An insubmersible boat,	Abm. Du Buc Maren- tille,	Dec. 23, 1802.
Improvement in manufacturing paper from corn husks,	Burgis Allison and John Hawkins,	Dec. 30, 1802.
Machine for sawing stone and marble,	William Palmer,	Dec. 31, 1802.
Improvements in the caboose of a vessel for distilling fresh from salt water,	Simeon Rouse,	Jan. 1, 1803.
A saw mill for cleaning cotton,	Gurdon F. Saltonstall,	Jan. 4, 1803.
Machine for hulling rice,	Christopher Hoxie,	Jan. 7, 1803.
Refrigerator for domestic uses,	Thomas Moore,	Jan. 27, 1803.
Boiler for accelerating the evaporation of liquids,	John Moffat,	Feb. 1, 1803.
Improvement in stills,	John Moffat,	Feb. 1, 1803.
Machine for raising water,	Benjamin Cooley,	Feb. 1, 1803.
Manufacturing marl into lime,	Jedediah Peasley,	Feb. 1, 1803.
Making brandy out of all kinds of grain or fruit,	Christopher J. Hütter,	Feb. 11, 1803.
Machine for paring apples,	Moses Coates,	Feb. 14, 1803.
Improvements in a gauge auger,	Abel Stowel,	Feb. 14, 1803.
A machine for making hot wrought nails, &c.	Elisha Bartlett, Oliver Bartlett, Otis Bartlett, and George Bartlett,	Feb. 17, 1803.
Improvement to their patented roller cotton gin,	William Bell, and John S. De Montmollin,	Mar. 7, 1803.
Improvement in extracting a spirit from starch water,	John Naylor,	Mar. 7, 1803.
A wheel to turn under water,	Silas Bent,	Mar. 7, 1803.
A horizontal windmill,	John Baptiste Aveilhé,	Mar. 16, 1803.
A wreck raft,	A. Du Buc Marentille,	Mar. 18, 1803.
A sea-sitting chair,	A. Du Buc Marentille,	Mar. 18, 1803.
A power obtained by the rising and falling of the tide to give motion to all kinds of machinery,	John Staples, Jun.	Mar. 18, 1803.
Submarine passage, or hollow inverted arch,	John Staples, Jun.	Mar. 18, 1803.
A machine for cleaning clover seed,	John Cottle,	Mar. 21, 1803.
An improvement in timepieces,	David F. Launy,	Mar. 21, 1803.
Improvement in the process of manufacturing sea salt,	George Hunter,	Mar. 24, 1803.
Improvement in the mode of obtaining antiseptic gas,	Peter De La Bigarre, & J. B. M. Picornell,	Mar. 24, 1803.

## LIST OF PATENTS—Continued.

Subjects of the patents.	Names of the patentees.	Date of the patents.
Improved house fan,	Edward Marquam,	Mar. 28, 1803.
Antibilious pills,	Thomas H. Rawson,	April 4, 1803.
Improvement in his evaporating furnace,	John Richardson,	April 4, 1803.
Improvement in a cooler or condenser of vapor,	William How,	April 6, 1803.
Improvement in producing steam,	John Stevens,	April 11, 1803.
Improvement in a ruling machine,	Daniel Brewer,	April 22, 1803.
Improvement in heating and boiling water,	Benjamin Platt,	April 27, 1803.
Improvement in the mode of constructing vessels with crooked keels,	Eliphalet Beebe,	April 27, 1803.
Machine for deepening channels,	Matthew Barney,	May 4, 1803.
Improvement in building boats,	William Hopkins,	May 13, 1803.
A rolling machine for cleaning cotton,	Gurdon F. Saltonstall,	May 14, 1803.
Improvement in distilling spirits,	Daniel Ilsley,	May 14, 1803.
Improvement in cutting grain and grass,	Richard French and John T. Hawkins,	May 17, 1803.
Improvement in the pentagraph and parallel ruler,	John J. Hawkins,	May 17, 1803.
Improvement in the application of the principle of rectifying or improving spirits,	Burgiss Allison,	May 17, 1803.
Machine for pumping,	John Clark,	May 19, 1803.
Improvement in working the bellows of a furnace or forge,	John W. Godfrey,	May 25, 1803.
Expediting the manufacture of common salt,	Timothy Alden, Jun.	May 25, 1803.
Improvement in the method of distilling or making alcohol,	Lemuel J. Kilborn, John Biddis,	June 4, 1803.
Improvement in extracting the effective matter contained in barks, &c., for dyeing,	Thomas Burdwell and William Mitchell,	June 7, 1803.
Machine for making hinges,	David Morse,	June 10, 1803.
Improvement in the manufacture of hats,	Ezra Corning, Jun.	June 13, 1803.
Improvement in the steam engine,	S. Morey, R. Graves, and Giles Richards,	June 15, 1803.
Physiognotrace,	Isaac Todd, Augustus Day, & W. Bache,	June 15, 1803.
A rocking churn,	Walter Keeler and James Waring,	June 23, 1803.
A machine for breaking and carding sheep's wool,	Benjamin Standing,	June 28, 1803.
Machine for shearing woollen and other cloths,	Liberty Stanley,	June 25, 1803.
Machine for pulling hair from skins,	Nicholas Young,	June 28, 1803.
Improvement in the construction of iron cabooses,	William Ashbridge,	June 28, 1803.
Improvement called the Columbia fire place,	Robert Heterick,	June 30, 1803.
Improvement in the mode of applying springs to window sashes,	Samuel S. Camp,	July 1, 1803.
Improvement in distillation by the application of steam in wooden or other stills,	S. Brown, E. West and Thomas West,	July 8, 1803.
Machine for packing goods,	J. Clark & E. Evans,	July 20, 1803.
Method of cooling liquors,	David Lownes,	July 21, 1803.
Method of securing leaden or other pipes from frost, &c.	David Lownes,	July 21, 1803.
Machine for splitting and shaving shingles,	Daniel French,	July 25, 1803.
Improving in a powder mill,	George Keyser,	July 27, 1803.
Machine for separating clover seed from the "pod,"	Timothy Kirk,	July 28, 1803.
Improvement in the construction of stills,	Lewis Geanty,	Aug. 4, 1803.
Machine for boring holes in rocks under water,	John B. Avelilhe,	Aug. 24, 1803.
Improvement in a water cock,	George Youle,	Aug. 25, 1803.
Preparing seals' fur for hats,	George Cleveland,	Sept. 9, 1803.
A wheel press,	Hezekiah Betts,	Sept. 13, 1803.
Mode of constructing carriages,	John C. Stroebel,	Sept. 19, 1803.
Family pills,	Daniel Coit,	Oct. 5, 1803.
Machine for making wrought nails and brads out of hot rods,	Lazarus Ruggles,	Oct. 18, 1803.
Thrashing machine,	Jedediah T. Turner,	Oct. 19, 1803.
Improvement in the construction of the keels of vessels,	Gilbert Livingston,	Oct. 22, 1803.
Machine for shelling corn,	Paul Pilsbury,	Oct. 25, 1803.
Improvement in boilers, also working stills with the same,	William Thornton,	Oct. 28, 1803.
A horizontal draught windmill,	Samuel Goodwin,	Oct. 31, 1803.
Finding salt water and metals. <i>Bletonism!</i>	Valentine Cook,	Nov. 1, 1803.
Vegetable elixir, or cough drops,	Samuel Cooley,	Nov. 12, 1803.
A dry bellows pump,	Enoch Alden,	Nov. 15, 1803.
Improvement in spinning wheels,	Amos Minor,	Nov. 16, 1803.
Improvement in windmills,	Asahel E. Paine,	Nov. 19, 1803.
Improvement in fastening and supporting window sashes,	Jacob Osborn,	Nov. 24, 1803.
Improvement in the cotton gin,	William Bell,	Nov. 24, 1803.
Improvement in propelling boats for inland navigation,	William Bell,	Nov. 25, 1803.
Improvement in the windmill,	William Bell,	Nov. 25, 1803.
A cylindric ruler for ruling paper,	John Fairbanks,	Nov. 30, 1803.
Improvement in grinding painters' colors, printers' ink, &c.	Jacob Cist,	Dec. 3, 1803.
Machine for separating the seed from cotton,	Joseph Eve,	Dec. 6, 1803.
A twilling machine for pricking leather for cards,	Pliny Earle,	Dec. 6, 1803.
Improvement in a fire engine,	Stephen Stewart,	Dec. 6, 1803.
Machine for rolling plates of iron, and cutting them into nails,	S. Rogers & M. Otis,	Dec. 7, 1803.
Improvement in window springs,	James Curtis, Jun.	Dec. 10, 1803.
Improvement in still heads and condensers,	Edward Richardson,	Dec. 16, 1803.
Improvement in making cold cut nails and brads out of rolled iron,	Joseph Elgar,	Dec. 16, 1803.
Improvement in separating clover seed, wheat, &c. from the husk,	David Buckman,	Dec. 21, 1803.
A hydro-mechanical press,	John Beverley,	Dec. 26, 1803.
Improvement in painting rooms,	John Selby,	Dec. 30, 1803.
Improvement in making colors for painting, printing, &c.	Francis Guy,	Dec. 30, 1803.
Machine for making brick and tile, by cutting the mortar,	Nathaniel Miller, and Philip W. Miller,	Jan. 5, 1804.
Improvement in stills or boilers,	Leonard Beatty,	Jan. 19, 1804.

## LIST OF PATENTS—Continued.

Subjects of the patents.	Names of the patentees.	Dates of patents.
Improvement in preparing quercitron or black oak bark for exportation or home consumption, for dyeing or other uses, - - -	Thomas Bengier, -	Jan. 25, 1804.
“A double draught fire-place,” - - -	Talmage Ross, -	Jan. 23, 1804.
Improvement in the construction of stills, and the process of distilling spirits, - - -	William Wigton, -	Jan. 30, 1804.
Improvement called the screw-mill, for breaking and grinding different hard substances, - - -	Oliver Evans, -	Feb. 14, 1804.
“Improvement in steam engines, by the application of a new principle, by means of strong boilers, to retain and confine the steam, thereby increasing the heat in the water, which increases the elastic power of the steam to a great degree,” - - -	Oliver Evans, -	Feb. 14, 1804.
Improvement in wheels to be moved either by wind or water, for the purpose of giving motion to all kinds of machinery, mills, engines, carriages, ships, boats, &c. &c. - - -	John Staples, Jun. -	Feb. 17, 1804.
“In setting stills and other large kettles,” - - -	Israel Wood, -	Feb. 21, 1804.
Machine for thrashing and cleaning grain, - - -	Thomas Barnett, -	Feb. 21, 1804.
Improvement, being a smut-fanning mill, - - -	Thomas Pierce, -	Feb. 21, 1804.
Improvement in hanging window sashes, - - -	William W. Hopkins, -	Feb. 24, 1804.
“Improvement, being a spinning wheel and twisting mill for the purpose of making cordage,” - - -	William B. Dyer, -	Feb. 27, 1804.
A machine for hulling clover seed, - - -	Jacob Worrell, -	Feb. 27, 1804.
Improvement in air or bellows pumps for raising water, - - -	Daniel M. Miller, -	March 5, 1804.
Improvement, being a machine for washing cloths, scouring, fulling, and cleansing cloth, - - -	Daniel S. Dean, -	Feb. 29, 1804.
Improvement, being a mode of preparing marble for painting on, - - -	Archibald Robertson, -	March 5, 1804.
Improvement in window fastenings, or springs for fastening and supporting sash-lights, - - -	Daniel M. Miller, -	March 8, 1804.
Improvement in extinguishing fires in houses, &c. - - -	Samuel P. Lord, Jun. -	March 10, 1804.
Machine for watering cattle, - - -	Moses Smith, -	March 16, 1804.
Improvement in the bedstead, so constructed that it may be taken down and removed by one person in case of fire, or on other occasions, with much ease and expedition, - - -	Ward Gilman, and William Jackson, -	March 19, 1804.
Machine for preparing what is commonly called top and swunged tow for paper, - - -	Abraham Frost, -	March 19, 1804.
Improvement, being a “wry-fly,” which may be applied by wind or water to various machines, viz: grist-mills, hulling-mills, spinning-mills, fulling-mills, paper-mills, and to the use of furnaces, &c. - - -	Benjamin Tyler, -	March 19, 1804.
Improvement in manufacturing coat and waistcoat buttons, - - -	George W. Robinson, -	March 24, 1804.
Improvement, being an inclined plane statical-wheel machine, for facilitating the passage of boats in canals, or for removing earth, stones, or other heavy bodies from hills, &c., by the inclined plane, - - -	John Williams, -	March 23, 1804.
Machine for the improvement of navigation, - - -	Anthony Hunn, -	Mar. 24, 1804.
“Improved still and boiler,” - - -	John Naylor, -	Mar. 31, 1804.
Improvement in the mode of making shot, - - -	Phineas Daniel, -	Mar. 31, 1804.
Machine for breaking and cleansing flax and hemp, - - -	Owen Roberts, -	April 12, 1804.
Improvement in the mode of working sheet tin into different wares, - - -	Calvin Whiting and Eli Parsons, -	April 14, 1804.
Improvement in springs for window sashes, - - -	Joseph Eaton, -	April 14, 1804.
Machine for slitting and heading nails, - - -	Michael Garber, -	April 17, 1804.
Double steam-bath still, - - -	John James Giraud, -	April 18, 1804.
Machine for cleaning flax seed from cockle, yellow seed, cheat, and all foul seeds, which may be applied to separate wheat, rye, and other grains from each other, and all impurities, - - -	Paul Goltry, -	April 24, 1804.
Machine for shelling clover seed, - - -	Michael Withers, -	April 30, 1804.
Improved machine for cutting straw and hay, &c. - - -	Moses Coates and E. Evans, -	April 30, 1804.
Improvement in paper mills, - - -	Thomas Langstroth, -	May 1, 1804.
Improvement in the construction of pump boxes or pumps, designed for the use of ships of war, merchant vessels, or other purposes where water is required to be raised, - - -	John Stickney, -	May 1, 1804.
Columbian thrashing, break and cleaning fan, - - -	Samuel Houston, -	May 3, 1804.
Machine to be fixed to the top of a common churn, - - -	Levi Stevens, -	May 8, 1804.
Machine for shelling and cleaning corn, which may likewise answer the purpose of grinding tanner’s bark, and provender for cattle and horses, - - -	Levi Stevens, -	May 8, 1804.
Improvement of the lantern, - - -	John Staniford, Jun., and Amos D. Allen, Amos D. Allen, -	May 10, 1804. May 10, 1804. May 10, 1804.
Composition for tablets to write or draw on, - - -	Edward Crafts, Jun. -	May 12, 1804.
Machine to cut strips or chips of wood to make chip hats, bonnets, &c. - - -	Ezra Weld, -	May 16, 1804.
Furnace for making pot and pearl ashes, with the manner of using, and the materials of which the same is composed, - - -	James Simons and Joseph McJames, -	May 17, 1804.
Machine or apparatus for making salt, - - -	Burgiss Allison and Richard French, -	June 8, 1804.
Machine for cleaning and moating cotton after it has been ginned, - - -	Asa Spencer, -	June 8, 1804.
Machine for making nails and spikes, - - -	William Tunstall, -	June 30, 1804.
Improvement in making thimbles, - - -	Benjamin Folger, -	July 7, 1804.
Improvement in machines for clearing grain from straw, &c. - - -	Levi Osborn, -	July 12, 1804.
Improvement in the mode of pumping and raising water, - - -	John Deaver, -	July 12, 1804.
Improvement in the construction of the fulling mill, called the double crank, - - -	Christopher Hoxie, -	July 12, 1804.
Improvement in the plough, - - -	Thomas Power, -	July 12, 1804.
Improvement in the auger, - - -	Christian Veltenair, -	Aug. 10, 1804.
Improvement in the lime kiln, - - -		
Metallic grinder or hone for razors, penknives, scissors, surgeon’s instruments, and all kinds of fine edged tools, - - -		



## LIST OF PATENTS—Continued.

Subjects of the patents.	Names of the patentees.	Dates of patents.
Improvement in the machine for cutting nails, - - -	Nicholas Boureau, -	Aug. 21, 1804.
Machine for raising water from wells, - - -	William Harington, -	Aug. 28, 1804.
Improved windlass for ships or vessels, - - -	Hezekiah Betts, -	Aug. 29, 1804.
Machine to cut chips or strips of wood, to make chip hats and bonnets, brooms, baskets, sieves, matting, and for various other uses, - - -	John Roberts, Amos D. Allen, and Ezekiel Kelsey, -	Sept. 5, 1804.
Crushing plaster mill, - - -	Emanuel Kent, -	Sept. 14, 1804.
Improvement in suspenders, - - -	Orange Webb, -	Sept. 18, 1804.
Improvement in windmills, - - -	Richard Weems, -	Sept. 20, 1804.
A wagon, or carriage, to be worked by hand, - - -	John Bolton, Jun., -	Sept. 29, 1804.
Method to prevent chimneys from admitting water in rainy weather, - - -	John James Thomas, -	Oct. 2, 1804.
Forcing pump to raise water, - - -	Aaron Taylor, -	Oct. 4, 1804.
"The rheumatic liniment," for chronic rheumatism, strains, &c. - - -	Abel Brown, -	Oct. 17, 1804.
Improvement in gallows, or suspenders, for breeches, pantaloons, or trowsers, &c. - - -	Simon Smith, -	Oct. 23, 1804.
Improvement in candlesticks, - - -	Benjamin Dearborn, -	Oct. 29, 1804.
Machine for breaking dough, - - -	Laban Folger, -	Nov. 1, 1804.
Machine for cooling and filtering water or other fluids, - - -	Daniel McMullin and Thomas M. Corby, -	Nov. 6, 1804.
Composition, or cement, to prevent the roofs and other parts of houses from taking fire, - - -	David Stodder, -	Nov. 16, 1804.
Improvement in sash-springs, - - -	John Hooker, -	Nov. 19, 1804.
Improvement in the thrashing machine, - - -	James Deneale, Jun., -	Nov. 20, 1804.
Improvement in the oil press, - - -	Josiah White, -	Nov. 27, 1804.
Machine for granulating gunpowder, - - -	E. I. Dupont de Nemours, -	Nov. 23, 1804.
Improvement in the cow or sheep bell, - - -	Simon Newton, -	Dec. 22, 1804.
Machine for cutting nails with, and not across the grain of the metal, - - -	F. W. Geyssenhayner, -	Dec. 22, 1804.
Improvement in windmills, - - -	William Stanton, Jun., -	Dec. 26, 1804.
"New invented window springs," - - -	Isaac Scott, -	Dec. 26, 1804.
Machine for boring gun barrels, - - -	Nathan Fobes, -	Dec. 31, 1804.
Manufacturing ashes, - - -	Jos. Bellows, Jun. and Ebenezer White, -	Dec. 29, 1804.
Medicine called "bilious cordial," - - -	Samuel Chamberlaine, -	Dec. 31, 1804.
Mode of improving or setting a horse's ears, - - -	Seth Janes, -	Dec. 31, 1804.

9th CONGRESS.]

No. 194.

[1st SESSION.]

## CONTESTED ELECTION OF COWLES MEAD, A REPRESENTATIVE FROM GEORGIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 18, 1805.

Mr. FINDLEY, from the Committee of Elections, to whom was referred the petition of Thomas Spalding, claiming a seat in this House, as a representative of the State of Georgia, in the place of Cowles Mead, who has been returned, and has taken a seat in the House, having had the same under consideration, and heard the petitioner and the sitting member thereon, made the following report:

That, by a standing law of the State of Georgia, the election of persons to represent that State in this House was required to be holden on the first Monday of October, 1804, in the respective counties throughout the State; that three or more county magistrates were required to preside at the election, in each of the counties, to return the names of the candidates, and the number and names of the voters, with an accurate state of the poll, and to transmit their said returns, by express, to the Governor of the State, within twenty days after closing the poll at said election; that the Governor was required, within five days after the expiration of the said twenty days, to count up the votes from the several counties, or such of them as might have made returns, for each person, and immediately thereafter to issue his proclamation, declaring the persons having the highest numbers of votes to be elected to represent the said State in the House of Representatives of the United States, and to grant a certificate thereof, under the great seal of the State, to each of them; that, by an official certificate from the Secretary of said State, it appears that the votes from the counties of Tatnall, Liberty, and Camden, were not returned to the Governor within the said term of twenty days after the election, nor within the said further term of five days thereafter; and that, of the votes given at the said election, and returned to the Governor, within the said term of twenty days,

Cowles Mead had	-	-	-	-	-	-	-	4438
And Thomas Spalding had	-	-	-	-	-	-	-	4269

Giving the said Mead, a majority of	-	-	-	-	-	-	-	169
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That the Governor, in pursuance of the law aforesaid, counted up the votes, so returned to him within twenty days, and thereupon issued his proclamation, declaring that the said Cowles Mead was elected, and granted him a certificate thereof.

By another certificate from the Secretary of said State, it appears, that after the Governor had issued his proclamation as aforesaid, that is, on the twenty-seventh day of November, 1804, the returns of the votes given at the said election, agreeably to the law aforesaid, in and by the counties of Tatnall, Liberty and Camden, were received by the Governor, being transmitted by the presiding magistrates of said counties respectively; that both of the said certificates from the Secretary are in due form of law; that the said returns of votes, from the three last-mentioned counties, are conformable to law, in every respect, except that they were not transmitted to the Governor within

the limited time of twenty days after the election; that, of the votes so returned from the said three counties, after the expiration of said twenty days,

Cowles Mead had -	-	-	-	-	-	-	-	27
And Thomas Spalding had -	-	-	-	-	-	-	-	235

which, added to their respective numbers of votes returned to the Governor within the term of twenty days, and counted by him as aforesaid,

Give to Cowles Mead, in the whole -	-	-	-	-	-	-	-	4465
And to Thomas Spalding, in the whole -	-	-	-	-	-	-	-	4504

Leaving the said Thomas Spalding a majority of - - - - - 39

The petitioner offered depositions to prove that the cause of the failure in the transmission of the returns from the three last counties to the Governor, within the twenty days after the election, was a hurricane, which rendered the roads impassable; but, as the sitting member was not notified to be present at the taking of those depositions, the committee were of opinion that they were not admissible evidence.

The petitioner then proposed to procure other evidence of the same fact, and the sitting member proposed to procure evidence to the contrary, that the roads were passable; but the committee being of opinion that it was not material to the question before the House, whether the said failure was caused by the act of God, as alleged by the petitioner, or by the fault of the returning officers, or the defect of the law, in not providing a penalty upon officers for neglecting their official duty of transmitting the returns, did not receive any evidence on that point.

The sitting member stated to the committee that he could, as he was assured, by sending to Georgia, obtain proof that the election in the county of Tatnal was irregularly held, so that the whole return of that county ought, for that cause, to be rejected; but finding, by calculation, that if the votes of that county, of which twenty-four were for himself and forty for the petitioner, were set aside, it would not affect the result of the election, he waived that objection, and rested his claim upon the principle that the votes of all the three last-mentioned counties are void by the law of Georgia, not having been returned to the Governor within the time prescribed by said law.

There is no suggestion of any fraud or intentional unfairness in the election; and the committee add, with pleasure, that the conduct of both the gentlemen claiming the contested seat appears to have been candid and honorable.

Upon the foregoing state of facts, as the constitution has made this House the judge of the elections and returns, as well as the qualifications of its members; as the returns from the State authorities, therefore, are only *prima facie* evidence of an election, but not conclusive upon this House; as there is, in the present case, satisfactory proof that the votes of the three counties in question, although the returns thereof were not transmitted to the Governor in season to be considered by him, were originally good, lawful, constitutional votes; having been given by qualified voters, on the day, at the places, and in the manner prescribed by law; and as neither the voters who gave them, nor the candidates in whose favor they were given, have done or omitted any thing, on their part, to forfeit their respective rights, the committee are of opinion that those votes ought to be allowed, and therefore recommend the following resolution:

*Resolved*, That Cowles Mead, returned to this House as a member thereof from the State of Georgia, is not entitled to a seat; and that Thomas Spalding is entitled to a seat in this House, as a representative of the State of Georgia.

9th CONGRESS.]

No. 195.

[1st SESSION.]

### CUMBERLAND ROAD.

COMMUNICATED TO THE SENATE, DECEMBER 19, 1805.

Mr. TRACY, from the committee to whom was referred the examination of the act, entitled "An act to enable the people of the eastern division of the Territory northwest of the river Ohio to form a constitution and State Government; and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes;" and to report the manner, in their opinion, the money appropriated by said act ought to be applied, made the following report:

That, upon examination of the act aforesaid, they find "the one-twentieth part, or 5 per cent. of the nett proceeds of the lands lying within the State of Ohio, and sold by Congress from and after the 30th day of June, 1802, is appropriated for the laying out and making public roads, leading from the navigable waters emptying into the Atlantic to the river Ohio, to said State, and through the same; such roads to be laid out under the authority of Congress, with the consent of the several States through which the road shall pass."

They find, that, by a subsequent law, passed on the 3d day of March, 1803, Congress appropriated 3 per cent. of the said 5 per cent. to laying out and making roads *within* the State of Ohio, leaving 2 per cent. of the appropriation contained in the first-mentioned law unexpended, which now remains for "the laying out and making roads from the navigable waters emptying into the Atlantic to the river Ohio, to said State."

They find that the nett proceeds of sales of land in the State of Ohio, from July 1st, 1802, to June 30th, 1803, both inclusive, were -	-	-	-	-	-	\$124,400 92
From 1st July, 1803, to June 30th, 1804, -	-	-	-	-	-	176,203 35
From 1st July, 1804, to June 30th, 1805, -	-	-	-	-	-	266,000 00
From 1st July, 1805, to 30th Sept. 1805, -	-	-	-	-	-	66,000 00

Amounting, in the whole, to - - - - - \$632,604 27

Two per cent. on which sum amounts to 12,652 dollars.

Twelve thousand six hundred and fifty-two dollars were, therefore, on the 1st day of October last, subject to the uses directed by law, as mentioned in this report; and it will be discerned that the fund is constantly accumulating, and will, probably, by the time regular preparations can be made for its expenditure, amount to eighteen or twenty thousand dollars.

The committee have examined, as far as their limited time and the scanty sources of facts within their reach would permit, the various routes which have been contemplated for laying out roads pursuant to the provisions of the act first mentioned in this report.

They find that the distance from Philadelphia to Pittsburg is 314 miles by the usual route, and on a straight line about 270.

From Philadelphia to the nearest point on the river Ohio, contiguous to the State of Ohio, which is probably between Steubenville and the mouth of Grave creek, the distance by the usual route is 360 miles, and on a straight line about 308.

From Baltimore to the river Ohio, between the same points, and by the usual route, is 275 miles, and on a straight line 224.

From this city (Washington) to the same points on the river Ohio, the distance is nearly the same as from Baltimore; probably the difference is not a plurality of miles.

From Richmond, in Virginia, to the nearest point on the river Ohio, the distance by the usual route is 377 miles; but new roads are opening which will shorten the distance 50 or 60 miles; 247 miles of the contemplated road, from Richmond northwesterly, will be as good as the roads usually are in that country, but the remaining 70 or 80 miles are bad, for the present, and probably will remain so for a length of time, as there seems to be no existing inducement for the State of Virginia to incur the expense of making that part of the road passable.

From Baltimore to the Monongahela river, where the route from Baltimore to the Ohio river will intersect it, the distance as usually travelled is 218 miles, and on a straight line about 184. From this point, which is at or near Brownsville, boats can pass down, with great facility, to the State of Ohio, during a number of months in every year.

The above distances are not all stated from actual mensuration, but it is believed they are sufficiently correct for the present purpose.

The committee have not examined any routes northward of that leading from Philadelphia to the river Ohio, nor southward of that leading from Richmond, because they suppose the roads to be laid out must strike the river Ohio on some point contiguous to the State of Ohio, in order to satisfy the words of the law making the appropriation; the words are, "leading from the navigable waters emptying into the Atlantic, to the river Ohio, to the said State, and through the same."

The mercantile intercourse of the citizens of Ohio with those of the Atlantic States is chiefly in Philadelphia and Baltimore; not very extensive in the towns on the Potomac within the District of Columbia, and still less with Richmond, in Virginia. At present, the greatest portion of their trade is with Philadelphia; but it is believed their trade is rapidly increasing with Baltimore, owing to the difference of distance in favor of Baltimore, and to the advantage of boating down the Monongahela river, from the point where the road strikes it, about 70 miles by water, and 50 by land, above Pittsburg.

The sum appropriated for laying out and making roads is so small, that the committee have thought it most expedient to direct an expenditure to one route only; they have, therefore, endeavored to fix on that which, for the present, will be most accommodating to the citizens of the State of Ohio; leaving to the future benevolence and policy of Congress, an extension of their operations on this or other routes, and an increase of the requisite fund, as the discoveries of experience may point out their expediency and necessity. The committee being fully convinced that a wise Government can never lose sight of an object so important as that of connecting a numerous and rapidly increasing population, spread upon a fertile and extensive territory, with the Atlantic States, now separated from them by mountains, which, by industry and an expense moderate in comparison with the advantages, can be rendered passable.

The route from Richmond must necessarily approach the State of Ohio in a part thinly inhabited, and which, from the nature of the soil, and other circumstances, must remain so, at least for a considerable time; and, from the hilly and rough condition of the country, no roads are or can be conveniently made, leading to the principal population of the State of Ohio. These considerations have induced the committee to postpone, for the present, any further consideration of that route.

The spirit and perseverance of Pennsylvania are such, in the article of road making, that no doubt can remain but they will, in a little time, complete a road from Philadelphia to Pittsburg, as good as the nature of the ground will permit. They are so particularly interested to facilitate the intercourse between their trading capital, Philadelphia, not only to Pittsburg, but also to the extensive country within that State, on the western waters, that they will, of course, surmount the difficulties presented by the Allegany mountain, Chesnut Ridge, and Laurel Hill, the three great and almost exclusive impediments which now exist on that route.

The State of Maryland, with no less spirit and perseverance, are engaged in making roads from Baltimore, and from the western boundary of the District of Columbia, through Fredericktown, to Williamsport. Were the Government of the United States to direct the expenditure of the fund in contemplation upon either of these routes, for the present, in Pennsylvania or Maryland, it would, probably, so far interfere with the operations of the respective States, as to produce mischief instead of benefit; especially as the sum to be laid out by the United States is too inconsiderable, alone, to effect objects of such magnitude. But as the State of Maryland have no particular interest to extend their road across the mountains, (and if they had, it would be impracticable, because the State does not extend so far,) the committee have thought it expedient to recommend the laying out and making a road from Cumberland, on the northerly bank of the Potomac, and within the State of Maryland, to the river Ohio, at the most convenient place between a point on the easterly bank of said river, opposite to Steubenville, and the mouth of Grave creek, which empties into said river Ohio, a little below Wheeling, in Virginia. This route will meet and accommodate the roads leading from Baltimore and the District of Columbia; it will cross the Monongahela river, at or near Brownsville, sometimes called Redstone, where the advantage of boating can be taken; and from the point where it will probably intersect the river Ohio, there are now roads, or they can easily be made over feasible and proper ground, to and through the principal population of the State of Ohio.

Cumberland is situated at the eastern foot of the Allegany mountain, about eighty miles from Williamsport, by the usual route, which is circuitous, owing to a large bend in the river Potomac, on the bank of which the road now runs; the distance on a straight line is not more than fifty or fifty-five miles, and over tolerable ground for a road, which will probably be opened by the State of Maryland, should the route be established over the mountains, as contemplated by this report.

From Cumberland to the western extremity of Laurel Hill, by the route now travelled, the distance is sixty-six miles, and on a straight line about fifty-five; on this part of the route, the committee suppose, the first and very

considerable expenditures are specially necessary. From Laurel Hill to the Ohio river, by the usual route, is about seventy miles, and on a straight line fifty-four or five; the road is tolerable, though capable of amelioration.

To carry into effect the principles arising from the foregoing facts, the committee present herewith a bill for the consideration of the Senate. They suppose, that to take the proper measures for carrying into effect the section of the law respecting a road or roads to the State of Ohio is a duty imposed upon Congress by the law itself, and that a sense of duty will always be sufficient to insure the passage of the bill now offered to the Senate.

To enlarge upon the highly important considerations of cementing the union of our citizens located on the Western waters with those of the Atlantic States, would be an indelicacy offered to the understandings of the body to whom this report is addressed, as it might seem to distrust them. But, from the interesting nature of the subject, the committee are induced to ask the indulgence of a single observation: Politicians have generally agreed that rivers unite the interests and promote the friendship of those who inhabit their banks; while mountains, on the contrary, tend to the disunion and estrangement of those who are separated by their intervention. In the present case, to make the crooked ways straight, and the rough ways smooth, will, in effect remove the intervening mountains, and, by facilitating the intercourse of our Western brethren with those on the Atlantic, substantially unite them in interest, which, the committee believe, is the most effectual cement of union applicable to the human race.

All which is most respectfully submitted.

[9th CONGRESS.]

[No. 196.]

[1st Session.]

#### APPLICATION OF OLIVER EVANS FOR AN EXTENSION OF HIS PATENT.

COMMUNICATED TO CONGRESS, DECEMBER 31, 1805.

*To the honorable the Senate and House of Representatives of the United States: The petition of your petitioner respectfully sheweth:*

That your petitioner invented many useful improvements on the art of manufacturing of flour and meal, for which he obtained a patent dated 7th January, 1791, which expired on the 7th January last.

That your petitioner has experienced great and unforeseen difficulties in the introduction of his said improvements, the millers being unwilling to risk the expense until fully convinced of their utility by seeing them long and successfully used by others; and many delayed until your petitioner's patent has expired, although the improvements were proved to be of great utility by all who have used them. Also the wide extent of country which your petitioner and his agent have been obliged to traverse, to make known his inventions, direct their erection, and make collections, has consumed the greatest part of the sums he has been able to collect; whereby the patriotic intention of Congress, in passing the patent law, wherein they contemplated that the inventor of a useful improvement should be well rewarded, has in this case been completely frustrated; so far that your petitioner can, with safety, say that he has already expended more than the nett profits arising from his invention, in bringing forward another and far more useful discovery and improvement on *steam engines*, the principles of which are extremely abstruse and difficult to investigate, and has been very expensive in the experiments necessary to put them in practice or operation, so as to be applied as a substitute for water falls in all cases where power may be wanted to move machinery, from the power of one man to that of one hundred horses. Also to a great variety of purposes to which the engines heretofore known could not be applied with profit; even to propel *boats* against the current of the Mississippi, and carriages on turnpike roads; because his engines are from five to ten times more powerful than others, in proportion to their size and weight. But large sums are still necessary to be expended to bring into general use this invention, as it will meet with similar difficulties and delays, unless your petitioner be enabled to apply it *himself* to several of the purposes for which it is so well adapted. And also to compose and publish a new and expensive work explaining the principles and construction of his said improved engine, by many expensive engravings, without which *this*, as well as *others* which he will mention, can progress but extremely slow.

Your petitioner, long since, found it prudent to restrain his strong propensity for making improvements, and to confine them to such arts only as he was immediately engaged in; and to make it a rule that no more than the profits arising from the inventions he had already made should be applied to defray the expense of new ones.

During the American revolution, he engaged in making wire, also wool and cotton cards. His improvements in those arts were profitable to him for a short time. When he commenced the manufacturing of flour in the year 1784, he was led to make his improvements on that art; he then and at that time conceived the principles by which he has now improved the steam engine, but waited until the profits arising from his other improvements on the manufacture of flour should be sufficient to defray the expense of experiments to make the improvement on steam engines, which, after being suppressed for seventeen years, and running the risk of being totally lost, he commenced in the year 1801, and, at the expense of \$3,700, including his own time, at last reduced to practice.

Your petitioner finds his knowledge on this subject so much enlarged, that he has conceived still greater improvements on steam engines and other arts intimately connected, which he has not yet put in practice; that is, to cause steam engines to last much longer, increase their power, fit them for peculiar purposes, and lessen their consumption of fuel to about one-fourth; drawings and written explanations of which he prepared and presented for the inspection of your honors last session, and which he deposited in the Patent Office; choosing rather to communicate his discoveries than suffer them to be lost. He does not hesitate to declare his sanguine expectations are, that when all these improvements, in addition to those he has already made, are put in operation and generally used, that they will, in this country, daily save the labor of one hundred thousand men. Under such impressions as these, he cannot willingly relinquish the pursuit of the means of bringing them into operation, without injury to himself, while there remains a gleam of hope.

Your petitioner conceives that the profits that would arise from the exclusive right of his own inventions for another term, would enable him to apply—

1st. For the introduction of his steam engine,	-	-	-	-	\$3,000 00
2d. For defraying the expense of experiments to put in operation his new principles to the further improvement of steam engines and other arts,	-	-	-	-	3,000 00
3d. For composing and publishing a new work, to be entitled the "Young Steam Engineer's Guide," with many engravings, explaining the principles of his various inventions,	-	-	-	-	3,000 00
Making, in all,	\$9,000, which he wishes to expend for those useful purposes.				

Your petitioner, not doubting but that your honorable bodies will be disposed to protect him in the enjoyment of his own inventions, so long as it may appear likely to be the means of bringing into use more useful improvements, the great expense of which must be defrayed from some source, he has therefore made the above statement, and prays for an extension of his patent for his improvements on the art of manufacturing flour and meal for such term as you, in your wisdom, may deem best; and securing to those who have already purchased the privilege of him their right of using the said improvements. This would enable your petitioner to collect the sums with greater facility already due him for the use of said improvements, which will not otherwise be worth the expense of collecting, being scattered over the United States, and which, added to what might become due, might be sufficient for his intended purposes. And your petitioner, on his part, promises faithfully to exert his abilities to bring to perfection and into use his said improvements, and to compose and publish his intended new work, as he may be enabled so to do.

OLIVER EVANS.

[9th CONGRESS.]

No. 197.

[1st SESSION.]

STATE COURTS VESTED WITH POWER TO MITIGATE OR REMIT FORFEITURES, PENALTIES, AND DISABILITIES ACCRUING UNDER THE REVENUE LAWS, IN CERTAIN CASES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 2, 1806.

Mr. SALLY, from the committee appointed to inquire into the expediency of so far amending the act entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accrued in certain cases therein mentioned," as to extend the powers vested in the district judges of the United States to the judges of the judicial courts of the several States, made the following report:

That, by the 30th section of a law of the United States, to regulate the collection of duties on imports and tonnage, it is made the duty of any person, having the charge and command of any ships or vessels, to make a report, within twenty-four hours, of the arrival of the said ship or vessel, and within forty-eight hours after such arrival to make another report in form of all the particulars required to be in a manifest, &c.; and that if the said master, or other person having the care of any such ships and vessels, shall neglect or omit to make the said reports, or any of them, he shall, for each and every offence, forfeit and pay the sum of \$1,000.

And also, that, by the 50th section of the said law, masters of vessels unloading goods without a permit shall forfeit \$400.

That, by the 105th and 106th sections of the said act, goods, wares, and merchandise may be imported in the districts on the northern and northwestern boundaries of the United States, in vessels and boats of any burthen, and in rafts and carriages of any kind and nature, subject to the like regulations, penalties, and forfeitures, as in other districts.

Your committee observe, that the intercourse by water between the inhabitants on the frontier of the United States, particularly of the district of Champlain, and those of Canada, is, in many instances, effected in small boats or canoes, not exceeding three-quarters of a ton burthen; that the intercourse with Canada is not confined to the water communication; that at the place where the line of forty-five degrees of north latitude separates the United States from the British territory, lake Champlain is sixty miles distant from the river St. Lawrence; that the land of that tract is, at several points, inhabited on both sides of the line.

That, by the act under the consideration of your committee, for mitigating or remitting fines, forfeitures, and disabilities, any person that has incurred fine, penalty, or forfeiture, by force of any law of the United States, for the laying, levying, or collecting any duties or taxes, may prefer his petition to the judge of the district, setting forth the circumstances of his case; and, upon an inquiry, it is made the duty of the said judge to cause the facts which shall appear to be stated and annexed to the petition, and to direct their transmission to the Secretary of the Treasury, who shall thereupon have power to mitigate or remit such fine and penalty, if, in his opinion, the same shall have been incurred without wilful negligence, or any intention of fraud; and to direct the prosecution, if any shall have been instituted, to be discontinued, upon such terms and conditions as he may deem reasonable and just.

Your committee further observe, that the revenue districts on the northern frontier are at a distance of between three and four hundred miles of the place of residence of the district judges and of the district courts; that any petitioners from those districts would be forced to travel from six to eight hundred miles with their evidences, in order to avail themselves of the benefits contemplated by the law; that the persons who are liable to infringe the laws of the United States, on account of their local situation, are generally poor, or in very moderate circumstances; that they have not the ability to bear the expenses of so long a journey.

That the inhabitants of the northern part of lake Champlain are in the habit of transporting their produce, such as pork, butter, and cheese, in canoes in the summer months, and in sleighs during the winter; that the distance from a direct route by land, to any of the custom-house offices, often exceeds twenty miles; that in many instances those people will, through neglect, ignorance, or necessity, unload the trifling articles they have imported before a previous declaration to the custom-house is made; in which case they are liable to pay a fine of \$1,000 for not giving notice of their arrival into the district within twenty-four hours, and to pay another fine of \$400 for unloading without a permit.

That the inhabitants of the frontier may, and will, often be driven by want to step over the fictitious barrier, in order to obtain from his neighbor, across the line, a single bushel of corn, perhaps the price of his labor; that, by

such an act, the poor man makes himself liable to pay the disproportionate penalty of the law, and that the difficulty or impossibility of petitioning for relief is a stimulus to the rapacity of a wicked informer; and that, on the whole, your committee believe that the law, for mitigating or remitting penalties, is, in its present form, nugatory as it respects the frontier districts; and that the inhabitants of those districts are totally deprived of the means of obtaining relief.

Under these impressions, and agreeable to the opinion of the Secretary of the Treasury, expressed in his letter hereunto annexed, your committee are of opinion that the powers of the district judges, and of the district courts, ought to be extended to the judges and to the judicial courts of the several States, so far as it respects the revenue districts of Champlain, Sackett's Harbor, Oswego, Genesee, Niagara, Buffalo Creek, and Presque Isle; and they have prepared a bill for that purpose.

SIR:

TREASURY DEPARTMENT, *December 26, 1805.*

I had the honor to receive your letter of the 19th instant, respecting the propriety of extending the powers vested in the district judges, in relation to the remission of forfeitures and penalties, to the judges of the judicial courts of the several States.

As those forfeitures and penalties can be incurred only on the sea border, or on the northern frontier of the United States, it is only on that frontier that the distance from the residence of the district judge, and from the place where district courts are held, renders it almost impracticable for the parties to avail themselves of the present mode of affording relief.

The inconvenience has been remedied, so far as related to the Territories, by an act of last session. There is a district judge in the State of Ohio, and one in that of Vermont. The only portion of the frontier where there is a just ground of complaint extends from Lake Champlain to the western boundary of Pennsylvania, including the revenue districts of Champlain, Sackett's Harbor, Oswego, Genesee, Niagara, Buffalo Creek, and Presque Isle. I think that it would, on the whole, be in favor of the revenue, as well as of those persons who may inadvertently commit some breach of the revenue laws, were the jurisdiction of the State courts, in those counties which include the above-mentioned districts, extended to all seizures, penalties, and forfeitures arising under the revenue laws of the United States; and the same powers, in relation to the remission or mitigation of such penalties and forfeitures, given to the presiding judges of those State courts, which have been given to the judges of the district courts of the United States.

I have the honor to be, respectfully, sir, your obedient servant,

ALBERT GALLATIN.

Hon. PETER SAILLY, *Chairman, &c., in Congress.*

9th CONGRESS.]

No. 198.

[1st SESSION.]

OBJECTIONS TO THE ELECTION OF MICHAEL LEIB, A REPRESENTATIVE FROM PENNSYLVANIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 6, 1806.

Mr. FINDLEY, from the Committee of Elections, to whom was referred, on the 3d inst., the petition of John Douglass, on behalf of the electors opposed to the election of Michael Leib, made the following report:

A petition against the election of any person returned as a member of the House of Representatives ought to state the ground on which the election is contested with such certainty as to give reasonable notice thereof to the sitting member, and to enable the House to judge whether the same be verified by the proof; and, if proved, whether it be sufficient to vacate the seat; and the petitioner ought not to be permitted to give evidence of any fact not substantially alleged in his petition.

In the present case, the petition contains no direct or specific charge of any illegality in the election. The only allegations are general and indirect, that is, by a history of the proceedings of certain meetings and committees of electors, and by reference to a subjoined report of one of these committees, and the documents accompanying it, which documents appear to be seven *ex parte* depositions, not admissible in evidence, and not deemed proper to be considered as parts of the petition, by being generally referred to therein.

The committee are of opinion that on such a petition there can be no satisfactory trial of the merits of the election in question, and therefore recommend the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition, and the documents accompanying the same.

9th CONGRESS.]

No. 199.

[1st SESSION.

## LIBRARY OF CONGRESS.

COMMUNICATED TO THE SENATE, JANUARY 20, 1806.

Mr. MITCHELL, from the committee to whom was referred the order of the Senate of the 5th December last, that inquiry be made whether a further appropriation ought not to be made for the augmentation of the Congressional library, made a report, (in part) as follows:

By the fifth section of the act, entitled "An act to make further provision for the removal and accommodation of the Government of the United States," passed 24th April, 1800, 5,000 dollars were appropriated for the purchase of such books as might be necessary for the use of Congress, then about to remove from Philadelphia and hold its sessions at Washington, and for fitting up a suitable chamber for containing them, and placing them therein. The Secretary of the Senate and the Clerk of the House of Representatives were directed to be the purchasers, pursuant to such directions as should be given, and such catalogue as should be furnished by a joint committee of both Houses of Congress. The account herewith exhibited shows in what manner, and to what amount, the money so appropriated has been expended.

Afterwards, by the sixth section of the "Act concerning the library for the use of both Houses of Congress" passed 26th January, 1802, the unexpended balance of the said 5,000 dollars, together with such sums as may be hereafter appropriated to the same purpose, is ordered to be laid out under the direction of a joint committee, to consist of three members of the Senate and three members of the House of Representatives, for the purchase of books and maps.

The committee almost hesitate to add a sentence, to enforce the propriety of increasing the number already bought for Congress. Every member knows that the inquiries of standing and select committees cannot here be aided by large public libraries, as in New York, Baltimore, and Philadelphia. Nor has it hitherto appeared that so much benefit is to be derived from private collections at the present seat of Government, as in those large cities. Every week of the session causes additional regret that the volumes of literature and science, within the reach of the National Legislature, are not more rich and ample. The want of geographical illustrations is truly distressing; and the deficiency of historical and political works is scarcely less severely felt. There is, however, no danger of realizing the story of a *parliamentum indoctum* in this country, especially if steps be seasonably taken to furnish the library with such materials as will enable statesmen to be correct in their investigations, and, by a becoming display of erudition and research, give a higher dignity and a brighter lustre to truth.

9th CONGRESS.]

No. 200.

[1st SESSION.

## BRIDGE ACROSS THE POTOMAC AT WASHINGTON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 21, 1806.

Mr. PHILIP R. THOMPSON, from the committee to whom were referred the petition of sundry inhabitants of the county of Alexandria, in the District of Columbia; the petition of sundry citizens of the United States, resident in the Territory of Columbia; the memorial of sundry inhabitants of Georgetown, in the District of Columbia; the memorial of sundry inhabitants of the city of Washington, residing on the west side of Tiber creek; and the memorial of John P. Van Ness, made the following report:

The petitions of the inhabitants of the town and county of Alexandria, and of the citizens resident in the Territory of Columbia, state: That an easy intercourse between the town of Alexandria and the city of Washington, which is at present prevented by the intervention of the river Potomac, is extremely desirable; that this intercourse is especially interrupted at that season of the year when the river is obstructed by ice; that a bridge from Maryland Avenue to Alexander's island would facilitate the communication, shorten the route of the mail at least six miles, and be generally beneficial to the citizens of the United States; that they are persuaded the bridge contemplated by their petitions will, at some period, be carried into effect, and they view the present time as the most favorable, both in relation to their own and the general convenience, and the interests of those who may be affected by the measure; and that, if the scheme shall be authorized by Congress, it will speedily be carried into effect. They pray that a law may pass to incorporate a company for erecting a bridge across the Potomac from the city of Washington to the county of Alexandria, in some convenient situation, under such regulations and restrictions as the Legislature may deem expedient.

In opposition to these petitions, the committee have referred to them the memorial of the proprietors and inhabitants of Georgetown, which states, that Georgetown was laid out under the sanction of law, previous to the revolution; that it was engaged in foreign commerce before the seat of Government was contemplated to be on the Potomac; that, being at the head of tide-water navigation, the proprietors must have made purchases and improvements with a view to foreign commerce, or some of the trade dependent on it, in the confident expectation that the river would remain free and unobstructed by artificial causes; particularly when they saw Maryland and Virginia make a solemn compact, whereby the river Potomac is declared a common highway for the purpose of navigation and commerce, the navigation whereof is not to be injured or obstructed. They consider that their natural and political rights will be infringed on by the adoption of this measure, as the navigation of the river will be injured and obstructed thereby; that from the meeting of the stream and tide water, at the place where the bridge is contemplated, a tendency will be produced in the impeded stream water to deposit the earthy particles with which it

is charged in times of freshets, by which they apprehend the present entire main and deep channel may be divided into many small and narrow passages, to the great injury of the navigation.

There is, likewise, referred to your committee the memorial of the inhabitants of the city of Washington, residing on the west side of Tiber creek; which states, that the memorialists have acquired property on the west side of Tiber creek, in the city of Washington, in confidence that the navigation of the Potomac would not be destroyed by artificial means; that the erection of a bridge at the place contemplated would probably greatly injure the navigation above it, and impair the value of the property of the memorialists; that the project of a bridge across the river is unjust, as no place should calculate on being favored with *artificial advantages* which cannot be afforded without depriving other places of their *natural advantages*.

They also find among the documents referred to them the memorial of John P. Van Ness, in opposition to the first-mentioned petitions, on the ground of the measure therein proposed, being (if carried into effect) an injurious infraction of the private rights of most of those, both within the city and Georgetown, and on the opposite shore, who are interested above the proposed site of the intended bridge.

The contrariety of sentiment and of interest which exists in the Territory of Columbia on the subject of the proposition contained in the petitions, praying that the erection of a bridge across the Potomac may be authorized by law, has induced your committee deliberately to examine the ground on which the pretensions of the petitioners in favor of the bridge are founded, and the reasons advanced by the memorialists in opposition to the measure.

Two inquiries present themselves, on the decision of which the propriety of authorizing the proposition entirely depends:

1st. Whether Congress have a right to pass a law, by which the object contemplated by the petitioners can be effected? And

2d. If that right exists, whether the benefit to the District, and the community in general, will be so great as to counterbalance the injury which individuals may eventually sustain from authorizing the measure?

In investigating the first point, it became necessary to advert to the act of the Virginia Assembly passed the 3d of January, 1786, and the act of the Assembly of Maryland passed the 12th of March in the same year, confirming a compact previously entered into between the two States; from which it appears that, among other stipulations entered into between the States of Virginia and Maryland, by their commissioners appointed for that purpose it is agreed, "that the citizens of each State, respectively, shall have full property in the shores of the Potomac river adjoining their lands, with all the emoluments and advantages thereunto belonging, and the privilege of making wharves and other improvements, so as not to obstruct or injure the navigation of the river."

It does not appear to your committee, that the subsequent cession made by the two contracting parties of ten miles square, lying on both sides of the river, under the first article of the constitution of the United States, to wit: by an act of the Virginia Assembly, passed the 3d day of December, 1791, and by an act of the Assembly of Maryland, passed the 19th day of the same month, in any degree impairs the compact previously made by the two contracting States; but that the United States received the territory, subject to the conditions previously imposed by the former possessors.

Under this impression, your committee considered it a matter of the first importance, in the decision of this question, to inquire whether the fact assumed by the counter-petitioners, that the erection of a bridge will obstruct the navigation of the river above it is founded in truth? In examining this part of the subject, your committee could avail themselves of no other evidence than such as is drawn from analogy.

It appeared to them, that the erection of piers in the river at the place contemplated for the site of the bridge, far from having the effect of occasioning a deposition of earthy matter, and filling the channel, would rather have a tendency to keep the channel open, by the increased velocity of the water passing down the main channel of the river, between the two piers which it seemed practicable to erect on each side of it. It likewise appeared to them, if the erection of the causeway from Mason's Island, opposite Georgetown, to the Virginia shore, would produce the effect expected from it, of improving the navigation of the river by means of throwing the whole body of the water of the river into a narrower compass, increasing its velocity, and thereby sweeping out a deeper channel, the same result might reasonably be expected from throwing a greater quantum and force of water into the main channel of the river, between the two piers which would support the bridge across the channel.

Your committee find that the Legislature of Maryland passed a law, on the 29th of December, 1791, previous to the assumption of jurisdiction over the territory by the United States, authorizing the erection of a bridge at or near Georgetown. As the river Potomac is navigable above the town of Georgetown, your committee consider the passage of that law as expressive of an opinion, by the Legislature of Maryland, that the erection of a bridge below the head of tide-water is not such an obstruction or injury as is prohibited by the articles of compact between the two States. And as that arm of the river Potomac between Mason's Island and the Virginia shore was navigable previous to the building of the causeway across that branch of the river, your committee have considered the law passed at the last session of Congress, authorizing the erection of that causeway, as declaratory of the right of the Legislature of the United States (notwithstanding the compact between Virginia and Maryland) to occlude, in a degree, the navigation of the river within their jurisdiction.

If a bridge can be erected with such a draw as will admit the free passage of vessels of any burden for which there is depth of water in the channel, your committee do not consider the passing a law to authorize such a bridge, under proper restrictions, as any violation of the compact before mentioned; and, from the best information they have been able to obtain on this point, it seems very practicable to erect a bridge across the river Potomac, with a draw which will permit the passage of vessels without much detention.

On the second point, whether the benefit to the public would be so great as to counterbalance the inconvenience which might eventually result to individuals from authorizing this measure, your committee have had less difficulty in forming their opinion. From a survey, said to be an accurate one, with which the committee have been furnished, it appears that the distance from Alexandria to Georgetown, (including the river,) by the present route, is eight miles and fifty-five poles; and from the ferry at Georgetown to the Capitol, three miles and a quarter; making, in the whole, eleven miles three-eighths and fifteen poles. From Alexandria to the Capitol, by the intended bridge, six miles and a half and nine poles, being less than the road at present travelled by five miles and seven-eighths. Hence it results, that *that* distance will be saved to those having communication between Alexandria and that part of the city lying in the vicinity of, and below the Capitol, and to persons travelling from north to south, and *e converso*.

The casualties, the delays, and the dangers to which the mails of the United States, as well as persons having occasion to pass from one side of the river to the other are subjected from the occurrence of storms, and the formation of ice on the river in winter, (both which occasionally render the Potomac impassable) are cogent circumstances in favor of the expediency of authorizing the erection of a bridge.

Your committee are not furnished with data whereon to form an accurate opinion of the actual saving of distance which will take place (in case of the erection of a bridge) in the transportation of the mails of the United



States. This, however, from the facts just stated, must be considerable; and the diminution of expense will be proportionate to the diminution of distance.

On the whole, your committee are of opinion that the public interests will be greatly promoted by the erection of a bridge across the river Potomac, at or near the termination of the Maryland Avenue, in the city of Washington, to the county of Alexandria on the opposite side; and, in conformity with that opinion, recommend the following resolution:

*Resolved*, That the prayer of the petitioners, in favor of the erection of a bridge across the Potomac, is reasonable, and ought to be granted.

9th CONGRESS.]

No. 201.

[1st SESSION.]

DISPUTED BOUNDARY BETWEEN GEORGIA AND NORTH CAROLINA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 12, 1806.

Mr. SPALDING made the following report:

The committee to whom was referred the memorial of the Legislature of the State of Georgia, respecting disputed limits between that State and the State of North Carolina, having taken into consideration the matter of the said memorial, as well as such information as the documents attached to the memorial, and former reports made to this House, afford, beg leave to submit the following report:

Between the latitude of thirty-five degrees north, which is the southern boundary claimed by North Carolina, and the northern boundary of Georgia, as settled by a convention between that State and South Carolina, intervenes a tract of country supposed to be about twelve miles wide from north to south, and extending in length from the western boundary of Georgia, at Nicajack creek, on the Tennessee, to her northeastern limits on the Tugelo. This tract was, consequently, within the limits of South Carolina; and in the year 1787 it was ceded to the United States, who accepted the cession. This territory remained in possession of the United States until 1802, when it was ceded to the State of Georgia. From the most correct information relative to the said territory, it appears that it is inhabited by about eight hundred souls; and, to adopt the words of a former report, it is not shown at what period they made the settlement, nor had they any titles to the land on which they settled and made improvements. No such title, indeed, could have been created, as those lands remained within the boundary of the Cherokees until the year 1798, when a part of this territory was purchased by a treaty held at Tellico. It does not appear that the lines that bound the tract of land in question, and divide it from Carolina, have ever been established by public authority.

After the transfer of this territory by the United States to Georgia, the Legislature of that State, in compliance with the earnest request of those self-governed people, praying that they might be allowed to participate in the civil rights enjoyed in common by the people of the United States, passed an act in the year 1803, to organize the inhabited part of the territory, and to form it into a county; authorizing, at the same time, the Governor to appoint commissioners to meet such commissioners as should be appointed by the Government of North Carolina, to ascertain and plainly mark the line dividing this territory from North Carolina. The Governor of North Carolina expressed a readiness to accede to the proposition, under the provisions of a former act of the Legislature of that State, but clogged with a condition which the Legislature of North Carolina refused to depart from, and which the Legislature of Georgia refused to accede to. Her reason may be found in a letter from General Pickens, of the State of South Carolina, attached to a report made to this House respecting that territory while the property of the United States. The letter states, that before the people now inhabiting that territory settled on the lands, it was surveyed, and grants obtained for most part of it from the State of North Carolina, and probably by men who cared little whether the land was within the Indian claim or the limits of South Carolina. Your committee conceive that they have no right to enter into the feelings of either of the parties, or to pronounce upon the justice of the condition made by North Carolina on the one part, or its rejection by Georgia on the other; and have, therefore, confined their attention to that part of the memorial which calls upon Congress to define and mark out the thirty-fifth degree of latitude, the line which North Carolina admits to bound her State upon the south, and north of which Georgia can have no claim of territory. Your committee, after giving to this point the most deliberate consideration, are of opinion that the United States are bound in good faith to use their friendly offices with the State of North Carolina for obtaining an amicable adjustment of the limits of the territory which they have transferred to Georgia, in all parts where such limits may be disputed. Your committee, therefore, beg leave to offer the following resolution:

*Resolved*, That the President of the United States be authorized to appoint a commissioner to meet such commissioners as may be appointed by the States of North Carolina and Georgia, for the purpose of ascertaining and running the line which divides the territory, transferred by the United States to Georgia, from North Carolina.

IN THE HOUSE OF REPRESENTATIVES, *Friday, November 29, 1805.*

*The memorial of the Legislature of the State of Georgia to the Congress of the United States, respectfully sheweth:*

That, by the second article of the articles of agreement and cession, entered into the twenty-fourth day of April, one thousand eight hundred and two, between the commissioners appointed on the part of the United States and the commissioners appointed on the part of the State of Georgia, the United States ceded to the State of Georgia whatever claims, right, or title they had to the jurisdiction or soil of any of the lands lying within the United States, and out of the proper boundaries of any other States, and situated south of the southern boundaries of the States of Tennessee, North and South Carolina, and east of the eastern boundary of the territory ceded by Georgia to the United States, in the first article of the said articles of agreement and cession; which

territory so ceded was accepted by the State of Georgia on the sixteenth day of June, one thousand eight hundred and two. From the most correct information which has been collected relative to the said territory, it appears that it is inhabited by about eight hundred souls, over whom the State of North Carolina had never claimed or exercised jurisdiction, had never demanded or received contributions from them, nor extended the protecting arm of Government to them. The State of Georgia, solicitous to afford that protection and security which is due from the Government to its citizens, in compliance with the humble and earnest request of those self-governed people, praying that they might be admitted to participate in the natural and civil rights enjoyed by the rest of their fellow-citizens, on the tenth of December, one thousand eight hundred and three, passed an act to organize the inhabited parts of the said territory, and formed it into a county, by the name of Walton; and by the said act authorized the appointment of commissioners to meet any commissioners who might be appointed by North Carolina, to ascertain and plainly mark the line dividing the two States westward of the western boundary of the State of South Carolina to the eastern boundary of Tennessee. This act was transmitted by the Governor of Georgia to the Governor of North Carolina, with assurances of his readiness to appoint the said commissioners. The Governor of North Carolina, under the provisions of an act of the Legislature of that State, passed the seventh of December, one thousand eight hundred and three, for appointing commissioners to extend the boundary line of the said State and South Carolina, expressed a readiness to appoint commissioners to act in conjunction with those who should be appointed on the part of Georgia, provided the running of the line should not affect the titles of those who held land in the said territory under the grants of the said State. To this provision the Governor of Georgia could not accede, and the ascertaining and running the line was necessarily postponed until legislative interference should remove the difficulty. After the failure of the aforesaid application, the Governor of Georgia proceeded to organize the county of Walton, and to extend the fostering hand of Government to the inhabitants thereof. At this crisis an attempt was made by a few turbulent persons to prevent the operation of the laws of Georgia in that territory, alleging that the jurisdiction of North Carolina extended over the greater part thereof; but the county was so far organized, that an election was holden for representatives, who took their seats in the last Legislature of this State. To obviate all existing differences between the two States, the Legislature of Georgia, during their last annual session, on the tenth day of December, one thousand eight hundred and four, passed a second act for the appointment of commissioners to co-operate with those who might be appointed by North Carolina, the Legislature whereof also passed an act, at their last annual session, to extend the provisions of their act of one thousand eight hundred and three, so far as to include Georgia as well as South Carolina, but clogged with the same provision as to the legality of their grants. These two last-mentioned acts have been respectively transmitted by the Executive of each State to that of the other, and explanations have been reciprocally made, the result of which was a declaration on the part of the Governor of North Carolina, that although that State did not claim jurisdiction over the territory acquired by Georgia from the United States, yet she would not permit the line to be run, or the State of Georgia to exercise jurisdiction over the said territory and citizens, unless the grants of the description aforesaid should be previously acknowledged to be valid by the State of Georgia. This provision was by the Governor of Georgia held inadmissible, and no commissioners have been appointed. During the last recess of the Legislatures of the two States, a number of disorderly and lawless persons, acting, or pretending to act, under the authority of North Carolina, have invaded the rights of the good citizens of Walton county, and committed the most cruel outrages against their persons and property, have dragged a number of them from their peaceful habitations, and lodged them in the public jails of that State; and, by their violence and oppression, have compelled the wretched inhabitants of that territory to abandon their habitations, and fly for refuge from their oppressors, across the mountains, into the State of South Carolina, and the western counties of Georgia. Such is the dispersed situation of the inhabitants, and so complete is the state of disorganization which prevails in Walton county, that it is at this moment unrepresented in the Legislature of the State.

In rejecting the provision contained in the act of North Carolina, the Legislature of Georgia conceive that they have consulted the true interest of the citizens of and residents in that territory, a very small number of whom, if any, hold land under the State of North Carolina. To accede to the proposition of North Carolina would be improvident and unjust; improvident, because the State of Georgia has paid a valuable consideration for every acre of land in that territory; unjust, because the Legislature of Georgia are informed that large grants have issued to speculators and monopolizers, not only for the most part of that territory the Indian title to which is extinguished, but for a great part of that which is now the property of the aborigines.

The Legislature of Georgia, through every successive stage of these fruitless transactions, have felt with deep concern and tender solicitude for the situation of their unfortunate fellow-citizens, and have made every effort in their power, by direct applications to the State of North Carolina, to remove every obstacle to their peace and welfare. These applications have failed to produce the desired effect. It is with sincere regret that the Legislature of Georgia feels itself constrained to approach the representatives of the nation, and apply to the justice of the Supreme Legislature of the Union.

The Legislature of Georgia are impressed with the most solemn conviction that this application to the National Government is the only mode which is now left them to pursue, and the only source from which they can expect a termination of the contest between the two States; they therefore entreat the Congress of the United States to interpose, and cause the thirty-fifth degree of north latitude to be ascertained, and the line between the two States to be plainly marked. This will completely terminate the question of jurisdiction between the two States, as North Carolina never contended that her jurisdiction or limits extended south of the thirty-fifth degree of north latitude, and Georgia has never claimed jurisdiction north of that line.

ABRAHAM JACKSON, *Speaker of the House of Representatives.*

A true copy from the journal. Attest: HINES HOLT, *Clerk.*

IN SENATE, *November 29, 1805.*

Read and concurred in.

JARED IRWIN, *President of the Senate.*

Attest: WILLIAM ROBERTSON, *Secretary.*

EXECUTIVE DEPARTMENT, GEORGIA, LOUISVILLE, *December 4, 1805.*

Presented, read, and approved.

JOHN MILLEDGE, *Governor.*

Attest: G. R. CLAYTON, *Secretary.*

IN THE HOUSE OF REPRESENTATIVES, FRIDAY, *November 29, 1805.*

*Resolved*, That his excellency the Governor be, and he is hereby, requested to transmit the foregoing memorial, together with the correspondence which has taken place upon the subject between the Executive of this State and the Executive of the State of North Carolina, to the Congress of the United States, with copies of the several laws passed by this State appertaining thereto.

Copied from the journal.

ABRAHAM JACKSON, *Speaker.*

Attest: HINES HOLT, *Clerk.*

IN SENATE.

Read and concurred in.

JARED IRWIN, *President.*

WILLIAM ROBERTSON, *Secretary.*

EXECUTIVE DEPARTMENT, GEORGIA, LOUISVILLE, *December 4, 1805.*

Presented, read, and approved.

JOHN MILLER, *Governor.*

Attest: G. R. CLAYTON, *Secretary.*

*Copy of a letter to his excellency James Turner.*

SIR:

EXECUTIVE DEPARTMENT, GEORGIA, LOUISVILLE, *December 15, 1803.*

I have the honor to transmit your excellency an extract of a law passed by the Legislature of this State on the 10th instant.

You will find it expressive of a wish, on the part of this Government, to have the dividing line between your State and the State of South Carolina extended north of the Blue Ridge; Georgia having acquired the territory which was ceded by South Carolina to the General Government, situated south of the southern boundaries of North Carolina and Tennessee.

Within that tract of country are found many settlers, and it is necessary that government should be extended over them. I have to request you, therefore, to lay the extract of the law before the Legislature of your State, in order that a co-operation of measures may be had in fixing the line of demarcation between our States. On being apprized of the steps taken by North Carolina on the subject, I shall appoint commissioners, and attend to such arrangements as may be necessary for carrying the object wished for into effect.

With high consideration and respect, I have the honor to be, your excellency's most obedient servant,  
JOHN MILLEDGE.

*Copy of a letter from his excellency James Turner.*

SIR:

RALEIGH, *February 25, 1804.*

Your excellency's letter of the 15th December last, with its enclosure, has been duly received, but not until after the Legislature of this State had risen. The enclosed authenticated copy of an act of the General Assembly of North Carolina was passed, to meet the wishes of the State of South Carolina, respecting boundary, and to settle a dispute on that subject that has subsisted for many years.

As a provision is made in that act for extending the line between North and South Carolina, until the same shall intersect the eastern line of the State of Tennessee, (the Legislature not adverting, it is presumed, to the circumstance of the western parts of South Carolina having become a part of Georgia,) I am of opinion that the commissioners on behalf of this State, after having extended the line between this State and South Carolina, with commissioners appointed by that State, to the western extremity thereof, will have the right, under the law, to extend, with commissioners appointed by your excellency, the same from thence to the eastern boundary of the State of Tennessee.

If your excellency thinks with me, that the law of this State will authorize the commissioners appointed under that law to fix the line of demarcation between our States, it will be desirable that commissioners should be sent forward at the same time, that those of South Carolina may meet those of this State, as thereby a considerable saving of expense would be made to North Carolina, without any additional expense to Georgia.

Your excellency shall be informed of the time and place of meeting of the commissioners of this State, and those of South Carolina, should that State have made provisions to co-operate in the above-mentioned measures.

Your excellency will pardon a seeming delay in not acknowledging the receipt of yours at an earlier day; being in daily expectation of hearing from the Governor of South Carolina on the same subject, was the reason it was postponed.

I have the honor to be, with high consideration and respect, your excellency's most obedient servant,  
J. TURNER.

His Excellency JOHN MILLEDGE, *Governor of the State of Georgia.*

*Copy of the act of North Carolina, alluded to in the letter of Governor Turner.*

AN ACT appointing commissioners to extend the boundary line of this State and the State of South Carolina.

Whereas it is of high importance that the limits of this State should be accurately defined and ascertained: and whereas all former laws have heretofore failed to have the desired effect:

Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That there shall be appointed, by joint ballot of both Houses of the General Assembly, and commissioned by the Governor, three commissioners to meet the commissioners who already are, or hereafter may be, appointed by the State of South Carolina, at such time and place as the Executive of the two States shall or may direct, and with them to settle all and singular the differences, controversies, disputes, and claims, that may subsist between this State and the State of South Carolina; and to fix and establish permanently the boundary line between this State and the State of South Carolina; and the same to mark and ascertain as distinctly as may be,

as far as the eastern boundary of the territory ceded by the State of North Carolina to the United States: *Provided, nevertheless,* That the extension of the said line shall not affect the titles of any person or persons to the lands entered in either of the said States; and this State will, at all times hereafter, ratify and confirm all and whatsoever the said commissioners, or a majority of them, shall do in and touching the premises, by virtue of this act; and the same shall be binding on this State.

*And be it further enacted, by the authority aforesaid,* That the commissioners appointed in pursuance of this act shall, for their personal services, be allowed the sum of forty shillings per day, and forty shillings for every thirty miles in travelling to and from the business contemplated by this act; and they shall make a return of their proceedings to the next General Assembly, after the time they shall have perfected the purposes of their appointment. And further, said commissioners are hereby authorized and empowered to employ one or more surveyors, and such number of markers as they, or majority of them, shall deem necessary; and there shall be allowed to each and every surveyor appointed by the commissioners forty shillings per day for their services, and forty shillings for every thirty miles in travelling to and from the duties imposed upon them by this act; and to each marker or chain-carrier twenty shillings for every day they shall be employed in running and marking the lines as aforesaid, and twenty shillings for every thirty miles in travelling to and from the duties imposed upon them by this act.

*And be it further enacted, by the authority aforesaid,* That in case of death, resignation, or refusal to act, of any of the commissioners herein appointed, the Governor of the State is hereby empowered to appoint and fill up any vacancy occasioned in manner as aforesaid; and that the Governor for the time being shall, as soon as may be, after the ratification of this act, transmit a copy thereof to the Executive of the State of South Carolina, accompanied with a request that the State of South Carolina should co-operate without delay with this State in effecting the purposes of this act.

*And be it further enacted,* That the Governor shall issue his warrant upon application of said commissioners, declaring that they are ready and about to proceed to the running of the said line, on the treasury, for the sum of two hundred pounds, and such further sum as the Governor may deem necessary for carrying this act into effect.

*And be it further enacted,* That all former acts and parts of acts, coming within the meaning of this act, are hereby repealed and made void.

Read three times, and ratified in General Assembly the seventh day of December, A. D. one thousand eight hundred and three.

JOSEPH REDDUK, *President of the Senate.*  
S. CABARRUS, *Speaker H. C.*

WILL. WHITE, *Secretary.*

*Copy of a letter to his excellency James Turner.*

SIR: EXECUTIVE DEPARTMENT, GEORGIA, LOUISVILLE, April 6, 1804.

I have had the satisfaction to receive your excellency's letter of the 25th of February last, in answer to the one I wrote you some time since, and regret much that my letter was not received early enough to have been laid before your Legislature when last in session. I have perused the act of your State, which you had the goodness to enclose me, and find that it vests the commissioners appointed under it with power to ascertain and mark the boundary line of North Carolina, as far as the State of Tennessee.

Though it was made to operate with commissioners to be appointed on the part of South Carolina, that State having long since ceded her territory west of the Blue Ridge of mountains to the United States, and the General Government having conveyed the same to Georgia, I feel no difficulty in appointing commissioners to co-operate with the commissioners under the act of your State, for the purpose of ascertaining and marking the line of limits between North Carolina and Georgia; but I cannot consent that titles to the lands entered in either of the States of North Carolina or South Carolina shall not be affected by the extension of the line, if such lands should fall within the limits of Georgia; because, while the territory in that quarter, which is now attached to Georgia, was vacant, the State of South Carolina yielded it to the General Government; and any grant given by either of the States for land within it must consequently be void.

It is highly important that the limits of States should be accurately ascertained and defined: as this is not the case in regard to North Carolina and Georgia, and it appears, from the acts of the two States, to be their wish to effect so desirable an object, the present opportunity ought, without hesitancy, in my opinion, to be embraced. If, therefore, your excellency will give the commissioners, on the part of your State, instructions accordingly, and notify me of the time and place at which they will attend, commissioners on the part of this State shall join them. I could wish this object to be accomplished as early as possible, as, by referring to the extract of the law I enclosed you, your excellency will perceive that it is not to take effect until the dividing line between the two States shall be run, provided it is done within six months after its passage.

I am, sir, with great consideration and respect, your excellency's most obedient servant,  
JOHN MILLEDGE.

His Excellency JAMES TURNER, *Governor of the State of North Carolina.*

*Copy of a letter from his excellency James Turner.*

SIR: RALEIGH, May 8, 1804.

The letter your excellency did me the honor to address to me the 6th ultimo I now have before me. I am informed by the Governor of South Carolina, that my letter to him, on the subject of boundary, with which was enclosed an authenticated copy of an act passed by our Legislature at their last session, on that subject, which letter was alluded to in mine to your excellency of the 25th of February last, was not received in time to be submitted to the Legislature of that State, at their last session. He informs me that an extra session of the Legislature of that State will be held in the present month; that he will submit to their consideration the law of this State, and entertains no doubt but such measures will be adopted by them as will tend finally to close the differences between the two States respecting boundary. Should that be the case, it is highly desirable, on the part of this State, that the line of demarcation between North Carolina and Georgia should be ascertained and marked at the same time. The proviso, made in the law of this State, to secure to individuals the entries of lands made in either State, (if any such there be,) is the only part of that law to which your excellency has objections. That proviso, in

itself, is so just and reasonable, that I was persuaded no objections could be made to it. The policy of both nations and States, in similar situations, justified such a belief. The discontents, jealousies, controversies, and probably violences which might ensue, if such provision be not made, are such that I am persuaded your excellency, on more mature consideration, will be induced to entertain a different opinion than the one expressed in your letter to me on that subject. Upon those considerations I can, by no means, take upon myself the responsibility of instructing the commissioners, appointed by the Legislature of this State, to extend the line between North Carolina and Georgia, with commissioners on behalf of your State, unless that proviso is adopted by Georgia.

I will, in justice to the Legislature of this State, mention to your excellency that it is my belief that they have no knowledge of any lands being granted by this State that will fall in Georgia, on the lines being extended. I have seen a paragraph in the public papers, mentioning that the Legislature of your State would be in session in the course of the present month: should that information be correct, I should be glad if your excellency would represent the matter to them; and, if a similar proviso is adopted on the part of Georgia, it will be highly agreeable to me, and I am persuaded it will be to the Legislature, to finally ascertain and mark the line of limits between our States.

Your excellency shall be informed when and where the commissioners of this State and South Carolina meet, should that State (as is fully expected) make provision at the approaching session to co-operate with the measures of this State.

I have the honor to be, sir, with high consideration and respect,

Your excellency's most obedient servant,

J. TURNER.

His Excellency GOVERNOR MILLEDGE.

*Copy of a letter to his excellency James Turner.*

SIR:

EXECUTIVE DEPARTMENT, GEORGIA, LOUISVILLE, *May 23, 1804.*

I have the honor to acknowledge the receipt of your excellency's letter of the 8th instant, in answer to mine of the 6th ultimo. Impressed with the correctness of my objection to the proviso contained in the act, a copy of which you enclosed me, and having been vested by an act of this State with the power of making the necessary arrangements for running and marking the dividing line between our States, I did not think it necessary to lay the subject again before the Legislature; and your last letter did not reach me until that body had completed the business for which it was convened, and adjourned.

Had titles to the land which is now claimed by Georgia been given by either of the States of North or South Carolina, previous to its cession by the latter State to the United States, such a proviso might, in my conception, with more propriety than at present, be contended for. But when it is recollected that the titles (should there be any) entered in either North or South Carolina for that land was given at a time when it was the property of the General Government, the justice of my objection presents itself to me too forcibly to be conceded. If, therefore, your excellency will not consent to the running of the dividing line, under the superintendence of commissioners from both States, without a proviso on the part of Georgia, similar to the one made by North Carolina, that object cannot be in that way accomplished, until the Legislatures of the two States come to some understanding on the subject.

I am, sir, with great consideration, respectfully, your excellency's most obedient servant,

JOHN MILLEDGE.

His Excellency JAMES TURNER, *Governor of North Carolina.*

*A copy of a letter from his excellency the Governor of North Carolina, dated*

SIR:

RALEIGH, *October 20, 1804.*

Information has been lately made to me, by one of the representatives to our State Legislature for the county of Buncombe, that the State of Georgia had assumed jurisdiction over a settlement which lies on the head of French Broad river and the waters thereof, which settlement was made under, and has ever since been subject to, the laws of North Carolina, and is within the limits and jurisdiction of Buncombe county. The information states that the civil officers of this State are impeded in the performance of their duties, and that considerable confusion, in consequence thereof, is likely to ensue.

Your excellency well knows that the first representation made by Gurgin to this State, claiming, under the convention with the United States, the territory, of which that settlement is by Georgia supposed to be a part, and the wish to have the boundary line between the two States ascertained and marked, were contained in your letter to me of the 15th of December last, with which was enclosed an extract of a law of Georgia, passed at their then late session, providing for ascertaining and fixing the line of demarcation between that and this State, and for other purposes. It is also known to your excellency that that communication was not received until after the Legislature of this State had risen; of course they had not, nor will they have, an opportunity of acting on those propositions until their next annual meeting, which will be on the third Monday in next month.

From these circumstances being known to your excellency, I was really surprised on hearing that Georgia had extended her jurisdiction so as to interfere with that of North Carolina, and that, before the claim set up by Georgia had ever come, or even had an opportunity of officially coming, to the knowledge of the Legislature of this State; and more particularly when your excellency had just reasons to believe, from the letters which had passed between us, that North Carolina would promptly adopt measures, to co-operate with those of Georgia, to ascertain and finally fix the line of demarcation between the two States.

Had the information respecting the assumption of jurisdiction by Georgia been received at any other period than that so immediately preceding the meeting of the Legislatures of the two States, I certainly should (however disagreeable the consequences might have been) have deemed it my duty to have enforced the execution of the laws of this State in that quarter, and to have continued their authority until the line between the two States should be ascertained; but, being fully impressed with the belief that the Legislature of North Carolina is truly desirous of having the limits of the State accurately defined and marked, and that they will, at their approaching session, make ample provision for that purpose, I shall let the matter be over until their meeting. From the perusal of your excellency's favor of the 23d May last, which was duly received, I find you still adhere to your opinion, that it would be wrong for Georgia to agree to confirm the titles of lands, which may be granted by either of the States,

that may fall into the other, on the lines being established. On that subject I entertain the same opinion I heretofore expressed.

To disturb or nullify titles to lands which individuals have honestly acquired, would be cruel to the last degree, and a matter of more serious consequence, and probably more difficult to reconcile, than at first view would appear, especially in quarters the furthest removed from the seat of Government of each of the States; though this is quite an abstract question from ascertaining and marking the line, and which either State may adopt or reject, as their feelings or policy may dictate.

I shall submit the extract of the law, forwarded to me by your excellency, and the correspondence which has taken place between us since, to the consideration of the approaching session of the Legislature; and I make no doubt but they will adopt such measures as will, by a co-operation on the part of Georgia, tend to the ascertaining and finally fixing the line of demarcation between our States.

Your excellency may rest assured, that, as far as I can, consistent with my duty, be instrumental in accomplishing so desirable an object, I shall do it with pleasure.

I have the honor to be, with high consideration and respect,

Your excellency's most obedient humble servant,

J. TURNER.

His Excellency the GOVERNOR of the State of Georgia.

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EXECUTIVE DEPARTMENT, GEORGIA, LOUISVILLE, *December 11, 1804.*

I have the honor to transmit your excellency an official copy of an act of the General Assembly of this State, passed the 10th instant. The importance of the subject to which it relates induces me to request that you will lay it before the Legislature of your State, should they be in session when you receive this letter.

If commissioners are appointed on the part of North Carolina for designating the line of limits between the two States, on your excellency's notifying me of the same, agreeably to the power I am vested with, I shall immediately appoint commissioners to join them.

I have the honor to be, with great consideration, your excellency's most obedient servant,

JOHN MILLEDGE.

His Excellency JAMES TURNER, *Governor of North Carolina.*

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EXECUTIVE DEPARTMENT, NORTH CAROLINA, RALEIGH, *December 26, 1805.*

SIR:

I have the honor to enclose herewith to your excellency an authenticated copy of an act of the General Assembly of this State, passed at their late session, entitled "An act to amend an act entitled 'An act appointing commissioners to extend the boundary line of this State and the State of South Carolina,'" passed at Raleigh, in the year one thousand eight hundred and three. Your excellency will observe that, by this amendment, the provisions of the act of eighteen hundred and three, made for the purpose of extending the boundary line between this State and South Carolina, is extended to Georgia, for the same purpose.

If the Legislature of Georgia has made provisions to co-operate with the measures of this State, it is desirable that the business be proceeded on immediately. So soon as I am informed of their having done so, I shall be ready to fix with your excellency the time and place of meeting of the commissioners.

Your excellency, I am persuaded, is fully impressed with the importance of having the line of demarcation between our two States accurately defined and marked. Irregularities, I have understood, have already taken place; and if that country remains in its present situation, further disturbances may be expected, and probably of more serious consequences.

Your excellency may be assured, that as far as I can contribute to the amicable accomplishment of so desirable an object, consistent with my duty and the laws of the State, it will afford me particular pleasure.

I have the honor to be, with respect and esteem,

Your excellency's most obedient humble servant,

J. TURNER.

His Excellency the GOVERNOR of Georgia.

AN ACT to amend an act entitled "An act appointing commissioners to extend the boundary line of this State, and the State of South Carolina," passed at Raleigh, in the year one thousand eight hundred and three.

*Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passing of this act, the Governor, for the time being, and his successor, shall be, and he is hereby, vested with full power and authority to enter into any compact or agreement that he may deem most advisable for the interest of this State, with the legislative or executive powers of the States of South Carolina and Georgia, relative to the establishing permanently the boundary line between this State and the said States of South Carolina and Georgia, and for the extension of the same: Provided, nevertheless, That nothing herein contained shall be so construed as to affect any part or clause of the above-recited act.*

SIR:

RALEIGH, *January 8, 1805.*

I had the honor of enclosing to you, the 26th ultimo, the copy of an act of our Legislature, passed at their late session, extending the provisions of an act passed in 1803 for ascertaining and fixing the boundary line between this State and South Carolina to Georgia. Since which time, I have received your excellency's favor of the 11th ultimo; also, the act of your State for the same purpose.

By a perusal of the act last forwarded to your excellency, the following proviso will be observed: "Provided, nevertheless, That nothing herein contained shall be so construed as to affect any part or clause of the above-recited act;" which confines the Executive of this State, in any agreement he may make with Georgia on the subject of boundary, to the provisions of the first-mentioned act.

It is presumed your excellency has authority given to comply with the terms of that act by the late act of Georgia, which authorizes and requires you to appoint commissioners with full and competent power, &c.

If your excellency think proper to proceed on those terms, and will name the time and place for the commissioners to meet, I will direct the commissioners, on the part of this State, to attend them. The month of March appears to me the most proper time; but, should your excellency think any other preferable, I shall have no particular objections, provided it is not later than the middle of April.

For the same reasons mentioned in mine to your excellency of the 26th ultimo, it is desirable that something should be done as soon as possible.

Be assured it will afford me pleasure if we can adjust this matter to the satisfaction of the citizens of each of our States.

I have the honor to be, with high respect and consideration, your excellency's most obedient servant,

J. TURNER.

His Excellency the GOVERNOR of Georgia.

SIR:

EXECUTIVE DEPARTMENT, GEORGIA, LOUISVILLE, *February 5, 1805.*

Your two letters, one of the 26th of December, with its enclosure, and the other of the 8th of January, I had the honor to receive by the last northern mail. I find that the Legislature of North Carolina has not in the least removed the difficulty by their late act, which I objected to in 1803. It is probable the Legislature of this State will be in session the latter end of April or first of May next, which will afford me an opportunity of laying your communication to me before them. If circumstances should not authorize an extraordinary call at the time I have mentioned, I will then apprise you of the measures I shall pursue; in the mean time, I feel persuaded that your excellency will use every proper measure to discountenance irregularities by the citizens of your State on the inhabitants residing on the land the subject of controversy. I have this day received a letter from that quarter; and the outrages which are represented to me as having been committed by an armed force, said to be sent on purpose from one of the counties of your State, resembles more the doings of men warring against an enemy, than the acts of citizens of the same nation towards each other; more especially, as the right of jurisdiction still remains matter of doubt between the two States.

I have the honor to be, with great respect, your excellency's most obedient servant,

JOHN MILLEDGE.

His Excellency JAMES TURNER, *Governor of North Carolina.*

*A copy of a letter to his excellency James Turner, Governor of the State of North Carolina.*

SIR:

EXECUTIVE DEPARTMENT, GEORGIA, LOUISVILLE, *February 17, 1805.*

Since writing you on the 5th instant, two persons of respectable character, residing in the settlement at the head of French Broad river, now called Walton county, have visited this place. I herewith enclose you copies of affidavits which they have laid before me, stating the impressions under which they settled in that county, the subsequent steps taken by them, and the outrages committed within the settlement by the citizens of North Carolina.

The situation of those people must, in my opinion, be viewed by every dispassionate person as truly deplorable. If I am correctly informed of the history of the tract of country whereon they reside, I believe it to be this: Some short time previous to the year 1786, several individuals of the State of South Carolina formed themselves into a company, and obtained a grant or grants from that State for the lands which are now within the limits of Walton county; in 1786, the Legislature of South Carolina annulled the grants, as being improperly obtained; and, in the year following, ceded that country to the General Government; and Congress (the North Carolina representation being present) accepted of the cession, according to the limits particularly specified in the deed of South Carolina. You will find, from a perusal of one of the affidavits, that the people settled on the land ceded by South Carolina to the United States, who are the same that now reside within the limits of Walton county, never contributed, by the payment of taxes, to the support of the Government of North Carolina, nor did your State attempt to demand it from them, it being generally acknowledged that they resided without her limits. Thus circumstanced, and desirous of living under some regular constituted authority, they applied to the State of South Carolina to be admitted as members of her Government, long before the deed of cession and agreement between the General Government and this State was entered into; they received for answer to their application, that South Carolina had yielded her right to the land on which they lived to the United States. They then petitioned Congress at different sessions, stating fully their situation, and requesting that Congress would retrocede the territory to South Carolina. This, however, was also denied them. They then brought with them to this place, while the Legislature of the State was in session, in the year 1803, the decision of Congress relative to their last memorial to that body, by which they were referred to Georgia. With a full view of all the circumstances I have mentioned, this State extended her government over them, not calculating in the least that the State of North Carolina, who had remained silent and inactive both as it regarded the conduct of the State of South Carolina and the settlers, would ultimately contend on any principle for the right of soil. Georgia obtained the district of country described in the deed of cession of South Carolina from the General Government, by giving a valuable consideration for it; in doing so, the desire of an extension of jurisdiction did not so much influence her as the value of the soil. Should she agree to the running of the line under the provision of the act of North Carolina, there would not be, if the information I have had is correct, a single acre at her disposal, the whole being covered by grants of North Carolina, and what extent of country those grants might embrace is uncertain. Further, it is a principle justly established in law, that to make an act binding on each party, there must be some show of reciprocity. From the provision of the act of your State, Georgia derives no advantage; North Carolina has the entire benefit. The provision, however, as it regards South Carolina, is correct. It would have been unjust that the citizens of your State, or those of South Carolina, who claim under ancient grants, should be dispossessed of their lands, on finding, by adjusting the boundary line, that they were thrown without the State they had derived their title from; but Georgia having never granted a single acre of land in the settlement in question, or near the boundary line of the two States, there is not the least prospect that any of her citizens will have, upon the limits being extended, a claim upon land within the limits of your State. The provision, therefore, ought to extend no further than South Carolina has exercised her patent authority, and she never legally extended it west of the ridge of mountains which is now the dividing line between that State and Walton county. If the persons claiming under North Carolina were the actual inhabitants at the head of French Broad, who have encountered all the difficulties attendant on settling a mountainous and frontier country, then, indeed, would the zeal which North Carolina discovers on this occasion be truly laudable; but when there is every



reason to apprehend that, if her wish is consented to by this State, grants, some of which, if information says true, were obtained previous to the extinguishment of the Indian title, and some after the territory was known to be ceded to Georgia, will be confirmed to persons who reside at a considerable distance from the land, and who were induced to run it from motives of speculation only. I cannot feel justified in consenting that the proviso of the act of your State shall extend to this. I have to assure your excellency that there is not a State in the Union more desirous than Georgia to be on terms of harmony and good-will with her sister States, or that would more deeply regret any cause which would induce her to depart from that good understanding which it is her anxious wish to maintain with the respective States; and that there is no measure to obviate or remove any cause of dispute or irritation, consistent with the principles of justice and propriety, but the State would cheerfully acquiesce in. But from a mature examination of all the circumstances of this case, I feel myself bound to say that I cannot consent to the running the line under the provision of the act of your State, and dissent to the same.

In order, however, to restore harmony, and prevent further disturbances among the inhabitants of Walton county and those of your State, I feel persuaded that your excellency can have no objection to have the boundary line run, and let the proviso of your act be a subject for the after deliberation of the Legislatures of the two States. Should this proposition meet with your assent, you have only to notify me, and commissioners on the part of this State shall be appointed, and your excellency shall be apprized of the time and place at which they will meet those of North Carolina. In the mean time, I have to request that your excellency will discountenance, and by proper measures prevent, the outrages which the citizens of North Carolina are in the practice of committing on the unfortunate persons residing on the land, the subject of controversy.

I have the honor to be, with great respect and consideration, your excellency's most obedient servant,  
JOHN MILLEDGE.

His Excellency JAMES TURNER, *Governor of the State of North Carolina.*

GEORGIA, *Jefferson county:*

Personally appeared Richard Williamson, of the county of Walton and State aforesaid, who being duly sworn, depose and saith: that, on the 19th day of December last, his county was invaded by a band of armed men, about the number of sixty or seventy, from the county of Buncombe and State of North Carolina, who were joined by twenty-four men, citizens of his own county, and there, with force and arms, did take him (said Williamson) with nine other citizens of his county prisoners, and removed them, under guard, to Buncombe county, North Carolina, and confined them in the jail of said county for several days, upon no other charge than executing the laws of Georgia in said Walton county.

Before me, February 16, 1805.

RICHARD WILLIAMSON.

JOSIAH M. STERRETT, *J. In. Court.*

GEORGIA, *Jefferson county:*

Personally appeared, Richard Williamson and Reuben Allen, both of the county of Walton and State aforesaid, who being duly sworn, depose and saith: that they both settled in that country in the years 1793 and 1794, under a full conviction that the lands on which they resided and made settlement were within the limits of South Carolina, until sometime afterward being informed that South Carolina had ceded that tract of country to the General Government. We then remonstrated to the Government of the United States to recede said tract of country to South Carolina again; some time afterwards we received information that Congress had ceded said tract of country to Georgia; and further saith, that they never paid any tax, nor were taxes exacted of them from the State of North Carolina, nor ever applied to the Government of North Carolina for protection.

RICHARD WILLIAMSON,  
REUBEN ALLEN.

Before me, 16th February, 1805.

JOSIAH M. STERRETT, *J. In. Court.*

*A copy of a letter from his excellency James Turner, Governor of the State of North Carolina.*

SIR:

EXECUTIVE DEPARTMENT, NORTH CAROLINA.

I have the honor to acknowledge the receipt of your excellency's favor of the 17th February last, covering two affidavits, which came to hand but a few days past; for the cause of such a long passage I am at a loss to account.

I wrote your excellency the 12th of that month, and enclosed an extract from a letter I had received from Joshua Williams, Esq., one of the members of the Legislature from the county of Buncombe, on the subject-matter contained in the affidavits your excellency enclosed, which, when received, I hope explained satisfactorily what actuated the citizens of North Carolina in doing what your excellency deems an outrage on the citizens of Walton county.

The situation of any people must be truly deplorable, when a due course of law and justice cannot be exercised; but doubly so when jurisdiction is claimed and alternately exercised by different Governments, and the people divided in opinion among themselves, as to which of the Governments jurisdiction rightly belongs. Such, if I am rightly informed, is the situation in which the settlers at the head of French Broad river at present are placed; and thus they are doomed to remain, by the dissent your excellency has made to one of the most important principles contained in the laws of North Carolina passed for the purpose of adjusting the boundary between our States, until a meeting of the Legislatures of the two States shall take place, and relieve them, by enacting such laws as will insure the boundary between the States to be ascertained.

The history your excellency has given respecting the manner the territory ceded by South Carolina to the United States was acquired by Georgia, I believe correct; and that the impressions of many might be the same, in settling on that territory, as those of the persons whose affidavits you have enclosed me, I am not disposed to doubt; for it is well known that there were settlers on that territory which North Carolina never did consider under her jurisdiction or within her limits.

Had Georgia extended her jurisdiction no further than over the settlers of that description, her right of doing so would not have been questioned by North Carolina, neither would there have been any interference of jurisdiction; but there are settlers of another description, said by Georgia to be on that territory, and over whom she



claims jurisdiction. Her right of doing so never has been, nor ever will be, acknowledged by North Carolina, until the boundary between the two States is ascertained, and it shall appear to be her right.

It has been the cause of no small inquiry, to know by what right or by what authority Georgia has assumed jurisdiction over a tract of territory settled by, and at all times considered by the citizens themselves, as well as by Government, under the jurisdiction of North Carolina. Surely, it will not be contended for, on behalf of Georgia, that North Carolina ought to relinquish the jurisdiction which she has exercised for many years over a settlement which she believes to be within her boundary, and without being even consulted on the occasion, merely because Georgia may imagine herself entitled to it.

If I am rightly informed as to the cause of an interference of jurisdiction between North Carolina and Georgia, it is this: the line between North Carolina and South Carolina never was extended (if as far) beyond the Blue Ridge of mountains which now divides South Carolina and Georgia. When North Carolina extended her settlements to the west of those mountains, and established the county of Buncombe, which was bounded on the south by South Carolina, there was nothing to direct the citizens (who in frontier countries are not the best informed as to fixing on proper degrees of latitude) where the limits of the State probably would be. Under these circumstances, entries of land were made, and titles granted to a number of individuals who settled on them, believing, at the time, they were within the limits of North Carolina, and still continue in that opinion, although Georgia claims jurisdiction over them.

The honest and innocent individuals of the above description, "who encountered all the difficulties attendant on settling a mountainous and frontier country," whose rights may be affected on running the line, are the persons which North Carolina discovers such "zeal" to protect in their property, honestly acquired, as well as to preserve her faith inviolate; that induces her strenuously to insist on the titles to lands, granted by either of the States, to be confirmed on the lines being run, not because the advantage may be thought to be on her side, and that she may be benefited in a pecuniary point of view—such a principle she disdains, and the sacrifices she has heretofore made, on similar occasions, are sufficient proof of it—but because she considers the faith of a State, when fairly and honestly pledged to individuals, sacred, and not to be violated or broken but in the most extreme cases; denying, in the most positive and unequivocal manner, that she ever granted an acre of land knowingly without her limits.

The information your excellency has received, and that which I have been able to collect, respecting the quantity of land granted by North Carolina, either previous or subsequent to Georgia's having acquired the territory ceded by South Carolina to the General Government, within that territory, is very different. The information I have received on the subject is, that but a small quantity, if any, of either description, will be affected, should the proviso in the act of North Carolina be consented to by Georgia. As to the grants of former description, no knowledge can be obtained but from the opinions of those acquainted with the transactions of that country; but of the latter, some opinion, though not a correct one, may be formed. The enclosed paper, which I have procured from the Secretary's office, and which may be relied on as correct, contains a list of every grant, and the number of acres in each, that have issued to the county of Buncombe, (the only county grants can issue to, by which Georgia can be affected,) since April, 1802, (the time Georgia acquired that territory;) from a view of which, I am persuaded, your excellency will think, with me, that, to judge from the quantities contained in the several grants, but a small quantity, if any, was entered or secured through motives of speculation; nor will the quantity granted appear otherwise than small, when the situation and extent of that country are viewed, it being one hundred and thirty miles in extent and from sixty to seventy in breadth, the most recently settled of any other county in the State, and abounds, in every part, in unappropriated lands. Allowing a proportionate quantity of the land granted to be in the quarter to affect Georgia, it cannot be an object with her, who abounds as much, or probably more, than any other State in the Union in unappropriated lands, to insist on the establishment of a principle that manifestly tends to individual oppression.

Your excellency's apprehensions, therefore, that the whole of the territory in question is covered by the grants of North Carolina, I conceive are not well founded. Neither is your information correct, if I am rightly informed, that very few of the inhabitants on the territory in question are holders of land granted by North Carolina, but that the holders under the North Carolina grants reside at a considerable distance from the land. Should the boundary of Georgia extend as far north as she claims jurisdiction, my information induces me to believe that many of the present inhabitants are holders of land under North Carolina titles, which will become forfeited, unless the proviso mentioned is agreed to by Georgia.

The usage of nations, as well as the uniform policy adopted by every State in the Union, (Georgia, in this instance, excepted,) on fixing their boundary with a sister State, tends to prove that individuals' property, in such cases, ought to be protected; and as the territory in question, at the time it was acquired by Georgia, was known by her to be in the situation it now is, as respects the line and the lands entered, or very nearly so, there appears no reason, founded on justice, why she should depart from the uniform custom that has prevailed.

Your excellency may be assured that North Carolina is as truly desirous as Georgia can be, and as much so as any State in the Union, of living on terms of harmony and good understanding with her sister States; nor is there a State in the Union who would regret more than she would a departure on her part from those just principles which free and independent States ought at all times to observe towards each other; nor would she on the present occasion persevere with such earnestness, were she not fully persuaded of the justness of the principle for which she contends.

On mature reflection, I am compelled to decline acceding to the proposition made by your excellency, of running the line between our States, and leaving the question of the proviso in the act of this State to the after deliberation of the Legislatures of the two States, from a thorough belief that, were I to accede to it, I should be acting directly in opposition to the known will and intention of the Legislature, and contrary, in my opinion, to propriety; nor do I think that any partial proceedings would be attended with beneficial effects; indeed, it is to be apprehended they might tend to irritate more than conciliate.

I have, and shall continue to discountenance, by every means in my power, all outrages and violences, on the part of the citizens of North Carolina, towards those of Georgia, in the quarter now the subject of controversy; and hope the like will be done by your excellency, on the part of the citizens of your State, to prevent, as far as possible, those animosities which but too frequently prevail in such cases.

I very much lament that so desirable an object as that of having the line ascertained and marked between the two States must be postponed for such a length of time; but it appears inevitable, under the laws of this State, while your excellency retains your present opinion.

I have the honor to be, sir, with high consideration and respect, your excellency's most obedient servant,

J. TURNER.

His Excellency JOHN MILLEDGE, *Governor of the State of Georgia.*

AN ACT to lay out and establish a county in the territory lately acquired by cession from the General Government.

Whereas, by certain articles of agreement and cession entered into on the 24th day of April, 1802, by and between the commissioners of the State of Georgia on the one part, and the commissioners of the United States on the other part, a tract of territory, situated south of the southern boundary of the States of North Carolina and Tennessee, and adjoining this State, was ceded by the United States to the State of Georgia; and whereas the Indian claim to that part of the said territory lying at the head of French Broad river, and within the following boundaries, to wit: beginning on the summit of the ridge of mountains called the Blue Ridge, where the same is crossed by the latitude thirty-five degrees north of the equator; thence, with the said ridge of mountains, to the temporary boundary line, run by General Pickens, between the Cherokee tribe of Indians and the State of South Carolina; along the said boundary line, north, forty-five degrees east, to an ash tree, at the distance of forty miles on the said line from Tugalo river, near the mouth of Brass Town creek; thence, along the boundary line run by Colonel Meigs, under the authority of Congress, north, fifty degrees west, to the intersection of the said line with parallel of latitude thirty-five degrees north of the equator; thence, along the said parallel of latitude, to the summit of the Blue Ridge aforesaid, was extinguished by treaty held and concluded near Tellico, on the 2d day of October, 1798; and a considerable settlement has been formed thereat, and the inhabitants thereof have petitioned this Legislature to be incorporated in the Government of this State:

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Georgia, in General Assembly met,* That the territory lying within the boundary last mentioned, to which the Indian claim hath been extinguished, shall be a county, to be called and known by the name of Walton.

SEC. 2. *And be it further enacted,* That Richard Williamson, Kitt Smith, James Lefoy, Ebenezer Fain, and Reyben Allen, be, and they are hereby, appointed justices of the inferior court of the said county, which court shall have the same powers and jurisdiction as the inferior courts of other counties within this State.

SEC. 3. *And be it further enacted,* That the justices of the inferior court aforesaid, or any three or more of them, shall be, and they are hereby, invested with full power and authority to decide and fix upon some convenient situation, as nearly central as circumstances will admit of, on which shall be erected a court-house and jail; to define the militia company districts, not exceeding two in the said county, which shall be added to and become a part of the third brigade of the third division of the militia of this State; to appoint two constables, one for each militia company district, who shall severally hold their appointments for two years from and after the date of their appointments, and until successors shall be appointed and qualified; to levy a county tax on the inhabitants of the said county, in such manner as they may deem least oppressive, for the purpose of raising a fund for building the court-house and jail, and other county purposes; and to appoint a collector to collect the same, who shall give bond, in the penalty of double the sum to be collected, with such security as the said justices may approve of, for the faithful discharge of his duty and the trust reposed in him.

SEC. 4. *And be it further enacted,* That, until a court-house shall be completed at the permanent seat, to be fixed upon as aforesaid, the court shall be holden, and other public business of the county transacted, at the dwelling-house of William Allen.

SEC. 5. *And be it further enacted,* That the justices of the inferior court aforesaid, or any three or more of them, shall assemble at the place herein before pointed out for holding courts, on the first Monday in January, 1804; and after publicly administering to each other, and severally subscribing the oaths prescribed by the laws and constitution of this State to be administered to the justices of the inferior courts, they shall nominate two justices of the peace in each militia company district, and transmit such nomination to his excellency the Governor, without delay, in order that commissions may issue for such justices of the peace.

SEC. 6. *And be it further enacted,* That the inhabitants of the said county shall be entitled to elect and return one senator and one representative to the Legislature, under the same regulations and restrictions as other counties in this State; and to elect militia officers in the manner pointed out by the militia laws of this State.

SEC. 7. *And be it further enacted,* That it shall be the duty of the said justices of the inferior court, or any two or more of them, to give notice at the place appointed for holding courts, and at two other of the most public places within the county, twenty days previous to the day appointed for holding an election, and shall hold an election for clerk of the said court, sheriff, coroner, and county surveyor, which election shall be by ballot of all the free male citizens of the said county above the age of twenty-one years, and shall be opened, held, and conducted by the said justices, in the same manner as other elections for county officers are held within this State; and the persons having the highest number of votes shall be declared duly elected, and shall hold their offices during the time prescribed by the laws and constitution of this State, and shall be commissioned by the Governor, and take the oaths of office prescribed by law.

SEC. 8. *And be it further enacted,* That all free white persons, citizens of the United States, being actual settlers within the limits of the said county on the 16th day of May last past, who may henceforward conform to the laws and Government of this State, shall be entitled to a preference, founded on occupancy, to the lands on which such persons were so settled, not exceeding two hundred acres to any one family, and shall receive grants for the same, free of purchase, office fees excepted, when, or so soon after as an office shall be opened for granting out the said land, as circumstances will permit.

SEC. 9. *And be it further enacted,* That his excellency the Governor be authorized, and he is hereby requested, to make immediate application to the Government of North Carolina to co-operate with this State in running out and plainly marking the dividing line between the States, without delay, and for this purpose to appoint three fit and proper persons, with full power, on the part of this State, to join such persons as may be appointed with like powers, on the part of the State of North Carolina, to run and plainly mark the said dividing line. And this act shall stand suspended, and not take effect, until the aforesaid line shall have been run accordingly; provided the same shall be so run and marked within six months of the passing of this act.

ABRAHAM JACKSON, *Speaker of the House of Representatives.*  
DAVID EMANUEL, *President of the Senate.*

Assented to: December 10, 1803.

JOHN MILLEDGE, *Governor.*

AN ACT appointing commissioners for ascertaining and fixing the dividing line between this State and the State of North Carolina.

Whereas, by an act of the Legislature of South Carolina, passed the eighth day of March, in the year one thousand seven hundred and eighty-seven, certain delegates were fully authorized to assign over to the United States all that tract of territory within the chartered limits of the said State, lying and being within the boundaries

and limits hereinafter described, that is to say, all the territory or tract of country included within the river Mississippi and a line beginning at that part of the said river Mississippi which is intersected by the southern boundary line of North Carolina, and continuing along the said boundary line until it shall intersect a ridge or chain of mountains which divides the eastern from the western waters; thence along the said ridge of mountains to where it intersects a line to be drawn due west from the head of the southern branch of Tugaloo river to the said mountains, and thence to run a due west course to the river Mississippi; and whereas the United States did accept of a deed of cession, executed by the said delegates in due form, on the seventh day of August, in the year of our Lord one thousand seven hundred and eighty-seven: and whereas, that previous to the date of the aforesaid deed of cession, that is to say, in the year of our Lord one thousand seven hundred and seventy-two, the Governors of the then provinces of North and South Carolina, by virtue of an order of George the Third, King of Great Britain, appointed commissioners to alter the line between the two provinces aforesaid, now States of North and South Carolina, which said line was actually run and ascertained by the said commissioners; and that the said line was continued from the end of the line northwest from Little River, a due west course, to the lands belonging to the Catawba nation of Indians; thence northwardly with their lands, so as to leave the same in South Carolina; thence due west; by which proceeding it evidently appears that all the land comprehended within the limits of Walton county, and as far as the thirty-fifth degree of north latitude, continued to be the property of South Carolina, until their deed of cession to the United States: and whereas articles of agreement and cession were entered into, and signed, sealed, and executed by commissioners duly authorized by the United States and this State, respectively, on the twenty-fourth day of April, in the year of our Lord one thousand eight hundred and two, which were ratified by this State on the sixteenth day of June following, by which articles of agreement and cession aforesaid the United States conveyed to this State both the right of soil and jurisdiction to all the territory within the aforesaid boundaries and limits which the State of South Carolina had any claim to at the time that State made a cession of the same to the General Government:

And whereas the State of Georgia did, being vested by the articles of agreement and cession aforesaid with the right of soil and jurisdiction of the lands within the limits of the county of Walton, pass an act on the tenth day of December, in the year of our Lord one thousand eight hundred and three, entitled "An act to establish a county in the territory lately acquired by a cession of the United States," which said act has been carried completely into effect; and the said county of Walton, in pursuance of the same, hath been duly organized, and the authority of this State exercised therein:

And whereas it is necessary that commissioners, on the part and behalf of this State, should be appointed to meet any commissioners which may hereafter be appointed by the State of North Carolina for the purpose of marking more plainly the line, in every part, designating the county of Walton.

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Georgia, in general assembly met, and by the authority of the same, That his excellency the Governor be, and he is hereby, authorized and required to appoint two or more fit and proper persons, as commissioners on the part and behalf of this State, with full and competent power, to meet any two or more commissioners that may be appointed by the State of North Carolina for the purpose of designating more plainly and clearly the lines of the aforesaid county of Walton.*

ABRAHAM JACKSON, *Speaker of the House of Representatives.*  
JARED IRWIN, *President of the Senate.*

Assented to: December 10, 1805.

JOHN MILLEDGE, *Governor.*

9th CONGRESS.]

No. 202.

[1st SESSION.

SLAVE TRADE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 13, 1806.

*To the Senate and House of Representatives of the United States of America in Congress assembled:*

It is to us a subject of deep regret that circumstances once more command an address to you in the language of solicitation. In thus calling your attention from objects of importance to those which may perhaps be deemed of inferior moment, we are not actuated by an ignoble passion for renown. Far otherwise; we are perfectly content to pass down the stream of time unnoticed by the world, unrewarded by celebrity. If the purposes which we hold up to view for attainment are but accomplished, entire satisfaction will be ours, though fame record not our actions. The existence of injustice and a wish to eradicate it, have alone drawn us from the obscurity of private life.

Sources of affliction still force themselves upon the feelings of your memorialists in viewing the land of their nativity and affection. Though the horizon in some places has resumed its native lustre, dark clouds intercept its splendor in others. We still hear the clanking fetters of slavery in the dominions of liberty; and we hear them with increasing noise.

That the cause of this injurious change should be legalized, we can but lament. We ask not the interposition of Congress. Though it is believed to be within their inclination, we know it is beyond their power. The object of this memorial is the removal of other evils.

Eminence in the slave trade has long disgracefully distinguished a number of the citizens of an eastern State. Regardless of their own or their country's reputation, they have long been the inhuman forgers of chains for the sons of Africa. By their means the American flag still continues to flutter on an insulted territory, the witness of the greatest enormities. Parents are torn from children, husbands from wives; in a word, thousands of freemen are annually dragged into slavery, through the instrumentality of the vessels, the citizens, and the produce of the United States; and this, too, in undisguised contravention of the laws of their country. To one of the practices, to which the African traders of the place alluded to have resorted for escaping even a chance of punishment, we beg

leave to call the attention of the wisdom of the Union. We say chance of punishment, for he who there dares to step forward to assert the laws of the land hazards his life.

It is declared, in the first section of an act of Congress, passed May 10, 1800, unlawful for any citizen of the United States, or other person residing within the United States, directly or indirectly, to hold any right or property in any vessel employed in the transportation of slaves from one foreign country to another; and any right or property belonging as aforesaid shall be forfeited, and may be libelled and condemned for the use of the person who shall sue for the same, &c. Under this act, giving the whole forfeiture to the informer, the vessels of those who incur its penalties are libelled and condemned by collusion with their friends. The defendants, by this mockery of justice, purge their vessels from crime, subjecting themselves merely to an inconsiderable expense. From unquestionable authority we are assured of several evasions of this description. To prevent them, and strengthen the provisions of the acts generally upon the subject of the slave trade, we would suggest to Congress the propriety of such an alteration in the law as to entitle the United States, in all cases, to a proportion of the condemned article; and annexing to the persons engaged in this traffic (since shame is a powerful motive to action) a disqualification to hold any office under the United States.

Your memorialists would further suggest another alteration of the penal code. By the same law of 1800, voluntarily serving on board vessels employed in the transportation of slaves from one foreign country to another is declared unlawful. The punishment of this offence is directed to be by indictment. By the existing law, criminal prosecutions can only be supported, with some few exceptions, by *viva voce* testimony. The accused, upon the trial, must be confronted by the witnesses against him. To seamen the knowledge of infractions of the part of the law last alluded to is usually confined. Persons whose avocations constantly lead them from their homes to distant places, and whose attendance at trial it is of course generally impossible to secure, without subjecting them to the palpable injustice of confinement, or an inconvenience equally great, that of compelling by surety their presence at a particular day, on which, unexpectedly and unavoidably, they may be hundreds of miles from the scene of trial. This difficulty, it is apprehended, would be obviated by removing from written testimony the objection to which it is now liable in criminal prosecutions under the law of 1800, and giving it, in such cases, the force which it possesses in civil actions. We have not been able to discover any objection to depositions fairly taken in the presence of prosecutor and prosecuted. It is, however, with great deference, submitted to the superior judgment of Congress.

We hope that, in thus concisely urging upon your notice some apprehended defects in the laws for the discouragement of the worst of crimes, impertinence will not be discoverable. Though the prospect is brightening on the eye of humanity, though the period rapidly advances in which Congress will acquire a capacity of performing, by a single unexpensive act, more good than perhaps ever fell to the lot of a Legislature to accomplish, we have not, hence, conceived ourselves at liberty to view with inactive zeal present excesses, to remedy which a competent authority exists.

Signed, by order of the American convention for promoting the abolition of slavery, &c., held at Philadelphia, from the 13th to the 15th day of January, 1806.

GERSHOM CRAFT, *President*.

Attest: JACOB WALN, JUN. *Secretary*.

9th CONGRESS.]

No. 203.

[1st SESSION.]

**EXTENSION OF THE RIGHT OF SUFFRAGE, AND THE ADMISSION OF SLAVERY, FOR A LIMITED TIME, IN THE INDIANA TERRITORY, AND THE DIVISION THEREOF.**

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 14, 1806.

Mr. GARNETT, from the committee to whom were referred the report of a select committee, made on the 17th of February, 1804, on a letter of William Henry Harrison, president of a convention held at Vincennes, in the Indiana Territory, declaring the consent of the people of the said Territory to a suspension of the sixth article of compact between the United States and the said people; also on a memorial and petition of the inhabitants of the said Territory; also on the petition of the Legislative Council and House of Representatives of the said Territory; together with the petition of certain purchasers of land, settled and intending to settle on that part of the Indiana Territory west of Ohio, and east of the boundary line running from the mouth of the Kentucky river; and on two memorials from the inhabitants of Randolph and St. Clair—made the following report:

That, having attentively considered the facts stated in the said petitions and memorials, they are of opinion that a qualified suspension, for a limited time, of the sixth article of compact between the original States and the people and States west of the river Ohio, would be beneficial to the people of the Indiana Territory. The suspension of this article is an object almost universally desired in that Territory. It appears to your committee to be a question entirely different from that between slavery and freedom, inasmuch as it would merely occasion the removal of persons, already slaves, from one part of the country to another. The good effects of this suspension, in the present instance, would be to accelerate the population of that Territory, hitherto retarded by the operation of that article of compact, as slave-holders emigrating into the Western country might then indulge any preference which they might feel for a settlement in the Indiana Territory, instead of seeking, as they are now compelled to do, settlements in other States or countries permitting the introduction of slaves. The condition of the slaves themselves would be much ameliorated by it, as it is evident, from experience, that the more they are separated and diffused, the more care and attention are bestowed on them by their masters, each proprietor having it in his power to increase their comforts and conveniences in proportion to the smallness of their numbers. The dangers, too, (if any are to be apprehended,) from too large a black population existing in any one section of country, would certainly be very much diminished, if not entirely removed. But whether dangers are to be feared from this source or not, it is certainly an obvious dictate of sound policy to guard against them, as far as possible. If this danger does exist,

or there is any cause to apprehend it, and our Western brethren are not only willing but desirous to aid us in taking precautions against it, would it not be wise to accept their assistance? We should benefit ourselves, without incurring them, as their population must always so far exceed any black population which can ever exist in that country, as to render the idea of danger from that source chimerical.

Your committee consider the regulation, contained in the ordinance for the government of the territory of the United States, which requires a freehold of fifty acres of land as a qualification for an elector of the General Assembly, as limiting too much the elective franchise. Some restriction, however, being necessary, your committee conceive that a residence continued long enough to evince a determination to become a permanent inhabitant, should entitle a person to the rights of suffrage. This probationary period need not extend beyond twelve months.

The petition of certain settlers in the Indiana Territory, praying to be annexed to the State of Ohio, ought not, in the opinion of your committee, to be granted.

It appears to your committee that the division of the Indiana Territory, in the manner directed by the ordinance of 1787, and for which the people of Randolph and St. Clair have petitioned your honorable body, would be inexpedient at this time. The people of the two sections have lately entered into the second grade of government, the whole expense of which would fall on the people of one section, if a division were now to be made. This, in the opinion of your committee, would be neither politic nor just. But, although a division of the Territory appears improper at this time, we think it should be made as soon as the population of either section has increased so far as to entitle them to form a State Government. The petition which prays that such a Government may be formed, by uniting the two sections as soon as their inhabitants shall have augmented so far as to authorize it, your committee conceive ought not to be granted. A Territory, when once erected into a State, cannot be divided or dismembered without its own consent; the formation, therefore, of two States out of this Territory, originally intended by the ordinance of 1787, could not constitutionally be effected, if the two sections were once permitted to form one State, without the consent of that State, however necessary the extent and population of that Territory might render such division.

After attentively considering the various objects desired in the memorials and petitions, the committee respectfully submit to the House the following resolutions:

1. *Resolved*, That the sixth article of the ordinance of 1787, which prohibits slavery within the Indiana Territory, be suspended for ten years, so as to permit the introduction of slaves, born within the United States, from any of the individual States.

2. *Resolved*, That every white freeman of the age of twenty-one years, who has resided within the Territory twelve months, and within the county in which he claims a vote, six months immediately preceding the election, shall enjoy the rights of an elector of the General Assembly.

3. *Resolved*, That the petition of certain settlers in the Indiana Territory, praying to be annexed to the State of Ohio, ought not to be granted.

4. *Resolved*, That it is inexpedient, at this time, to grant that part of the petition of the people of Randolph and St. Clair which prays for a division of the Indiana Territory.

5. *Resolved*, That so much of the petition of the Legislative Council and House of Representatives of the Indiana Territory as prays that the two sections may be united into one State Government, ought not to be granted.

9th CONGRESS.]

No. 204.

[1st SESSION.]

## IMPORTATION OF SLAVES INTO THE TERRITORIES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 17, 1806.

Mr. DAVID R. WILLIAMS, from the committee appointed to inquire whether any additional provisions are necessary to prevent the importation of slaves into the Territories of the United States, made the following report:

That the act of Congress, passed the 7th April, 1798, authorizing the establishment of a Government in the Mississippi Territory, permits slavery within that Territory, by excluding the last article of the ordinance, of 13th July, 1787. The seventh section of this act prohibits, after the establishment of a Government, the importation of slaves from any port or place *without* the limits of the United States; of course, the right to import slaves from any place *within* the limits of the United States is not restricted.

The act of 2d March, 1805, further providing for the government of the Territory of Orleans, secures to its inhabitants "all the rights, privileges, and advantages, secured by the ordinance of 13th July, 1787, and now enjoyed by the people of the Mississippi Territory;" The importation of slaves, from any place within the limits of the United States, is one of those rights; consequently, the inhabitants of the Territory of Orleans may exercise it also.

The tenth section of the act of 26th March, 1804, "erecting Louisiana into two Territories, and providing for the temporary government thereof," prohibits the introduction of slaves into that Territory, from any place, "except by a citizen of the United States, removing into said Territory for actual settlement, and being at the time of such removal *bona fide* owner of such slave or slaves." This tenth section, being repugnant to the first section of the act of 2d March, 1805, was repealed by the last section of said act, which declares: "that so much of an act, entitled An act, erecting Louisiana into two Territories, and providing for the temporary government thereof, as is repugnant with this act, shall, from and after the first Monday of November next, be repealed."

The committee are in possession of the fact, that African slaves, lately imported into Charleston, have been thence conveyed into the Territory of Orleans; and, in their opinion, this practice will be continued to a very great extent, while there is no law to prevent it.

Upon this view of the subject, the committee believe it is expedient to prohibit any slave or slaves, who may be hereafter imported into the United States, from being carried into any of the Territories thereof; they, therefore, respectfully recommend the following resolution:

*Resolved*, That it shall not be lawful for any person or persons to import or bring into any of the Territories of the United States any slave or slaves that may hereafter be imported into the United States.

9th CONGRESS.]

No. 205.

[1st SESSION.]

## JOURNALS OF CONGRESS UNDER THE CONFEDERATION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1806.

Mr. JOSEPH CLAY, from the committee to whom was referred the petition of William Levis and Hugh Maxwell, made the following report:

That, on a member taking his seat in Congress for the first time, it has been heretofore customary to supply him with a copy of the journals of the Congress under the confederation. For this purpose, by a joint resolution of the Senate and House of Representatives, approved on the 2d day of March, 1799, the Secretary of the Senate and Clerk of the House of Representatives were authorized and directed to subscribe for 400 copies of the said journals, then proposed to be published by Richard Folwell. Those copies were accordingly procured, and have been distributed to members of each Congress, until the present. At the meeting of the present Congress it has been found that only ten copies remain, which are by no means sufficient to supply those members who have not served a former Congress with one copy each.

The petitioners offer to furnish 130 copies, bound in boards, to be delivered at Washington, at \$16 a set. This is the price, including binding and the expense of transportation, at which former sets were furnished, and is, as the committee are informed, at a much less rate than that at which the journals could now be printed.

Provision ought, perhaps, to be made for printing at the public expense another edition of these important journals; this, however, is not a subject on which your committee will, at this time, offer an opinion; but they can see no reason why the members, who have now taken their seats in Congress for the first time should be denied those journals with which members of every former Congress have been supplied. They, therefore, recommend the following resolution:

*Resolved*, That the Secretary of the Senate and the Clerk of the House of Representatives be authorized and directed to purchase, for the use of the Senate and House of Representatives, from William Levis and Hugh Maxwell, 130 copies of Folwell's edition of the journals of the Congress under the confederation, at such price, not exceeding sixteen dollars per set, as they may deem eligible.

9th CONGRESS.]

No. 206.

[1st SESSION.]

## CHESAPEAKE AND DELAWARE CANAL.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 5TH OF MARCH, 1806.

Mr. GREGG, from the committee to whom was referred the petition and memorial of the president and directors of the Chesapeake and Delaware Canal Company, made the following report:

That it appears a company has been incorporated by the respective States of Pennsylvania, Maryland, and Delaware, for the purpose of forming a navigable canal over the isthmus which separates the bays of Chesapeake and Delaware; that, in pursuance of the several acts of incorporation passed by the said States respectively, a large number of subscriptions were made by divers citizens of the United States, and a board of president and directors were duly elected for carrying the project into effect.

That the said president and directors, in pursuance of their appointment, have procured skilful engineers to explore and survey the ground across the aforesaid isthmus, and have fixed on a route or position for the canal, calculated, as they conceive, in every respect, to secure the great and important purpose of an uninterrupted navigation, and have made considerable progress in the work. They find, however, that to accomplish it, a greater portion of fortitude and perseverance, and more ample resources, will be necessary, than the individuals who are embarked in it can be supposed to possess. The importance of the undertaking, and the immense national advantages which may ultimately result from it, they hope will be sufficient inducements to prevail on Congress to grant them such assistance as will enable them to complete the business agreeably to their original plan.

The committee cannot hesitate a moment in deciding on the importance and extensive utility of connecting the waters of the Chesapeake and Delaware by a navigable canal. To adopt a phrase familiarized by use, they consider the project as an opening wedge for an extensive inland navigation, which would at all times be of an immense advantage to the commercial as well as to the agricultural and manufacturing part of the community. But, in the event of a war, its advantages would be incalculable. The reasoning of the petitioners is conclusive on this point. If arguments are necessary, their petition furnishes an ample supply to prove that no system of internal improvement which has yet been proposed in this country holds out the prospect of such important national advantages as will naturally result from a successful termination of their undertaking.

Did the finances of the country admit of it, the committee would feel a perfect freedom in recommending to the House the propriety, in their opinion, of extending to the petitioners such aid as the difficulty and importance of their enterprise would be thought to justify. But it is a question whether, at this moment, the state of the treasury would admit of any pecuniary assistance being granted. The amount of the public debt yet to be extinguished, the embarrassed state of our commerce, and the critical situation of the country in relation to foreign Governments, might perhaps be considered as insurmountable objections against applying any public money to internal improvements at this particular time. Under an impression arising from these circumstances, the committee recommend the following resolution:

*Resolved*, That it would not be expedient, at this time, to grant any pecuniary assistance to the president and directors of the Chesapeake and Delaware Canal Company.

[NOTE.—See report of Senate committee, No. 209.]

[9th CONGRESS.]

No. 207.

[1st SESSION.]

## EXTENSION OF PATENT RIGHTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 17, 1806.

Mr. CROWNINSHIELD, from the Committee on Commerce and Manufactures, to whom was referred the petition of George Dodge and others, merchants of Salem, in the State of Massachusetts, submitted the following report:

The petitioners were the proprietors of the valuable nail factory at Amesbury, in the State of Massachusetts. They have owned the works about three years, with the patent granted originally to Jacob Perkins, of Newburyport, for a new and useful improvement in the mode of manufacturing nails; and they also are the assignees of another patent, granted to Samuel Guppy and John Warren Armstrong, for a further improvement in the manner of cutting nails, discovered by the said Jacob Perkins. They have expended large sums of money in repairs and additions to their buildings; and the whole was in a capital state of improvement, when, on the 24th of December last, the buildings accidentally took fire, and were entirely consumed, with all their tools, machinery, and a considerable quantity of stock on hand. The loss is estimated at a sum exceeding \$30,000. This was a most useful establishment; it supplied the neighboring country with large quantities of nails at a reasonable price, as they could be sold at a cheaper rate than the imported nails; and the works being on an extensive plan, the supply was abundant. The petitioners are disposed to rebuild their works if they could be encouraged to proceed; and it would be a great inducement with them to commence the undertaking, if they could be permitted to renew their patent right for a period of seven or fourteen years from the time they will expire by the present limitation.

The first patent was granted on the 20th December, 1794, and will expire on the 14th December, 1808; and the second is dated 14th February, 1799, and will expire on the 14th February, 1813, each being limited to a period of fourteen years, agreeably to the act entitled "An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose passed the 21st February, 1793."

In considering the merits of this application, the Committee on Commerce and Manufactures will not give an opinion on a case not properly before them; but they may be permitted to observe, that, had the loss actually happened to the original patentee, they should probably have deemed themselves justified in proposing to the House to grant the extension of the patents for a short period of time, with a view to encourage the inventors of useful machines to prosecute and extend their discoveries. But, although the committee acknowledge the present petitioners have sustained a severe loss, they do not seem justly entitled to a renewal of their patents after the limitation may expire. No consideration could have been paid to the inventor at the time of the purchase of the patent right for the use of it, beyond the stipulated period of fourteen years. It is understood the right will then be in the public; every individual in the community ought then to be entitled to make use of the machine. Indeed, after being deprived of its advantages for fourteen years, unless under a title acquired by purchase from a patentee, it might be supposed that the citizens of the United States have a fair claim to participate in the enjoyment of a right, and in the free use of an invention, the benefits of which may have been so long exclusively withheld from them. It might be objected, also, that other applications would be made to Congress should the rule once be established that the purchaser of a patent right might calculate on its extension, although no compensation had been allowed at the time of making the purchase, for the use of it beyond the period fixed by law. Under this view of the subject, the committee are induced to recommend that the petitioners have leave to withdraw their petition and the documents which accompany it.

[9th CONGRESS.]

No. 208.

[1st SESSION.]

## CANAL FROM THE HEAD TO THE FOOT OF THE RAPIDS OF THE OHIO RIVER.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 19, 1806.

Mr. BOYLE, from the committee to whom was referred the memorial of the Legislature of Kentucky, soliciting the co-operation and aid of the United States in opening a canal to avoid the rapids of the river Ohio, made the following report:

That, of the practicability of opening the proposed canal, and of its preference to one contemplated on the opposite side of the river, as well on account of the greater facility of its accomplishment, as of the superior advantages that would result to the navigation of the river, when accomplished, may, in the opinion of the committee, be correctly estimated by reference to a draught of part of the river, and notes explanatory thereof, which accompany the memorial. Of the immense utility of the proposed canal, no one can doubt who reflects for a moment upon the vast extent of fertile country which is watered by the Ohio and its tributary streams, and upon the incalculable amount of produce which must, of course, necessarily find its way to market by descending that river and encountering the danger and difficulties of passing its rapids. But, besides the general advantages which would result from the completion of the proposed canal, it is, in the opinion of the committee, particularly interesting to the United States, inasmuch as it would greatly enhance the value of the public lands northwest of the Ohio. There can be but little doubt that, by the additional value it would give to the public lands, the United States would be more than remunerated for the aid which the Legislature of Kentucky have solicited.

From these considerations, the committee would not hesitate to recommend a donation or subscription of shares to the amount contemplated by the law of the Legislature of Kentucky incorporating the Ohio Canal Company, if they believed the state of the public finances was such as to justify it. But, from the applications already made



for aid in opening canals, it is probable that if the United States enter upon expenses of this kind, those expenses cannot be inconsiderable; and, as the revenue of the United States is already pledged, almost to the full amount, for purposes, though not more useful, yet more urgent, the committee are induced to submit the following resolution:

*Resolved*, That it is inexpedient to grant, at present, the aid solicited by the Legislature of Kentucky, in opening a canal to avoid the rapids of the Ohio.

[NOTE.—See reports Nos. 188 and 224.]

9th CONGRESS.]

No. 209.

[1st SESSION.]

## CHESAPEAKE AND DELAWARE CANAL.

COMMUNICATED TO THE SENATE, MARCH 21, 1806.

Mr. LOGAN, from the committee to whom was referred, on the 28th of January last, the memorial of the President and Directors of the Chesapeake and Delaware Canal Company, made the following report:

That it appears that a company has been incorporated and established by concurrent acts of the Legislatures of Pennsylvania, Delaware, and Maryland, for the purpose of cutting a canal across the isthmus separating the waters of the Delaware and Chesapeake bays. The capital of the company consists of two thousand six hundred shares, and \$200 constitute a share. The sum, of consequence, contemplated to complete this work, is \$520,000. Of this sum nearly \$400,000 have been subscribed by individuals, and between five and six hundred shares remain unsubscribed for.

The site of the canal has been fixed, and its embouchures established at Welch Point, on the Elk river, and Mendenhall's ferry, on Christiana creek. It is intended to furnish a navigation to vessels drawing upwards of seven feet water. The work has been commenced, and a canal to supply the necessary water to the main canal has been opened from the head waters of the Elk river, nearly to the line of the route of the grand canal. This canal of supply communicates with populous and productive tracts of country in the three States of Pennsylvania, Delaware, and Maryland, and is calculated for barge navigation.

The length of the main canal, as the route has been established, is twenty-one miles; and the expense of cutting it is estimated at \$25,000 a mile.

The committee are of opinion that the work designed to be accomplished by the Chesapeake and Delaware Canal Company is one of great interest and importance, not only to the three States whose laws have incorporated the company, but generally to the United States. By opening the proposed communication between the two bays, a safe inland navigation of twenty-one miles supplies the place of a circuitous and an exposed navigation of five hundred. The large tracts of country in Virginia, Maryland, Pennsylvania, Delaware, and New Jersey, connected with the waters of the bays, will be furnished with a safe water communication, and will immediately feel the great benefit of the work. In the event of a war, the facility, celerity, safety, and cheapness in the transportation of troops and ordnance and military stores from remote parts of the United States, present an object at once of sufficient magnitude to interest the General Government in the undertaking. The importance, however, of the proposed canal, though great in itself, is not justly appreciated by considering it as a separate work; it must be viewed as the basis of a vast scheme of interior navigation, connecting the waters of the lakes with those of the most southern States; a plan certainly within the compass of industry and art; and, if beyond the present means, unquestionably within the growing resources of the country.

The following statement and illustration of the plan the committee have extracted from the memorial, furnishing a correct view of the subject, well deserving the serious consideration of the Senate:

“It is easy, however, to see, by examining any map of the United States, that this extent may be carried much further. To the southward, the canal through the Dismal Swamp, now in execution, will open the communication to the waters of Albemarle Sound, and from thence through the inlets to South Carolina and Georgia. To the northward, a communication is now nearly opened from Albany, up the Mohawk river, to Lake Ontario and all the upper lakes; if a similar one be made from Hudson river to Lake Champlain, it will extend the navigation to Quebec. And to the eastward, if the pass from Buzzard's to Boston bay be opened, which has been contemplated, it will in like manner extend it to Boston and all the coast of Massachusetts. Thus, with opening only a few short passes, of which the Chesapeake and Delaware Canal is the great and preliminary one, a communication may be made, nearly free from all the dangers of the ocean, along the whole coast of the United States.”

The committee are of opinion that it is among the first duties of a Government to promote public improvements of a general nature. No work deserves the character of public improvements more than canals. The one proposed by the memorialists is of the first magnitude and importance; it, therefore, well deserves the assistance and encouragement of the Government. Considering that a large capital has been subscribed; that an expensive part of the work is nearly completed; that, probably, without the countenance and aid of Government, the work will cease, to the loss of a number of public spirited individuals, and the destruction of a great public improvement, it is the opinion of the committee that aid ought to be granted to the memorialists.

If it be inconvenient at this moment to spare money from the treasury, the United States have it in their power to contribute the assistance prayed for by a grant of land. The grant may be either gratuitous, or the company enjoined to dispose of it, and to credit the United States with shares of their stock equal to the proceeds of the land, at the established rate of \$200 for each share. The committee therefore submit the following resolution:

*Resolved*, That ——— acres of land be granted to the Chesapeake and Delaware Canal Company, upon their giving bond, conditioned to transfer to the United States a number of the shares of the capital stock of said company, at the rate of \$200 a share, equal to the proceeds of the sales of land granted to them; and conditioned to sell the said land within ——— years, and to furnish to the Secretary of the Treasury a true account of the sales.

This report was read, and ordered to lie for consideration.



*To the honorable the Senate and House of Representatives of the United States in Congress assembled: the memorial and petition of the president and directors of the Chesapeake and Delaware Canal Company, respectfully sheweth:*

That, by sundry acts of the several Legislatures of the States of Maryland, Delaware, and Pennsylvania, passed in the years 1799, 1801, and 1802, a company was incorporated for the purpose of forming a navigable canal over the important isthmus which separates the bays of Chesapeake and Delaware; in pursuance of which acts, a large number of subscriptions were made by divers citizens of the United States, and a board of president and directors duly elected for carrying the execution of the said canal into effect.

That, in pursuance of their appointment, the said president and directors procured able engineers and other persons well qualified to make the necessary surveys of the ground and waters across the aforesaid isthmus; and, after the most mature deliberation, fixed upon a route or position for the said canal, calculated in every respect to secure the great and important purpose of an uninterrupted navigation; since which, they have steadily pursued the execution of the said work, and made considerable progress therein.

Your memorialists, however, have already experienced that a public work of such magnitude and importance, and of a kind nearly new in the United States, requires not only more extensive funds, but a greater portion of fortitude and perseverance than the individuals who are embarked in it can be supposed to possess, and demands for its support the aid and countenance of the public.

They are, therefore, at once compelled and emboldened to apply for that aid and countenance to the Legislature of the United States; and beg leave most respectfully to mention to Congress the facts and reasons which appear to them such as highly to merit the attention and interest of your honorable House.

The general utility of those public improvements which rank themselves under the head of political economy, and particularly those of roads and canals, have been so universally acknowledged, and they have become so much the objects of encouragement to the Governments of all free and enlightened nations, that, at this period, they require no argument in their support; but your memorialists beg leave to call the attention of Congress to a few of the great effects which are known to have been produced by them, and particularly to the immense wealth, power, and resources which they have given to the English nation; to the powerful rivalry and zeal for imitation which the success of them there has created in other nations; to the unceasing attention which is bestowed upon them throughout Europe; and to the conviction which exists in every country there, that, without an attention to these objects, the nation who neglects them must not only cease to increase in its agricultural, commercial, and manufacturing importance, but must sink below the level of its neighbors in its political consequence.

Your memorialists apprehend, that if ever any country or period of time was more particularly interested or proper for the zealous encouragement of these works, it is the United States in its present situation, and at the present period.

The immense public wealth and private happiness which agriculture has already introduced; the vast extent to which this happiness and wealth may be carried; the progress which our manufactures have already made, and the struggles they are yet making to advance to maturity; the resources which our commerce has given us, and the rapid increase it experiences as fast as means can be furnished to supply it—all prove the unbounded spirit and energy of our citizens in every thing which can promote the private or public good; and that it is only from the want of population that spirit and energy are repressed. Whatever, therefore, can tend to increase that population, or whatever arts and improvements can supply its place, and assist the productions of labor, are peculiarly appropriate to the present period, and mark it out as the moment for public encouragement.

The situation of the United States is, by nature, one of the most happy that is possessed by any nation of the earth; it extends over almost every climate, and furnishes nearly every production; its many noble bays and rivers diffuse foreign commerce through all its eastern boundary, by which our wants are supplied with the manufactures of other nations, and our produce conveyed abroad; but so near do these bays and rivers approach to each other, that nature seems to have left but a few objects for art to accomplish, in order to establish the incalculable advantages which domestic commerce and internal communication will afford, by creating a universal interchange of produce through all parts of the United States, not only to supply thereby our mutual wants, and give the utmost encouragement to our own agriculture and manufactures, but by mingling the habits, manners, and interests of all the States together in one general commercial and social intercourse, unite their affections, and more and more blend the interests of our common country.

Your memorialists beg leave to remind Congress that each of the States possesses so many local or domestic objects for the application of their respective resources, in opening their rivers and roads to internal communication among themselves, that it seems, with propriety, they look to Congress for the promotion of those works of the same kind, whose advantages are of general importance to the Union, and justly designate them as great national objects claiming the protection of the General Government.

Such is the opening of the Chesapeake and Delaware Canal; for if the important isthmus between those waters and another between Trenton and the Raritan in New Jersey, which is also contemplated, be reduced to practicable navigation, an easy and direct communication will be established from the southern limits of the Chesapeake to New York, and from thence by the river Hudson to Albany on the one hand, and by the Sound to the New England States on the other; which communication may be extended both to the southward and northward, so as to form a direct and easy internal navigation from the lakes of Canada through the whole eastern boundary of the United States.

The easy practicability of the work now immediately placed before the attention of your honorable House admits of proofs so decisive, as to banish every doubt of its execution in a very short period of time; nor does the pass through Jersey, or any others which have been contemplated, furnish any of those important difficulties which have often occurred, and been surmounted in other countries, where, indeed, such has been the improvement in public works of this kind, that no difficulties seem to have retarded, or been subdued by human genius.

The utility of a communication through the United States of the kind which your memorialists have mentioned, is so great, and its description diffused under so many heads, that the detail of them would extend far beyond the limits of a memorial; but the more important parts of them are so striking, as at once to be comprehended, and their importance appreciated, from the general view of the subject which has thus been placed before your honorable House. Your memorialists, however, leaving to your honorable House the appreciation of those advantages when confined to a state of peace, and in promoting the general benefit of the United States, cannot but mention the immense accumulation of benefits which must arise from this internal communication in time of war and hostile aggression, which it may be our lot to experience.

It is a fact well known, that, during the late revolutionary war, no circumstance was so injurious to our defence, or so much assisted our enemies, as the difficult and tedious communication between the Eastern and Southern States; since the advantages possessed by the enemy at sea, to block up our ports, to conquer our maritime towns,

to invade us in numerous positions at once, and to convey their armies along our coast with a celerity which no means could guard against or army defend, formed almost every difficulty and the source of every danger we experienced.

But if the communication in question be established, not only would internal commerce be completely retained, and foreign supplies landed in one State be quickly diffused through the rest, but, by securing the mouths of a few rivers, our cities would be protected, and our armies in every position conveyed wherever necessity should call them, and a cheap and easy defence established through the Union.

Your memorialists further beg leave to state, that, though they have exerted every degree of attention, enterprise, and fortitude to the work under their care, and though no serious difficulty in point of execution has occurred, yet, without the continuance of public patronage, and some aid from your honorable House, they have every reason to fear that their future efforts will be unavailing, and the progress of the work suspended, solely from that despondence, which, in a new country, and with limited fortunes in individuals, will unfortunately depress the hopes and overcome the exertions of private support.

Of how much injury, therefore, the delay of this important work will prove to the Union, how widely the example of its failure will increase the public despondence, and protract for a long period of years all great improvements, your honorable House can fully judge.

Your memorialists beg leave, therefore, most respectfully to state, whether, among all the numerous objects of public patronage and expenditure, any can be found, which, in point of utility and greatness, more forcibly invites the attention of the Government of a great and free country; and to pray that, taking the premises into your serious consideration, you will grant to the Chesapeake and Delaware Canal Company your protection and aid, in such manner as to your honorable House may seem most proper.

By order and on behalf of the president and directors of the Chesapeake and Delaware Canal Company:

JOSEPH GILPIN,  
KENSEY JOHNS,

*For themselves and for Robert H. Goldsborough,  
composing the Committee of Ches. and Del. Canal Com.*

DECEMBER 1, 1805.

[NOTE.—See report of Com. of H. R., No. 206.]

[9th CONGRESS.]

[No. 210.]

[1st SESSION.]

## BOOKS, DRAUGHTS, AND MODELS, FOR THE WAR DEPARTMENT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 1, 1806.

Mr. JOSEPH CLAY, from the committee to whom was referred the letter of William Tatham, and the papers accompanying it, made the following report:

That your committee have examined the books, draughts, papers, and models in the possession of Colonel Tatham, and are fully convinced of the value of the collection. Many of the books in his library relate to subjects intimately connected with useful science and with the early history of our country; and, on this account, as well as on account of their scarcity, would be a very great acquisition to the Government. His collection of papers includes, besides many manuscript maps of parts of the United States, and the adjacent countries, compiled by himself, draughts and plans of different military posts on the American continent, of barracks, magazines, storehouses, and other buildings, and of the forts and fortifications formerly erected, or intended to be erected, not only in the neighborhood of the United States, but within the actual territory of the Union. Nor ought this to be considered as of little value. A knowledge of the places selected by other Governments as sites of military stations either for invasion or defence, must essentially assist the inquiries which may be hereafter conducted for similar purposes by officers of our own. In affairs of war, the experience of our predecessors is peculiarly valuable; and, by combining the views of different men under different circumstances, but all looking at the country with military eyes, we are better enabled to choose those points which are best suited to protection or offence, than by our own unaided talents. Together with these must be considered a vast variety of topographical maps and charts of our present northern and southern frontiers, made under the orders of the British, French, and Spanish Governments, with the minute details of the soundings, shoals, and harbors. Of the accuracy of these, your committee must necessarily be but imperfect judges—their only means of forming opinions being a mere general knowledge of the geography of the country, and the internal evidence arising from the excellence of the execution, the minute particularity, the number of persons employed, and the official stations occupied by those under whose superintendence the surveys appear to have been made. The southern frontier is an object of peculiar importance, and the charts of the different parts of the Floridas attracted the attention of your committee. As far, then, as circumstances enabled them to judge, they were decidedly of opinion that these charts were highly deserving of the consideration of the public, and that copies of them ought to be obtained for the United States. The mathematical instruments, models of machines for saving labor, of railroads, and plans of public improvement, some of which are of Colonel Tatham's own invention, and the others collected at much expense and with great perseverance, all evince great ingenuity and attention to the subject; and, indeed, after the efforts of thirty years which your committee understand have been spent for this purpose, it was to be expected that a valuable accumulation must be the result.

It would appear from the letter referred to your committee, that it is the wish of Colonel Tatham that the public should purchase the whole of his collection, in order to form the basis of a national institution under the control of the executive branch of the Government, in the nature of a department of public economy. Your committee can have no doubt of the utility of such a plan, particularly if connected with other branches of general science. By it the American youth might have an opportunity of enjoying the best kind of instruction, that which unites theory with practice, which adds to an acquaintance with principles a knowledge of the best means of bringing those principles into actual use. But while they thus express their opinion of the ultimate good which might be produced by such a plan, they have strong doubts of its being feasible in the present situation of the United States.

Laboring, as our country is, under a load of debt, the price of our independence, and which justice and policy require to be discharged as speedily as possible—a debt the payment of the interest of which absorbs so large a portion of the annual revenue—it appears impracticable, and unwise if it were practicable, to divert any considerable portion of our income from this great object. Doubts also have been suggested respecting the powers of the General Government to contribute to any actual improvement of the means of internal intercourse, unless requested by the individual States, or confined to the existing roads; and this improvement seems to be no minor object in the proposition of Colonel Tatham. Without expressing any opinion on this last subject, but from a deliberate review of all the circumstances connected with the matter referred to them, your committee would not recommend the present adoption of a plan such as is suggested in the letter. Convinced, however, of the value to the public of many of the materials in the collection, and desirous that the Government may be possessed of them, the committee recommend the following resolution:

*Resolved*, That, in addition to the appropriation already made by law, a sum not exceeding \_\_\_\_\_ dollars be appropriated as a part of the fund for the purchase of books, maps, and charts, for the Department of War, to enable the Secretary of War to purchase from William Tatham such parts of his collection as may be, in the judgment of the Secretary, of public use, to be paid out of any money in the treasury not otherwise appropriated.

SIR:

JEFFERSON STREET, GEORGETOWN, *February 10, 1806.*

I beg leave to communicate to you, through the medium of a concise letter, rather than by a voluminous memorial, a proposal which I am disposed to make to Congress, through a persuasion that I am in a condition to offer to them certain objects of the first importance, and more especially deserving their attention at the present critical juncture.

I have been engaged, sir, more than thirty years, most earnestly, and at great expense, in the study and promotion of the public economy of the United States, and in helping to bring up the arrears of their history and topography.

Having devoted my mind principally to a knowledge of their financial powers; their agricultural and commercial resources; the best means of drawing their latent treasures from the wilderness; of improving their commerce by more efficient roads, bridges, rivers, and canal navigation; of bettering the condition of their seacoast economy, piers, inlets, harbors, light-houses, buoys, and landmarks; of lessening the burden of animal labor by the application of mechanical powers; of enhancing the value of their pacific interests and intercourse, I have succeeded beyond expectation in the accumulation of many inestimable materials in these several respects, which, through their voluminous extent, must form the subject of a separate schedule.

During the last ten years I have experienced considerable vicissitudes through my perseverance in these scientific pursuits, chiefly in Europe; but I have been for the most part employed professionally as a civil engineer in England, where I was, for some time, honored with the commencement and command of the operations of the London docks, a work of considerable magnitude, wherein, I flatter myself, I have profited by experience and practice.

My desire is, that the result of my labors should be applied to public benefit for a fair and honorable compensation; that my collection should form the basis of a practical public institution, under control of the executive branch of the Government; and that the President for the time being be authorized to draw the pecuniary means from some suitable fund, and to disburse them in such manner as may seem best for promoting the public good, and most conducive to instructing your rising youth in the great science of a public economy inseparable from an alliance with public virtue and private happiness.

As the present President and three of the honorable Secretaries, (State, War, and Treasury,) have honored me with a separate day each, in a more minute investigation of the premises than the subject would be capable of before a committee, it will probably be most satisfactory to refer to them (so far as may be proper) for such primary facts as Congress may desire to know in these particulars; and, if it should ultimately be deemed advisable, also to compensate me for a surrender of certain patent rights to improvements which go to aid the public gain at the least possible expense, and by the most simple and powerful means. It would leave my mind more free to communicate every where such a stimulus to public and private industry as may have arisen from my investigations, or the improvements which have followed them.

I have the honor to be, sir, your humble servant and fellow-citizen,

WM. TATHAM.

The Hon. the SPEAKER of the House of Representatives.

*A general schedule of the manuscripts, materials, instruments, apparatus, &c. applying to promote the science and practice of public economy, and to improve the public and individual wealth of the country, as referred to in William Tatham's letter to the honorable the Speaker of the House of Representatives, in Congress assembled, bearing date the 10th day of February, 1806; and of several principal benefits which it is supposed Government may derive from the establishment of a department of works and public economy, subject to the control and direction of the executive branch of the Government.*

#### MANUSCRIPTS.

A promiscuous collection relating to the history, topography, commercial, agricultural, and hydraulic improvements of the country, &c. &c.

#### SURVEYS.

These are, perhaps, the greatest and most interesting collection ever made by an individual, or which concern the power and prosperity of the United States. They comprehend all, or nearly all, of the actual surveys which are known to have been made in North America, by the whole corps of topographical engineers of England, France, and Spain, prior to, and partially in, the American revolution. These were necessarily taken under the protection and support of armies for a series of years, at an expense, it is presumed, of some millions of dollars. They describe adjacent countries, beyond the limits of the United States, in many instances on very large scales and minutely, and apply to render the public collection more perfect in that which essentially concerns them in the lake countries, in Canada, in Nova Scotia, Labrador, &c. to the northward and westward; and in the Floridas, and

Louisiana, to the southward and eastward; besides a very extensive collection made within the United States by the said William Tatham and others. These comprehend the documents for completing the several interesting maps on which the said William Tatham has been many years engaged, at his own expense and risk, (though at the primary instance of the General Government in February, 1790,) with a very great extension of the original design. They include his large and smaller maps of the southern States, the latter on four atlas sheets; his James river navigation, and State of Virginia, on six sheets; his divisions of the southern and western States, on sixteen sheets; his northern States, and United States, each on four sheets; and his proposed American atlas on one hundred plates. In this branch of his pursuits, it is to be regretted that he has been disappointed in two extensive contracts, made by him in Europe: the one by pecuniary failure of the party; and the other by the death of his professional geographer, a man of talents inferior to none left behind him. As it is, nevertheless, his intention to persevere in his undertakings till the public are supplied in this particular, in spite of misfortunes, he reserves to himself the right of all necessary access to these documents; the right of retaining detail duplicates, and of taking detail copies for his professional occasions, (as also of his collection of instruments, models, and apparatus to the same use and end,) from time to time, as they may be required, without interrupting the public convenience. Among this collection are many fine surveys of the Mississippi, of the Mobile, the St. Lawrence, the lakes, &c. with surveys of the coasts and harbors of many parts of the continent.

#### PLANS AND DRAWINGS.

These embrace the plans of, perhaps, nearly all the towns, suburbs, harbors, environs of fortified places, &c. topographically delineated; together with the plans, sections, and elevations of the barracks, fortifications, &c. of each, with partial estimates, &c. in various methods done by the best masters and engineers, in their respective styles of finishing; the whole forming an excellent collection of examples for the imitation and instruction of young civil engineers, (either agricultural or commercial,) military or maritime pupils, &c.

There are among them many of the original documents of General Wolfe, and of others who served under and succeeded him in Canada, on the lakes, on the Mississippi, &c. &c. with plans, sections, and elevations of the block houses and other works, which proved so essentially serviceable in those campaigns against the French and the Indians. Also, all the similar documents of the operations in Florida, together with most part of the collection of the late British engineer, General Montresor, (an officer of high merit and experience, who died above eighty years of age,) with many of the originals of General Howe's campaigns in the Jerseys, &c.

There also are a few landscapes of interesting parts of the country; aqueducts, engineering, and architectural drawings which merit notice, &c.

#### MAPS AND CHARTS.

A collection of maps and charts of various parts of the world well selected; but more particularly in America. It may be said of these, at least, that they will help to accumulate the stock for public reference, and probably add to it, in some degree, where it may not be perfect.

#### ENGRAVINGS.

Besides a vast collection of these in books applicable to public economy, and the science of civil engineering, there are a considerable collection on both large and small scales, in portfolios, and on separate sheets, of various port improvements, containing all those recently made in London, from the actual surveys of the city, parliamentary surveys and reports, the surveys of eminent engineers, their reports, estimates, &c., things only to be procured by favor, and not by purchase. These include a large collection on the subject of bridge building; all the late designs for bridges, docks, quays, &c. collected and engraved at parliamentary expense, on very large and highly finished plates; many other bridges, aqueducts, mill-works, water-works, &c., with many machines and contrivances for saving and abridging animal labor in various agricultural, commercial, and mechanical employments; together with an extensive assortment of locks, basins, canals, river and road plans of various descriptions, and examples, from other parts of Europe, &c. of great importance to public and private prosperity, with many interesting descriptions of the most suitable instruments, implements, tools, utensils, and apparatus in these pursuits.

#### BOOKS.

This small library (allowed by many men of science to be the completest of its kind) has been selected from the great mass in London and other places, by many years of research, industry, perseverance, and sacrifice of time and expense by the proposer in person. It consists of a few hundred volumes, most of which, perhaps, are not to be had elsewhere, as they are chiefly books out of print, and others the result of actual operations, facts, and experience, brought forward by professional men of superior talents, at the public expense, or at the charge of incorporated companies, societies, wealthy proprietors, &c. These have been carefully collected together, classed, arranged, and bound in volumes suitable to the respective topics on which they treat, and suitable tables of contents added to each collective volume in manuscript. They are wholly scientific and useful; it having been an invariable rule with the selector to reject plays, farces, novels, romances, fabulous stories, and all that trash and fashionable nonsense which tends to give a contaminated tone to the popular morals and habits; to disseminate indolence, dissipation, immorality, vice, artificial wants, false luxury, envy, hatred, ambition, mental inquietude, individual strife, and the more lamentable mania of foreign wars, bloodshed, and contention, too often about a mere definition of words and terms, which both parties would construe alike under the governance of reason.

The subjects treated of and relative are agriculture; horticulture; irrigation; drainage and embankments; commerce; finance; internal economy; domestic and rural economy; architecture in general; rural, hydraulic, military, and maritime architecture; arithmetic, mathematics, surveying, levelling, mechanics, hydraulics, hydrostatics, pneumatics, natural and experimental philosophy, and those sciences in particular which relate to civil engineering; chemistry of nature and art; the use of instruments, apparatus, and machines for saving labor, canal navigation, river navigation, and roads; parliamentary proceedings and reports in these respects; the works of Governments, incorporated companies, and engineers, throughout the world; the more detail knowledge of water-works, mill-works, engines, &c.; the knowledge of tides and land floods, with the means of converting their mechanical powers to useful purposes, and of counteracting their evils by efficient means; the whole deduced from the results of practice and actual experience.

In general and local history and topography, the collection has been chiefly confined to domestic matter, (more peculiarly applicable to our public economy,) and to that which is most immediately relative on either our Atlantic or Pacific coasts, or in the interior. In the latter, Canada, Hudson's bay, the Russian confines, California, Mexico, South America, Louisiana, and the Floridas have been attended to, and will be found copious and instructive.

On the subject of public institutions, useful societies, public boards, charities, useful economical improvement, the economy of public roads, the general and local jurisdiction of the public sewers and estuaries, and metropolitan police, there has been a careful selection, as there has been also a tolerable complete one of contemporary facts during the revolution of America, brought into a few chronological volumes: though this is rather to be esteemed as a work of convenient reference, than one which should interfere directly with the pursuits of the proposed department. Upon the whole, it is to be hoped that this little collection will be found no fault with in that which it does contain, but that it will at least form a basis, and prove a stimulus for the public industry, in addition to it that which it ought to hold, yet does not contain. The proprietor reserves also the right of use and access to these, for his professional occasions.

#### MODELS.

The models are as many and as peculiarly and usefully applicable to improve the condition of the country as could have been expected from the exertions of one single citizen; though, doubtless, public force might have been more productive. They consist of, first, a fine collection (executed by the first mathematical instrument makers in London, at great expense,) of demonstrative models in the rudiments of natural philosophy, hydraulics, hydrostatics, pneumatics, the mechanical powers, optical apparatus, &c.; secondly, of valuable and some expensive models, (constructed by the proprietor's own workmen,) of his own and other recent improvements in land and water conveyance, agricultural and commercial intercourse, improvements in raising and regulating water, water-works, wind machines, &c., with various machines, inventions, and contrivances for saving time and expense, and for lessening the burden of animal labor in public and private pursuits, agriculture, commerce, and domestic economy; and of a new mode of building, securely termed "clump," or *clamped* architecture, &c. He has also a great number of improvements yet in sketches and drawings, which his modeller has not had time to complete; but, in the event of a public institution to this end, he flatters himself that this branch will afford to the community a constant and most useful employment for accumulating the national stock, and enhancing the value of the aggregate collection; for demonstrating the advantages and susceptibilities of our general increase of wealth and power; and for communicating the same to each individual State, to the several public works, and to our popular seminaries and institutions, in duplicates from the federal repository, to be modelled at their respective charges.

#### INSTRUMENTS AND APPARATUS.

These are wholly professional, I believe, well chosen and a plentiful stock for commencement, both in large and portable ones, even some on so small a scale as to enable a person to carry a complete set of instruments concealed in his clothes; which may often prove important in an uninhabited desert country.

They consist of several sets of surveying and levelling instruments, so as to employ a dozen assistants at the same time, on one and the same kind of work, if need be. Also, several sets of excellent drawing instruments, both large and small; working levels, and banking levels, &c., maritime and lake instruments, comprising portable compasses, sextants, time glasses, &c.: one very fine perambulator (for measuring distances expeditiously;) one good common fashioned camera-obscura, reflecting objects on ground glass, for drawing machines, &c.; one large pyramidal camera-obscura, of an improved construction, for taking landscapes, views, machinery, &c., (the same as the one procured by the proprietor for the President of the United States from London,) which throws the landscape or other object on the paper itself in its natural colors, lights, and shades, ready for the hand of the delineator.

There are, moreover, many less important instruments, and some to be yet constructed from the proprietor's improvements when time and circumstances permit.

#### TOOLS, IMPLEMENTS, AND UTENSILS.

Under this general head may be comprehended a convenient sized portable tool-chest, containing almost every kind of tool requisite for the primary establishment of the proposed institution, or for making and repairing its models, apparatus, utensils, &c.

The implements, utensils, &c. may be promiscuously comprehended among the office furniture; such as tables, desks, drawing boards, straight edges, squares, scales, parallels, &c. There are, also, two improved polygraphs (or writing machines) of the best simple construction, on the proprietor's own plan: These are for writing two letters at a time in the one case, and three letters at a time in the other, by no more than the usual action or movement of one single pen; and these are of material importance in giving despatch to duplicates, or triplicates, by post, despatching business in public offices, merchants, counting houses, individual correspondence, &c., where copies of the transaction are required to be kept. The proprietor has also found that great advantage is to be derived from this invention in making out copies of surveys, maps, plans, drawings, colorings, &c. at the same time that the originals are executed.

#### PATENT RIGHTS.

The proprietor of this collection possesses many patent rights for inventions and improvements made by himself, several of which are applicable to the improvement of agricultural and commercial conveyance by land and water, mill-works, &c., and are stated in a voluminous specification, filed by him in the Patent Office about twelve months ago, together with another specification on clamped or "*clump*" architecture; nor does he quit his pretensions to the hydraulic improvement, (acting by natural impulse on valves and air vessels,) claimed, it seems, by Messrs. Boulton & Watt, Montgolfier, Bettancourt, &c., but which (he verily believes, as informed by William Friend, Esq., the algebraist,) was invented and used by a gentleman in the Fens of Lincolnshire, in England, about forty years ago.

Should Congress, however, conclude to compensate these rights, he will endeavor to increase their powers to the unrestrained use and advantage of society; and, upon the whole view of the case, the foregoing premises are submitted, with this one further respectful remark, only: that, if such has been the result of an obscure individual's industry and perseverance, when often thwarted by poverty, hunger, nakedness, family neglect, the persecution of a rich and powerful kindred, national prejudices, political factions, and speculative versatility, both at home and abroad, shall we say what might not have been achieved by affording a public support towards these great and pacific ends, in the hands of some more competent character, some more shining man, in the prosperous glare of popular opinion?

I have the honor to be, sir, your obedient servant,

WILLIAM TATHAM.

The Hon. the SPEAKER of the House of Representatives.

*Of several principal benefits which it is supposed Government may derive from the establishment of a department of works and public economy, subject to the control and direction of the executive branch of Government.*

In a department of works and public economy, subject to the direction and control of the President of the United States, it would seem that the following advantages are offered efficiently, viz:

*1st. In all their civil engineering concerns they will be prepared for*

1. Investigations and surveys of all public works and proposals, to be laid before Congress, for their information, as often as they may require such.
2. Reports and elucidations for ascertaining the true state of propositions and works, such, for example, as bridges, roads, navigations, docks, harbors, light-houses, piers, and other subjects of internal economy, can be thus obtained from the least partial source; that of their own officers acting under immediate control of the Government, amenable to them, and assisted by their own pupils (*say the apprentices of the public establishment*).
3. Plans, sections, elevations, &c. will form suitable lessons for instruction; and may be always ready for the inspection of Congress when sitting, or of the Executive during their recess.
4. The public correspondence, in these particulars, might be here carried on; their reports and projects matured; and originals, copies, or duplicates of all such documents, should be here regularly entered, enrolled, and deposited; to the end that the American archives should not be less complete than those of other nations, and their transactions still more correct. Fair copies of all necessary documents and designs should be from hence transmitted to the heads of the departments to which they respectively appertain.
5. Models, instruments, apparatus, tools, implements, &c. within the province of this institution should be carefully deposited here; and suitable duplicates should be constructed for transmitting examples of the aggregate knowledge to the several States, the respective public works and seminaries, popular institutions and societies, and to enterprising individuals when time and circumstances allow, according to their several orders, at their particular cost and charge. Even a transfer of the patent models would be material in promoting their introduction, by means of lectures on the public uses they were designed for, after they have answered the particular end of their deposite in the office of the Secretary of State.
6. Periodical or occasional lectures might be usefully introduced here in aid of practical employments; and an explanation of the mechanical powers, hydraulics, hydrostatics, pneumatics, chemistry, and its application to domestic and useful purposes, agriculture, commerce, architecture, &c., in a way similar to the recently established lectures of the Royal Institution in London, it is respectfully presumed would form a much more satisfactory amusement for rational adults, of both sexes, than those monkey tricks *imported*, after which we sometimes squander our dollars without any thing in return.
7. Tuition in the actual practice of young clerks, draughtsmen, civil engineers, officers, &c., destined for employments in the several civil departments of the State, would be found an acquirement of vast utility to the community, and highly gratifying to the individuals, who would be thus rendered competent to despatch many points of lateral concern in life without waiting for assistance.

*2d. In Topography.*

The Union will be benefited by employing its young topographical engineers in bringing up and compiling the arrearages of our general geography; in preparing detail maps of the country, and of its local operations; to be finished, classed, deposited, and fair copies furnished to the several departments of Government.

*3d. In American History.*

All new materials, ancient works, tracts, &c. should be carefully collected, classed, arranged, methodized, and the most material substance published in neat, cheap, periodical numbers, accessible to the great bulk of the people, for the popular information, and more particularly for your rising youth, who should be thus taught to know and respect the most distant parts of the Union as one common people, linked together by the ties of reciprocity, mutual affection and general interest; and who should be kept to more useful employments than they meet with in taverns, cards, dice, theatres, cock-fights, and horse-races, which, being once rendered unfashionable, would soon become odious.

*4th. In Agriculture.*

1. Books; proceedings of foreign agricultural boards and societies; reports of the result of experimental farming, its progressive changes and effects, &c.
2. Instruments, implements used in husbandry, tools, utensils, &c. of various countries, to be collected, classed, and others to be occasionally manufactured from them, for the use and example of the respective States. This would enable us to profit by the experience of other nations.
3. Tracts and communications, on the results of actual practice, should be received, and occasionally published in volumes, or by numbers.
4. Irrigation and drainage, forming a distinct branch of agricultural pursuits, works hereon should be collected, models of machines, tools, &c. to this end should be constructed, experiments communicated, and occasional lectures and illustrations delivered and published in the periodical work, which should be edited for this particular science, and those topics which go to illustrate and improve it in practice.

*5th. In Commerce.*

Books on this subject should be procured, taking care to accumulate whatsoever is relative. Roads, river and canal navigation, with every other means which may tend to lessen the burden of carriage, and rescue latent resources from the wastes of the wilderness, should be carefully attended to. Improved means of conveyance should be constantly investigated, and all economical projects, in this respect, matured and put forward for promoting the public wealth, power, and respectability in the interest of its individuals.

*6th. In respect to Naval and Military Pupils.*

Though the direct tuition of these has not yet, perhaps, entered into any general plan for promoting the public economy of society, there can be no doubt but that those who are destined for these professions may be abundantly benefited by the practical knowledge and information they may reap in such a seminary; and, considering the precarious situations to which they will necessarily become professionally exposed, certainly none have more need

of being armed with all the points of science. As many young gentlemen cadets, &c. will be constantly in waiting for berths or promotion, they may receive here much useful instruction and accomplishment; they may be constantly employed in drawing, designing fortifications, naval and military architecture, and in writing, copying, &c.; and books and apparatus for their tuition, as well as accessible models in their respective lines of employment, may be of material advantage to the individuals, and enable them to return a plentiful remuneration to their country, both from their observations abroad, and from the culture of their several talents within the bosom of their native land.

All which is respectfully submitted by, sir, your humble servant,

WILLIAM TATHAM.

The SPEAKER of the House of Representatives, &c.

DEAR SIR:

LONDON, September 25, 1804.

This will be delivered to you by Colonel Tatham, whom I have known for more than twenty years, at first a clerk of the Council at Richmond. I have seen him here from my arrival to this period, frequently; and, at his request, as he is about setting out for America, give him this to you. I consider him as a firm friend to the United States, of which he is a citizen, being there through the whole of our revolution. He has been employed here in considerable trust, in the care of the London docks, as an engineer, and is thought to possess much information in all questions in mechanics, the use of water to mechanical purposes, in canals, &c. I think him an honest and active man, and am persuaded that opportunities may be offered in the United States in which he may be useful to his country, while he draws from his services some emolument to himself.

I am, dear sir, sincerely, your friend and servant,

JAMES MONROE.

JAMES MADISON, *Sec. State, Washington.*

9th CONGRESS.]

No. 211.

[1st SESSION.]

MICHIGAN TERRITORY.

COMMUNICATED TO THE SENATE, ON THE 15TH OF APRIL, 1806.

*To the honorable the Senate of the United States:*

On the twenty-third of December last, a message of the President of the United States, transmitting a report from certain officers of Michigan, relative to a destructive conflagration of the metropolis of that Territory, and the state of the country in consequence of the present situation of their lands, was communicated to the Senate of the United States, and was by them referred to the consideration of a select committee.

Before the committee to whom the consideration of these matters was consigned were prepared to act on the same, a committee of the House of Representatives matured the several subjects, and their deliberations resulted in the passage of three several acts by that House, one of which, referred to a special committee, has already received the sanction of the honorable the Senate.

With respect to the other two acts passed by the House of Representatives, the committee to whom they were referred have determined on a postponement of them, excepting so far as relates to the laying out a town, and the enacting instead of adopting laws, under the idea that there is not now time to consider the subject.

The consequence of a concurrence, on the part of the Senate, with this proposition, will be so ruinous to that country as fully to justify the calling of the attention of that honorable body, precious as it even now is, to that particular question.

It is well known that, with scarcely any exceptions, the inhabitants of this country were formerly subjects of a foreign Power, and the greater part of them born and reared in the use of a foreign language. In the year 1794, when they first came to feel that it was to the American Government this country was hereafter to appertain, it became, of course, a matter of consideration, as a right of choice was reserved to which of the two nations they would attach themselves. The ties which bind human minds to the Governments, laws, and characters, to which they have been accustomed, were strong enough to induce many to select our rival in preference to ourselves. Those who selected the American jurisdiction were, however, by no means, an inconsiderable body of men: they were ancient inhabitants of these countries, and men of the most virtuous characters and habits. Both descriptions were alike destitute of titles to land, clothed with the regular sanction of Government. Their determinations were, therefore, probably governed more by their expectations of liberal treatment from the one or the other Government, in this respect, than, perhaps, by any other circumstance. It has so happened that the British Government has been much more liberal in these respects than the American Government has been, or, indeed, can ever be expected to be. Even at the present day, a gratuitous concession of two hundred acres awaits all those who may choose to settle in their country. Notwithstanding this difference in the conduct of the two Governments, it will be inconvenient to the greater part of the inhabitants to change their country at this day, and they are content to confine their expectations, with respect to land, to the quantities which they already possess and are in the cultivation of. Nothing, under all the circumstances, can be more reasonable or more moderate than this expectation. Yet, notwithstanding twelve years' anxiety, all they have hitherto been able to obtain is the assignment of persons to investigate and give an opinion on their titles. Those officers find that there are *nearly eight good titles* in this country, and the remainder abound in defects which they deem fatal. Hence the anxiety, confusion, and distress of the country is such, as it is impossible to describe or to conceive; and their hopes are now all turned to the effects which the exertions of the officers of their Government before Congress in their behalf may have.

By the provisions adopted by the House of Representatives, occupiers under original French titles are confirmed in their possessions: the same provision is extended to British titles. Incomplete titles up to a certain period are confirmed; and to actual settlers, previous to a certain day not claiming under other descriptions, there are allowed two hundred acres. These are usual provisions in similar cases, which result from the nature of the case,



and appear immutable, and such as may as well be adopted at this moment as twelve years hence. With respect to *settlement rights*, indeed, there is room for some diversity of opinion as to the *time* and as to the *quantity*; and those points may as well be settled now as *hereafter*, for the lapse of time is calculated to throw no additional light on them. If the time be fixed to the 1st day of June, 1796, it only drives away a few settlers, who are a loss to us, and an acquisition to the British Government.

The question who shall decide on the titles is of no consequence in itself. Some think that, as the power to *hear, examine, and determine a right* claimed under a *statute*, is strictly a *judicial power*; that it ought to be vested in a *judicial tribunal*. Others seem to think that, notwithstanding the power to *hear, examine, determine, and finally adjust* these claims, *they may still be a subject of litigation, and that there is an incompatibility in the same tribunal considering the question which they apprehend may thus arise*. The reference of them to the executive officers, who had been assigned to investigate them, the register and receiver, is, therefore, proposed. Whether either of these courses is pursued, or special commissioners appointed, is of no consequence to the country; it is only important that some mode should be adopted. The consideration of the claims, in detail, by the Legislature, though some favor it, is certainly impracticable.

By a letter from the clerk of the land officers, hereto annexed, it appears that the details of the claims already occupy one large folio volume of five hundred pages, and that a second has been commenced, which will also probably be full. The transcription of such a mass of matter, and its conveyance to the seat of Government, will consume much time. After its arrival it will not be read. It is only *results* public men want, and these *results* are already given; for the officers of the land office say that, having furnished a copy of every species of claim, and the number of claims of such species, no information can be added which does not relate to the merits only of the particular cases.

A copy of the proceedings of the inhabitants, through a convention of delegates from the several militia companies in the Territory, and the address of that convention to the President of the United States on this subject, evincive of their sentiments, and their present miserable state, is also submitted.

A private letter is also annexed, which states the formation of an American company of *wealth, intelligence, and spirit*, who are about to embark an immediate capital of one hundred thousand dollars in the fur trade. The Western commerce has been so long and so completely engrossed by the British merchants, that the friends of our country have long been desirous of such an event as is now announced. It is certainly very singular that the American commercial capital should, at this day, be found too small to supply American consumption; yet the amount of the revenue derived from this country is a complete test of the imbecility of our commerce; for those duties which would be paid in the Atlantic ports, if American capital were employed in supplying American consumption, are now paid in this country, because a British capital is employed. It is, however, certain that these gentlemen must be disappointed in their objects, unless supported by the whole strength and spirit of the country. This they cannot be while the public mind is kept wavering between two Governments, and while every man who can effect it, without what he deems too great a sacrifice, is removing to the opposite side of the strait, and embarking his personal skill and experience, with his pecuniary resources, in a foreign service.

Immediately after the relinquishment of Detroit by the British, they established rival towns on the opposite side. Sandwich and Amherstburg were struggling hard against the former, yet the American side still kept the superiority. A terrible conflagration in one hour annihilated Detroit, and left to it no longer *one single house*. With this calamity, added to the others, the spirit of the country would have sunk, had it not been for the critical arrival of a new Government, and the consequent regulation of public affairs, a restoration of harmony, and the assurances given of the disposition of the General Government—assurances, which it was asserted and believed, would not terminate, as heretofore, in *general professions of benevolence*, but result in *prompt and vigorous action*. If these expectations are disappointed, in vain can any further *professions* be offered them; in vain can any further attempts be made to inspire energy into this country. The critical moment will be lost, and the superiority of our rivals is established, beyond further contest, for a great number of years to come.

The House of Representatives, sympathizing with the misfortunes of this country, have given a donation to their relief. Such is the disposition of public bodies, that, at any future day, or on any other occasion than one of such immediate and urgent calamity, the assent of that House to a measure of this description cannot be calculated upon. If, therefore, the honorable the Senate should be disposed to be equally liberal and generous to this country, it now rests with them to exhibit an effectual manifestation of it; for, at a future day, even if a similar disposition should prevail, it may never be equally in their power.

Some minor regulations are also important. One of them is to extend to the people of the Territory a participation in their own Government. This the House of Representatives propose to do by adding to the judges, who now legislate, a small body representing the people. The satisfaction and security this is calculated to give need not be commented on. A legislation gradually and delicately to assimilate the customs of a foreign people to the American, and thus reducing all to one consistent and uniform system, is certainly desirable. The judges being necessarily acquainted with American jurisprudence, are compelled also, by a constant action on the concerns of the people, in the courts, to acquire a knowledge of their laws and customs. This is certainly not an easy task; for, though the *coutume de Paris* may be considered as a written system, yet as to the parts which apply, and those which do not, there is no written information, and every thing must be gathered from the customs that have prevailed in the country. By thus acquiring both systems of jurisprudence, the one is less violently reduced into conformity with the other; and this is the only rational argument why the judges should be charged with any part of the legislation. Without them, the country is not possessed of the principles of the American jurisprudence; and, without a body of men belonging particularly to the country, the temper and feelings of the people, in gradual changes of their jurisprudence, cannot be correctly apprehended. Perhaps what is termed the second grade of territorial government, however applicable to new settlements strictly American, is not so applicable to an old country, using foreign laws, transferred to American jurisdiction. The situation of the people, with a Legislature under what has been called the second grade, would certainly be more awkward than it is now under the legislation of the judges, without the participation of a representative body. The introduction, however, of such a body, it is not doubted by the officers of this Government, would be highly useful to them.

So many questions are daily arising in legislative bodies, which affect remote districts of country, who are entirely ignorant of what is pending, that the House of Representatives has accorded the privilege of a delegate, without a vote, in their own body. When that House has consented to a measure of this nature, it is scarcely to be apprehended that the Senate will deny their consent to it.

On other provisions no observations will, at present, be made; but the importance of acting on these subjects, without further procrastination, is so great, as to render it highly desirable that they may now be honored with the conclusive decision of the Senate of the United States.

If the principles involved in these questions were really of importance to the General Government, it might not be delicate even after so great a consumption of time, to press a decision of them; but when all minds who think



at all on the subject agree in principle, (and it is only on the mode there is any diversity of sentiment, with respect to which it is of very subordinate consequence in what modification a majority concur,) it is certainly hard that a mere want of time should operate so injuriously to a whole people.

By the provisions of the bills which are now pending, the time of presenting the outstanding claims, which are more than one-third of the whole, will be extended; and the existing titles will be completely adjusted, to the satisfaction of the General Government and of the inhabitants. By executive arrangements an extinguishment of Indian title will, at the same time, be made; the sales of the United States' lands opened; and the means afforded to emigrants of acquiring new titles. At the same time, the spirit of individual enterprise, rising now too powerfully to be repressed, will carry forward this quarter of the country so as soon to leave its rival behind; the face of this comfortless region will smile, and a ray of happiness will gleam over its distresses. By further delay, on the contrary, the spirit of the country is suffered to sink under its misfortunes; the feelings and affections of the people are tampered with, until they are irrecoverably lost; discord and discontent are the inevitable concomitants; and years of *labor*, and even of *generosity*, cannot restore the position which has been lost.

AUGUSTUS B. WOODWARD.

WASHINGTON, April 14, 1806.

[NOTE.—The papers referred to in this memorial were not considered necessary to be printed, as their substance is embodied herein.]

9th CONGRESS.]

No. 212.

[2d Session.

### EXPLORATION OF THE WESTERN WATERS OF THE UNITED STATES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 22, 1806.

Mr. ALSTON, from the committee to whom was referred so much of the message of the President of the United States as relates to the farther exploring of the western waters, made the following report:

That considerable useful information has already been derived from those expeditions which have taken place, under the direction of the President of the United States, in exploring the western waters. The river Missouri has, by Messrs. Lewis and Clarke, been traced nearly to its source; the Mississippi, by Lieutenant Pike, to its source; and the Red River, by Mr. Freeman, about six hundred miles from its mouth, nearly as far as the French settlements extended.

The important surveys made by Messrs. Lewis, Clarke, and Freeman, in addition to those before made, furnish materials for commencing an accurate map of the Mississippi and its western waters; some principal rivers, however, remain still to be explored. The ridges or mountains from which the sources of these rivers spring, in a great measure form the exterior boundary of the newly acquired territory of the United States on the west side of the Mississippi. It therefore makes it the more important that the work commenced of exploring the western waters should be carried on and finally completed.

Your committee, therefore, recommend the adoption of the following resolution:

*Resolved*, That the sum of \$—— be annually appropriated for the term of —— years, for the purpose of enabling the President of the United States further to explore the western waters of the United States.

9th CONGRESS.]

No. 213.

[2d Session.

### HIGHLAND TURNPIKE COMPANY OF NEW YORK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 5, 1807.

Mr. VAN CORTLANDT, from the committee to whom was referred the petition and memorial of the president and directors of the Highland Turnpike Company, in the State of New York, made the following report:

That it appears a company has been incorporated, by a law of the Legislature of the State of New York, for the purpose of making a turnpike road from the island of New York to the city of Hudson, passing over the Highland mountains on the east side of Hudson river; and that the said president and directors solicit the aid of the United States, praying that a part of the surplus money arising from the Post Office may be subscribed to the stock of the said company.

Your committee consider the undertaking as an important one, as the mail might be transported in shorter time, and at less expense, if the road were completed; but as they are of opinion that it would be inexpedient for the United States to interfere with or be concerned in any turnpike company, they respectfully submit the following resolution:

*Resolved*, That the petitioners have liberty to withdraw their petition.

9th CONGRESS.]

No. 214.

[2d Session.]

## SLAVE TRADE.

COMMUNICATED TO THE SENATE, JANUARY 15, 1807.

DECEMBER 25, 1806.

*Resolved, by the General Assembly of the State of Ohio,* That our Senators and Representatives in the Congress of the United States be requested to use their exertions to procure the passage of a law prohibiting the importation of slaves into the United States, or of any of the Territories thereof, so soon as the constitution will admit of the same.

*Resolved,* That the Governor be, and is hereby, requested to transmit copies of the foregoing resolution to our Senators and Representatives in Congress.

ABRAHAM SHEPHERD, *Speaker of the House of Reps.*  
THOMAS KIRKER, *Speaker of the Senate.*

SECRETARY OF STATE'S OFFICE, CHILICOTHE, OHIO.

I do certify that the foregoing is a correct copy of the original roll in my office.

WM. CREIGHTON, JUN., *Secretary of State.*

9th CONGRESS.]

No. 215.

[2d Session.]

## COLONIZATION OF PEOPLE OF COLOR FROM VIRGINIA.

COMMUNICATED TO THE SENATE, JANUARY 16, 1807.

IN THE HOUSE OF DELEGATES, December 31, 1800.

*Resolved,* That the Governor be requested to correspond with the President of the United States on the subject of purchasing lands without the limits of this State, whither persons obnoxious to the laws or dangerous to the peace of society may be removed.

A copy from the journal of the House of Delegates.

WM. WIRT, *Clk. Ho. Del.*

SIR:

RICHMOND, June 15, 1801.

I enclose you a resolution of the General Assembly of this commonwealth, of the last session, by which it is made my duty to correspond with you on the subject of obtaining, by purchase, lands without the limits of this State, to which persons obnoxious to the laws or dangerous to the peace of society may be removed. This resolution was produced by the conspiracy of the slaves which took place in this city and neighborhood last year, and is applicable to that description of persons only. The idea of such an acquisition was suggested by motives of humanity, it being intended by means thereof to provide an alternate mode of punishment for those described by the resolution who, under the existing laws, might be doomed to suffer death. It was deemed more humane, and it is hoped would be found in practice not less expedient, to transport such offenders beyond the limits of the State.

It seems to be the more obvious intention of the Legislature, as inferred from the resolution, to make the proposed acquisition of land in the vacant western territory of the United States, but it does not appear to me to preclude one without the limits of the Union. If a friendly Power would designate a tract of country within its jurisdiction, either on this continent or on a neighboring island, to which we might send such persons, it is not improbable the Legislature might prefer it. In any event, an alternative could not otherwise than be desirable, since, after maturely weighing the conditions and advantages of each position, the Legislature might still prefer that which appeared to it most eligible.

It is proper to remark, that the latter part of the resolution, which proposes the removal of such persons as are dangerous to the peace of society, may be understood as comprising many to whom the preceding member does not apply. Whether the Legislature intended to give it a more extensive import, or rather whether it contemplated removing from the country any but culprits who were condemned to suffer death, I will not undertake to decide. But if the more enlarged construction of the resolution is deemed the true one, it furnishes, in my opinion, a strong additional motive why the Legislature, in disposing of this great concern, should command an alternative of places.

As soon as the mind emerges, in contemplating the subject, beyond the contracted scale of providing a mode of punishment for offenders, vast and interesting objects present themselves to view. It is impossible not to revolve in it the condition of those people, the embarrassment they have already occasioned us, and are still likely to subject us to. We perceive an existing evil, which commenced under our colonial system, with which we are not properly chargeable, or, if at all, not in the present degree; and we acknowledge the extreme difficulty of remedying it. At this point the mind rests with suspense, and surveys with anxiety obstacles which become more serious as we approach them. It is in vain for the Legislature to deliberate on the subject in the extent which it is capable of, with a view to adopt the system of policy which appears to it most wise and just, if it have not the means of executing it. To lead to a sound decision, and make the result a happy one, it is necessary that the field of practicable expedients be opened to its election on the widest possible scale.

Under this view of the subject, I shall be happy to be advised by you whether a tract of land in the western territory of the United States can be procured for this purpose, in what quarter, and on what terms; and also

whether any friendly Power will permit us to remove such persons within its limits, with like precision as to the place and conditions. It is possible a friendly Power may be disposed to promote a population of the kind referred to, and willing to facilitate the measure by co-operating with us in the accomplishment of it. It may be convenient for you to sound such Powers, especially those more immediately in our neighborhood, on the subject, in all the views which may appear to you to be suitable.

You will perceive that I invite your attention to a subject of great delicacy and importance; one which, in a peculiar degree, involves the future peace, tranquillity, and happiness of the good people of this commonwealth. I do it, however, in a confidence that you will take that interest in it which we are taught to expect from your conduct through life, which gives you so many high claims to our regard.

With great respect, I have the honor to be, &c.

JAMES MONROE.

THOMAS JEFFERSON, *President of the United States.*

DEAR SIR:

WASHINGTON, November 24, 1801.

I had not been unmindful of your letter of June 15, covering a letter of the House of Representatives of Virginia, and referred to in yours of the 17th instant. The importance of the subject, and the belief that it gave us time for consideration till the next meeting of the Legislature, have induced me to defer the answer to this date. You will perceive that some circumstances connected with the subject, and necessarily presenting themselves to view, would be improper but for yours and the legislative ear. Their publication might have an ill effect in more than one quarter. In confidence of attention to this, I shall indulge greater freedom in writing.

Common malefactors, I presume, make no part of the object of that resolution. Neither their numbers nor the nature of their offences seem to require any provisions beyond those practised heretofore, and found adequate to the repression of ordinary crimes. Conspiracy, insurgency, treason, rebellion, among that description of persons who brought on us the alarm, and on themselves the tragedy of 1800, were doubtless within the view of every one; but many perhaps contemplated, and one expression of the resolution might comprehend, a much larger scope. Respect to both opinions makes it my duty to understand the resolution in all the extent of which it is susceptible.

The idea seems to be to provide for these people by a purchase of lands; and it is asked whether such a purchase can be made of the United States in their western territory? A very great extent of country north of the Ohio has been laid off into townships, and is now at market, according to the provisions of the act of Congress, with which you are acquainted. There is nothing which would restrain the State of Virginia either in the purchase or the application of these lands. But a purchase by the acre might, perhaps, be a more expensive provision than the House of Representatives contemplated. Questions would also arise whether the establishment of such a colony, within our limits, and to become a part of our Union, would be desirable to the State of Virginia itself, or to the other States, especially those who would be in its vicinity.

Could we procure lands, beyond the limits of the United States, to form a receptacle for these people? On our northern boundary, the country not occupied by British subjects is the property of Indian nations, whose title would have to be extinguished, with the consent of Great Britain; and the new settlers would be British subjects. It is hardly to be believed that either Great Britain or the Indian proprietors have so disinterested a regard for us as to be willing to relieve us by receiving such a colony themselves; and as much to be doubted whether that race of men could long exist in so rigorous a climate. On our western and southern frontiers Spain holds an immense country, the occupancy of which, however, is in the Indian natives, except a few insulated spots possessed by Spanish subjects. It is very questionable, indeed, whether the Indians would sell; whether Spain would be willing to receive these people; and nearly certain that she would not alienate the sovereignty. The same question to ourselves would recur here also, as did in the first case: should we be willing to have such a colony in contact with us? However our present interests may restrain us within our own limits, it is impossible not to look forward to distant times, when our rapid multiplication will expand itself beyond those limits, and cover the whole northern, if not the southern continent with a people speaking the same language, governed in similar forms and by similar laws. Nor can we contemplate with satisfaction either blot or mixture on that surface. Spain, France, and Portugal hold possessions on the southern continent, as to which I am not well enough informed to say how far they might meet our views. But either there or in the northern continent, should the constituted authorities of Virginia fix their attention of preference, I will have the dispositions of those Powers sounded in the first instance.

The West Indies offer a more probable and practicable retreat for them. Inhabited already by a people of their own race and color, climates congenial with their natural constitution, insulated from the other descriptions of men, nature seems to have formed these islands to become the receptacles of the blacks transplanted into this hemisphere. Whether we could obtain from the European sovereigns of those islands leave to send thither the persons under contemplation, I cannot say; but I think it more probable than the former propositions, because of their being already inhabited more or less by the same race. The most promising portion of them is the island of St. Domingo, where the blacks are established into a sovereignty *de facto*, and have organized themselves under regular laws and government. I should conjecture that their present ruler might be willing, on many considerations, to receive even that description which would be exiled for acts deemed criminal by us, but meritorious, perhaps, by him. The possibility that these exiles might stimulate and conduct vindictive or predatory descents on our coasts, and facilitate concert with their brethren remaining here, looks to a state of things between that island and us not probable on a contemplation of our relative strength, and of the disproportion daily growing; and it is overweighed by the humanity of the measures proposed, and the advantages of disembarassing ourselves of such dangerous characters. Africa would offer a last and undoubted resort, if all others more desirable should fail us. Whenever the Legislature of Virginia shall have brought its mind to a point, so that I may know exactly what to propose to foreign authorities, I will execute their wishes with fidelity and zeal. I hope, however, they will pardon me for suggesting a single question for their own consideration. When we contemplate the variety of countries and of sovereigns towards which we may direct our views; the vast revolutions and changes of circumstance which are now in a course of progression; the possibilities that arrangements now to be made with a view to any particular place may, at no great distance of time, be totally deranged by a change of sovereignty, of government, or of other circumstances, it will be for the Legislature to consider whether, after they shall have made all those general provisions which may be fixed by legislative authority, it would be reposing too much confidence in their Executive to leave the place of relegation to be decided on by them, and executed with the aid of the Federal Executive. They could accommodate their arrangements to the actual state of things in which countries or Powers may be found to exist at the day, and may prevent the effect of the law from being defeated by intervening changes. This, however, is for them to decide. Our duty will be to respect their decision. Accept assurances, &c.

TH: JEFFERSON.

To Governor MONROE.

RICHMOND, *December 21, 1801.*

SIR: I have the pleasure to communicate to the General Assembly a copy of my correspondence with the President of the United States, in compliance with the resolution of the 31st of December last, relative to the purchase of lands without the limits of the State, to which persons obnoxious to its laws or dangerous to the peace of society may be removed. As it was known that the United States had lands for sale in the territory lying between the Ohio and the Mississippi, a proposition to make the acquisition by purchase conveyed the idea of a preference for a tract in that quarter; but as such preference was not declared, and a liberal construction of the resolution admitted a greater scope, I thought it my duty to open the subject in that light to the President. His reply has stated fully and ably the objections which occur to such an establishment within the limits of the United States. He also presents to view all the other places on this continent, and elsewhere, which furnish alternatives, with the advantages and disadvantages attending each; and assures us of the promptitude and zeal with which he will co-operate in carrying into effect whatever plan the Legislature may adopt in reference to the object contemplated. It remains, therefore, for the General Assembly to explain more fully the description of persons who are to be thus transported, and the place to which it is disposed to give the preference. As soon as its sense is declared on those points, I shall hasten to communicate the same to the President, and shall not fail to lay the result before you at your next session. It is proper to add, that it is the wish of the President that the communication be considered as confidential.

I am, sir, with great respect and esteem, your very humble servant,

JAS. MONROE.

To the SPEAKER of the House of Delegates.

IN THE HOUSE OF DELEGATES, SATURDAY, *January 16, 1802.*

The Legislature of this commonwealth, by their resolution of December last, having authorized the Governor to correspond with the President of the United States relative to the purchase of lands without the limits of this State, to which persons obnoxious to the laws or dangerous to the peace of society might be removed, from which general expressions a difference of construction has prevailed; to reconcile which, recourse must be had to the actual state of things which produced the resolution: therefore,

*Resolved*, That as the resolution was not intended to embrace offenders for ordinary crimes, to which the laws have been found equal, but only those for conspiracy, insurgency, treason, and rebellion, among those particular persons who produced the alarm in this State in the fall of 1800, the Governor be requested, in carrying the said resolution into effect upon the construction here given, to request of the President of the United States, in procuring the lands, to prefer the continent of Africa, or any of the Spanish or Portugal settlements in South America.

*Resolved, also*, That the Governor be requested to correspond with the President of the United States, for the purpose of obtaining a place, without the limits of the same, to which free negroes or mulattoes, and such negroes or mulattoes as may be emancipated, may be sent, or choose to remove as a place of asylum; and that it is not the wish of the Legislature to obtain, on behalf of those who may remove or be sent thither, the sovereignty of such place.

*Resolved, also*, That the Governor lay before the next General Assembly the result of his communications, to be subject to their control.

WM. WIRT, *Clk Ho. Del.*

H. BROOKES, *Clk Sen.*

JANUARY 23, 1802. Agreed to by the Senate.

A copy. Test:

JAMES PLEASANTS, JUN., *Clk Ho. Del.*

RICHMOND, *February 2, 1805.*

GENTLEMEN:

I have the honor to enclose a resolution of the General Assembly, for an explanation of which I beg leave to refer you to the copies of letters which passed between the President of the United States and Governor Monroe, and to one written by the President to me, and by this mail transmitted to our Senators in Congress; but, for more satisfactory information, I have to refer you to the President himself, to whom I shall apologize for requesting you to trouble him on this occasion; but I know that he will with pleasure give you all the information you may require. From the nature of the delicate business contemplated in the resolution, you will see the propriety of its being considered as secret and confidential.

I am, gentlemen, with great respect, your obedient servant,

JOHN PAGE.

The REPRESENTATIVES FROM VIRGINIA, *in Congress.*

VIRGINIA.—General Assembly begun and held at the Capitol, in the city of Richmond, on Monday, the third day of December, in the year of our Lord one thousand eight hundred and four, and of the commonwealth the twenty-ninth:

*Resolved*, That the Senators of this State in the Congress of the United States be instructed, and the Representatives requested, to exert their best efforts for the purpose of obtaining from the General Government a competent portion of territory, in the country of Louisiana, to be appropriated to the residence of such people of color as have been or shall be emancipated in Virginia, or may hereafter become dangerous to the public safety: *Provided*, That no contract or arrangement respecting such territory shall be obligatory on this commonwealth until ratified by the Legislature.

CREED TAYLOR, *Speaker of the Senate.*

H. HOLMES, *Speaker of the House of Delegates.*

A copy. Test:

JAMES PLEASANTS, JUN., *Clk Ho. Del.*

WASHINGTON, *December 27, 1804.*

DEAR SIR:

Resuming the subject of the resolutions of the House of Delegates of December 31, 1800, January 16, 1802, and February 3, 1804, I have it not in my power to say that any change of circumstances has taken place, which enables me yet to propose any specific asylum for the persons who are the subjects of our correspondence. The island of St. Domingo, our nearest and most convenient recourse, is too unsettled in the conditions of its existence to be looked to as yet for any permanent arrangements; and the European nations having territories in the same quarter, and possessing the same kind of population, are not likely to risk any change in the present state of that population. Whether the inhabitants of our late acquisition beyond the Mississippi, or the National Legislature, would consent that a portion of that country should be set apart for the persons contemplated, is not within my competence to say.

My last information as to Sierra Leone, is, that the company were proposing to deliver up their colony to their Government. Should this take place, it might furnish occasion for another effort to procure an incorporation of ours into it. An attack, during the war, has done the settlement considerable injury.

I beg you to be assured that, having the object of the House of Delegates sincerely at heart, I will keep it under my constant attention, and omit no occasion which may occur of giving it effect.

Accept my affectionate salutations and assurances of great respect and consideration.

TH: JEFFERSON.

Governor PAGE.

9th CONGRESS.]

No. 216.

[2d SESSION.

## SLAVERY IN THE INDIANA TERRITORY.

COMMUNICATED TO THE SENATE, JANUARY 21, 1807.

*Resolved, unanimously, by the Legislative Council and House of Representatives of the Indiana Territory,* That a suspension of the sixth article of compact between the United States and the Territories and States north-west of the river Ohio, passed the 13th day of July, 1787, for the term of ten years, would be highly advantageous to the said Territory, and meet the approbation of at least nine-tenths of the good citizens of the same.

*Resolved, unanimously,* That the abstract question of liberty and slavery is not considered as involved in a suspension of the said article, inasmuch as the number of slaves in the United States would not be augmented by the measure.

*Resolved, unanimously,* That the suspension of the said article would be equally advantageous to the Territory, to the States from whence the negroes would be brought, and to the negroes themselves.

To the Territory, because of its situation with regard to the other States, it must be settled by emigrants from those in which slavery is tolerated, or for many years remain in its present situation, its citizens deprived of the greater part of their political rights, and, indeed, of all those which distinguish the American from the citizens and subjects of other Governments.

The States which are overburdened with negroes would be benefited by their citizens having an opportunity of disposing of the negroes which they cannot comfortably support, or of removing with them to a country abounding with all the necessaries of life; and the negro himself would exchange a scanty pittance of the coarsest food for a plentiful and nourishing diet, and a situation which admits not the most distant prospect of emancipation, for one which presents no considerable obstacle to his wishes.

*Resolved, unanimously,* That the citizens of this part of the former Northwestern Territory consider themselves as having claims upon the indulgence of Congress in regard to a suspension of the said article, because at the time of the adoption of the ordinance of 1787 slavery was tolerated, and slaves generally possessed by the citizens then inhabiting the country, amounting to at least one-half the present population of Indiana, and because the said ordinance was passed in Congress when the said citizens were not represented in that body, without their being consulted, and without their knowledge and approbation.

*Resolved unanimously,* That from the situation, soil, climate, and productions of the Territory, it is not believed that the number of slaves would ever bear such proportion to the white population, as to endanger the internal peace and prosperity of the country.

*Resolved, unanimously,* That copies of these resolutions be delivered to the Governor of this Territory, to be by him forwarded to the President of the Senate and to the Speaker of the House of Representatives of the United States, with a request that they will lay the same before the Senate and House of Representatives, over which they respectively preside.

*Resolved, unanimously,* That a copy of these resolutions be delivered to the delegate to Congress from this Territory, and that he be, and he hereby is, instructed to use his best endeavors to obtain a suspension of the said article.

JESSE B. THOMAS, *Speaker of the House of Representatives.*  
PIERRE MENARD, *President pro tem. of the Legislative Council.*

SIR:

VINCENNES, *December 20, 1806.*

Agreeably to the request of the Legislative Council and House of Representatives of this Territory, I have the honor to enclose herewith certain resolutions by them adopted, and ask the favor of you to lay them before the Senate of the United States.

I have the honor to be, with great respect and esteem, sir, your very humble servant,

WILLIAM HENRY HARRISON.

The Hon. the SPEAKER of the Senate of the United States.

9th CONGRESS.]

No. 217.

[2d SESSION.]

## BURR'S CONSPIRACY.

COMMUNICATED TO CONGRESS, JANUARY 22, 1807.

*To the Senate and House of Representatives of the United States:*

Agreeably to the request of the House of Representatives, communicated in their resolution of the 16th instant, I proceed to state, under the reserve therein expressed, information received touching an illegal combination of private individuals against the peace and safety of the Union, and a military expedition planned by them against the territories of a Power in amity with the United States, with the measures I have pursued for suppressing the same.

I had, for some time, been in the constant expectation of receiving such further information as would have enabled me to lay before the Legislature the termination, as well as the beginning and progress of this scene of depravity, so far as it has been acted on the Ohio and its waters. From this, the state of safety of the lower country might have been estimated on probable grounds, and the delay was indulged the rather because no circumstance had yet made it necessary to call in the aid of the legislative functions. Information, now recently communicated, has brought us nearly to the period contemplated. The mass of what I have received, in the course of these transactions, is voluminous, but little has been given under the sanction of an oath, so as to constitute formal and legal evidence. It is chiefly in the form of letters, often containing such a mixture of rumors, conjectures, and suspicions, as renders it difficult to sift out the real facts, and unadvisable to hazard more than general outlines, strengthened by concurrent information, or the particular credibility of the relator. In this state of the evidence, delivered sometimes, too, under the restriction of private confidence, neither safety nor justice will permit the exposing names, except that of the principal actor, whose guilt is placed beyond question.

Some time in the latter part of September I received intimations that designs were in agitation in the western country, unlawful, and unfriendly to the peace of the Union, and that the prime mover in these was Aaron Burr, heretofore distinguished by the favor of his country. The grounds of these intimations being inconclusive, the objects uncertain, and the fidelity of that country known to be firm, the only measure taken was to urge the informants to use their best endeavors to get further insight into the designs and proceedings of the suspected persons, and to communicate them to me.

It was not until the latter part of October, that the objects of the conspiracy began to be perceived; but still so blended and involved in mystery, that nothing distinct could be singled out for pursuit. In this state of uncertainty, as to the crime contemplated, the acts done, and the legal course to be pursued, I thought it best to send to the scene where these things were principally in transaction a person in whose integrity, understanding, and discretion, entire confidence could be reposed, with instructions to investigate the plots going on, to enter into conference (for which he had sufficient credentials) with the Governors, and all other officers, civil and military, and, with their aid, to do on the spot whatever should be necessary to discover the designs of the conspirators, arrest their means, bring their persons to punishment, and to call out the force of the country to suppress any unlawful enterprise in which it should be found they were engaged. By this time it was known that many boats were under preparation, stores of provisions collecting, and an unusual number of suspicious characters in motion on the Ohio and its waters. Besides despatching the confidential agent to that quarter, orders were, at the same time, sent to the Governors of the Orleans and Mississippi Territories, and to the commanders of the land and naval forces there, to be on their guard against surprise, and in constant readiness to resist any enterprise which might be attempted on the vessels, posts, or other objects under their care; and on the 8th of November instructions were forwarded to General Wilkinson to hasten an accommodation with the Spanish commandant on the Sabine, and, as soon as that was effected, to fall back with his principal force to the hither bank of the Mississippi, for the defence of the interesting points on that river. By a letter received from that officer of the 25th of November, but dated October 21st, we learned that a confidential agent of Aaron Burr had been deputed to him, with communications, partly written in cipher and partly oral, explaining his designs, exaggerating his resources, and making such offers of emolument and command, to engage him and the army in his unlawful enterprise, as he had flattered himself would be successful. The general, with the honor of a soldier, and fidelity of a good citizen, immediately despatched a trusty officer to me, with information of what had passed, proceeded to establish such an understanding with the Spanish commandant on the Sabine as permitted him to withdraw his force across the Mississippi, and to enter on measures for opposing the projected enterprise.

The general's letter, which came to hand on the 25th of November, as has been mentioned, and some other information received a few days earlier, when brought together, developed Burr's general designs, different parts of which only had been revealed to different informants. It appeared that he contemplated two distinct objects, which might be carried on either jointly or separately, and either the one or the other first, as circumstances should direct. One of these was the severance of the union of these States by the Allegany mountains; the other an attack on Mexico; a third object was provided, merely ostensible, to wit, the settlement of a pretended purchase of a tract of country on the Washita, claimed by a Baron Bastrop. This was to serve as the pretext for all his preparations, an allurements for such followers as really wished to acquire settlements in that country, and a cover under which to retreat in the event of a final discomfiture of both branches of his real design.

He found at once that the attachment of the western country to the present Union was not to be shaken; that its dissolution could not be effected with the consent of its inhabitants; and that his resources were inadequate, as yet, to effect it by force. He took his course then at once; determined to seize on New Orleans, plunder the bank there, possess himself of the military and naval stores, and proceed on his expedition to Mexico; and to this object all his means and preparations were now directed. He collected from all the quarters where himself or his agents possessed influence all the ardent, restless, desperate, and disaffected persons who were ready for any enterprise analogous to their characters. He seduced good and well-meaning citizens, some by assurances that he possessed the confidence of the Government, and was acting under its secret patronage; a pretence which procured some credit, from the state of our differences with Spain; and others by offers of land in Bastrop's claim on the Washita.

This was the state of my information of his proceedings about the last of November; at which time, therefore, it was first possible to take specific measures to meet them. The proclamation of November 27, two days after the receipt of General Wilkinson's information, was now issued. Orders were despatched to every interesting point on the Ohio and Mississippi, from Pittsburg to New Orleans, for the employment of such force, either of the regulars or of the militia, and of such proceedings also of the civil authorities, as might enable them to seize on all boats and stores provided for the enterprise, to arrest the persons concerned, and to suppress effectually the further progress of the enterprise. A little before the receipt of these orders in the State of Ohio, our confidential agent, who had

been diligently employed in investigating the conspiracy, had acquired sufficient information to open himself to the Governor of that State, and to apply for the immediate exertion of the authority and power of the State to crush the combination. Governor Tiffin and the Legislature, with a promptitude, an energy, and patriotic zeal, which entitle them to a distinguished place in the affection of their sister States, effected the seizure of all the boats, provisions, and other preparations within their reach; and thus gave a first blow, materially disabling the enterprise in its outset.

In Kentucky a premature attempt to bring Burr to justice, without sufficient evidence for his conviction, had produced a popular impression in his favor, and a general disbelief of his guilt. This gave him an unfortunate opportunity of hastening his equipments. The arrival of the proclamation and orders, and the application and information of our confidential agent, at length awakened the authorities of that State to the truth, and then produced the same promptitude and energy of which the neighboring State had set the example. Under an act of their Legislature of December 23, militia was instantly ordered to different important points, and measures taken for doing whatever could yet be done. Some boats (accounts vary from five to double or treble that number) and persons (differently estimated from one to three hundred) had, in the meantime, passed the falls of Ohio to rendezvous at the mouth of Cumberland, with others expected down that river.

Not apprized, till very late, that any boats were building on Cumberland, the effect of the proclamation had been trusted to for some time in the State of Tennessee; but on the 19th of December similar communications and instructions, with those to the neighboring States, were despatched by express to the Governor, and a general officer of the western division of the State; and on the 23d of December our confidential agent left Frankfort for Nashville, to put into activity the means of that State also. But by information received yesterday, I learn that on the 22d of December Mr. Burr descended the Cumberland, with two boats merely of accommodation, carrying with him from that State no quota towards his unlawful enterprise. Whether after the arrival of the proclamation, of the orders, or of our agent, any exertion which could be made by that State, or the orders of the Governor of Kentucky, for calling out the militia at the mouth of Cumberland, would be in time to arrest these boats, and those from the falls of Ohio, is still doubtful.

On the whole, the fugitives from the Ohio, with their associates from Cumberland, or any other place in that quarter, cannot threaten serious danger to the city of New Orleans.

By the same express of December 19 orders were sent to the Governors of Orleans and Mississippi, supplementary to those which had been given on the 25th of November, to hold the militia of their Territories in readiness to co-operate for their defence with the regular troops and armed vessels then under command of General Wilkinson. Great alarm, indeed, was excited at New Orleans by the exaggerated accounts of Mr. Burr, disseminated through his emissaries, of the armies and navies he was to assemble there. General Wilkinson had arrived there himself on the 24th of November, and had immediately put into activity the resources of the place for the purpose of its defence, and on the 10th of December he was joined by his troops from the Sabine. Great zeal was shown by the inhabitants generally; the merchants of the place readily agreeing to the most laudable exertions and sacrifices for manning the armed vessels with their seamen; and the other citizens manifesting unequivocal fidelity to the Union, and a spirit of determined resistance to their expected assailants.

Surmises have been hazarded that this enterprise is to receive aid from certain foreign Powers, but these surmises are without proof or probability. The wisdom of the measures sanctioned by Congress at its last session has placed us in the paths of peace and justice with the only Powers with whom we had any differences, and nothing has happened since which makes it either their interest or ours to pursue another course. No change of measures has taken place on our part; none ought to take place at this time. With the one, friendly arrangement was proposed; and the law, deemed necessary on the failure of that, was suspended, to give time for a fair trial of the issue. With the same Power friendly arrangement is now proceeding, under good expectations, and the same law, deemed necessary on failure of that, is still suspended to give time for a fair trial of the issue. With the other, negotiation was in like manner preferred, and provisional measures only taken to meet the event of rupture. With the same Power negotiation is still preferred, and provisional measures only are necessary to meet the event of rupture. While, therefore, we do not deflect in the slightest degree from the course we then assumed, and are still pursuing with mutual consent to restore a good understanding, we are not to impute to them practices as irreconcilable to interest as to good faith, and changing necessarily the relations of peace and justice between us to those of war. These surmises are, therefore, to be imputed to the vauntings of the author of this enterprise, to multiply his partisans by magnifying the belief of his prospects and support.

By letters from General Wilkinson of the 14th and 18th of December, which came to hand two days after the date of the resolution of the House of Representatives, that is to say, on the morning of the 18th instant, I received the important affidavit, a copy of which I now communicate, with extracts of so much of the letters as comes within the scope of the resolution. By these it will be seen that of three of the principal emissaries of Mr. Burr, whom the General had caused to be apprehended, one had been liberated by *habeas corpus*, and two others, being those particularly employed in the endeavor to corrupt the General and army of the United States, have been embarked by him for ports in the Atlantic States, probably on the consideration that an impartial trial could not be expected during the present agitations of New Orleans, and that that city was not as yet a safe place of confinement. As soon as these persons shall arrive, they will be delivered to the custody of the law, and left to such course of trial, both as to place and process, as its functionaries may direct. The presence of the highest judicial authorities to be assembled at this place within a few days, the means of pursuing a sounder course of proceedings here than elsewhere, and the aid of the Executive means, should the judges have occasion to use them, render it equally desirable for the criminal as for the public, that, being already removed from the place where they were first apprehended, the first regular arrest should take place here, and the course of proceedings receive here their proper direction.

TH: JEFFERSON.

JANUARY 22, 1807.

#### *Deposition of General Wilkinson.*

NEW ORLEANS, November 25, 1806.

On the 30th of the same month I waited in person on Doctor E. Bollman, when he informed me that he had not heard from Colonel Burr since his arrival here; that he (the said Doctor E. Bollman) had sent despatches to Colonel Burr by a Lieutenant Spence of the navy, and that he had been advised of Spence's arrival at Nashville, in the State of Tennessee, and observed that Colonel Burr had proceeded too far to retreat; that he (Colonel Burr) had numerous and powerful friends in the United States, who stood pledged to support him with their fortunes, and that he must succeed; that he (the said Doctor E. Bollman) had written to Colonel Burr on the sub-

ject of provisions, and that he expected a supply would be sent from New York and also from Norfolk, where Colonel Burr had strong connexions. I did not see or hear from the doctor again until the 5th instant, when I called on him the second time. The mail having arrived the day before, I asked him whether he had received any intelligence from Colonel Burr. He informed me that he had seen a letter from Colonel Burr of the 30th of October, in which he (Colonel Burr) gave assurances that he should be at Natchez with two thousand men on the 20th of December instant, where he should wait until he heard from this place; that he would be followed by four thousand men more, and that he, (Colonel Burr,) if he had chosen, could have raised or got twelve thousand as easy as six thousand, but that he did not consider that number necessary. Confiding fully in this information, I became indifferent about further disguise. I then told the doctor that I should most certainly oppose Colonel Burr if he came this way. He replied, they must come here for equipments and shipping; and observed, that he did not know what had passed between Colonel Burr and myself; obliqued at a sham defence, and waived the subject.

From the documents in my possession, and the several communications, verbal as well as written, from the said Doctor Erick Bollman on this subject, I feel no hesitation in declaring, under the solemn obligation of an oath, that he has committed misprision of treason against the Government of the United States.

JAMES WILKINSON.

Signed and sworn to this 14th day of December, 1806, before me, one of the justices of the peace of this county.

J. CARRICK.

DEAR SIR:

PHILADELPHIA, July 25, 1806.

Mr. Swartwout, the brother of Colonel S., of New York, being on his way down the Mississippi, and presuming he may pass you at some post on the river, has requested of me a letter of introduction, which I give with pleasure, as he is a most amiable young man, and highly respectable from his character and connexions. I pray you to afford him any friendly offices which his situation may require, and beg you to pardon the trouble which this may give you.

With entire respect, your friend and obedient servant,

A. BURR.

His Excellency GENERAL WILKINSON.

*Extract of a letter from General James Wilkinson, dated*

NEW ORLEANS, December 14, 1806.

After several consultations with the Governor and judges, touching the arrest and confinement of certain known agents and emissaries of Colonel Burr, in this city and Territory, whose intrigues and machinations were to be apprehended, it is with their privity and approbation that I have caused three of them to be arrested, viz: Dr. Erick Bollman, Samuel Swartwout, and Peter V. Ogden, against whom I possess strong facts, and I have recommended to the Governor to have James Alexander, Esq. taken up on the ground of strong suspicion. These persons, and all others, who, by their character and deportment, may be considered hostile to the interests of the United States, or dangerous to this feeble frontier, under the menacing aspect of things from above, will, if my influence can prevail, be seized and sent by sea to the United States, subject to the disposition of Government, and accompanied with such information as may justify their confinement, and furnish a clew to the development of the grounds, progress, and projectors of the treasonable enterprise in which they are engaged.

This letter will accompany Dr. Bollman, who is to be this day embarked in a vessel bound for Charleston, under the charge of Lieutenant Wilson of the artillery, who has orders to land with his prisoner at Fort Johnston or Fort Moultrie, to forward this despatch by mail, and to wait the orders of the Executive. Mr. Swartwout will be sent to Baltimore by a vessel which will sail some time the ensuing week, in custody of another subaltern, who will be the bearer of strong testimony against him and also Colonel Burr; and the others will follow, under due precautions, by the earliest opportunities which may present.

I deem it essential to keep these prisoners apart, to prevent the adjustment of correspondent answers or confessions to any examination which may ensue; and I hope the measures of the Executive may be so prompt and efficient as to relieve the officers in charge of them from their trust before the interposition of the friends of the prisoners may effect their liberation.

By this procedure we may intimidate the confederates, who are unquestionably numerous in this as well as the adjacent Territory, disconcert their arrangements, and possibly destroy their intrigues; and I hope the zeal which directs the measure may be justified and approved, for whilst the glow of patriotism actuates my conduct, and I am willing to offer myself a martyr to the constitution of my country, I should indeed be most grievously disappointed did I incur its censure.

Here, sir, we find the key to the Western States, and here we must form one grand depository and place of arms. Combine to this disposition a river fleet competent to its occlusion, and post it thirty or forty leagues above the Yazoo river, and we may repose in security; for the discontent and sufferings of our insurgent citizens, which must immediately ensue, will soon open their eyes to the wickedness of their leaders, and work a radical reformation without bloodshed. This is my plan for resisting an internal attack; for external defence, gun-boats and bomb-ketches, with floating batteries, at the mouths of the Mississippi and the passes from Lake Pontchartrain, will be necessary.

*Extract of a letter from General James Wilkinson, dated*

NEW ORLEANS, December 18, 1806.

SIR:

Since my last of the 14th instant, writs of *habeas corpus* have been issued for the bodies of Bollman, Swartwout, and Ogden, the two latter by Judge Workman, who is strongly suspected of being connected with Burr in his conspiracy, as I have proof this man declared some time since that "the republican who possessed power, and did not employ it to establish a despotism, was a fool." His writ for Ogden was served on Captain Shaw of the navy, who had him in charge, at my request, on board the Etna bomb-ketch, and delivered him up, and Mr. Workman discharged him, without giving me a word of information, although he knew he was confined by my order for a treasonable combination with Burr, and Mr. Ogden now struts at large. Swartwout I have sent off, and shall so report, holding myself ready for consequences. Bollman was required by the superior court, but I have got rid of that affair also, under the usual liability for damages; in which case I shall look to our country for protection.



I, James Wilkinson, brigadier general and commander-in-chief of the army of the United States, to warrant the arrest of Dr. Erick Bollman, on a charge of treason, misprision of treason, or such other offence against the Government and laws of the United States as the following facts may legally charge him with, on my honor, as a soldier, and on the Holy Evangelists of Almighty God, do declare and swear, that, on the sixth day of November last, when in command at Natchitoches, I received, by the hands of a Frenchman, a stranger to me, a letter from Dr. Erick Bollman, of which the following is a correct copy:

SIR:

NEW ORLEANS, *September 27, 1806.*

I have the honor to forward to your excellency the enclosed letters, which I was charged to deliver to you by our mutual friend. I shall remain for some time at this place, and should be glad to learn where and when I may have the pleasure of an interview with you. Have the goodness to inform me of it, and please to direct your letter to me, care of ———, or enclose it under cover to them.

I have the honor to be, with great respect, sir, your excellency's most obedient servant,

ERICK BOLLMAN.

General WILKINSON.

Covering a communication in cipher from Colonel Aaron Burr, of which the following is substantially as fair an interpretation as I have heretofore been able to make, the original of which I hold in my possession.

"I, Aaron Burr, have obtained funds, and have actually commenced the enterprise. Detachments from different points, and under different pretences, will rendezvous on the Ohio 1st November. Every thing internal and external favors views. Protection of England is secured. T.\* is gone to Jamaica to arrange with the admiral on that station, and will meet at the Mississippi—England—navy of the United States are ready to join, and final orders are given to my friends and followers. It will be a host of choice spirits. Wilkinson shall be second to Burr only. Wilkinson shall dictate the rank and promotion of his officers. Burr will proceed westward, 1st August, never to return: with him goes his daughter: the husband will follow in October, with a *corps of worthies*. Send forthwith an intelligent and confidential friend with whom Burr may confer. He shall return immediately with further interesting details: this is essential to concert and harmony of movement. Send a list of all persons known to Wilkinson west of the mountains, who could be useful, with a note delineating the characters. By your messenger send me four or five of the commissions of your officers, which you can borrow under any pretence you please. They shall be returned faithfully. Already are orders to the contractor given to forward six months' provisions to points Wilkinson may name. This shall not be used until the last moment, and then under proper injunctions. The project is brought to the point so long desired. Burr guaranties the result with his life and honor—the lives, the honor, and fortune of hundreds, the best blood of our country. Burr's plan of operations is to move down rapidly from the falls on the 15th of November, with the first five hundred or one thousand men in light boats, now constructing for that purpose, to be at Natchez between the 5th and 15th of December: then to meet Wilkinson: then to determine whether it will be expedient, in the first instance, to seize on or pass by Baton Rouge. On receipt of this send Burr an answer. Draw on Burr for all expenses, &c. The people of the country to which we are going are prepared to receive us: their agents, now with Burr, say that, if we will protect their religion, and will not subject them to a foreign Power, in three weeks all will be settled.

"The gods invite to glory and fortune: it remains to be seen whether we deserve the boon. The bearer of this goes express to you: he will hand a formal letter of introduction to you from Burr, a copy of which is hereunto subjoined: he is a man of inviolable honor and perfect discretion; formed to execute rather than to project; capable of relating facts with fidelity, and incapable of relating them otherwise. He is thoroughly informed of the plans and intentions of ———, and will disclose to you as far as you inquire, and no further. He has imbibed a reverence for your character, and may be embarrassed in your presence: put him at ease, and he will satisfy you. Dr. Bollman, equally confidential, better informed on the subject, and more intelligent, will hand this duplicate.

"29th JULY."

The day after my arrival in this city, the 26th of November last, I received another letter from the doctor, of which the following is a correct copy:

SIR:

Your letter of the 6th instant has been duly received. Supposing that you will be much engaged this morning, I defer waiting on your excellency till you will be pleased to inform me of the time when it will be convenient to you to see me.

I remain, with great respect, your excellency's most obedient servant,

ERICK BOLLMAN.

9th CONGRESS.]

No. 218.

[2d SESSION.]

## BURR'S CONSPIRACY—ARRESTS.

COMMUNICATED TO CONGRESS, ON THE 26TH OF JANUARY, 1807.

*To the Senate and House of Representatives of the United States:*

JANUARY 26, 1807.

I received from General Wilkinson, on the 23d instant, his affidavit charging Samuel Swartwout, Peter V. Ogden, and James Alexander with the crimes described in the affidavit, a copy of which is now communicated to both Houses of Congress.

\* Truxton.

It was announced to me at the same time, that Swartwout and Bollman, two of the persons apprehended by him, were arrived in this city in custody each of a military officer. I immediately delivered to the Attorney of the United States in this district the evidence received against them, with instructions to lay the same before the judges, and apply for their process to bring the accused to justice; and I put into his hands orders to the officers having them in custody to deliver them to the marshal, on his application.

TH: JEFFERSON.

I, James Wilkinson, brigadier general and commander-in-chief of the army of the United States, to warrant the arrest of Samuel Swartwout, James Alexander, Esq., and Peter V. Ogden, on a charge of treason, misprision of treason, or such other offence against the Government and laws of the United States, as the following facts may legally charge them with, on the honor of a soldier, and on the Holy Evangelists of Almighty God, do declare and swear, that, in the beginning of the month of October last, when in command at Natchitoches, a stranger was introduced to me by Colonel Cushing, by the name of Swartwout, who, a few minutes after the colonel retired from the room slipped into my hand a letter of formal introduction from Colonel Burr, of which the following is a correct copy:

DEAR SIR:

PHILADELPHIA, *July 25, 1806.*

Mr. Swartwout, the brother of Colonel S. of New York, being on his way down the Mississippi, and presuming that he may pass you at some post on the river, has requested of me a letter of introduction, which I give with pleasure, as he is a most amiable young man, and highly respectable from his character and connexions. I pray you to afford him any friendly offices which his situation may require, and beg you to pardon the trouble which this may give you.

With entire respect, your friend and obedient servant,

A. BURR.

His Excellency GENERAL WILKINSON.

Together with a packet which he informed me he was charged by the same person to deliver me in private. This packet contained a letter in cipher from Colonel Burr, of which the following is substantially as fair an interpretation as I have heretofore been able to make, the original of which I hold in my possession.

"I, Aaron Burr, have obtained funds, and have actually commenced the enterprise. Detachments from different points, and under different pretences, will rendezvous on the Ohio 1st November; every thing internal and external favors views; protection of England is secured; T. is going to Jamaica to arrange with the admiral on that station; it will meet on the Mississippi—England—Navy of the United States are ready to join, and final orders are given to my friends and followers; it will be a host of choice spirits; Wilkinson shall be second to Burr only; Wilkinson shall dictate the rank and promotion of his officers; Burr will proceed westward 1st August, never to return; with him go his daughter; the husband will follow in October with a corps of worthies.

"Send forthwith an intelligent and confidential friend with whom Burr may confer; he shall return immediately with further interesting details; this is essential to concert and harmony of movement. Send a list of all persons known to Wilkinson west of the mountains who may be useful, with a note delineating their characters. By your messenger send me four or five of the commissions of your officers, which you can borrow under any pretence you please; they shall be returned faithfully. Already are orders to the contractor given to forward 'six months' provisions to points Wilkinson may name. This shall not be used until the last moment, and then under proper injunctions. The project is brought to the point so long desired. Burr guaranties the result with his life and honor; with the lives, the honor, and fortune of hundreds, the best blood of our country. Burr's plan of operations is to move down rapidly from the falls on the 15th November with the first five hundred or one thousand men in light boats, now constructing for that purpose, to be at Natchez between the 5th and 15th of December, there to meet Wilkinson, there to determine whether it will be expedient, in the first instance, to seize on or pass by Baton Rouge on receipt of this. Send Burr an answer; draw on Burr for all expenses, &c. The people of the country to which we are going are prepared to receive us. Their agents now with Burr say, that if we will protect their religion, and will not subject them to a foreign Power, in three weeks all will be settled. The gods invite to glory and fortune. It remains to be seen whether we deserve the boon. The bearer of this goes express to you; he will hand a formal letter of introduction to you from Burr; he is a man of inviolable honor and perfect discretion, formed to execute rather than to project; capable of relating facts with fidelity, and incapable of relating them otherwise. He is thoroughly informed of the plans and intentions of ———, and will disclose to you as far as you inquire, and no further. He has imbibed a reverence for your character, and may be embarrassed in your presence; put him at ease, and he will satisfy you."—29th July.

I instantly resolved to avail myself of the reference made to the bearer, and, in the course of some days, drew from him (the said Swartwout) the following disclosure: "That he had been despatched by Colonel Burr from Philadelphia; had passed through the States of Ohio and Kentucky, and proceeded from Louisville for St. Louis, where he expected to find me; but discovering at Kaskaskias that I had descended the river, he procured a skiff, hired hands, and followed me down the Mississippi to Fort Adams; and from thence set out for Natchitoches, in company with Captains Sparks and Hooke, under the pretence of a disposition to take part in the campaign against the Spaniards, then depending. That Colonel Burr, with the support of a powerful association extending from New York to New Orleans, was levying an armed body of seven thousand men from the State of New York and the Western States and Territories, with a view to carry an expedition against the Mexican provinces; and that five hundred men, under Colonel Swartwout and a Colonel or Major Tyler, were to descend the Allegany, for whose accommodation light boats had been built and were ready." I inquired what would be their course; he said, "this Territory would be revolutionized, where the people were ready to join them; and that there would be some seizing, he supposed, at New Orleans; that they expected to be ready to embark about the 1st of February; and intended to land at Vera Cruz, and to march from thence to Mexico." I observed that there were several millions of dollars in the bank of this place; to which he replied, "we know it full well;" and, on my remarking that they certainly did not mean to violate private property, he said, "they meant to borrow, and would return it; that they must equip themselves in New Orleans; that they expected naval protection from Great Britain; that the captains and the officers of our navy were so disgusted with the Government that they were ready to join; that similar disgusts prevailed throughout the Western country, where the people were zealous in favor of the enterprise; and that pilot-boat built schooners were contracted for along our southern coast for their service; that he had been accompanied from the falls of Ohio to Kaskaskias, and from thence to Fort Adams by a Mr. Ogden, who had proceeded on to New Orleans with letters from Colonel Burr to his friends there." Swartwout asked me whether I had heard from Doctor

Bollman; and, on my answering in the negative, he expressed great surprise, and observed, "that the doctor and a Mr. Alexander had left Philadelphia before him with despatches for me; and that they were to proceed by sea to New Orleans, where he said they must have arrived."

Though determined to deceive him, if possible, I could not refrain telling Mr. Swartwout it was impossible that I could ever dishonor my commission; and I believe I duped him by my admiration of the plan, and by observing, "that although I could not join in the expedition, the engagements which the Spaniards had prepared for me in my front might prevent my opposing it." Yet I did, the moment I had deciphered the letter, put it into the hands of Colonel Cushing, my adjutant and inspector; making the declaration that I should oppose the lawless enterprise with my utmost force. Mr. Swartwout informed me that he was under engagements to meet Colonel Burr at Nashville on the 20th of November, and requested of me to write to him, which I declined; and on his leaving Natchitoches about the 18th of October, I immediately employed Lieutenant T. A. Smith to convey the information in substance to the President without the commitment of names; for, from the extraordinary nature of the project and the more extraordinary appeal to me, I could but doubt its reality, notwithstanding the testimony before me; and I did not attach solid belief to Mr. Swartwout's reports respecting their intentions on this Territory and city, until I received confirmatory advice from St. Louis.

After my return from the Sabine I crossed the country to Natchez, and, on my descent of the Mississippi from that place, I found Swartwout and Peter V. Ogden at Fort Adams; with the latter I held no communication, but was informed by Swartwout that he (Ogden) had returned so far from New Orleans on his route to Tennessee, but had been so much alarmed by certain reports in circulation, that he was afraid to proceed. I inquired whether he bore letters with him from New Orleans, and was informed by Swartwout that he did not; but that a Mr. Spence had been sent from New Orleans through the country to Nashville with letters for Colonel Burr.

I reached this city the 25th ultimo, and on the next morning James Alexander, Esq. visited me; he inquired of me, aside, whether I had seen Doctor Bollman, and, on my answering in the negative, he asked me whether I would suffer him to conduct Bollman to me, which I refused. He appeared desirous to communicate something, but I felt no inclination to inculcate this young man, and he left me. A few days after he paid me a second visit, and seemed desirous to communicate, which I avoided until he had risen to take leave; I then raised my finger, and observed, "take care, you are playing a dangerous game." He answered, "it will succeed." I again observed, "take care;" and he replied, with a strong affirmation, "Burr will be here by the beginning of next month." In addition to these corroborating circumstances against Alexander, I beg leave to refer to the accompanying documents A, B, from all [which I feel no hesitation in declaring, under the solemn obligation of an oath, that I do believe the said Swartwout, Alexander, and Ogden have been parties to, and have been concerned in, the insurrection formed or forming in the States and Territories on the Ohio and Mississippi rivers, against the laws and constitution of the United States.

JAMES WILKINSON.

Sworn to and subscribed before me, this 26th day of December, in the year of our Lord 1806.

GEORGE POLLOCK,  
*Justice of Peace for the county of Orleans.*

9th CONGRESS.]

No. 219.

[2d SESSION.

BURR'S CONSPIRACY.

COMMUNICATED TO CONGRESS, JANUARY 28, 1807.

*To the Senate and House of Representatives of the United States:*

JANUARY 28, 1807.

By the letters of Captain Bissel, who commands at Fort Massac, and of Mr. Murrell to General Jackson, of Tennessee, copies of which are now communicated to Congress, it will be seen that Aaron Burr passed Fort Massac, on the 31st of December, with about ten boats, navigated by about six hands each, without any military appearance; and that three boats with ammunition were said to have been arrested by the militia at Louisville.

As the guards of militia, posted on various points of the Ohio, will be able to prevent any further aids passing through that channel, should any be attempted, we may now estimate, with tolerable certainty, the means derived from the Ohio and its waters towards the accomplishment of the purposes of Mr. Burr.

TH: JEFFERSON.

SIR:

NASHVILLE, *January 8, 1807.*

I received your instructions dated the 2d instant, and, agreeably thereto, I delivered your letter, addressed to General Thomas Johnson, to Colonel Cheatham, and it was forwarded to him immediately. I arrived at Centreville on the 4th instant; heard a report there that Colonel Burr had gone down the river with one thousand armed men; arrived at the mouth of Cumberland river that evening, and made inquiry concerning Colonel Burr; and was informed that he left that place on the 28th of December, 1806, with ten boats, of different descriptions; had sixty men on board, but no appearance of arms. I left there on the 5th instant, and arrived at Fort Massac that evening; delivered your letter to Captain Bissel and received his answer; made some inquiries of him, and was informed that Colonel Burr had left that place on the 30th December, 1806, with ten boats. He likewise informed me that he had been on board the boats, and seen no appearance of arms or ammunition. On my return to the mouth of Cumberland river I was informed that three boats had been stopped at Louisville, with a quantity of ammunition. There are about fifty men stationed at the mouth of Cumberland, under command of Colonel Ramsey.

I remain, with the highest esteem, yours,

JOHN MURRELL.

General ANDREW JACKSON.

SIR:

FORT MASSAC, *January 5, 1807.*

This day, per express, I had the honor to receive your very interesting letter of the 2d instant; I shall pay due respect to its contents; as yet I have not received the President's proclamation alluded to, nor have I received any orders from the Department of War relative to the subject-matter of your letter.

There has not, to my knowledge, been any assemblage of men or boats, at this or any other place, unauthorized by law or precedency; but, should any thing of the kind make its appearance, which carries with it the least mark of suspicion, as having illegal enterprises or projects in view, hostile to the peace and good order of Government, I shall, with as much ardor and energy as the case will admit, endeavor to bring to justice all such offenders.

For more than two weeks last past I have made it a point to make myself acquainted with the loading and situation of all boats descending the river. As yet there has nothing the least alarming appeared. On or about the 31st ultimo, Colonel Burr, late Vice President of the United States, passed this with about ten boats, of different descriptions, navigated with about six men each, having nothing on board that would even suffer a conjecture, more than a man bound to market; he has descended the rivers towards Orleans. Should any thing to my knowledge transpire interesting to Government, I will give the most early notice in my power.

I have the honor to be, respectfully, sir, your obedient servant,

DANIEL BISSEL, *Commanding Captain.*

General ANDREW JACKSON, *Nashville, Tennessee.*

9th CONGRESS. ]

No. 220.

[2d SESSION.

## CUMBERLAND ROAD.

COMMUNICATED TO CONGRESS, JANUARY 31, 1807.

JANUARY 31, 1807.

*To the Senate and House of Representatives of the United States:*

In execution of the act of the last session of Congress, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," I appointed Thomas Moore, of Maryland, Joseph Kerr, of Ohio, and Eli Williams, of Maryland, commissioners to lay out the said road, and to perform the other duties assigned to them by the act. The progress which they made in the execution of the work, during the last season, will appear in their report now communicated to Congress; on the receipt of it, I took measures to obtain consent, for making the road of the States of Pennsylvania, Maryland, and Virginia, through which the commissioners propose to lay it out. I have received acts of the Legislatures of Maryland and Virginia, giving the consent desired; that of Pennsylvania has the subject still under consideration, as is supposed. Until I receive full consent to a free choice of route through the whole distance, I have thought it safest neither to accept nor reject finally the partial report of the commissioners.

Some matters suggested in the report belong exclusively to the Legislature.

TH: JEFFERSON.

The commissioners acting by appointment under the law of Congress, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio," beg leave to report to the President of the United States, and to premise that the duties imposed by the law became a work of greater magnitude, and a task much more arduous, than was conceived before entering upon it; from which circumstance, the commissioners did not allow themselves sufficient time for the performance of it before the severity of the weather obliged them to retire from it, which was the case in the first week of the present month (December.) That, not having fully accomplished their work, they are unable fully to report a discharge of all the duties enjoined by the law; but as the most material and principal part has been performed, and as a communication of the progress already made may be useful and proper during the present session of Congress, and of the Legislatures of those States through which the route passes, the commissioners respectfully state: that at a very early period it was conceived that the maps of the country were not sufficiently accurate to afford a minute knowledge of the true courses between the extreme points on the rivers, by which the researches of the commissioners were to be governed; a survey for that purpose became indispensable, and considerations of public economy suggested the propriety of making this survey precede the personal attendance of the commissioners.

Josias Thompson, a surveyor of professional merit, was taken into service and authorized to employ two chain carriers and a marker, as well as one vaneman, and a packhorse man, and horse, on public account; the latter being indispensable and really beneficial in accelerating the work. The surveyors' instructions are contained in document No. 1, accompanying this report.

Calculating on a reasonable time for the performance of the instructions to the surveyor, the commissioners, by correspondence, fixed on the 1st day of September last for their meeting at Cumberland to proceed in the work; neither of them, however, reached that place until the 3d of that month, on which day they all met.

The surveyor having, under his instructions, laid down a plat of his work, showing the meanders of the Potomac and Ohio rivers, within the limits prescribed for the commissioners, as also the road between those rivers which is commonly travelled from Cumberland to Charleston, in part called Braddock's road; and the same being produced to the commissioners, whereby straight lines and their true courses were shown between the extreme points on each river, and the boundaries which limit the powers of the commissioners being thereby ascertained, serving as a basis whereon to proceed in the examination of the grounds and face of the country; the commissioners thus prepared commenced the business of exploring; and in this it was considered that a faithful discharge of the discretionary powers vested by the law made it necessary to view the whole to be able to judge of a preference due to any part of the grounds, which imposed a task of examining a space comprehending upwards of two

thousand square miles; a task rendered still more incumbent by the solicitude and importunities of the inhabitants of every part of the district, who severally conceived their grounds entitled to a preference.

It becoming necessary, in the interim, to run various lines of experiment for ascertaining the geographical position of several points entitled to attention, and the service suffering great delay for want of another surveyor, it was thought consistent with the public interest to employ, in that capacity, Arthur Rider, the vaneman, who had been chosen with qualifications to meet such an emergency; and whose service as vaneman could then be dispensed with, he commenced, as surveyor, on the 22d day of September, and continued so at field work until the 1st day of December, when he was retained as a necessary assistant to the principal surveyor, in copying field notes and hastening the draught of the work to be reported. The proceedings of the commissioners are specially detailed in their general journal, compiled from the daily journal of each commissioner, to which they beg leave to refer, under mark No. 2.

After a careful and critical examination of all the grounds within the limits prescribed, as well as the grounds and ways out from the Ohio westwardly at several points, and examining the shoal parts of the Ohio river as detailed in the table of soundings, stated in their journal, and after gaining all the information, geographical, general and special, possible and necessary, towards a judicial discharge of the duties assigned them, the commissioners repaired to Cumberland to examine and compare their notes and journals, and determine upon the direction and location of their route.

In this consultation the governing objects were:

- 1st. Shortness of distance between navigable points on the eastern and western waters.
- 2d. A point on the Monongahela best calculated to equalize the advantages of this portage in the country within reach of it.
- 3d. A point on the Ohio river most capable of combining certainty of navigation with road accommodation; embracing, in this estimate, remote points westwardly, as well as present and probable population on the north and south.

4th. Best mode of diffusing benefits with least distance of road.

In contemplating these objects, due attention was paid as well to the comparative merits of towns, establishments, and settlements already made, as to the capacity of the country with the present and probable population.

In the course of arrangement, and in its order, the first point located for the route was determined and fixed at Cumberland, a decision founded on propriety, and in some measure on necessity, from the circumstance of a high and difficult mountain called Noblely, laying and confining the east margin of the Potomac so as to render it impossible of access on that side without immense expense, at any point between Cumberland, and where the road from Winchester to Gwynn's crosses, and even there the Noblely mountains is crossed with much difficulty and hazard. And this upper point was taxed with another formidable objection; it was found that a high range of mountains called Dan's, stretching across from Gwynn's to Potomac, above this point, precluded the opportunity of extending a route from this point in a proper direction, and left no alternative but passing by Gwynn's; the distance from Cumberland to Gwynn's being upwards of a mile less than from the upper point, which lies ten miles by water above Cumberland, the commissioners were not permitted to hesitate in preferring a point which shortens the portage as well as the Potomac navigation.

The point on the Potomac being viewed as a great repository of produce which a good road will bring from the west of Laurel Hill, and the advantages which Cumberland, as a town, has in that respect over an unimproved place, are additional considerations operating forcibly in favor of the place preferred.

In extending the route from Cumberland, a triple range of mountains, stretching across from Jening's run in measure with Gwynn's, left only the alternative of laying the road up Will's creek for three miles, nearly at right angles with the true course, and then by way of Jening's run, or extending it over a break in the smallest mountain on a better course by Gwynn's to the top of Savage mountain: the latter was adopted, being the shortest, and will be less expensive in hill side digging over a sloped route than the former, requiring one bridge over Will's creek, and several over Jening's run, both very wide and considerable streams in high water; and a more weighty reason for preferring the route by Gwynn's is, the great accommodation it will afford travellers from Winchester by the upper point who could not reach the route by Jening's run short of the top of Savage, which would withhold from them the benefit of an easy way up that mountain. It is, however, supposed that those who travel from Winchester by way of the upper point to Gwynn's, are in that respect more the dupes of common prejudice than judges of their own ease, as it is believed the way will be as short, and on much better ground, to cross the Potomac below the confluence of the north and south branches (thereby crossing these two, as well as Patterson's creek, in one stream, equally fordable in the same season) than to pass through Cumberland to Gwynn's. Of these grounds, however, the commissioners do not speak from actual view, but consider it a subject well worthy of future investigation.

Having gained the top of Allegany mountain, or rather the top of that part called Savage, by way of Gwynn's, the general route, as it respects the most important points, was determined as follows, viz:

From a stone at the corner of lot No. 1, in Cumberland, near the confluence of Will's creek and the north branch of Potomac river; thence extending along the street westwardly, to cross the hill lying between Cumberland and Gwynn's, at the gap where Braddock's road passes it; thence near Gwynn's and Jesse Tomlinson's, to cross the Big Youhiogana near the mouth of Rogers' run, between the crossing of Braddock's road and the confluence of the streams which form the Turkey foot; thence to cross Laurel Hill near the forks of Dunbar's run, to the west foot of that hill, at a point near where Braddock's old road reached it, near Guest's old place, now Colonel Isaac Mason's; thence through Brownsville and Bridgeport, to cross the Monongahela river below Josias Crawford's ferry; and thence on as straight a course as the country will admit to the Ohio, at a point between the mouth of Wheelen creek and the lower point of Wheelen island.

In this direction of the route, it will lay about twenty four and a half miles in Maryland, seventy-five miles and a half in Pennsylvania, and twelve miles in Virginia; distances which will be in a small degree increased by meanders, which the bed of the road must necessarily make between the points mentioned in the location; and this route, it is believed, comprehends more important advantages than could be afforded in any other, inasmuch as it has a capacity at least equal to any other in extending advantages of a highway, and at the same time establishes the shortest portage between the points already navigated, and on the way accommodates other and nearer points to which navigation may be extended, and still shorten the portage.

It intersects Big Youhiogana at the nearest point from Cumberland, then lies nearly parallel with that river for the distance of twenty miles, and at the west foot of Laurel Hill lies within five miles of Connellsville, from which the Youhiogana is navigated; and in the same direction the route intersects at Brownsville the nearest point on the Monongahela river within the district. The improvement of the Youhiogana navigation is a subject of too much importance to remain long neglected; and the capacity of that river, as high up as the falls, (twelve miles above Connellsville,) is said to be equal, at a small expense, with the parts already navigated below. The obstructions at the falls, and a rocky rapid near Turkey Foot, constitute the principal impediments in that river to the intersection of the route, and as much higher as the stream has a capacity for navigation; and these difficulties will

doubtless be removed when the intercourse shall warrant the measure. Under these circumstances the portage may be thus stated:

	Miles.
From Cumberland to Monongahela - - - - -	66½
From Cumberland to a point in measure with Connelsville, on the Youghiogana river -	51½
From Cumberland to a point in measure with the lower end of the falls of Youghiogana, which will lie two miles north of the public road - - - - -	43
From Cumberland to the intersection of the route with the Youghiogana river - - - - -	34

Nothing is here said of the Little Youghiogana, which lies nearer Cumberland; the stream being unusually crooked, its navigation can only become the work of a redundant population.

The point which this route locates, at the west foot of Laurel Hill, having cleared the whole of the Allegany mountain, is so situated as to extend the advantages of an easy way through the great barrier, with more equal justice to the best parts of the country between Laurel Hill and the Ohio. Lines from this point to Pittsburg and Morgantown, diverging nearly at the same angle, open upon equal terms to all parts of the Western country that can make use of this portage; and which may include the settlements from Pittsburg, up Big Beaver, to the Connecticut reserve, on Lake Erie, as well as those on the southern borders of the Ohio and all the intermediate country.

Brownsville is nearly equidistant from Big Beaver and Fishing Creek, and equally convenient to all the crossing places on the Ohio between these extremes. As a port, it is at least equal to any on the Monongahela within the limits, and holds superior advantages in furnishing supplies to emigrants, traders, and other travellers by land or water.

Not unmindful of the claims of towns, and their capacity of reciprocating advantages on public roads, the commissioners were not insensible of the disadvantage which Uniontown must feel from the want of that accommodation which a more southwardly direction of the route would have afforded; but as that could not take place without a relinquishment of the shortest passage, considerations of public benefit could not yield to feelings of minor import. Uniontown being the seat of justice for Fayette county, Pennsylvania, is not without a share of public benefits, and may partake of the advantages of this portage upon equal terms with Connelsville, a growing town, with the advantage of respectable water-works adjoining, in the manufactory of flour and iron.

After reaching the nearest navigation on the western waters at a point best calculated to diffuse the benefits of a great highway in the greatest possible latitude east of the Ohio, it was considered that, to fulfil the objects of the law, it remained for the commissioners to give such a direction to the road as would best secure a certainty of navigation on the Ohio at all seasons, combining, as far as possible, the inland accommodation of remote points westwardly.

It was found that the obstructions in the Ohio within the limits, between Steubenville and Grave Creek, lay principally above the town and mouth of Wheeling; a circumstance ascertained by the commissioners in their examination of the channel, as well as by common usage, which has long given a decided preference to Wheeling to a place of embarkation and port of departure in dry seasons. It was also seen that Wheeling lay in a line from Brownsville to the centre of the State of Ohio and Post Vincennes. These circumstances favoring and corresponding with the chief objects in view in this last direction of the route, and the ground from Wheeling westwardly being known of equal fitness with any other way out from the river, it was thought most proper, under these several considerations, to locate the point mentioned below the mouth of Wheeling. In taking this point in preference to one higher up and in the town of Wheeling, the public benefit and convenience were consulted, inasmuch as the present crossing place over the Ohio from the town is so contrived and confined as to subject passengers to extraordinary ferriage and delay, by entering and clearing a ferry-boat on each side of Wheeling island, which lies before the town, and precludes the opportunity of fording when the river is crossed in that way above and below the island. From the point located, a safe crossing is afforded at the lower point of the island by a ferry in high, and a good ford at low water.

The face of the country within the limits prescribed is generally very uneven, and in many places broken by a succession of high mountains and deep hollows, too formidable to be reduced within five degrees of the horizon, but by crossing them obliquely, a mode which, although it imposes a heavy task of hill-side digging, obviates generally the necessity of reducing hills and filling hollows, which, on these grounds, would be an attempt truly Quixotic. This inequality of the surface is not confined to the Allegany mountain; the country between the Monongahela and Ohio rivers, although less elevated, is not better adapted for the bed of a road, being filled with impediments of hills and hollows which present considerable difficulties, and wants that superabundance and convenience of stone, which is found in the mountain.

The indirect course of the road now travelled, and the frequent elevations and depressions which occur, that exceed the limits of the law, preclude the possibility of occupying it in any extent, without great sacrifice of distance, and forbid the use of it, in any one part, for more than half a mile, or more than two or three miles in the whole. The expense of rendering the road now in contemplation passable may, therefore, amount to a larger sum than may have been supposed necessary, under an idea of embracing in it a considerable part of the old road; but it is believed that the contrary will be found most correct, and that a sum sufficient to open the new could not be expended on the same distance of the old road with equal benefit.

The sum required for the road in contemplation will depend on the style and manner of making it; as a common road cannot remove the difficulties which always exist on deep grounds, and particularly in wet seasons, and as nothing short of a firm, substantial, well formed, stone capped road, can remove the causes which led to the measure of improvement, or render the institution as commodious as a great and growing intercourse appears to require, the expense of such a road next becomes the subject of inquiry.

In this inquiry the commissioners can only form an estimate by recurring to the experience of Pennsylvania and Maryland in the business of artificial roads. Upon this data, and a comparison of the grounds and proximity of the materials for covering, there are reasons for belief that, on the route reported, a complete road may be made at an expense not exceeding six thousand dollars per mile, exclusive of bridges over the principal streams on the way. The average expense of the Lancaster, as well as Baltimore and Frederick turnpike, is considerably higher; but it is believed that the convenient supply of stone which the mountain affords will, on those grounds, reduce the expense to the rate here stated.

As to the policy of incurring this expense, it is not the province of the commissioners to declare; but they cannot, however, withhold assurances of a firm belief that the purse of the nation cannot be more seasonably opened, or more happily applied, than in promoting the speedy and effectual establishment of a great and easy road on the way contemplated.

In the discharge of all these duties, the commissioners have been actuated by an ardent desire to render the institution as useful and commodious as possible; and, impressed with a strong sense of the necessity which urges the speedy establishment of the road, they have to regret the circumstance which delays the completion of the part assigned them. They, however, in some measure, content themselves with the reflection that it will not retard the

progress of the work, as the opening of the road cannot commence before spring, and may then begin with the marking the way.

The extra expense incident to the service from the necessity (and propriety, as it relates to public economy,) of employing men not provided for by law, will, it is hoped, be recognised, and provision made for the payment of that and similar expenses, when in future it may be indispensably incurred.

The commissioners having engaged in a service in which their zeal did not permit them to calculate the difference between their pay and the expense to which the service subjected them, cannot suppose it the wish or intention of the Government to accept of their services for a mere indemnification of their expense of subsistence, which will be very much the case under the present allowance; they, therefore, allow themselves to hope and expect that measures will be taken to provide such further compensation as may, under all circumstances, be thought neither profuse nor parsimonious.

The painful anxiety manifested by the inhabitants of the district explored, and their general desire to know the route determined on, suggested the measure of promulgation, which, after some deliberation, was agreed on by way of circular letter, which has been forwarded to those persons to whom precaution was useful, and afterwards sent to one of the presses in that quarter for publication in the form of the document No. 3, which accompanies this report.

All which is, with due deference, submitted.

DECEMBER 30, 1806.

ELIE WILLIAMS,  
THOMAS MOORE,  
JOSEPH KERR.

9th CONGRESS.]

No. 221.

[2d SESSION.]

BURR'S CONSPIRACY.

COMMUNICATED TO CONGRESS, FEBRUARY 10, 1807.

*To the Senate and House of Representatives of the United States:*

I communicate, for the information of Congress a letter from Cowles Mead, Secretary of the Mississippi Territory, to the Secretary of War, by which it will be seen that Mr. Burr had reached that neighborhood on the 13th January.

TH: JEFFERSON.

FEBRUARY 10, 1807.

*Extract of a letter from Cowles Mead, Secretary and acting Governor of the Mississippi Territory, to the Department of War, dated*

SIR:

WASHINGTON, M. T., January 13, 1807.

I have just time by the mail to inform you that I received this morning a letter from Colonel Burr, at Bayou Pierre, avowing the innocence of his views, and the fallacy of certain rumors against his patriotism; his object is agriculture, and his boats are the vehicles of emigration. However, several military corps were ordered to be on the alert, and apprehend him and all suspicious persons, on the day before the reception of his letter; these orders may possibly bring him into my possession. In his letter he hints at resistance to any attempt to coerce him, and deprecates a civil war. These hints will have no influence on my conduct; he will be apprehended, if possible, at the hazard of the lives of our militia and the honor of the Executive. We are all bustle and activity. I hope in a day or two to give you a better account of this troublesome man.

A boat passed Natchez last night, which was hailed and pursued by the guard; they fired two guns at the pursuers, and made their escape, being better manned.

The citizens of this country are republicans and patriots, and on their exertions I have every reliance.

9th CONGRESS.]

No. 222.

[2d SESSION.]

SLAVERY IN THE INDIANA TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 12TH OF FEBRUARY, 1807.

Mr. PARKE, from the committee to whom was referred the letter of William Henry Harrison, Governor of the Indiana Territory, enclosing certain resolutions of the Legislative Council and House of Representatives of the said Territory, made the following report:

That the resolutions of the Legislative Council and House of Representatives of the Indiana Territory relate to a suspension, for the term of ten years, of the sixth article of compact between the United States and the Territories and States northwest of the river Ohio, passed the 13th July, 1787. That article declares "there shall be neither slavery nor involuntary servitude in the said Territory."

The suspension of the said article would operate an immediate and essential benefit to the Territory, as emigration to it will be inconsiderable for many years, except from those States where slavery is tolerated; and although it is not considered expedient to force the population of the Territory, yet it is desirable to connect its scattered settlements, and, in regard to political rights, to place it on an equal footing with the different States. From the interior situation of the Territory, it is not believed that slaves would ever become so numerous as to endanger the internal peace or future prosperity of the country. The current of emigration flowing to the western country, the Territories ought all to be opened to their introduction. The abstract question of liberty and slavery is not involved in the proposed measure, as slavery now exists to a considerable extent in different parts of the Union; it would not augment the number of slaves, but merely authorize the removal to Indiana of such as are held in bondage in the United States. If slavery is an evil, means ought to be devised to render it least dangerous to the community, and by which the hapless situation of the slaves would be most ameliorated; and to accomplish these objects, no measure would be so effectual as the one proposed. The committee, therefore, respectfully submit to the House the following resolution:

*Resolved*, That it is expedient to suspend; from and after the 1st day of January, 1808, the sixth article of compact between the United States and the Territories and States northwest of the river Ohio, passed the 13th day of July, 1787, for the term of ten years.

9th CONGRESS.]

No. 223.

[2d SESSION.]

BURR'S CONSPIRACY—HIS ARREST.

COMMUNICATED TO CONGRESS, FEBRUARY 19, 1807.

*To the Senate and House of Representatives of the United States:*

I transmit to Congress a letter from Cowles Mead, Secretary of the Mississippi Territory, acting as Governor, informing us that Aaron Burr had surrendered himself to the civil authority of that Territory.

TH: JEFFERSON.

FEBRUARY 19, 1807.

*Extract of a letter from Cowles Mead, Secretary and Acting Governor of the Mississippi Territory, to the Department of War, dated*

SIR:

WASHINGTON, M. T., January 19, 1807.

In obedience to your instructions by express of the 20th of December last, I, immediately after proroguing the Legislature, proceeded to put the Territory in a state of preparation for the arrestation of the suspicious persons and boats, which were contemplated therein. My militia were collecting at particular points on the river, when I received a letter from Colonel Burr, who had landed at Bayou Pierre with nine boats and about one hundred men. This letter went to an avowal of his innocence of the charges which rumor and public apprehension had announced against him, and solicited me to appease the fears which his approach had begotten; at the same time, he guarded me against the horrors of civil war, and the evils resulting from such a state of things. This seeming threat induced me to adopt a different mode of conduct from what the colonel might have expected; and, instead of adopting his pacific admonition, I ordered a very large portion of the militia of the Territory to rendezvous at certain points, and wait further orders. With the promptitude of Spartans, our fellow-citizens shouldered their firelocks, and in twenty-four hours I had the honor to review three hundred and seventy-five men at Natchez, prepared to defend their country. They were ordered, under the command of Colonel Claiborne, to a point on the river, about twenty-one miles above the city, there to remain to guard the river, and intercept, for inspection, all boats that might descend the river. On the 16th I despatched two of my aids to Colonel Burr, who had tendered his respect to the civil authority. These gentlemen engaged on my part to give the colonel an interview in the neighborhood of the detachment stationed at the mouth of Cole's creek; conformably thereto, I met the colonel on the 17th, and, after a lengthy interview, he offered to surrender himself to the civil authority of the Territory, and to suffer his boats to be searched. On the 18th Colonel Burr, accompanied by my aids, Majors Shields and Poindexter, rode down to the place, and was committed to the highest tribunal of the civil authority, where he now remains for trial.

Four gentlemen of unquestionable respectability, with a detachment of thirty men, are now in the act of making the search of the boats, and to-morrow I expect their report.

Thus, sir, this mighty alarm, with all its exaggerations, has eventuated in nine boats and one hundred men, and the major part of these are boys, or young men just from school. Many of their depositions have been taken before Judge Rodney, but they bespeak ignorance of the views or designs of the colonel. I believe them really ignorant and deluded. I believe that they are the dupes of stratagem, if the asseverations of Generals Eaton and Wilkinson are to be accredited.



9th CONGRESS.]

No. 224.

[2d SESSION.

## CANAL FROM THE HEAD TO THE FOOT OF THE RAPIDS OF THE OHIO RIVER.

COMMUNICATED TO THE SENATE, JANUARY 24, 1807.

Mr. ADAMS made the following report:

The committee to whom was referred the resolution proposing the appropriation of a quantity not exceeding \_\_\_\_\_ acres of land, to assist in cutting out a canal at the rapids of the Ohio, have, according to order, had the same under consideration, and beg leave to report:

That they have attentively examined a survey of the rapids of the Ohio and the adjacent shores, accompanied by explanatory notes made by a Mr. Jared Brooks, who appears to be a skilful and intelligent engineer; that this survey exhibits the sites proposed for the canal on the Kentucky shore, and its supposed contemplated route on the Indiana side; and its accuracy is certified by nine respectable gentlemen, who, being appointed by the Kentucky Legislature to promote the execution of an act for incorporating a company for cutting the canal in question, have themselves examined the several objects delineated. Mr. Brooks has sunk, at short and convenient distances, shafts ascertaining the nature of the ground through which the canal is proposed to pass on the Kentucky shore, the various depths to the surface of the rock, and, by his survey and notes, has fully evinced the practicability of the object, and the superior advantages of the Kentucky over the opposite side. On the Kentucky shore the requisite depth of the canal will be less, its length not so great by at least one-third, a better bed afforded, firmer ground for its sides, and far better harbors at its head and foot. From these circumstances, it is presumed the expense of the undertaking will not be so great by one-half on the Kentucky as upon the opposite shore, and, in Mr. Brooks's opinion, will not exceed \$200,000.

To open the canal so as to admit of the passage of vessels of any burthen capable of navigating the Ohio, the Legislature of Kentucky, at their session of 1804, passed an act incorporating a company by the name of the Ohio Canal Company, which was amended by an act passed at their session of 1805. By the provisions of these acts, the company is permitted to raise a capital of \$500,000, composed of shares of fifty dollars each; is vested with suitable powers to accomplish the work; and, upon its completion, authorized to charge reasonable tolls. On their part, the Legislature of Kentucky have directed a subscription for one thousand shares, and have invited the Governments of the United States, Pennsylvania, Virginia, Maryland, Ohio, and New York, all supposed to be more or less interested, to participate in the undertaking.

That the work is one of great and national importance is undeniable. The immense country on the Ohio and its waters above the rapids, in seeking a market for its surplus products, has to encounter the obstruction in the navigation of that stream, which they present. This obstruction, never entirely free from danger, is such as to absolutely preclude the passage of vessels for several months in the year in their descent, and, when laden, for the whole year, in their ascent of the river. The rapidity of the current, (which averages at the rate of from ten to eleven miles an hour through the falls,) leaves no alternative for a safe voyage up as well as down the river but in a canal.

How far it is the policy of the Government to aid in works of this kind, when it has no *direct* interest—whether, indeed, in such a case it has the constitutional power of patronage and encouragement, is not necessary to be decided in the present instance. Being a proprietor of land bordering upon the Ohio to a greater extent than any individual State, owing to an invaluable saline near the Wabash, there can be no doubt that both policy and *power* combine in favor of promoting an undertaking by which its property is to be incidentally benefited. If the value and price of land depend as well upon the facility with which its products find a market as upon its capacity to produce, there can be no doubt that the public lands will be increased in value by improvements in the navigation of those streams which water them. The saline alluded to will have its market enlarged by the opening of the proposed canal; and those above the rapids, as well as those below, may in time count upon it as one of the sources from whence salt may be obtained.

But as some contrariety of opinion has existed in relation to the preferable side of the Ohio for the canal, as the information upon which your committee has on this subject acted is rather of an *ex parte* character, and as any aid this Government may think proper to give ought only to be afforded after the most impartial and thorough investigation of the subject, they beg leave to recommend the following resolution:

*Resolved*, That the President be authorized to appoint three commissioners for the purpose of examining the rapids of the Ohio, to ascertain whether a canal to avoid them be practicable, and which side of the river presents the greatest advantages for its accomplishment; and also whether the bed of the river is capable of being so cleared out as to admit of ascending and descending navigation, and the relative importance of a sluice and canal.

[NOTE.—See Nos. 188 and 208.]

9th CONGRESS.]

No. 225.

[2d SESSION.

## AMENDMENT TO THE CONSTITUTION—JUDICIAL POWERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 3, 1807.

To the Senate and House of Representatives of the Congress of the United States:

The petition and representation of sundry citizens of the United States, inhabitants of that part of Pennsylvania situate north and west of the rivers Ohio, Allegany, and Conewango creek, most respectfully sheweth:

That petitions have been signed by sundry of your petitioners to be forwarded to Congress praying for an amendment to be proposed to the Legislatures of the different States, limiting the judicial power of the United States so that it should not extend to controversies between citizens of different States not claiming lands under grants of

different States, or between a State or citizen thereof, and foreign States, citizens, or subjects, in any case when the title to lands might come in question. If, however, contrary to the wishes and expectations of your petitioners, Congress should not think it proper to propose an amendment to the constitution agreeably to the prayer of that petition, they trust that such legislative provision will be made upon the subject as will more fully accord with the spirit of the constitution, and the rights and interests of the people.

Your petitioners beg leave to observe, that it is expressly declared, in the articles in addition to and amendment of the constitution, that "the enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people," and also that "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" your petitioners beg leave to observe, that, although the constitution of the United States declares that "the judicial power shall extend to controversies between a State or the citizens thereof, and foreign States, citizens, or subjects," yet the judicial power of the States is not prohibited from extending to such controversies. On the contrary, your petitioners are well aware that in every State, as well as the State in which your petitioners reside, "all the courts are open, and every man, for an injury done him in his lands, goods, person, or reputation, may have a remedy by due course of law, and right and justice administered without sale, denial, or delay." Nevertheless, although the act of Congress establishing the courts of the United States declares that the circuit courts have cognizance of such subjects only "concurrent" with the courts of the several States, yet a subsequent section gives the circuit court "exclusive" jurisdiction at the "election" of the alien or citizen of another State, against whom an action may be commenced, to the absolute annihilation and destruction of the judicial power of the States in all such cases; and moreover, although the constitution in all such cases only extends the judicial power to controversies between a State or the citizens thereof, and foreign States, citizens, or subjects, yet the act of Congress declares if a suit be commenced in any State court against an alien, (without confining it to a suit brought by a State or by a citizen,) the defendant may remove it to the circuit court.

Your petitioners are well aware that an inquiry into the constitutionality of a law is a delicate subject, and is, perhaps, entirely of judicial cognizance; they, therefore, forbear any further observations on this subject, which might appear to have a view of proving the act of Congress to be of that nature. Your petitioners, however, trust that it must be apparent that Congress have the power so far to repeal said law, as to allow the courts of the several States to proceed on to trial, judgment, and execution, in those cases where it is admitted they have a "concurrent" jurisdiction with the circuit courts, without having that jurisdiction impeached or destroyed; and that, although the judicial power of the United States shall continue to extend to such controversies, and it may still remain the right of the alien to sue in either court, at his election, the same right may not be denied to your petitioners, and all other citizens of the United States, and that the judicial power of the States respectively may be left unimpaired.

A. W. FOSTER, and others.

*To the Senate and House of Representatives of the Congress of the United States: The petition and representation of sundry citizens of the United States, inhabitants of that part of Pennsylvania situated north and west of the rivers Ohio and Alleghany, and Conewango creek, most respectfully sheweth:*

That during the last session of Congress sundry petitions were forwarded and presented to the Senate and House of Representatives, (as your petitioners have been informed,) praying that an amendment to the constitution of the United States might be proposed to the Legislatures of the different States, limiting the judicial power of the United States, so that it should not extend to controversies between citizens of different States not claiming lands under grants of different States, or between a State or the citizens thereof, and foreign States, citizens, or subjects, in any case where the title to land might come in question.

Your petitioners beg leave to solicit the attention of Congress again to this interesting subject.

On principles of general policy, as respects foreign nations, it is apprehended, that while "the judicial power of the United States shall extend to all cases in law and equity arising under the constitution, the laws of the United States, and treaties made or which shall be made under their authority, to all cases affecting ambassadors, other public ministers and consuls, to all cases of admiralty and maritime jurisdiction, and to controversies to which the United States shall be a party," no subject of judicial cognizance can ever become a subject of discussion between the United States and foreign nations, of which the courts of the United States will not retain a competent jurisdiction.

This amendment will also, it is believed, make that branch of the Government more consistent with the general principles and theory of the constitution, which delegates powers respecting general and national concerns to the United States, while those of a local or particular nature are reserved to the States respectively, or to the people. If, however, it is conceived that in some cases a deviation from general principles must take place, to suit the peculiar situation of the people, and that in a country where the spirit of commerce is so diffused as throughout the United States, and where the commercial intercourse between the different States is so great, it is necessary, in order to produce confidence, and ensure justice, that citizens of different States should have a right to sue in the courts of the United States. Those rights and interests will be protected, by not extending the amendment to cases of personal contract.

Considering the amendment prayed for by your petitioners merely as a municipal regulation, unconnected with our foreign relations, or with the interests of commerce, your petitioners conceive the arguments in favor of an amendment cogent and irresistible.

It is well known that the construction of the laws of several, perhaps all the States, respecting the original title to lands, depend as well upon their customs and usages as upon the statute book, and that the construction of all statutes depends upon the circumstances of the country, or State, at the time when the law was made. These customs and usages, together with a knowledge of the history of the State at the time when a law has been passed, must be better known by those judges of the State, who have made them their peculiar study during a great part of their lives, than by judges from different parts of the United States, who perhaps have had no knowledge of the existence of such laws or customs until the commencement of the trial, and are unacquainted with the circumstances which induced the law to be passed.

Another consideration your petitioners beg leave to suggest. That, as the power of the courts of the United States are only concurrent with those of the several States, except in particular cases, therefore the courts of the different States are not bound by the construction of the law as declared by the courts of the United States; and as in cases of ejectment one trial is not conclusive, (even between the same parties,) a person who recovers an ejectment in one court may fail in another, even where the facts given in evidence in both courts are the same; or a foreigner may recover possession of a tract of land by a title which will not enable a citizen, perhaps, to hold the adjoining tract against the very same person. The foreigner may hold by both titles, and he will sue for one tract

in the State, and for the other in the 'United States' courts, as either may be most favorable to his claims; thus giving a clear and decided superiority and advantage to foreigners over the citizens of the United States.

Your petitioners beg leave further to observe, that this article in the constitution is subject to the greatest fraud. An act of Congress provides that the circuit courts shall not have cognizance of any suit to recover the contents of any promissory note, &c. in favor of any assignee, unless a suit might have been prosecuted in such court if no assignment had been made; but no effectual remedy exists, nor perhaps can be devised, to prevent fictitious assignments of lands to foreigners or citizens of other States, in order to give the courts of the United States jurisdiction in trials of ejectment for such lands.

Your petitioners would beg leave further to represent, that one of the great benefits derived from the trial by jury is, that the jury are the triers of the credibility of witnesses; and for this purpose the jury originally were summoned from the vicinage, *the very neighborhood* where the cause of action arose. This advantage, however, is almost altogether lost in the courts of the United States, where the *State* forms a vicinage, and where even the court may direct a jury from such parts of the district as are most remote from where the cause of action arose.

Your petitioners beg leave further to represent, that as it is the interest of all well regulated societies that there should, with the least possible delay, be an end to strife, so it is also that justice should be administered with the least possible expense. Yet in the country where your petitioners reside, where there are many contested claims to land, the expense of attending a suit in the courts of the United States at so great a distance, would be, in many instances, nearly equal to the value of the property in controversy.

Your petitioners trust, and believe, that the amendment prayed for would promote the great object of the founders of the constitution; that its tendency would be to establish justice, insure domestic tranquillity, and promote the general welfare.

CHRISTIAN HAUFFMAN, *and others.*

10th CONGRESS.]

No. 226.

[1st SESSION.]

DECLARATION OF THE PEOPLE OF WASHINGTON COUNTY, MISSISSIPPI, ON THE  
SUBJECT OF BRITISH AGGRESSIONS.

COMMUNICATED TO THE SENATE, ON THE 27TH OCTOBER, 1807.

At a meeting of the inhabitants of Washington county, Mississippi Territory, at the court-house in the town of Wakefield, on the 8th of September, 1807, in consequence of the attack by the British ship of war Leopard on the United States frigate Chesapeake, the following declaration of the sentiments of the meeting was unanimously adopted:

Situated in a remote corner of the territory of the United States, and unconnected with every other body of American citizens, the people inhabiting the country lying on the waters of the Mobile have at length heard of the outrage which has been committed on our national rights by the arrogant representatives of British despotism. We think and feel on the occasion as every American thinks and feels. We despise the bully and the coward who, as captain of the Leopard, was the instrument of exhibiting the enormous extent of the claims of the pretended mistress of the ocean. But our attention is in an instant drawn from him to ourselves and our own situation. Is national independence a dream? Shall Great Britain or any other nation come at pleasure into our territory, and lay hold of whomsoever she pleases, under the pretence that this man is her subject, and that man is in her employ; that here there is a felon, and there a deserter? Our national ships are our territory, in whatever quarter of the world they are found; much more so, then, when within our own acknowledged limits and jurisdiction. We care not who the men were that were demanded from the Chesapeake; we care not whence they came, where they were born, nor who claimed allegiance from them. Had they fled from Europe stained with blood, no foreign force had a right to invade our territory; no foreign officer, civil or military, had a right to exercise his functions within our limits, or to transport the supposed offender to the precincts of a distant tribunal.

If there be a mutual convention between two nations reciprocally to deliver up felons, it is well; but no one nation has a right to force another into such a stipulation. And shall the plea, not of a treason, not of a murder, not of a felony having been committed, but the mere plea of desertion from a service, the tyranny and enormities of which are now arming the whole civilized world against it—shall such a plea be ground sufficient for us to stifle our jealousy of national rights, or to surrender our claims to perfect and unqualified independence?

England may count upon our divisions. She is mistaken. The violence of her conduct has united all America. We judge not only from what we hear, but from what we see among ourselves. Our own settlement originally consisted, and still in a great degree consists, of those who adhered to England in the revolutionary war. They were led by principle; their elders taught them that resistance was sinful; and they imbibed from their infancy a deep veneration for their King. But the delusion lasts no longer. We have since seen that King engaged in almost incessant wars on the liberty and happiness of man; whilst the Government which has succeeded him in America has preserved us in peace with all the world, and been pre-eminently occupied in promoting our national prosperity. Old factions are forgotten; we all view with the same sensibility any outrage on the honor of our common country; and old whigs and old tories will cordially unite in devoting their lives and fortunes to avenge the wounded dignity of America against the insults and oppressions of any Government upon earth. What may be the immediate issue of an appeal to arms we know not. That knowledge is confined to the Lord of Hosts; and on him, trusting to the justice of our cause, we rely with humble confidence.

But, though the operations and events of war are always uncertain, we can calculate with some confidence that a five years' state of non-intercourse with Great Britain will establish the manufactures of America on a foundation which no return of peace will ever shake. It will render us forever after in a high degree independent of the British manufacturers of wool, and still more so of those of cotton. Our planters, too, will hereafter find their market at home; and the British navy, if Britain and her navy should continue to exist, will at length find that her tyranny on the ocean has given *commercial independence* to those confederated States which British tyranny on the land first led to *political independence*.

Had we not been told that in the United States the people are divided into parties, some of whom are virulent opposers of the system and measures of the present federal administration, we should not have deemed it necessary on this occasion to express our full confidence in the wisdom and patriotism of those to whose executive management our national affairs are intrusted. As to ourselves, we have neither seen nor have we looked for the splendor and pageantry of a monarchy, overstraining the sinews of national strength and industry to support large mercenary armies and unwieldy navies; but we have thought that we have seen the genuine product of republican institutions—a love of peace, a high regard for the ease and happiness of the people, a vigilant attention to public expenditures, and a strong anxiety to promote internal improvements. War will, indeed, open a new theatre for the talents of our rulers; but we have a strong confidence that that intellectual and moral pre-eminence which, amidst the convulsions of the world, has been so conspicuous in peace, will not become extinct on the instant of the appearance of war.

As to ourselves and our own local concerns, it is true we have sometimes feared that we were overlooked in the council of the nation. Our population is small; we are surrounded, except on the Spanish side, by the most powerful tribes of Indians existing within the original limits of the United States. The want of land cuts off from us the prospect of having our strength increased. We had hoped that a treaty entered into with the Choctaws, which, by making a valuable addition to our land, would have invited population, and placed us in a state of greater security and respectability, would have been ratified. But we have been disappointed. Yet, few as we are, we consider ourselves as an advanced guard, destined to defend the immense tract of valuable territory which lies between the settlements on the Mobile and the State of Tennessee. We may *perish* at our posts, but we shall not *slumber* there.

We have likewise suffered multiplied injuries, inflicted upon us in a regular system by the agents of the Spanish Government. But if we have ever thought ourselves neglected, such thoughts, at the present momentous crisis in our national affairs, shall no longer find a harbor in our breasts. If, when we have been the objects of incessant oppression from the officers of His Catholic Majesty, for a series of years; if, when the produce of our lands, before it could reach a market in even our own territories, has been subjected to a duty of *twelve per centum ad valorem* to a foreign monarch; if, when we have been constantly the sport of vexatious searches and arbitrary seizures; if, when we have been compelled to pay *twelve per centum* to the King of Spain on every thing which we have imported, even from the next town within the American limits; if when, through the joint operation of the revenue systems of Spain and the United States, we have frequently been obliged to pay from *forty-two to forty-seven per centum ad valorem* on the price, when first imported into the United States, of the most essential articles for family comfort; if, when suffering, not yesterday or to-day only, but every day and every year, for a length of time, this series of oppressions, without hearing one clear and decided expression of national indignation, we have sometimes, in the spirit of despondency, been ready to fear that we never should be thought worthy of enjoying the rights and protection of American citizens, the moment has *now* arrived when we feel ourselves called upon to discard our personal jealousies; the moment has now arrived when we shall cease any longer to regard our *local* grievances, till those of the *nation* are redressed. We will give to the Spaniard his *twelve per centum*; we will continue to pay a double price for the commodities of Europe; we will again, if need be, pay sixteen dollars per barrel for the flour of Kentucky, whilst our neighbors at the Natchez, unencumbered by the Spanish obstacles, are paying only four; we will view these things light as compared with a deliberate, and authorized, and systematic violation of our territory by a foreign Power. We will devote ourselves to our country at large, and from this moment cease to seek any other object than permanency to national existence, and reality to national independence.

The charter of that independence was drawn up in '76; it was ratified by the peace of '83; but it still cries out for the blood of American citizens to seal it and to give it practical validity. Our blood shall be mingled with that of other Americans in offering the solemn sacrifice.

*Resolved, unanimously,* That the chairman of this meeting forward to the President of the United States a copy of this declaration, and that he give it such other circulation as he may deem necessary.

Signed at the request and in behalf of the meeting.

JAMES CALLER, *Chairman.*

Attest: T. MALONE, *Secretary.*

10th CONGRESS.]

No. 227.

[1st SESSION.]

### CITY OF WASHINGTON—PUBLIC BUILDINGS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 28TH OF OCTOBER, 1807.

SIR:

WASHINGTON, *October 27, 1807.*

The arrangement approved by the President of the United States, and adopted for the south wing of the Capitol, varies in so many respects from that of the buildings hitherto appropriated to the session of Congress, that I beg leave most respectfully to lay before you some explanation of the principles on which the design was formed, in order that in deliberating upon the regulations which to the wisdom of the House of Representatives may appear best adapted to the holding of their sittings, no information may be wanting to them which it is in my power to furnish.

In the distribution of the House, it is provided that the access of those citizens who attend in the gallery, solely for the purpose of being present at the debates, is on the south front, at a distance from the eastern entrance, which leads to the apartments appropriated to legislative business. Between these parts of the buildings there is no communication whatever, excepting by a small door from the lobby, which door is only intended to admit the door-keeper into the gallery, in order to execute an order of the House for the exclusion of strangers.

Thus all intrusion upon the business of the House, and of its committees, may be effectually prevented by regulating admissions by the eastern entrance.

The ground floor is entirely appropriated to the use of the committees of the House, and of the clerk. The committee rooms ranged on the east and west fronts have an ante-chamber or waiting-room, to each range, for the use of those citizens who have to attend the committees, and who, heretofore, had no accommodation but such as the lobby or the gallery of the house afforded. Such persons must, of necessity, enter at the eastern door.

From this entrance also the staircases lead up to the door of the house. Within the house the lobbies are to the right and left. The position of the doorkeeper gives him an immediate view of every one who enters, while the interior of the house cannot be seen excepting from the galleries of the lobbies. There is, therefore, no temptation to continuance in the lobby, but for the sake of hearing the debates from its galleries, in which the presence of the House will preserve order and silence.

Within the colonnade of the house there is no room for any persons, not members of the House, excepting on the seats under the northern part of the wall. Those seats were erected on the presumption that the House might appropriate the same to the use of the Senators of the United States, when attending the House, and of such other persons, distinguished by their official characters, as the House might judge proper to admit to them.

It will be in the recollection of the members that, in the north wing of the Capitol, in which were all the committee rooms and the clerk's office, even during the sitting of the House in the temporary building, erected on the site of the south wing, every one, without discrimination, had access to all the passages of the building. It was, indeed, impossible to distinguish those who *ought* from those who *ought not* to have entered. The consequence was, that every part was crowded by those who had, and by more who had no business in the house. There are annually from four to five hundred persons whom their affairs bring to the seat of Government during the sitting of the National Legislature; for these citizens the interior of the house afforded the only shelter during the severity of the winter. The lobby of the house was, therefore, usually filled with a part of them, to the great inconvenience of the members, and sometimes to the interruption of legislative business. Besides *these*, idle and dissolute persons ranged the whole building; the walls were defaced by obscenity and by libels; the public furniture and utensils of the House were considered as fair objects of depredation; and, were I to state the amount of some of the depredations, it would appear almost incredible. The committee rooms themselves have not been secure from the most improper intrusion; and, to particularize only one fact, much of the leakage of the roof arose from the smaller pieces of lead, called *flashings*, being stolen.

I am very confident that, under strict regulations, the distribution of the house which I have described will render it easily practicable to avoid all these evils; and I beg very respectfully to submit such regulations as I presume would be effectual, even before the plan of the whole Capitol, which provides for the residence of the doorkeeper within the house, can be completed.

While it is thought proper to admit, without discrimination, all persons who choose to go into the galleries, no attendant at the gallery door will be necessary. As, however, the lower gallery lobbies will probably become the stations of those who usually sell refreshment in such places, some restriction might probably be laid upon the intrusion of boys of all colors beyond the outer door, by regulating the occupancy of these lobbies.

But, at the east entrance, it seems necessary that a respectable and responsible deputy of the principal doorkeeper should regulate the admission of all persons whatever, and have in charge the keys of all the committee rooms, control the servants who attend the fires of the committee rooms and the furnaces of the House, and prevent the defacing of the walls, as well as the depredations hitherto committed on the furniture. The station of such an officer would be at the foot of the stairs. A short practice would enable him, without difficulty, to superintend the whole of the ground story and the stairs of the House.

Experience has long pointed out the extreme difficulty of preventing the walls of public buildings from being defaced; but if, by a summary process before a magistrate, those idle persons who find amusement in so scandalous a practice could be fined, or otherwise punished, it might cease.

In the design and construction of the House of Representatives, all that I could effect by study and labor has been done to carry the desire of the President, to give to the House every practicable convenience and accommodation, into execution. In the permanence and solidity of the work, I hope nothing will be found deficient. The size and arrangement of the committee rooms were, in a great measure, imposed by the exterior form and structure of the north wing, of which the exterior of the south wing is necessarily an exact copy. Much of what might have been better arranged in the interior owes its imperfection to this cause. Upon the whole, it is my ardent wish, and all my ambition is centered in the desire, that the personal accommodation of the members, and the convenience of the committees of the House, upon which so much depend the despatch and ease of legislative business, as well as the best practicable disposition and arrangement of the legislative hall itself, may have been attained. I am conscious of irremediable defects. I hope, however, that they are not considerable, and grow out of the necessary size and loftiness of an edifice, which must be sufficiently enlarged to contain a numerous assembly, while the powers of the human voice and of the human ear remain limited to a certain standard. Magnificence is easily bought by expense, and is infinitely less important than utility.

The meeting of Congress, at a period so much earlier than was expected in a very advanced part of the season, has prevented the completion of many small arrangements, which will render the house still more commodious. Every exertion is now making to complete them; and should any part of the work be found, on experiment, to require alteration, provision is made for its speedy and effectual correction.

With the highest respect, I am yours, faithfully,

B. HENRY LATROBE,

*Surveyor of the public buildings, United States.*

The Hon. the SPEAKER of the House of Representatives.

10th CONGRESS.]

No. 228.

[1st SESSION.]

CONTESTED ELECTION OF WILLIAM McCREERY, A REPRESENTATIVE FROM  
MARYLAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 9, 1807.

Mr. FINDLEY, from the Committee on Elections, to whom was referred the petition of Joshua Barney, of the city of Baltimore, praying to be admitted to a seat in the House, he having, in his opinion, the highest number of votes given to a candidate legally qualified to represent the said city of Baltimore, having carefully examined the facts stated on both sides, and compared the laws of Maryland, under which the said election was held, with the constitution of the United States, made the following report:

That, by an act of the Assembly of Maryland, passed in November, 1790, it is required that the member shall be an inhabitant of his district at the time of his election, and shall have resided therein twelve calendar months immediately before.

By another act of the Assembly of Maryland, passed in November, 1802, it is enacted that Baltimore town and county shall be the fifth district, which district shall be entitled to send two representatives to Congress, one of whom shall be a resident of Baltimore county, and the other a resident of Baltimore city.

That Joshua Barney is a citizen of Maryland, and has been a resident of the city of Baltimore for many years. That William McCreery has been, for many years, a citizen of Maryland, and a resident of the city of Baltimore; but that, in the year 1803 he removed himself and his family to his estate in Baltimore county; that, from that time, though he himself has occasionally resided in Baltimore, yet he, with his wife and family, have not made the city of Baltimore their settled residence.

That William McCreery states that his intention was, and still is, to reside with his family on his country estate in summer, and in the city of Baltimore in winter; but that, ever since he has removed his family to his farm, he has been obliged every winter, in the public service, to reside, and frequently with his family, in the city of Washington, which prevented him from removing his family, agreeably to his intention, to the city of Baltimore; but he resided himself in the city of Baltimore five or six days before the election; that he and his family were residing in the same situation, when he was elected to serve in the ninth Congress; that they were when he was elected into the present Congress; that, however, not wishing to have been taken up as a candidate at the last election, he expressed to some of his friends some apprehensions that exceptions might be made, on account of his constant family residence not being in the city of Baltimore.

At the election in that district for the Congress now in session, Nicholas R. Moore had 6,164 votes; he is a resident in Baltimore county; and William McCreery, against whose right to a seat in this House objection is made on account of residence, had 3,559 votes; and Joshua Barney, who claims a seat in this House, and who, it is admitted, is a resident in Baltimore city, had 2,063 votes; and John Seat, also a resident in Baltimore city, had 353 votes. The above statement of facts being admitted by the parties, further evidence was not required. No question was taken on the legal residence of William McCreery in the city of Baltimore.

The committee proceeded to examine the constitution, with relation to the case submitted to them, and find that the qualifications of members is therein determined, without reserving any authority to the State Legislature to change, add, or diminish those qualifications; and that, by that instrument, Congress is constituted the sole judge of the qualifications prescribed by it, and are obliged to decide agreeably to the constitutional rules; but the State Legislatures being, by the constitution, authorized to prescribe the times, place, and manner of holding elections, in controversies arising under this authority Congress are obliged to decide agreeably to the laws of the respective States.

On the most mature consideration of the case submitted to them, the committee are of opinion that William McCreery is duly qualified to represent the fifth district of the State of Maryland; and that the law of that State, restricting the residence of the members of Congress to any particular part of the district for which they may be chosen is contrary to the constitution of the United States: therefore

*Resolved*, That William McCreery is entitled to his seat in this House.

[NOTE.—See No. 232.]

10th CONGRESS.]

No. 229.

[1st SESSION.]

SLAVERY IN THE INDIANA TERRITORY.

COMMUNICATED TO THE SENATE, NOVEMBER 13, 1807.

Mr. FRANKLIN, from the committee to whom was referred the representation and resolution of the Legislative Council and House of Representatives of the Indiana Territory, bearing date the 13th of July, 1807; and, also, the remonstrance of the citizens of Clark county, of the Territory aforesaid, reported:

The Legislative Council and House of Representatives, in their resolutions, express their sense of the propriety of introducing slavery into their Territory, and solicit the Congress of the United States to suspend, for a given number of years, the sixth article of compact, in the ordinance for the government of the Territory northwest of the river Ohio, passed the 13th day of July, 1787. That article declares: "there shall be neither slavery nor involuntary servitude in the said Territory."

The citizens of Clark county, in their remonstrance, express their sense of the impropriety of the measure, and solicit the Congress of the United States not to act on the subject, so as to permit the introduction of slaves into the Territory; at least until their population shall entitle them to form a constitution and State Government.

Your committee, after duly considering the matter, respectfully submit the following resolution:

*Resolved*, That it is not expedient at this time to suspend the sixth article of compact for the government of the Territory of the United States northwest of the river Ohio.

*In the Legislative Council and House of Representatives of the Indiana Territory.*

Great solicitude has been evinced by the citizens of this Territory on the subject of the introduction of slaves. In the year 1802 a special convention of delegates from the respective counties petitioned Congress for a suspension of the sixth article of compact, contained in the ordinance of 1787. In 1805 a majority of the members of the Legislative Council and House of Representatives remonstrated with Congress on the subject. In 1806 the Legislative Council and House of Representatives passed sundry resolutions, which were laid before Congress, declaratory of their sense of the propriety of admitting slaves; and, as the citizens of the Territory decidedly approve of the toleration of slavery, the Legislative Council and House of Representatives consider it incumbent on them briefly to state, on behalf of themselves and their constituents, the reasons which have influenced them in favor of the measure.

In the first place, candor induces us to premise that, in regard to the right of holding slaves, a variety in opinion exists; whilst some consider it decent and just to acquire them either by purchase or conquest, others consider their possession, by either tenure, as a crime of the deepest stain; that it is repugnant to every principle of natural justice, of political rights, and to every sentiment of humanity. Without entering into the merits of this controversy, it need only to be remarked, that the proposition to introduce slavery into the Territory is not embraced by them. It is not a question of liberty or slavery. Slavery now exists in the United States, and in this Territory. It was the crime of England, and their misfortune; and it now becomes a question, merely of policy, in what way the slaves are to be disposed of, that they may be least dangerous to the community, most useful to their proprietors, and by which their situation may be most ameliorated.

As the law of Congress, prohibiting the further importation of slaves into the United States, takes effect the 1st of January next, it is evident that the proposed toleration will not increase the number in the United States.

It is believed (and has not experience verified the fact!) that such is the number of slaves in the Southern States, that the safety of individuals, as well as the political institutions of those States, are exposed to no small hazard. However desirable it may be to emancipate them, it can never be done until they are dispersed; it would be equally impolitic for the whites as for the slaves. The great current of emigration is constantly flowing from the Eastern and Southern States to the Western States and Territories. The increase of population in the western country for the last twenty years may afford some idea of its probable amount in the course of the present century; it must be immense; and were all the Territories opened to the introduction of slaves, a large proportion of them would naturally be drawn from the Southern States.

From a reference to the States of Kentucky and Tennessee at the time of the last United States' census, it is not believed that the number of slaves would ever become so great as to endanger either the internal peace or future prosperity of the Territory. It is also rendered improbable from the interior situation of the Territory, its climate, and productions.

Slavery is tolerated in the Territories of Orleans, Mississippi, and Louisiana: why should this Territory be excepted?

It is believed that slaves, possessed in small numbers by farmers, are better fed and better clothed than when they are crowded together in quarters by hundreds: their situation in Kentucky, Tennessee, and the back parts of Maryland and Virginia, verify this belief.

*Resolved, by the Legislative Council and House of Representatives of the Indiana Territory, That it is expedient to suspend for a given number of years the sixth article of compact, contained in the ordinance for the government of the Northwestern Territory, passed the 13th day of July, in the year 1787.*

*Resolved, That a copy of the foregoing be forwarded to the Vice President of the United States, with a request that he will lay the same before the Senate; and that a copy be forwarded to the Speaker of the House of Representatives, with a request that he will lay the same before the said House of Representatives; and that the Governor of this Territory be requested to forward the same, as aforesaid.*

JESSE B. THOMAS, *Speaker of the House of Representatives.*

SAMUEL GWATHMEY, *President pro tem. of the Legislative Council.*

Passed the Legislative Council, September 19, 1807.

Attest: H. HURST, *Chief Clerk.*

At a numerous meeting of the citizens of Clark county, in Springville, (agreeably to notice previously given,) on Saturday, the 10th day of October, 1807, for the purpose of taking into consideration the resolutions passed at the last session of the Legislature of the Indiana Territory, praying the Congress of the United States to suspend for a certain time the sixth article of compact contained in the ordinance, Mr. John Beggs was chosen chairman, and Davis Floyd, secretary. On motion,

*Ordered,* That a committee of 5 suitable persons be appointed to draught and report to this meeting, a memorial to Congress, in opposition to the resolutions of the Legislature of the Indiana Territory, on the subject of slavery in this Territory, by the suspension of the sixth article of compact contained in the ordinance.

And the said committee was appointed of Messrs. Abraham Little, John Owens, Charles Beggs, Robert Robertson, and James Beggs.

Mr. Little, from the aforesaid committee, reported a memorial, pursuant to the aforesaid order, in the words and figures following, viz:

*To the Senate and House of Representatives of the United States, in Congress assembled:*

The memorial of the citizens of Clark county, humbly showeth that great anxiety has been, and still is, evinced by some of the citizens of this Territory, on the subject of the introduction of slavery into the same; but in no case has the voice of the citizens been unanimous. In the year 1802, at a special convention of delegates from the respective counties, a petition was forwarded to Congress, to repeal the sixth article of compact contained in the ordinance; but the representation of all that part of the Territory east of Vincennes were present, and were decidedly opposed to that part of the petition.

In the year 1805 the subject was again taken up and discussed in the General Assembly, and a majority of the House of Representatives voted against said memorial on the aforesaid subject, and, consequently, the memorial was rejected, as the journals of that House doth sufficiently evince; but a number of citizens thought proper to sign the same, and, amongst the rest, the Speaker of the House of Representatives and the President of the Council, (though the President of the Council denies ever having signed the same;) and, by some legislative legerde-



main, it found its way into the Congress of the United States, as the legislative act of the Territory. In the present year of 1807, the subject was again taken up by the Legislature of this Territory, and a majority of both Houses passed certain resolutions (in the proportion of two to one) for the purpose of suspending the sixth article of compact contained in the ordinance, which we presume are before your honorable body. But let it be understood, that in the Legislative Council there were only three members present, who, for certain reasons, positively refused to sign the said resolutions; and they were reduced to the last subterfuge of prevailing on the president to leave his seat, and one of the other members to take it as president *pro tem.*, for the purpose of signing the said resolutions. Whether this be right or wrong, judge ye. And although it is contended by some, that, at this day, there is a great majority in favor of slavery, whilst the opposite opinion is held by others, the fact is certainly doubtful. But when we take into consideration the vast emigration into this Territory, and of citizens, too, decidedly opposed to the measure, we feel satisfied that, at all events, Congress will suspend any legislative act on this subject until we shall, by the constitution, be admitted into the Union, and have a right to adopt such a constitution, in this respect, as may comport with the wishes of a majority of the citizens. As to the propriety of holding those in slavery whom it hath pleased the Divine Creator to create free, seems to us to be repugnant to the inestimable principles of a republican Government. Although some of the States have, and do hold slaves, yet it seems to be the general opinion, even in those States, that they are an evil from which they cannot extricate themselves. As to the interest of the Territory, a variety of opinions exist; but suffer your memorialists to state, that it is a fact that a great number of citizens, in various parts of the United States, are preparing, and many have actually emigrated to this Territory, to get free from a Government which does tolerate slavery. The toleration of slavery is either right or wrong; and if Congress should think, with us, that it is wrong, that it is inconsistent with the principles upon which our future constitution is to be formed, your memorialists will rest satisfied that at least this subject will not be by them taken up until the constitutional number of the citizens of this Territory shall assume that right. It is considered useless for your memorialists to recapitulate the many reasons and objections which might be advanced, relying that this subject is fully and fairly understood by your honorable body, as it relates to the natural right, policy, and prosperity of a free and independent nation. On motion,

*Resolved*, That the chairman be requested to forward duplicate copies of these proceedings, (signed by the said chairman, and countersigned by the secretary,) one to the Vice President of the United States, or President of the Senate *pro tem.*, and one to the Speaker of the House of Representatives in the Congress of the United States.

By order of the meeting,

JOHN BEGGS, *Chairman.*

Attest: DAVIS FLOYD, *Secretary.*

10th CONGRESS.]

No. 230.

[1st SESSION.

### BURR'S CONSPIRACY—TRIAL AT RICHMOND, VIRGINIA.

COMMUNICATED TO CONGRESS, NOVEMBER 23, 1807.

*To the Senate and House of Representatives of the United States:*

Agreeably to the assurance given in my message at the opening of the present session of Congress, I now lay before you a copy of the proceedings and of the evidence exhibited on the arraignment of Aaron Burr and others, before the circuit court of the United States held in Virginia, in the course of the present year, in as authentic form as their several parts have admitted.

TH: JEFFERSON.

NOVEMBER 23, 1807.

*At a court of the United States for the fifth circuit in the Virginia district, commenced and holden at the Capitol, in the city of Richmond, on Friday, the twenty-second day of May, in the year of our Lord one thousand eight hundred and seven, and of the independence of the United States the thirty-second.*

VIRGINIA DISTRICT:

*In the circuit court of the United States of America, in and for the fifth circuit and Virginia district.*

The grand inquest of the United States of America for the Virginia district, upon their oaths do present, that Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, being an inhabitant of and residing within the United States, and under the protection of the laws of the United States, and owing allegiance and fidelity to the same United States, not having the fear of God before his eyes, nor weighing the duty of his said allegiance, but being moved and seduced by the instigation of the devil, wickedly devising and intending the peace and tranquillity of the said United States to disturb, and to stir, move, and excite insurrection, rebellion, and war, against the said United States, on the tenth day of December, in the year of Christ one thousand eight hundred and six, at a certain place called and known by the name of Blannerhasset's island, in the county of Wood, and district of Virginia aforesaid, and within the jurisdiction of this court, with force and arms, unlawfully, falsely, maliciously, and traitorously did compass, imagine, and intend to raise and levy war, insurrection, and rebellion against the said United States; and in order to fulfil and bring to effect the said traitorous compassings, imaginations, and intentions of him, the said Aaron Burr, he, the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year one thousand eight hundred and six aforesaid, at the said island, called Blannerhasset's island as aforesaid, in the county of Wood aforesaid, in the district of Virginia aforesaid, and within the jurisdiction of this court, with a great multitude of persons, whose names at present are unknown to the grand inquest aforesaid, to a great number, to wit, to the number of thirty persons and upwards, armed and arrayed in a warlike manner,



that is to say, with guns, swords, and dirks, and other warlike weapons, as well offensive as defensive, being then and there unlawfully, maliciously, and traitorously assembled and gathered together, did falsely and traitorously assemble and join themselves together against the said United States, and then and there with force and arms did falsely and traitorously, and in a warlike and hostile manner, array and dispose themselves against the said United States; and then and there, that is to say, on the day and in the year aforesaid, at the island aforesaid, commonly called Blannerhasset's island, in the county aforesaid of Wood, within the Virginia district, and the jurisdiction of this court, in pursuance of such their traitorous intentions and purposes aforesaid, he, the said Aaron Burr, with the said persons so as aforesaid traitorously assembled and armed, and arrayed in manner aforesaid, most wickedly, maliciously, and traitorously did ordain, prepare, and levy war against the said United States, contrary to the duty of their said allegiance and fidelity, against the constitution, peace, and dignity of the said United States, and against the form of the act of the Congress of the said United States in such case made and provided.

And the grand inquest of the United States of America for the Virginia district, upon their oaths aforesaid, do further present, that the said Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, being an inhabitant of and residing within the United States, and under the protection of the laws of the United States, and owing allegiance and fidelity to the same United States, not having the fear of God before his eyes, nor weighing the duty of his said allegiance, but being moved and seduced by the instigation of the devil, wickedly devising and intending the peace and tranquillity of the said United States to disturb, and to stir, move, and excite insurrection, rebellion, and war against the said United States, on the eleventh day of December, in the year of our Lord one thousand eight hundred and six, at a certain place called and known by the name of Blannerhasset's island, in the county of Wood, and district of Virginia aforesaid, and within the jurisdiction of this court, with force and arms, unlawfully, falsely, maliciously, and traitorously did compass, imagine, and intend to raise and levy war, insurrection, and rebellion against the said United States; and in order to fulfil and bring to effect the said traitorous compassings, imaginations, and intentions of him, the said Aaron Burr, he, the said Aaron Burr, afterwards, to wit, on the said last-mentioned day of December, in the year one thousand eight hundred and six aforesaid, at a certain place commonly called and known by the name of Blannerhasset's island, in the said county of Wood, in the district of Virginia aforesaid, and within the jurisdiction of this court, with one other great multitude of persons, whose names at present are unknown to the grand inquest aforesaid, to a great number, to wit, to the number of thirty persons and upwards, armed and arrayed in a warlike manner, that is to say, with guns, swords, and dirks, and other warlike weapons, as well offensive as defensive, being then and there unlawfully, maliciously, and traitorously assembled and gathered together, did falsely and traitorously assemble and join themselves together against the said United States, and then and there with force and arms did falsely and traitorously, and in a warlike and hostile manner, array and dispose themselves against the said United States; and then and there, that is to say, on the day and in the year last mentioned, at the island aforesaid, in the county of Wood aforesaid, in the Virginia district, and within the jurisdiction of this court, in pursuance of such their traitorous intentions and purposes aforesaid, he, the said Aaron Burr, with the said persons, so as aforesaid, traitorously assembled and armed, and arrayed in manner aforesaid, most wickedly, maliciously, and traitorously did ordain, prepare, and levy war against the said United States; and further to fulfil and carry into effect the said traitorous compassings, imaginations, and intentions of him, the said Aaron Burr, against the said United States, and to carry on the war thus levied as aforesaid against the said United States, the said Aaron Burr, with the multitude last mentioned, at the island aforesaid, in the said county of Wood, within the Virginia district aforesaid, and within the jurisdiction of this court, did array themselves in a warlike manner, with guns and other weapons, offensive and defensive, and did proceed from the said island down the river Ohio, in the county aforesaid, within the Virginia district, and within the jurisdiction of this court, on the said eleventh day of December, in the year one thousand eight hundred and six aforesaid, with the wicked and traitorous intention to descend the said river and the river Mississippi, and by force and arms traitorously to take possession of a city commonly called New Orleans, in the Territory of Orleans, belonging to the United States, contrary to the duty of their said allegiance and fidelity, against the constitution, peace, and dignity of the said United States, and against the form of the act of the Congress of the United States in such case made and provided.

HAY, *Attorney of the United States*  
for the Virginia district.

A true bill: JOHN RANDOLPH.

THURSDAY, May 28.

This day came the attorney for the United States and Aaron Burr, and, by consent of the said Aaron Burr, it is considered that he enter into a recognizance in the sum of ten thousand dollars, and give one or more securities in the like sum, with condition for his personal appearance before this court on to-morrow, then and there to answer such charges as shall be exhibited against him on behalf of the United States, and not to depart without the leave of the said court. Whereupon the said Aaron Burr, Luther Martin, Thomas Taylor, John G. Gamble, and William Langbourne, here in court acknowledge themselves to be indebted to the United States as follows: the said Aaron Burr in the sum of ten thousand dollars, and the said Luther Martin, Thomas Taylor, John G. Gamble, and William Langbourne, in the sum of two thousand five hundred dollars each, of their respective goods and chattels, lands and tenements, to be rendered for the use of the said United States: yet upon this condition, that if the said Aaron Burr shall make his personal appearance before this court to-morrow, then and there to answer such charges as shall be exhibited against him on behalf of the United States, and shall not depart thence without the leave of the said court, then this recognizance is to be void.

FRIDAY, May 29.

Aaron Burr this day appeared in court, in compliance with his recognizance entered into yesterday.

SATURDAY, June 13.

On the motion of Aaron Burr, and for reasons appearing to the court, it is ordered that a *subpœna duces tecum* be awarded to summon the President of the United States, or such of the Secretaries of the Departments, as may have the papers hereinafter mentioned, or any of them, with their keeping; to bring forthwith to this court a letter from General Wilkinson to the President of the United States, dated the 21st day of October, 1806, as mentioned in the President's message of the 22d day of January, 1807, to both Houses of Congress; together with the documents accompanying the same letter, and a copy of the answer of said Thomas Jefferson, or of any one by his authority, to the said letter; and the military and naval orders given by the President of the United States, through the Departments of War and of the Navy, to the officers of the army and navy at or near the New Orleans stations, touching or concerning the said Burr or his property.

WEDNESDAY, June 24.

The Grand Jury this day appeared in court, and presented  
 "An indictment against Aaron Burr, for treason—a true bill.  
 "An indictment against Aaron Burr, for a misdemeanor—a true bill."  
 And the said grand jury again retired.

On the motion of George Hay, attorney for the United States for this district, it is ordered that Aaron Burr, who is present in court, be committed to the custody of the marshal of this district, to be by him safely kept until discharged by due course of law.

FRIDAY, June 26.

We, who are counsel in the defence of Colonel Aaron Burr, at the suit of the United States, beg leave to represent to the court, that, in pursuance of our duty to him, we have visited him in his confinement in the city jail; that we could not avoid remarking the danger which will most probably result to his health from the situation, inconveniences, and circumstances attending the place of his confinement; but we cannot forbear to declare our conviction, that we ourselves cannot freely and fully perform what we have undertaken for his defence, if he remain in the jail aforesaid, deprived as he is of a room to himself; it being scarcely possible for us to consult with him upon the various necessary occasions which must occur. From all which we believe that he will be deprived of that assistance from counsel which is given to him by the constitution of the United States, unless he be removed.

Sworn to in open court by

EDMUND RANDOLPH,  
 JOHN WICKHAM,  
 BENJAMIN BOTTS.

WILLIAM MARSHALL, *Clerk.*

Whereupon, it is ordered that the marshal of this district do cause the front room of the house now occupied by Luther Martin, Esq., which room has been and is used as a dining room, to be prepared for the reception and safe-keeping of Colonel Aaron Burr, by securing the shutters to the windows of the said room by bars, the door by a strong bar or padlock; and that he employ a guard of seven men, to be placed on the floor of the adjoining unfinished house, and on the same story with the before described front room, and also at the door opening into the said front room. And, upon the marshal's reporting to the court that the said room has been so fitted up, and the guard employed, that then the said marshal be directed, and he is hereby directed, to remove to the said room the body of the said Aaron Burr from the public jail, there to be by him safely kept.

SIR:

RICHMOND, July 26, 1807.

The question submitted to me, whether in the house now occupied by Mr. L. Martin, counsel for Colonel Burr, a room or rooms may be so prepared as to form a place of security against escape, I have considered; and, on inspection of the premises, I am of opinion that if the shutters of the windows of the second or any other story be secured by bars, the door by a strong bar or padlock, and if a guard be stationed on the floor of the adjoining house, and also at the door of the above rooms, no person can escape therefrom without risk of his life.

B. HENRY LATROBE,

*Surveyor of the public buildings of the United States.*THE MARSHAL OF THE UNITED STATES, *District of Virginia.*

Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, who stands indicted for treason, was this day brought to the bar in custody of the marshal of this district, and thereof arraigned, and pleaded not guilty to the indictment, and for his trial put himself upon God and the country; whereupon he is remanded to jail. And as the trial of the said Aaron Burr cannot be had in the county of Wood, where the offence is alleged to have been committed, without great inconvenience, it is ordered that a *venire facias* issue to the marshal of this district to be directed, commanding him to summon forty-eight fit persons, qualified as the law directs, twelve of whom from the said county of Wood, to appear here on the third day of August next, as a *venire* for the trial of the said Burr.

IN COUNCIL, MONDAY, June 29, 1807.

The board being informed that an affidavit has been filed in the circuit court of the United States for the Virginia district, which states that the jail for the county of Henrico and city of Richmond is inconvenient and unhealthy, and so crowded with State offenders and debtors that there are no private apartments therein for the reception of persons charged with offences against the laws of the United States, it is therefore advised that the Governor be requested to tender to the said court (through the federal attorney of the district of Virginia) apartments in the third story of the public jail and penitentiary house, for the reception of such persons as shall be directed, under the authority of the United States, to be confined therein.

Extract from the minutes.

DANIEL L. HILTON, *Clerk of the Council.*

Which tender the court doth accept for the purposes above mentioned.

SIR:

COUNCIL CHAMBER, TUESDAY, June 30, 1807.

In pursuance of an advice of the Council of State, I beg leave, through you, to inform the circuit court of the United States now sitting, that any persons who may be confined in the jail and penitentiary house, on the part of the United States, will be considered as in the custody and under the sole control of the marshal of the district; that he will have authority to admit any person or persons to visit the confined that he may think proper; and that he will be authorized to select, for the purposes aforesaid, any apartments in the penitentiary, now unoccupied, that he may deem most conducive to safety, health, and convenience.

I am, with great respect, sir, your obedient servant,

W. H. CABELL.

In consequence of the offer made by the Executive of the apartments in the third story of the penitentiary and state prison for persons who may be confined therein, under the authority of the United States, and of the foregoing letter from the Governor of this commonwealth, it is ordered, on the motion of the attorney of the United States, that, so soon as the apartments in the second story of the public jail and penitentiary shall be fit for the reception and safe-keeping of Aaron Burr, he be removed thereto, and safely kept therein by the marshal until the 2d day of August next, when he shall be brought back to the prison where he is now placed, there to be guarded in like manner as at present, until the further order of the court.

And, at a court of the United States for the fifth circuit and Virginia district, continued by adjournment, and held at the Capitol, in the city of Richmond, on Monday, the third day of August, one thousand eight hundred and seven, Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, who stands indicted for treason, was this day again brought to the bar in custody of the marshal of this district.

MONDAY, August 10.

Aaron Burr, being brought into court, acknowledged that he had received, according to law, a copy of the indictment against him for high treason in this court, a list of the jury, and a list of one hundred and thirty-one witnesses, in his case, mentioning the names and places of abode of such witnesses and jurors, three entire days antecedent to this day; and he consents to waive all advantage and objection, in point of form in the delivery thereof, and all exception to any mistake, omission, or deficiency in the names of the jurors or witnesses, and the description of their places of residence, or defect in not stating the residence of any of the witnesses.

Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, who stands indicted for treason, was this day brought to the bar in custody of the marshal of this district; and thereupon the names of the *venire*, summoned in pursuance of the *venire facias*, awarded in this cause, being called, Richard E. Parker, David Lambert, Hugh Mercer, and Edward Carrington, were accepted by the prisoner, and sworn.

TUESDAY, August 11.

Aaron Burr, late of the city of New York and State of New York, attorney-at-law, who stands indicted for treason, was this day brought to the bar in custody of the marshal of this district.

In consequence of challenges to the persons summoned, as a *venire* for the trial of Aaron Burr, who stands indicted for treason, there is a defect of jurors for the said trial; it is therefore ordered that the marshal of this district return to the court at twelve o'clock on Thursday next, forty-eight jurymen *de talibus circumstantibus* to complete the pannel of the said jury.

MONDAY, August 17.

Aaron Burr, being brought into court, acknowledges that he has received, according to law, a list of four witnesses in his case, in addition to the list heretofore furnished him, mentioning the names and places of abode of such witnesses, three entire days antecedent to this day; and he consents to waive all advantage and objection in point of form in the delivery thereof; and all exception to any mistake, omission, or deficiency in the names of the witnesses, and the description of their places of residence or defect in not stating the residence of any of the witnesses.

Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, who stands indicted for treason, was this day again brought to the bar in custody of the marshal of this district; and thereupon the names of the persons summoned in pursuance of the process awarded in this cause being called, Christopher Anthony, James Sheppard, Reuben Blakeley, Benjamin Graves, Miles Bott, Henry E. Coleman, John M. Sheppard, and Richard Curd, who, being elected, tried, and sworn, the truth of, and upon the premises to speak, together with Richard E. Parker, David Lambert, Hugh Mercer, and Edward Carrington, sworn on Monday last, completed the jury for the trial of the said indictment.

TUESDAY, September 1.

Aaron Burr, late of the city of New York, and State of New York, attorney-at-law, who stands indicted for treason, was this day again brought to the bar in custody of the marshal of this district; and the jury sworn in this cause having heard the evidence, upon their oath do say, that the said Aaron Burr is not guilty of the treason aforesaid, as in pleading he hath alleged, and thereupon proclamation was made as the manner is.

THURSDAY, September 3.

*Ordered*, That Aaron Burr, against whom an indictment was lately depending in this court for treason, and upon which the jury on Tuesday last brought in a verdict of not guilty, be acquitted and discharged of the said offence, and go thereof without day. And it is ordered, that the said Aaron Burr enter into a recognizance himself in the sum of five thousand dollars, and give two or more securities in the sum of five thousand dollars for the said Burr's appearance before this court to-morrow, then and there to answer an indictment against him for a misdemeanor. Whereupon the said Aaron Burr acknowledged himself to be indebted to the United States in the sum of five thousand dollars of his lands and tenements, goods and chattels, to be levied, and to the United States rendered: yet upon this condition, that, if the said Aaron Burr shall make his personal appearance before this court to-morrow, at twelve o'clock, then and there to answer the said indictment for a misdemeanor, and shall not depart thence without leave of the said court, or until discharged by due course of law, then this recognizance to be void.

SATURDAY, September 5.

William Langbourne and Jonathan Dayton, here in court, acknowledge themselves to be indebted to the United States in the sum of five thousand dollars of their lands and tenements, goods and chattels, to be levied, and to the United States rendered: yet upon this condition, that, if Aaron Burr shall make his personal appearance here before the judges of this court, at ten o'clock on Monday next, to answer an indictment against him for a misdemeanor, and shall not depart thence without leave of the said court, or until discharged by due course of law, then this recognizance is to be void.

DISTRICT OF VIRGINIA, to wit:

*Circuit court of the United States of America for the fifth circuit and district of Virginia.*

The grand inquest of the United States of America, in and for the body of the district of Virginia, upon their oath do present that Aaron Burr, late of the city of New York, and district of New York, attorney-at-law, did, on the tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the United States, to wit, at a certain island in the river Ohio, called Blannerhasset's island, in the county of Wood, within the district of Virginia aforesaid, and within the jurisdiction of this court, with force and arms, begin a certain military expedition to be carried on from thence against the dominions of a foreign prince, to wit, the dominions of the King of Spain, the said United States then and there being at peace with the said King of Spain, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their said oath, do further present, that the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the

year of our Lord one thousand eight hundred and six, and within the jurisdiction of the said United States, to wit, at a certain island in the river Ohio, called Blannerhasset's island, in the county of Wood, in the district of Virginia aforesaid, and within the jurisdiction of this court, with force and arms did set on foot a certain military enterprise, to be carried on from thence against the territory of a foreign prince, to wit, the territory of the King of Spain, the said United States then and there being at peace with the said King of Spain, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their oath do further present, that the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the said United States, to wit, at a certain island in the river Ohio, called Blannerhasset's island, which is in the county of Wood, in the district of Virginia aforesaid, and within the jurisdiction of this court, did, with force and arms, set on foot a certain other military enterprise, to be carried on from thence against the territory of a foreign prince, to wit, against the province of Mexico, in North America, the said province of Mexico then and there being the territory of the King of Spain, and the said King of Spain then and there being at peace with the said United States, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their oath, do further present, that the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the said United States, to wit, at Blannerhasset's island, in the river Ohio, which island is in the county of Wood, in the district aforesaid, and within the jurisdiction of this court, did, with force and arms, provide the means, to wit, boats, men, provisions, fire-arms, gunpowder, bullets, leaden bars, and other military munition, for a certain other military enterprise to be carried on from thence against the dominions of a foreign prince, to wit, against the dominions of the King of Spain, the said United States then and there being at peace with the said King of Spain, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their said oath, do further present, that the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the said United States, to wit, at an island in the river Ohio, called Blannerhasset's island, in the county of Wood, and district of Virginia, and within the jurisdiction of this court, did, with force and arms, prepare the means, to wit, boats, men, provisions, fire-arms, gunpowder, bullets, leaden bars, and other military munition for a certain other military expedition, to be carried on from thence against the province of Mexico in North America, the said province of Mexico then and there being the territory of a foreign prince, to wit, the territory of the King of Spain, and the said United States then and there being at peace with the said King of Spain, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their said oath, do further present, that the said Aaron Burr, afterwards, to wit, on the said tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the said United States, to wit, at an island in the river Ohio, called Blannerhasset's island, in the county of Wood, and district of Virginia aforesaid, and within the jurisdiction of this court, did, with force and arms, provide the means, to wit, boats, men, provisions, fire-arms, gunpowder, balls, leaden bars, and other military munition, for a certain other military expedition to be carried on from thence against the dominions of some foreign State, to the jurors aforesaid yet unknown, with whom the United States were then and there at peace, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity; and the jurors aforesaid, upon their said oath, do further present that the said Aaron Burr, afterwards, to wit: on the said tenth day of December, in the year of our Lord one thousand eight hundred and six, within the jurisdiction of the said United States, to wit, at Blannerhasset's island, in the river Ohio, in the county of Wood and district of Virginia aforesaid, and within the jurisdiction of this court, did, with force and arms, set on foot a certain other military enterprise, to be carried on from thence against the dominions of some foreign State, to the jurors aforesaid yet unknown, with whom the United States were then and there at peace, against the form of the statute in such case made and provided, to the evil example of all others in like case offending, and against the peace of the said United States and their dignity.

GEORGE HAY,

Of the city of Richmond, State of Virginia, attorney of the U. S. for Virginia district, prosecutor.

A true bill: JOHN RANDOLPH.

MONDAY, September 7.

THE UNITED STATES OF AMERICA }  
 vs. } *Upon an indictment for a misdemeanor.*  
 AARON BURR.

This day came as well George Hay, general attorney for the United States for this district, as the defendant by his attorney; and thereupon the said defendant saith that he is not guilty of the misdemeanor for which he stands indicted, and of this he putteth himself upon the country, and the attorney for this district likewise.

TUESDAY, October 20.

THE UNITED STATES OF AMERICA }  
 vs. } *Upon an indictment for a misdemeanor.*  
 AARON BURR.

The jury sworn in this case having, on the fifteenth day of the last month, brought in a verdict of not guilty, it is ordered that the said Aaron Burr be acquitted of the offence aforesaid, and go thereof without day.

On the motion of Aaron Burr, who is confined in the jail of Henrico county as a debtor, it is ordered that a writ of *habeas corpus* be awarded to the sheriff of said county to be directed, to cause him to bring forthwith to this court the body of the said Aaron Burr.

The sheriff of Henrico, by virtue of a writ of *habeas corpus* to him directed, this day produced in court the body of Aaron Burr detained in his custody on civil process; whereupon, it is ordered that the said Aaron Burr be committed to the custody of the marshal, to be by him safely kept until he shall be transmitted to the State of Ohio, there to be tried for a misdemeanor against the United States, in beginning, or setting on foot, or preparing, or procuring, the means of a military expedition or enterprise against Mexico, a province in North America, of the King of Spain, with whom the United States were and are at peace.

A copy, test:

WILLIAM MARSHALL, Clerk.

STATE OF VIRGINIA, *Henrico county, to wit:*

William Waller Hening and William Munford, both of the city of Richmond, personally appeared before me, Daniel L. Hylton, a justice of the peace for the said county, and made oath that the printed statements of the evidence of witnesses, examined before the circuit court of the United States for the fifth circuit and district of Virginia, contained in the thirty-four pages hereunto annexed, which evidence was delivered in court, on a motion for an attachment against Gen. James Wilkinson, on the several trials of Aaron Burr for treason against the United States, and for a misdemeanor, and on a motion for the commitment of Aaron Burr, Herman Blannerhasset, and Israel Smith, for the purpose of their being sent out of the said district of Virginia for trial, are, in the opinion of the said Hening and Munford, substantially faithful and accurate. A very large proportion thereof has been corrected by means of the joint notes of the said deponents, Hening and Munford, and of Thomas Ritchie, editor of the Enquirer. The said printed statements have been generally examined, and acknowledged to be substantially correct by the witnesses themselves; and these deponents, who, either jointly or severally, took notes of the whole thereof, firmly believe that no error of any importance can be discovered in any part of the same. In testimony whereof, the said Hening and Munford have sworn and subscribed to this affidavit, this twenty-first day of October, 1807.

Sworn and subscribed before me, in due form of law, the day and date above written.

DANIEL L. HYLTON,  
*Justice of the Peace for Henrico county.*

WM. W. HENING,  
WM. MUNFORD.

#### TRIAL OF AARON BURR.

*Debate on the motion for an attachment against Gen. James Wilkinson.*

TUESDAY, June 24.

On this occasion the following testimony was produced: JAMES KNOX, on the part of the prisoner; Lieut. GAINES and Mr. GRAHAM, on behalf of the prosecution.

JAMES KNOX says he went to New Orleans in March; soon after his arrival, received a note from Gen. Wilkinson, the object of which appeared to be to get information about Sergeant Dunbaugh; waited on the general; he asked me if I was not afraid to come before him after what had been said about him? Told him I was not. Asked me if I knew, and was at liberty to say any thing of the party coming down the river? I told him I was at liberty to say any thing I knew. He said he was very uneasy, had lost his wife; but that gave him little uneasiness compared with the state of the country; he asked me if I would go to Richmond; said he would do any thing to aid me; I told him I expected money in ten days, and would then go; he offered me what money I might want; would not accept any; was served with a subpoena by Lieut. Gaines; short time after arrested by the sheriff and carried to Judge Hall's; judge not at home; the Governor recommended to the sheriff if the judge was not at home, to let me go at liberty till next day; Judge Hall told me I must either give my affidavit, or go to Richmond; told him could not give my affidavit without advice, but should go to Richmond when I got money; the judge said I must then give security or go to jail; gave two securities in five hundred dollars each; appeared next day; judge had printed interrogatories; I asked him to let me read them; gave them back; he asked me to answer them; told him I had not counsel, and could not answer them without; saw counsellor Carr, he told me they had no right to compel me to answer the interrogatories. The judge persisted, and asked me some of the questions; I told him, to save trouble, I would relate what occurred while coming from Meadville to that place. The judge sent for Mr. Fort; Mr. F. made some observations, and also refused to answer the interrogatories; he and myself sent to jail by the judge, and confined with negroes and others; Mr. F. was shortly after bailed by his friends; some of mine came to relieve me; were told the sum demanded was five or ten thousand dollars; I stayed three days in jail; was then taken out by Sergeant Dunbaugh and others who had side-arms; the men went with us to the water; Sergeant Dunbaugh and myself went on board; asked D. if that was a guard; said it was not; has since told me it was; asked if Lieut. Gaines was on board; was told he soon would be; asked leave to go on shore for my clothes; refused; when D. took me from the jail, he had an order which he handed to the jailer; wrote, while in jail, to Lindsley and Doctor Monhollen; told them if they came to Orleans what they might expect. When Lieut. Gaines came on board the vessel, he said I was in an ill humor; told him I was; he advised me, as I was there, to bear my situation with patience; asked him to let me go on shore for my clothes; he said he could not, had nothing to do with it; General Wilkinson alone could do it; brought to Richmond without clothes; Captain G. said he had forty dollars for me; told him I did not want it, if I could be permitted to go on shore; he said I was not compelled to take it; I told him I must accept it, unless permitted to go on shore; the money was sent on shore, my bill to my landlord paid, and twenty dollars returned me by Governor Claiborne, who came on board and accompanied us six or eight miles.

On our passage, Captain G. said I must understand that I was sent by Judge Hall. General Wilkinson the next day asked me if I had any objection to going to Richmond, and if Capt. G. had not spoken to me on the subject; I told him he had; that I was ill used; brought off without clothes or money; Gen. W. said, if so, I had been badly used; that that was the first he heard of it; asked again if I was averse to going; told him I was not, if properly treated; he said if I would give my honor that I would go, I should be no longer controlled; I refused; told him I had asked two favors of him and Mr. Gaines, and should not ask a third from any man; after some time, he asked me if twenty dollars would be of service to me; told him I had no clothes, and must have some; he then talked with Mr. Lindsley, and returned to me, and asked if fifty dollars would serve me; told him that sum would be requisite to get me clothes; came to Richmond in a pilot boat; Lieut. Moxley said he was to take charge of Gen. Wilkinson's passengers; carry them to Richmond, and there to wait Gen. W.'s orders.

*Cross-examination by the counsel for the United States.*

Question. Have you any military commission?

Answer. None.

Question. Where were you born?

Answer. Maryland; left it very young; resided in Pennsylvania, and left it some time in November last; left Pennsylvania, Meadville, for New Orleans, 24th or 25th of November; went down the Allegany and Ohio to Beaver; went from thence with about twenty or thirty to Blannerhasset's island; left that place some time in December, Blannerhasset and another with them; stopped at Shawany town; went with about double the number to

Cumberland Island; stayed a day and a half, met with Col. Burr and a few others; the whole number fifty or sixty, about seven or eight boats, five fire-arms; went thence to Fort Massac. Sergeant Dunbaugh joined them there with a musket; after meeting with Col. Burr, considered himself under his direction, went to Natchez; Col. B. did not accompany them; went from Natchez to New Orleans; some of the boats chartered, and others sold; arrived at Orleans 13th or 16th March; first notice, after seeing Gen. Wilkinson, of proceedings against him was, when carried before Judge Hall; was said to be carried under an affidavit of Gen. Wilkinson before Judge H.; Captain G. requested him to write to him on shore, and he would get what he wanted; he was not permitted to send the letter; never mentioned to General Wilkinson till arrived in Hampton Roads; treated as others while on his way; arrived at Richmond on Friday evening; put up at the Bell. Three days elapsed before he saw Col. B.; mentioned the treatment he had received to Col. B., and intended mentioning it to the court on his first appearance, but was told it was unnecessary.

*Miscellaneous questions and answers.*

Whilst at the mouth of Cumberland river, and when Col. B. made his escape, he was one that took Col. Burr in a wherry and carried him some distance; left him in the woods; did not hear him address any one. The note wrote him by Gen. Wilkinson, and sent by Dunbaugh, was left at his house sealed; the object was to obtain some information about Dunbaugh; no letters; carried Col. B.'s things to a parson Bruin's, as he was told; had but few guns; those traded for as they descended the river; vessel sailed from New Orleans in half an hour after Gen. Wilkinson came on board; the one hundred and fifty dollars offered him by Gen. Wilkinson, he was induced to believe, was to bribe him to give evidence against Col. B.; said he could obtain from Col. Tyler a sufficiency to carry him home under his agreement with that gentleman; this conversation took place before the subpoena was served.

LIEUT. GAINES received a letter from Attorney General of United States enclosing subpoenas for witnesses against Col. B.; went to New Orleans in consequence, and arrived on 7th May; called several times at the house where Ch. Knox stayed with Mr. Lindsley and Dr. Monhallon; was told by the landlord those gentlemen walked out whenever he approached; he told his business, and at length saw them; they said they had belonged to Burr's party, and did not wish to appear against him; he told them the commander-in-chief offered them a passage in the United States' sloop with him; Knox said he could not come till he had made some money arrangements; he applied to Judge Hall; the judge directed him to obtain an affidavit of the refusal, and he would take the proper steps; he said the subpoena must be served by the marshal or sheriff, and proposed appointing him a deputy; he refused, unless he could afterwards be released from any further service in that capacity; Knox appeared always ill-natured, which induced him to ask him if he could do any thing for him; he obtained from the United States' agent at that place forty dollars, and offered it to Knox, which he, after some hesitation, accepted. Offered him paper, &c., and requested him to write to some friend on shore, or myself; heard nothing more from him. In serving the subpoena, he acted under the authority of the Attorney General, in every other respect, while at New Orleans, under the authority of the marshal at that place. At Hampton Roads Knox said he wished to come to Richmond, but wished to leave that vessel; I told him he should, but had not determined how he could be conveyed to Richmond; his getting off gave me no concern, because I supposed he could be again caught in some part of this country; whilst the witness was on shore Gen. W. procured a vessel, and sent the witness to Richmond; he considered the witness under *his* authority, and not as a military officer, but as deputy marshal.

He gave to Sergeant Dunbaugh an order at New Orleans, to receive from jail, and deliver to the commanding officer on board the United States' sloop *Revenge*, the body of James Knox. He should not have conceived any citizen of New Orleans bound to execute that order; he did not consider Sergeant Dunbaugh further bound than in compliance with his promise; he was called Sergeant Dunbaugh, but did not consider him under his authority as a military officer; General Wilkinson made his affidavit at his own quarters; he delivered it to the judge; they consulted counsel; he delivered to General Wilkinson subpoenas from the attorney of the United States, one for himself, another for Mr. Graham; he always considered himself bound to obey the orders of General Wilkinson; he considered Gen. Wilkinson as having full control of the officers on board the *Revenge*, if he chose to exercise it; on their way to Virginia, they stopped at the Havana for fresh supply of water and other necessaries; while preparing to go on shore, a shot was fired from the castle, and orders given to come on shore; they went on shore at the request of the persons on board made to W. and Read; had good provisions, &c. on board; heard Captain Read direct the cook to let those people have their provisions regularly; he, on several occasions, received advice of counsel how to act in executing the business in which he was engaged; the money received from the military agent was obtained after several applications from the witness; he was advised by General Wilkinson and the attorney to procure money and furnish them; on application to the military agent, he said he had been directed to advance for that purpose.

MR. GRAHAM.—A short time after the arrival of Captain Gaines at New Orleans, he was told that there was a subpoena for him; that there was a vessel of the United States that would convey him to Richmond. I then went to Gen. Wilkinson to know whether he could be accommodated, the vessel being small, and his health bad. General W. said he understood there were several witnesses in town, some of them unwilling, others unable to come round; asked if I knew of any legal means to force them; told him I supposed the judge could inform him; waited on the judge himself to know whether there was such process. At this time, or some other, Gen. W. told me to ask the judge if there was any impropriety in advancing money to the witness, or to what amount; the judge said, so far from it, the witness had a right to demand it.

The judge said, if the witnesses refused to answer interrogatories, or refused to enter into recognizance, then he felt that, under the law, he would be authorized to send such witnesses round under the care of the district marshal. He saw, a few days after, in an outer room at the judge's, Mr. Knox talking with Mr. Keen, an attorney; some short time after Mr. K came before the judge. The judge asked him if he was then willing to answer questions, or enter into recognizance; he declined doing either. The judge then showed a Mr. Fort, who was in the same situation with K. and R., the law, and advised them to do one of the two, or he should be obliged to act rigidly towards them, contrary to his wish. The judge asked Mr. F. to answer the interrogatories, which he refused to do. The judge then sent for the marshal, and committed both of them. In the afternoon Captain F. gave security in five hundred dollars for his appearance at Richmond.

He understood Captain F. had taken passage for New York, in order to come to Richmond; but F. told the witness he could not leave New Orleans without injury to his business. Mr. Keen intimated to the judge he did not appear as an attorney, but expressed some doubt of the correctness of the proceedings. The ship's stores were good, and the persons treated civilly and not restrained. The cause of calling at the Havana was owing to bad winds, and being chased close in by a British cruiser. Captain Read, Gaines, Mr. Smith, and self, went on shore to procure fruit, &c.; remained there about three hours. He thinks they would not have gone on shore but for a shot from

the fort under which they run; the naval and other officers are under the command of General Wilkinson; were formerly under the control of the Government, but the alarmed situation of the country had induced the giving the command to W.; saw no guard on his way to New Orleans; he went down the river with Captain Fort, who said his object was to go to Mexico, of which declaration, he, the witness, made no secret. He was asked to use his influence with Captain Gaines to prevail on him to accept from the judge the appointment of deputy marshal.

Lieutenant Gaines, upon being called up again, said, he is an officer of the United States' army; never consu General Wilkinson about accepting the appointment of deputy marshal. He understood Fort was included in the same affidavit with Knox. He sailed from New Orleans in the Revenge; saw General Wilkinson exercise no kind of authority on the voyage.

*Evidence of General Eaton.*

TUESDAY, August 18.

*Mr. Hay* asked the witness if he had heard the opinion of the court delivered, and understood the restrictions with which he was to give his testimony. He was answered in the affirmative.

*Mr. Eaton*, holding a small piece of paper in his hand, inquired of the court whether he might occasionally recur to his notes for the purpose of refreshing his memory.

*Chief Justice.* Were they written by yourself?

Answer. They were.

*Mr. Wickham.* At what time were they taken?

Answer. The notes which I hold in my hand are mere memoranda drawn up here, and taken partly from my recollection of notes which I made at the different times the conversations passed between Colonel Burr and myself, and partly from notes which I have at my lodgings.

*Col. Burr.* At what time did you say you took the original notes?

Answer. At the time I had the conversations with you, sir.

The court decided that he should not recur to his notes.

*Mr. Eaton*, addressing the court: I wish, sir, to be indulged in a few preliminary remarks. I have long been before the public; much stricture and some severity have passed upon me; I wish to be instructed whether I may, in stating my evidence, occasionally make explanations with respect to my own conduct, and the motives which governed me.

*Chief Justice.* The court will be better able to judge of the propriety of any explanation when the case shall occur; there may be cases in which it may be necessary; and if there should be particular objections to any of your explanations you may apply to the court for their decision.

*Mr. Eaton.* Concerning any fact which may go to prove treason against Colonel Burr, I know *nothing*; concerning certain transactions which are said to have happened at Blannerhasset's island, I know *nothing*; but concerning *Colonel Burr's expressions*, and his treasonable *intentions*, I know *much*; and it is to these that my evidence relates.

*Mr. Martin* interrupted the witness, and inquired as to the effect of the opinion of the court, whether the witness could go into evidence of any transactions distinct from that stated to have taken place at Blannerhasset's island.

*Chief Justice.* The opinion of the court is this: that any proof of intention formed before the act itself, if relevant to that act, may be admitted. One witness may prove the intention at one time, and another witness may prove it at another time, so as to prove the continuance of the intention throughout the whole transaction; and therefore proof of very remote intentions may be relevant to this particular act.

*Mr. Martin.* I hope, when he speaks of a treasonable intention not applicable to this particular act, the court will stop him.

*Mr. Eaton.* During the winter of 1805-6, I cannot be positive as to the distinct point of time, yet, during the winter, at the city of Washington, Colonel Burr signified to me that he was organizing a *secret* expedition to be moved against the Spanish provinces on the southwestern frontiers of the United States—I understood, under the authority of the General Government. From our existing controversies with Spain, and from the tenor of the President's address to both Houses of Congress, a conclusion was naturally drawn that war with that country was inevitable. I had then just returned from the coast of Africa; and having been for many years employed on our own frontiers, and on a foreign coast, still more barbarous and obscure, I knew not the extent of the reputation which Colonel Burr sustained in the consideration of his country. The distinguished rank which he had held in society, and the strong marks of confidence which he had received from his fellow-citizens, gave me no right to doubt of his patriotism. As a *military character* I had been made acquainted with him, but not personally; and I knew none in the United States in whom a soldier might more securely have confided his honor than in Colonel Burr. In case of enmity to this country, from whatever quarter it might come, I thought it my duty to obey so honorable a call as was proposed to me. Under impressions like these, I did engage to embark in the enterprise, and did pledge my faith to Colonel Burr. At several interviews, it appeared to be the intention of Colonel Burr to instruct me, by maps and other documents, of the feasibility of penetrating to Mexico. At length, from certain indistinct expressions and inuendoes, I admitted a suspicion that Colonel Burr had other projects. He used strong expressions of reproach against the administration of the General Government; accused them of want of character, want of energy, want of gratitude. He seemed desirous of irritating my resentment, by reiterating certain injurious strictures cast upon me on the floor of Congress, on account of certain transactions on the coast of Africa, and by dilating on the injuries which I had sustained from the delays in adjusting my account for moneys advanced for the United States; and talked of pointing out to me modes of honorable indemnity. I will not conceal here that Colonel Burr had good grounds to believe me disaffected towards the Government; I had, indeed, suffered much from delays in adjusting my accounts for cash advanced to support the credit of the Government whilst I was consul at Tunis, and for the expense of maintaining the war with Tripoli. I had but a short time before been compelled ingloriously to strike the flag of my country from the ramparts of a defeated enemy, where it had flown for forty-five days. I had been compelled to abandon my comrades in war on the fields where they had fought our battles. I had seen cash offered to the half-vanquished chief of Tripoli, (as he had himself acknowledged,) as the price of pacification—[*Mr. Wickham.*—By whom? *Answer.* By our negotiator]—when as yet no exertion had been made by our naval squadron to coerce that enemy. I had seen the conduct of the author of these blemishes on our then proud national character, if not commended, not censured; whilst my own inadequate efforts to support that character were attempted to be thrown into shade. To feelings naturally arising out of circumstances like these, I did give strong expressions. Here I beg leave to observe, in justice to myself, that however strong those expressions, however harsh the language I employed, they would not justify the inference that I was prepared to dip my sabre in the blood of my countrymen, much less of their children, which I believe would have been the case had this conspiracy been carried into effect. [*Mr. Martin* objected to this language.] I listened to Colonel Burr's mode of indemnity; and as I had by this time begun to suspect that the military expedition he had on foot was unlawful, I



permitted him to believe myself resigned to his influence, that I might understand the extent and motive of his arrangements. Colonel Burr now laid open his project of revolutionizing the territory west of the Allegany; establishing an independent empire there, New Orleans to be the capital, and he himself to be the chief; organizing a military force on the waters of the Mississippi, and carrying conquest to Mexico. After much conversation (which I do not particularly recollect) respecting the feasibility of the project, as was natural, I stated impediments to his operations, such as the republican habits of the citizens of that country, their attachment to the present administration of Government, the want of funds, the opposition he would experience from the regular army of the United States stationed on that frontier, and the resistance to be expected from Miranda, in case he should succeed in republicanizing the Mexicans. Colonel Burr seemed to have no difficulty in removing these obstacles. He stated to me that he had in person (I think the preceding season) made a tour through that country; that he had secured to his interests and attached to his person the most distinguished citizens of Tennessee, Kentucky, and Territory of Orleans; that he had inexhaustible resources and funds; that the army of the United States would act with him; that it would be reinforced by ten or twelve thousand men from the above-mentioned States and Territory; that he had powerful agents in the Spanish territory; and "as for Miranda," said Mr. Burr, facetiously, "we must hang Miranda." In the course of repeated conversations on this subject, he proposed to give me a distinguished command in his army—I understood the second command. I asked him who would command in chief. He said General Wilkinson. I observed that it was singular he should count upon General Wilkinson. The distinguished command and high trust he held under Government, as the commander-in-chief of our army, and as Governor of a province, he would not be apt to put at hazard for any precarious projects of aggrandizement. Colonel Burr stated that General Wilkinson balanced in the confidence of his country; that it was doubtful whether he would much longer retain the distinction and confidence he now enjoyed; and that he was prepared to secure to himself a permanency. I asked Colonel Burr if he knew General Wilkinson. He said "yes," and echoed the question. I told him that twelve years ago I was at the same time a captain in his wing of the legion of the United States, his acting brigade major and aid-de-camp, and that I thought I knew him well. He asked me what I knew of General Wilkinson. I said I knew General Wilkinson would act as lieutenant to no man in existence. "But you are in an error," said Mr. Burr: "Wilkinson will act as *lieutenant to me.*" From the tenor of much conversation on this subject, I was prevailed on to believe that the plan of revolution meditated by Colonel Burr, and communicated to me, had been concerted with General Wilkinson, and would have his co-operation; for Colonel Burr repeatedly and very confidently expressed his belief that the influence of General Wilkinson with his army, the promise of double pay and double rations, the ambition of his officers, and the prospect of plunder and military achievements, would bring the army generally into the measure. I pass over, here, a conversation which took place between Colonel Burr and myself respecting a central revolution, as it is decided to be irrelevant by the opinion of the bench. [Mr. Hay—You allude to a revolution for overthrowing the Government at Washington, and of revolutionizing the Eastern States.] I was passing over that to come down to the period when I supposed he had relinquished that design, and returned to his project in the West. I was thoroughly convinced myself that such a project was already so far organized as to be dangerous, and that it would require an effort to suppress it; for, in addition to positive assurances that Colonel Burr had of assistance and co-operation, he said that the vast extent of territory of the United States beyond the mountains which offered to adventurers, together with a view of the mines of Mexico, would bring adherents to him from all quarters of the Union. The situation which these communications and the impressions they made upon me placed me in, was peculiarly delicate. I had no overt act to produce against Colonel Burr. He had given me nothing upon paper; nor did I know of any person in the vicinity who had received similar communications, and whose testimony might support mine. He had mentioned to me none as principally and decidedly engaged with him but General Wilkinson; a Mr. Alston, who I afterwards learned was his son-in-law; and a Mr. Ephraim Kibber, who I learned was late a captain of rangers in Wayne's army. Of General Wilkinson Burr said much, as I have stated; of Mr. Alston very little, but enough to satisfy me that he was engaged in the project; and of Kibby he said that he was brigade major in the vicinity of Cincinnati, (whether in Ohio or in Kentucky I know not,) who had much influence with the militia, and had already engaged the majority of the brigade to which he belonged, who were ready to march at Mr. Burr's signal. Mr. Burr talked of this revolution as a matter of right inherent in the people, and constitutional; a revolution which would rather be advantageous than detrimental to the Atlantic States; a revolution which must eventually take place, and for the operation of which the present crisis was peculiarly favorable; that there was no energy to be dreaded in the General Government; and his conversations denoted a confidence that his arrangements were so well made, that he should meet with no opposition at New Orleans: for the army and the chief citizens of that place were ready to receive him. On the solitary ground upon which I stood, I was at a loss how to conduct myself, though at no loss as respected my duty. I durst not place my lonely testimony in the balance against the weight of Colonel Burr's character, for, by turning the tables upon me, which I thought any man capable of such a project was capable of doing, I should sink under that weight. I resolved, therefore, with myself, to obtain the removal of Mr. Burr from this country in a way which would be satisfactory and honorable to him; and on this I did consult him, without his knowing my motive. Accordingly I waited on the President of the United States, and, after a desultory conversation, in which I aimed to draw his attention to the West, I said to him, (I took the liberty of suggesting to the President,) that I thought Colonel Burr ought to be removed from the country, because I considered him dangerous in it. The President asked where he should send him. I said to England or Madrid, though it has been said in some publications that I added Cadiz. The President, without any positive expression, (in such a matter of delicacy,) seemed to think the trust too important, and expressed something like a doubt about the integrity of Mr. Burr. I frankly told the President that perhaps no person had stronger grounds to suspect that integrity than I had; but that I believed his pride of ambition had so predominated over his other passions, that when placed on an eminence and put on his honor, a respect to himself would secure his fidelity. I perceived that the subject was disagreeable to the President; and to bring him to my point in the shortest mode, and in a manner which would point to the danger, I said to him, if Colonel Burr was not disposed of, we should in eighteen months have an insurrection, if not a revolution, on the waters of the Mississippi. The President said he had too much confidence in the information, the integrity, and attachment of the people of that country to the Union, to admit any apprehensions of that kind. The circumstance of no interrogatories being made to me, I thought imposed silence upon me at that time and place. Here, sir, I beg indulgence to declare my motives for recommending that gentleman to a foreign mission at that time; and in the solemnity with which I stand here, I declare that Colonel Burr was neutral in my feelings; that it was through no attachment to him that I made that suggestion, but to avert a great national calamity which I saw approaching, to arrest a tempest which seemed lowering in the west, and to divert into a channel of usefulness those consummate talents where to mount "the whirlwind and direct the storm." About the time of my having waited on the President, or a little before, I determined at all events to have some evidence of the uprightness of my intentions, and to fortify myself by the advice of more experienced men. I waited upon two members of the House of Representatives, whose friendship I had the honor long to retain, and in whose wisdom and integrity I



had full faith. I am at liberty to give their names, if required; and I believe a Senator, but of that I am not certain. I opened to them the projects of Colonel Burr. They did not seem much alarmed.

[Mr. *Martin* objected to the witness stating any of the observations of other persons to himself. After some desultory conversation, the bench supported the objection.]

Mr. *Eaton*. I did ask indulgence of the court to make such explanations, because perversions of my conduct were before the public: but I waive this indulgence, contented with meeting these perversions at some other time and place.

[*Chief Justice*. You have used that indulgence.]

Little more passed between Colonel Burr and myself, relevant to this inquiry, whilst I remained at Washington, though he was solicitous to engage me in his Western plans. I returned to Massachusetts, to my domestic concerns; and thought little more of Colonel Burr or his projects, until in October last a letter was put into my hands from Mr. Belknap to T. E. Danielson, stating that boats were building on the Ohio.

Mr. *Burr*. Have you that letter?

Mr. *Eaton*. No.

Mr. *Burr*. It is improper to state it.

Mr. *Hay*. It is immaterial; Mr. Belknap is here.

Mr. *Eaton*. As to letters, I have had no correspondence with Colonel Burr; I was about to state that I made a communication to the President of the United States, through the hands of the Postmaster General, stating the views of Colonel Burr.

*Question by the prosecution.*

Mr. *Wirt*. Was there any conversation between you and the prisoner, in which you spoke of the odium attached to the name of *usurper*?

Answer. That conversation was excluded by the opinion of the court, as relating to the central project.

Mr. *Hay*. Did you mean to state that the honorable indemnity proposed to you by the prisoner was to be included in this plan?

Answer. I understood it to be included in the permanent rank and emolument to be assigned to me; in his full confidence that he should erect a Government, of which he was to be the chief; which was so often and so strongly repeated, that I could not misunderstand him.

*Cross-questioned.*

Mr. *Martin*. Do you recollect when you arrived in Washington?

Answer. I said that I did not recollect particularly; but the principal part of these conversations must have been between the middle of February and the middle of March.

Question. Was there any particular conduct calculated to put an end to Colonel Burr's importunities?

Answer. Yes. At some of our last interviews, I laid on his table a paper containing this toast, which I had given to the public: "The United States.—Palsy to the brain that should plot to dismember, and leprosy to the hand that will not draw to defend our Union."

Question. Where was that toast drunk?

Answer. I cannot say. This question was made to me from authority; it was sent with other toasts I corrected to a paper at Springfield. I laid this paper on Colonel Burr's table, that he might see it; and I have reason to believe that he did.

Question. Was it drunk at any distant place? At Philadelphia?

Answer. I do not recollect; I thought at first it was at Philadelphia; but I had received many hospitalities throughout the Union; many of my toasts were published; and, in the hurry of passing and repassing, I have completely forgotten.

Mr. *Burr*. Do you recollect when you left Washington? Answer. About the 1st of April.

Mr. *Burr*. Then this paper was put on my table previous to that day?

Mr. *Eaton*. I will state the circumstances which induced me to believe you had seen it: we were at Alexandria together, and you made no longer such communications to me as heretofore; I meant you to see it, because I had given it to the world, and with it my sentiments.

Question. Then you are not certain when and where this toast was drunk?

Answer. I am not. But I am certain it was not at Washington, because I gave another there when called upon.

Question. Did you not say that all those conversations happened between the middle of February and the middle of March?

Answer. No: I did not say so. I said the principal part of these conversations.

Question. You say this toast was printed at Springfield? Answer. I did.

Question. Did you transmit it for publication? Answer. Yes, I did.

Question. Do you recollect from what place? Answer. Not distinctly.

Question. Have you in your possession a paper containing that toast? Answer. I have not here.

Question. You have mentioned something about a communication which you made to the President, through the Postmaster General? look at that paper, is that your signature?

Answer. It is; and I must give a short account of that paper. Mr. Eaton then mentioned that the notes on the two first pages were drawn up by Mr. Granger, from conversations which had passed between Mr. Granger and a Mr. Ely, on certain communications made to Mr. Ely by Mr. Eaton, respecting Colonel Burr's plans; that he had seen Mr. Ely at Northampton, at the session of the court of common pleas, at a time when they had first heard of the building of boats on the Ohio. The notes on the last page, in Mr. Granger's writing, and subscribed by himself, were from subsequent conversations between him and Mr. Granger.

Mr. *Burr*. You spoke of accounts with the Government; did you, or the Government, demand money?

Answer. They had no demand on me; I demanded of them.

Question. Did they state in account a balance against you?

Answer. I expended money for the service of the United States, when employed in my agency at Tunis; an account of which, being presented to the accounting officers of the Treasury, was refused to be allowed by them, there being no law, as they conceived, to justify it. I applied to Congress, a committee of which reported that they supposed the account to be within the discretion of the accounting officers of the Treasury. In this situation the business stood when I was ordered to the coast of Barbary, and, when I returned, found that new difficulties had occurred to an adjustment. Leaving out the sums which I had advanced, the Government had a balance against me. The last session of Congress has provided for the payment, and the commissioners have settled it.

Mr. *Martin*. What balance did you receive? Answer. That is *my* concern, sir.

Mr. *Burr*. What was the balance against you?

*Mr. Eaton* (to the court.) Is that a proper question, sir?

*Mr. Burr.* My object is manifest; I wish to show the bias which has existed on the mind of the witness.

*Chief Justice* saw no objection to the question.

*Mr. Eaton.* I cannot say to a cent or a dollar; but I have received about \$10,000.

*Mr. Burr.* When was the money received? Answer. About March last.

Question. You mentioned Miranda; where did you understand he was gone to?

Answer. On the benevolent project of revolutionizing the Spanish provinces.

Question. What part of them?

Answer. Caraccas. I had some reason, too, to know something of that project; because I, too, was invited to join in *that*. He too was to have been an Emperor of Mexico; he might have been troublesome to us; and, of course, when I asked you what was to be done with him, you observed, "hang him."

Question. Did you understand I was to do all at once; to execute the central project, too, as well as that in the West?

Answer. I have no objections to answering that, but it will be nothing in your favor. When you were speaking of a central revolution, not much was said about the revolution in the West; had the other been effected, I doubt much whether you would have been willing to have separated that part.

Question. You spoke of a command?

Answer. You stated what I have already mentioned, that you were assured, from the arrangements which you had made, that an army would be ready to appear when you went to the waters of the Western country. I recollect particularly the name of Ephraim Kibby. You asked about his spirit; you asserted that his brigade was ready to join you; and that the people also in that country were ready to co-operate. You spoke of *your* riflemen, *your* infantry, *your* cavalry. It was with the same view you mentioned to me that that man, (pointing to General Wilkinson, just behind him,) was to have been the first to aid you; and from the same views, perhaps, you have mentioned me.

*Mr. Martin* objected to the witness interposing his own opinions in this manner.

*Mr. Hay.* Some allowance is to be made for the feelings of a man of honor.

*Mr. Eaton*, bowing, apologized to the court for the warmth of his manner.

*Mr. Burr.* You spoke of my revolutionizing the Western States; what were the boundaries of the new empire?

Answer. Your line was to be the Allegany mountain. You were certain about Kentucky and Tennessee, but expressed some doubts about Ohio; I well recollect *that*, on account of the reason which you gave, that they were too much of a plodding, industrious people to engage in your plans.

Question. How was this business to be effected?

Answer. I understood that your agents were in the Western country; that the commander-in-chief was ready to co-operate with his army; and that these, with the adventurers that would join you, would compel the States to a separation. Indeed, you considered New Orleans as already yours, and that from this point you would make conquests and consolidate your empire.

Question. Was it, after all this, that you recommended me to an embassy?

Answer. Yes, because I thought it the only way to avert a civil war.

Question. Did you communicate then your recommendation to me?

Answer. Yes, and you gave a modest assent to the proposal.

Question. What then would have become of your command?

Answer. That I had disposed of myself.

Question. Did you understand that you had given me a definitive answer?

Answer. No: after you had developed yourself, I determined to use you until I got every thing out of you; and on the principle that "when innocence is in danger, to break faith with a bad man is not fraud, but virtue."

Question. Did you think that your proposition as to a foreign embassy, which was so incompatible with my own plans, would be received by me with indifference, had I abandoned the project?

Answer. You seemed to me to want some distinguished place; as to the mode, you were indifferent; and you seemed to acquiesce in the plan of a foreign embassy.

*Mr. Hay.* You said that you received about \$10,000 from the Government. Did the act of Congress give you a definitive sum, or refer your accounts to the Department of State?

Answer. The act of Congress gave the accounting officers the power of settling with me, according to equity, under the inspection of the Secretary of State; under whose Department I had served; and the settlement was accordingly made.

TUESDAY, August 18.

#### *Evidence of Commodore Truxton.*

*Mr. Hay.* Were you present when the court delivered their opinion relative to the order in which the evidence is to be introduced?

Answer. I was; and understood the purport of it. I know nothing of any covert act, or treasonable designs, or communications of Col. Burr.

Question. Does your testimony relate to conversations with Col. Burr about the taking of New Orleans?

Answer. I know nothing about the taking of New Orleans. They related to the Western country; to the Spanish territories; to the settlement of lands; to the digging of canals, and the building of boats.

*Mr. Hay* then observed that he had no questions at present for Commodore Truxton.

*Mr. Wickham.* Then, sir, I hope I may be permitted to ask Commodore Truxton: 1st. Whether he had not many and minute conversations with Col. Burr? and 2d. Whether those conversations related to treason?

*Mr. Hay* objected to Mr. Wickham's putting these questions, and said, if the gentleman expected by a contrivance of this sort to exclude the witness, he would ask a few questions.

*Mr. Wickham* insisted on his right to examine the witness, as the counsel for the United States had relinquished him; and said he could assure the gentleman that it was not a *contrivance*, but the exercise of a right.

*Mr. Wirt.* The court knows that there are two indictments against the accused. The witnesses have been summoned promiscuously; and it is not possible for the prosecutor to know the particular point to which every witness is to testify. From what Commodore Truxton has said, it appears that his evidence related to the misdemeanor. But, if he be suffered to come in on the present case, ought not his examination to be free and complete?

*Mr. Hay.* Upon recollecting the substance of Commodore Truxton's testimony, I cannot but believe that it applies directly to the present occasion. It bears most strongly upon General Eaton's testimony. From Eaton's evidence, the treasonable project and the misdemeanor were intimately connected. Of course, what goes to establish the one of these projects, will so far contribute to prove the other.

*Mr. Hay* said it always gave him great pleasure to repair any injury which he might inadvertently have done to the feelings of any gentleman. He acknowledged that he ought not to have made use of the term *contrivance*, in the manner he had done. Addressing Commodore Truxton: Had you not several conversations with the accused upon the subject of the Mexican expedition?

*Commodore Truxton.* About the beginning of the winter of 1805-'6, Col. Burr returned from the Western country, and came to Philadelphia. He frequently, in conversation, mentioned to me certain speculations in western lands. These conversations were uninteresting to me; and I did not pay much attention to them. Col. Burr requested me to get the navy of the United States out of my head, as he had something in view, both honorable and profitable, which he wished to propose to me. I considered this as nothing more than a desire to get me interested in land speculations. These conversations were frequently repeated; and some time in the month of July, 1806, Col. Burr observed that he wished to see me unwedded from the navy of the United States, and not to think any more of those men at Washington. He observed that he wished to see or to make me (I do not recollect which) admiral; for he contemplated an expedition into Mexico, in the event of a war with Spain, which he thought inevitable. He asked me if the Havana could not be easily taken in the event of a war. I told him that it would require the co-operation of a naval force. Mr. Burr observed, that might be obtained. He pursued the inquiry as to Carthagena and La Vera Cruz; what personal knowledge I had of those places, and what would be the best mode of attacking them by sea and land. I gave my opinion very freely. Mr. Burr then asked me if I would take the command of a naval expedition. I asked him if the Executive of the United States was privy to or concerned in the project. He answered me, emphatically, that they were not. I asked him that question because the Executive had been charged with a knowledge of Miranda's expedition. I told Mr. Burr that I would have nothing to do with it; that Miranda's project had been intimated to me, and that I had declined any agency in those affairs. Mr. Burr observed, that in the event of a war he intended to establish an independent Government in Mexico; that Wilkinson, the army, and many officers of the navy, would join. I replied, that I could not see how any of the officers of the United States could join. He said that General Wilkinson had projected that expedition, and that he himself had matured it; that many greater men than Wilkinson were concerned, or would join; and thousands to the westward.

*Mr. Hay.* I beg you to refresh your memory. Do you recollect whether he said that General Wilkinson had seriously joined it?

Answer. I asked him if General Wilkinson had seriously engaged in such a scheme. He said that he had, and many greater men than Wilkinson.

*Mr. Hay.* I will ask you, sir, whether at that time you were in the service of the United States?

Answer. I was declared not to be.

*Mr. Hay.* I wish you to suppose that I do not mean to hurt your feelings by any question; but it is necessary to account to the jury for the application which was thus made to you by the accused. Did you not express some dissatisfaction at the treatment of the Government?

Answer. I certainly was hurt at it.

Mr. Burr asked me if I would not write to General Wilkinson, as he was about to despatch two couriers to him. I told him that I had no subject to write on, and declined writing. Mr. Burr observed that several officers would be pleased at being under my command. He spoke highly of a Lieutenant Jones, and asked me whether he had not sailed with me. I answered him that he had not; and that I could give no account of him, as I did not know that I ever had seen him. Mr. Burr observed that the expedition could not fail; that the Mexicans were ripe for revolt; and that he was incapable of any thing chimerical, or that could lead his friends into a dilemma. He showed me the draught of a periogue, such as plies between Powle's Hook and New York; asked my opinion as to the construction of boats, and whether those were adapted to the Mississippi river and the waters emptying into it. I gave my opinion that they were. He asked me whether I could get a naval constructor to make several copies of the draught. I spoke to a naval constructor, but he could not make the draughts as soon as Col. Burr wished, and the draught was returned to him. Mr. Burr told me he intended those boats for the conveyance of agricultural products to New Orleans, and, in the event of a war, for transports. I knew they were not calculated for transports by sea, nor were they calculated for carrying guns; but having determined not to have any thing to do with the Mexican project, I said very little about the boats. But I well recollect that, in subsequent conversations, about the latter end of the month of July, I told Col. Burr there would be no war with Spain. He seemed very sanguine that there would. He said, however, if he was disappointed in war, that he was about concluding a bargain for a large tract of land on the Washita; and that he intended to invite his friends to join him in the settlement of it. He said that in one year he would have one thousand families of respectable and fashionable people, and some of them men of property; and that it would be a charming society; that in two years there would be double the number; and that, being on the frontier, they would be ready to march immediately, whenever a war took place. I have endeavored to narrate the substance of these several conversations as nearly verbatim as I can recollect. I may not have done it exactly; but, as nearly as possible, I believe it is correct.

*Questioned by the prosecution.*

*Mr. McRae.* Do I understand you correctly when I suppose you said that Colonel Burr requested you to get the navy of the United States out of your head, and to think no more of those men at Washington?

Answer. Yes, correctly.

*Mr. Hay.* Did these conversations take place after the declarations that you were no longer in the service of the United States?

Answer. The whole of them.

*Colonel Carrington,* (one of the jury.)—Did they take place some time in July?

Answer. Yes.

*Mr. Botts.* Did Colonel Burr think there would be war, and you that there would not?

Answer. I observed to him there would be no war, though I saw great cause for it.

*Mr. Hay.* You say that those conversations took place after you were out of service; had you expressed your dissatisfaction at your being declared out of service?

Answer. Yes; frequently.

Question. I believe there were some publications on the subject?

Answer. There were.

*Colonel Carrington.* You stated that there were several conversations?

Answer. Yes; the first was on Colonel Burr's return; the second in July, 1806; and the third about the last of July.

Question. In 1805 were you in the service of the United States?

Answer. The misunderstanding between the Secretary of the Navy and myself took place in March, 1802.

Question. Your first conversations were about building bridges, settling lands, &c.?

Answer. Yes; when Colonel B. first returned from the westward.

*Mr. McRae.* He did not express to you his designs respecting the *Washita* land till he had discovered your aversion to the Mexican project?

Answer. He did not; early in the conversations between us, I had declined all agency in the Mexican project. The conversation about the *Washita* lands was the last; but he had previously spoken about speculations in Western lands generally.

*Mr. Wirt.* Did he say at the latter end of July that he was *about* concluding a bargain for the *Washita* land?

Answer. I think so; I cannot recollect distinctly the order of time, or the precise number of conversations; I have mentioned, as nearly as possible, those that did occur.

*Mr. Hay.* When he proposed to make you an admiral, did not the thought strike you how he was to accomplish this?

(Mr. Burr denied that Commodore Truxton had said that Mr. Burr had promised to *make* him an admiral.)

*Commodore Truxton.* Mr. Burr told me he wished to make or to see me one; I do not particularly recollect which was his expression.

*Mr. Hay.* Colonel Burr spoke of an attack upon the Spanish provinces by sea and land; how was the navy to be procured?

Answer. Colonel Burr said he intended to provide a formidable navy after he had completed the expedition, and had established an independent Government.

*Mr. Hay.* From what quarter of the world was the expedition by sea to go?

Answer. I do not know; I did not ask him where it was to go from.

*Mr. Hay.* Did you not understand that you were to command the expedition by sea?

Answer. He asked if I would command; I asked him if the President of the United States was privy to the project. He answered, emphatically, that he *was not*. I then declined, and asked no more questions about the expedition.

*Mr. Baker.* I understand you to say that the navy was to have been erected after the Government was established?

Answer. Yes; after speaking of establishing himself in Mexico, and creating an independent Government, he said he intended himself to provide a formidable navy, at the head of which, I understood, he wished me to be.

*Mr. McRae.* Did he not talk of a naval expedition against the Havana?

Answer. I told Colonel Burr that the Havana could not be taken without a naval force; he said *that* could be obtained.

#### *Cross-examined.*

*Mr. Burr.* Did I not say I had never seen Lieutenant Jones?

Answer. I do not recollect that; you spoke highly of him.

Question. Do you not recollect I stated, if there was a war, that private enterprise and private expeditions would be proper and lawful?

(Mr. Hay objected to the question, because seemingly intended for the jury.)

Question. Did I say that many of the officers of the army and navy *would* join, or *probably* would join?

Answer. I think you said they *would* join.

Question. Was I not acquainted with your controversy with the Navy Department; had we not talked together for many years on the subject; did I not state to you that there was no intention to reinstate you; that you were duped by Smith and others; that they had no serious intentions of serving you; was not that the reason that I wished to unweave you from the navy?

Answer. You did state those facts.

Question. Do you not find that I was right? Answer. I know that.

Question. Did I not often talk to you about the settlement of lands? Answer. You did.

Question. Were we not intimate? Answer. Yes.

Question. Was there any reserve between us? Answer. None.

Question. Did you ever hear me say any thing about dismembering the Union, or seizing on New Orleans?

Answer. Never.

Question. Did I not state to you the advantages which would result from the establishment of an independent Government in Mexico, and the forming of a commercial connexion with this country?

Answer. Yes.

Question. You mentioned periogues; are they fit for any military purpose?

Answer. No; you stated that you intended them for the conveyance of agricultural products in time of peace, and, in war, for transports.

Question. Had you reason to doubt my intention to settle lands?

Answer. If there was no war, I took it for granted that such was your intention.

Question. If there had been a war, and the invasion of Mexico had obtained the sanction of Government, would you have joined me?

Answer. I would have got out of my bed at twelve o'clock at night to fight against England, France, or Spain, in case my Government had required my services.

*Mr. Wirt.* When Colonel Burr spoke of a commercial connexion with this country, did you understand it was founded on the idea of his establishing an independent Government in Mexico?

Answer. I so understood it.

*Mr. Hay.* Did the prisoner, during any of these conversations, speak of any commercial speculations in which he, individually, or any of his friends, had an interest?

Answer. He spoke of the settlement of Western lands, from which produce might be carried down the waters of the Mississippi.

*Mr. McRae.* Were the remarks which he made on your relation to the navy calculated to fill your bosom with resentment against the Government?

Answer. My bosom was already full enough, but certainly Mr. Burr spoke in concert with my feelings.

*Mr. Hay.* Could an expedition at sea be made as effectually against La Vera Cruz from any other port in the Western country as New Orleans?

Answer. New Orleans would be a proper place for preparing an armament, but no vessel of burden could sail from that place; the expedition might be carried on more conveniently from some port of the Atlantic States; but in the Western country there is no port better than New Orleans.

*Mr. Parker*, (one of the jury.)—Did you understand for what purpose the two couriers were sent by Colonel Burr to General Wilkinson?

Answer. I understood that there was an understanding between them about the Mexican project.

*Mr. Martin*. Are there not preparations now making in Philadelphia, in contemplation of a war with England?

Answer. In New York there are.

*Mr. Burr*. Is it not a common thing in England to make such preparations?

Answer: Yes, in expectation of a war.

*Mr. McRae*. And when they make preparations, they do it openly?

Answer. Yes; it is no secret.

Question. Have you heard any person spoken of as intended for the commander of the vessels building in New York?

Answer. No.

*Mr. Botts*. Can ships be built secretly? can they be built in a corner of a room?

Answer. No.

#### *Evidence of Peter Taylor.*

*Mr. Hay*. This witness will directly prove the connexion of Mr. Burr with Mr. Blannerhasset, and his connexion with the crime itself.

*Peter Taylor*. The first information I got upon this subject was from Mrs. Blannerhasset, when Mr. Blannerhasset and Mr. Alston were gone down the river. The people got much alarmed about this business, and Mrs. Blannerhasset sent me to Lexington after Mr. Blannerhasset, with a letter to prevent Colonel Burr from coming back with him to the island; I went through Chillicothe, but I did not find Mr. Blannerhasset there, and I then went on to Cincinnati; my orders were to call on Mr. John Smith; I called at Mr. Smith's store, where I saw his son; I asked if his father was at home; he said yes; I then informed him that I wished to speak to him; his son went and told him a man wanted to see him. When he came out, I inquired for Colonel Burr and Blannerhasset, to see whether he could give me any account of them; he allowed he knew nothing of either of them; that I must be mistaken; this was not the place; I said no, this was the right place—"Mr. John Smith, storekeeper, Cincinnati;" says I "do not you recollect a young man who came here some time ago for Colonel Burr's top coat;" (great coat!) I said—"Sir, I have lived with Mr. Blannerhasset for three years."

When Mr. Smith heard me talk so, he took me up stairs to talk with me. He wanted to know the news our way; I told him how the people had got alarmed; he wanted to know what was passing; I told him that, from the information I had got from Mr. Blannerhasset, the people were going to make a new settlement of lands; that was all I knew; he seemed surprised; he asked what was said about General Wilkinson; I said I knew nothing about it; he asked me if I would carry a letter from him to Blannerhasset; I told him I would carry any thing, so it was not too burdensome: so he sat down and wrote a letter. He asked whether I wished to drink, for he had chastised [charged] me not to go to any tavern, lest the people should be sifting me with their questions; I drank, and then he showed me a tavern, and told me to go to get my horse fed by the hostler, but not to go into the house; I asked him where I should find Colonel Burr and Blannerhasset; he said he expected they were at Lexington, at the house of a Mr. Jourdan; he gave me the letter, which I carried. When I got to Lexington, it was Saturday about one o'clock; Mr. Jourdan happened to be in the street and knew me; he said: "Peter, your old master is not in town;" he told me so before I asked him; but, he said, he expected him either that night or to-morrow early. He inquired what was the news in our parts, and I told him; I asked him what I was to do with my horse; he said that he was to be put at the livery stable; he then went up stairs to Colonel Burr, as I supposed; he came down and beckoned me in; he then went up stairs and showed me what room to go in; when I went into the room, there was Colonel Burr. Colonel Burr wanted to know what was the news in our parts; I began to tell him that my business was to prevent Colonel Burr from going back to the island.

Question. Did you not know Colonel Burr at that time?

Answer. I did not; he had been on the island three times, but I was sick and did not see him. When I told Colonel Burr that, says he "I am the very man involved in this piece of business, and you must tell me all you know;" I said, "if you come up our way, the people will shoot you." I told him it was my sincere opinion that it was not safe for him to come up our way; I told him that I had heard several declare that they had rather shoot him than let it alone; he seemed surprised, and wondered what the people had got in their heads; I told Colonel Burr what excuses I had made for him before; I told them he was going on a great land speculation, but the people said all that was a fib, and that he had something else in his head.

Then Colonel Burr asked me what letters I had: I said two—one was from Mrs. Blannerhasset, and the other from John Smith, of Cincinnati; the letter from John Smith he allowed was for him, and asked me if I was willing he should open it; I told him I supposed it made no difference between him and Blannerhasset, and he might, and handed it to him. He broke the seal open, and showed me that there was a letter inside for himself; he said, See, what I told you was right, and, after some talking, I asked him whether I was at liberty to go down stairs; I went down, and left the opened letter with him. I then went to Mr. Jourdan and asked him whether I was to stay at his house, or go to a tavern; he said I was to go a tavern, and he would pay for me. Mr. Jourdan wished me to go the next day to Millersburg after the saddle-bags left there by Mr. Blannerhasset; I went, and left Mrs. Blannerhasset's letter with Mr. Jourdan, expecting Blannerhasset to get there before me; I returned on Monday by one o'clock, and there Mr. Blannerhasset was come, and preparing to go home. We started, and got ten miles that night; we stopped at a tavern; I went to see after the horses, and he went into the house; there were people drinking in the house, who wanted to know his name; he told them his name was Tom Jones; he came out and told me the people in the house had asked, and he had told them his name was Tom Jones, and I must mind and make no mistake, but call him Jones too: so he passed by the name till he got to the Mud Licks. He then told me he was known there, and I must call him by his own name.

Question. When did these things happen?

Answer. All this was in October, 1806, I believe.

He then began, at every tavern that he came to, to inquire for young men—good orderly men—that would be conformable to order and discipline, and would find themselves in rifles and blankets; he allowed that Colonel Burr and he, and a few of his friends, had bought eight hundred thousand acres of land, and that they wanted young men to settle it; he said he would give any young man who would go down the river one hundred acres of land, plenty of grog and provisions while going down the river, and three months' provisions after they had got to the end; every young man was to carry his own rifle and blanket; I agreed to go myself, if I could carry my wife and family, but he said he must have further consultation upon that. As we rode together, I began to think, and asked him what kind of seed we should carry with us? He said we did not want any, we should find every thing where we were going.

*Mr. Wirt.* Of what occupation were you on the island? *Answer.* A gardener.

*Mr. Wirt.* I put this question that the jury might understand his last observation.

I urged that subject to him several times; at length he made a sudden stop and said: "Peter, between you and me, we are going to take Mexico, one of the finest and richest places in the whole world;" he said that Colonel Burr would be the King of Mexico, and that Mrs. Alston was to be the Queen of Mexico, whenever Colonel Burr died; he said that Colonel Burr had made fortunes for a great many in his lifetime, but nothing for himself, but now he was going to make something for himself; he said that he had a great many friends in the Spanish territory; two thousand Roman Catholic priests were enlisted in his corps; that those priests, and the societies which belonged to them, were a strong party; that the Spaniards, like the French, had got tired of their Government, and wanted to swap it; he told me that the British were also friends to this expedition; and that he was the very man who was to go to England on this piece of business for Colonel Burr; that he had been a friend to Colonel Burr in this business, and had assisted him more than any other man in America.

He asked me if I would not like to go; I said I should certainly like to see my friends there. I then asked him what was to become of the men who were going to settle the lands he talked about? Were they to stop at the Red River, or to go on? He said, You'll see how I'll fix them, when I get them far enough down the river. If they did not conform to order and discipline, he swore by God he'd stab them. I was astonished; I told him I was no soldier, and could not fight. He said it made no odds, he did not want *me* to fight; he wanted me to go and live with Mrs. Blannerhasset and the children, either at Natchez or some other place, while he went on the expedition. I talked to him again, and told him the people had got it into their heads that he wanted to divide the Union. He said Colonel Burr and he could not do it themselves. All they could do was to tell the people the consequence of it. He said the people there paid the Government upwards of \$400,000 a year, and never received any benefit from it. He allowed it would be a very fine thing if they could keep that money among themselves, and make locks, and build bridges, and cut roads. About two weeks after I got home, he sent me to Dr. Bennett's of Mason county, with a letter. He wanted to know if Dr. Bennett wouldn't sell him the arms belonging to the militia, if he could sell them and keep himself out of danger; if he could, he'd give him a draught upon his friend in Kentucky for payment; if he could not sell them without putting himself in a hobble, he must send him word where they were kept, and he would come and take them away in the night. I was not to give the letter to Dr. Bennett until the doctor promised to deliver it back for me to burn it, for Mr. Blannerhasset told me to do so, and said it contained high treason. I did as he had told me, and burnt it. The doctor said he was unacquainted with the plot, and could not join in it.

*Questioned by the prosecution.*

*Mr. Hay.* When did the boats leave the island?

*Answer.* It was intended to sail on the 6th of December; but they did not come till 10th, (Sunday,) and they sailed on the Wednesday night following.

*Question.* How many boats were there? *Answer.* Four.

*Question.* How many men from the boats came ashore? *Answer.* About thirty.

*Question.* What did the men do who did not belong to the boats?

*Answer.* Some were packing meat, and some were packing other things.

*Mr. McRae.* Who went off on Wednesday night?

*Answer.* Mr. Blannerhasset and Mr. Tyler, and the whole of the party.

*Question.* At what time of the night? *Answer.* About one o'clock.

*Question.* Did all that went down to the island go away?

*Answer.* All but one, who was sick.

*Mr. Hay.* Had they any guns?

*Answer.* Some of them had. Some of the people went a shooting, but I do not know how many there were.

*Mr. J. M. Sheppard,* (a jurymen.) What kind of guns—rifles or muskets?

*Answer.* I do not know.

*Question.* Were there any pistols? *Answer.* I saw none but Blannerhasset's.

*Question.* Was there any powder or lead?

*Answer.* Both: I saw some powder in a long small barrel like a churn, but I was so employed that I could not notice particularly. Some of the men were engaged in running bullets, but I do not know how many.

*Mr. McRae.* Why did they leave the island at that hour of the night?

*Answer.* Because they were informed that the Kanawha militia were coming down there.

*Question.* Did you carry some boxes to the boats?

*Answer.* I carried a half bushel of candles and some brandy; several boxes were carried, and a great many things of which I knew nothing.

*Mr. Hay.* Were you on the island when they went off?

*Answer.* Yes: they held a council at the foot of the pier, to determine which was the best way to go. Mr. Blannerhasset said, if he went in a canoe, he would be an easy prey. I said to them, "best stick together." And so they determined to stick together. They went off in great haste.

*Question.* Why did they go in a body? *Answer.* I suppose for security.

*Cross-questioned.*

*Mr. Wickham.* You saw General Tupper and Mr. Woodbridge that night?

*Answer.* Yes; as I went from the boats to the house.

*Question.* Was Colonel Burr there? *Answer.* No, I did not see him.

*Question.* Did you understand whether he was in that part of the country at that time?

*Answer.* I understood not.

*Substance of the evidence of Peter Taylor, on the 9th of September, upon the trial for a misdemeanor.*

*Mr. Hay* then called up Peter Taylor, (H. Blannerhasset's gardener.) He stated that there were about thirty of the party who landed on the island; that Comfort Tyler, as he had understood, had had the direction of them before they arrived there; that Blannerhasset and Love were the only persons whom he recollected that they had taken with them from the island; that he had seen a few arms, and also powder, bullets, and provisions; he recited his interview with Doctor Bennett, (whom Mr. Hay stated had departed from Richmond, in spite of all his admonitions;) he repeated, in the most consistent manner, Blannerhasset's communications to him, how they were going to take Mexico, and make Burr its king, and his daughter to be his successor; as also his conversation with Aaron Burr at Lexington.

He stated that he saw no appearance of any preparations to settle land; that Blannerhasset, it was true, had originally held out the gift of a certain number of acres to every lively and orderly young man who would accompany him without their families or women, but that he afterwards had avowed the capture of Mexico as the object of these preparations.

TUESDAY, September 15.

Peter Taylor was then interrogated about the corn purchased by Blannerhasset on the island. He said that this corn was kiln-dried on the island, then carried to the mills on the Muskingum and on the Kanawha; that the meal was brought back to the island, but he was not certain whether any had been carried away by Blannerhasset's party.

HENRICO COUNTY, *to wit:*

This day General John Morgan, of Washington county, in the State of Pennsylvania, personally appeared before me, Thomas H. Prosser, a justice of the peace for the county of Henrico aforesaid, and made oath, that the annexed statement of his evidence, as given in the circuit court of the United States for the fifth circuit and Virginia district, upon an indictment in the case of the United States against Aaron Burr for treason, which is contained in the third and fourth columns of the second page of "The Virginia Gazette, and General Advertiser," No. 1491, of Vol. XXI, is correctly printed, except as to the variations hereafter mentioned, viz: In the twelfth line from the bottom of the third column and second page, instead of the word "things," read "subjects." In the eighth line of the same column and page from the bottom, after the word "fellows," insert "under arms, or embodied."

In the twenty-ninth line from the top of the fourth column, and second page, between the words "Bradford" and "lived," insert "formerly."

In the sixty-ninth line from the top of the same column and page, after the word "rent," read "interview."

In the seventy-seventh line from the top of the same column and page, after the word "recollect," add "my impression was, that he thought him a fine fellow."

In the ninetieth line of the same column and page, from the top, for "return," read "returned."

In the one hundred and tenth line from the top of the same column and page, instead of "T. E." insert "Thomas B. Hulings."

The said General John Morgan also made oath, that his evidence, stated in the same paper, No. 1492, Vol. XXI, in the second column and second page, is correctly printed with the following variation, viz:

In the forty-eighth and forty-seventh lines from the bottom, instead of "I'll be damned, sir, if you could take the little town of Cannonsburg," read "By God, sir, you cannot take our little town of Cannonsburg."

And that the evidence contained in the said two papers, thus corrected, contained the truth.

JOHN MORGAN.

Given under my hand this 24th day of September, 1807.

THOMAS H. PROSSER.

*Evidence of General John Morgan.*

WEDNESDAY, August 19.

Some time in August last, about this time twelve months, my father put a letter into my hands, signed Aaron Burr, in which he said that himself and his friend, Colonel Dupiester, would dine with him the following day. My father requested me and my brother to go and meet Colonel Burr, which we did, about seven miles distant. After a few words of general conversation, Colonel Burr observed to me, that the Union could not possibly last, and that a separation of the States must ensue in four or five years, as a natural consequence. Colonel Burr made many inquiries of me, relative to the county of Washington; particularly to the state of its militia; the discipline, arms, accoutrements, and the character of its officers. These conversations continued some time, besides other subjects which I cannot recollect, because I did not expect to be called upon in this way. After travelling some miles we met one of my workmen, a likely young man. Colonel Burr said he wished he had ten thousand such fellows under arms or embodied. At my father's table, during dinner, Colonel Burr again observed that the separation of the Union must take place inevitably, in less than five years. (Shall I give the answers that were made? *Mr. Wirt*. Perhaps it may serve to connect your narrative better.) I recollect that it was my father who answered him, God forbid! Colonel Burr, in the course of conversation, observed, that, with two or three hundred men, he could drive the President and Congress into the Potomac; and with four or five hundred men he could take possession of the city of New York. After dinner, he walked with me to my brother's mill, and, in course of the walk, spoke of war and military men; asked me if either of my brothers had a military turn. On our return, after I had introduced him to my brother, Colonel Burr said he wished he could see him at the head of a company of grenadiers; he was a fine, stout looking fellow. These circumstances induced me to speak to my father. I warned him to beware of Colonel Burr; told him that in the course of that night Colonel Burr would seek an interview with him, and that I suspected something was going on, I knew not what. The next morning I rode with Colonel Burr to the town of Washington, about nine or ten miles. We had much conversation, principally on military affairs and on the state of the militia. Colonel Burr urged the necessity of attending to military discipline. He told me, that in New York, the exertions of a single person (Mr. Swartvout) had produced a great effect. He asked me if I thought I could raise a regiment in Washington county, or whether I could raise one with more facility in New Jersey. [*Mr. Wirt*. You have lived in New Jersey? - Answer. Yes.] At Washington we took a walk, Colonel Burr, Colonel Dupiester, and myself, down the town; and I pointed out to him the house where Mr. Bradford formerly lived, who had been at the head of the western insurrection. He inquired about Mr. Bradford. He was at Baton Rouge, as I believed. I told him his son was in town, and Colonel Burr expressed a wish to see him. Colonel Burr mentioned to me that he had met with several who had been engaged in the western insurrection; and particularly a major in the Northwestern Territory (whose name I do not recollect,) who had told him, that if he was ever engaged in a similar business, he pledged himself it should not end without bloodshed. He said that he was a fine fellow. It was on these circumstances that I advised my father to apprise the President of the United States that something was going forward.

*Question by the prosecution.*

*Mr. Hay*. When Colonel Burr left that part of the country, what course did he take?

Answer. I knew he went to the town of Washington, and from there to Wheeling, as I supposed.

*Mr. Wirt*. Were the subjects of a separation of the Union and military matters predominant in the conversations of Colonel Burr?

Answer. I have stated them as they occurred; our conversations were general and mixed, but these seemed to be the leading topics.

*Mr. Wirt.* Were the conversations ever long on either of these subjects?

Answer. Never long; they chiefly occurred in a rapid ride.

*Mr. Hay.* Do you recollect any opinion expressed by the accused concerning Bradford's capacity for such an undertaking as the western insurrection?

Answer. I recollect it very well; He said that Bradford was very incompetent to an enterprise of that kind; and that in such a case there ought to be the utmost confidence in the leader.

*Mr. Parker,* (one of the jury.) Which of the Bradfords did he mean, the elder or the younger?

Answer. The elder; he was speaking of Bradford who headed the western insurrection.

*Mr. McRae.* Did he name any particular person as qualified for such an enterprise? Answer. No.

*Mr. Wirt.* At what time in the month of August was this interview?

Answer. I think between the 20th and 25th.

*Mr. Parker,* (one of the jury.) Did Colonel Burr make any further remark when he spoke of the major who said that if he were engaged in another insurrection it should not end without bloodshed?

Answer. No: he spoke of him as a fine fellow.

Question by same. Did he approve or condemn the sentiment?

Answer. I do not recollect; my impression was, that he thought him a fine fellow.

#### *Cross-examined.*

*Mr. Burr.* You spoke of a letter from me to your father; do you know whether he had written me, some time before, a letter of invitation to his house?

Answer. Yes: he had written about a year before to you at Pittsburg; that letter is yet unopened in my brother Tom's bureau; you had left that place before the letter arrived, and he did not know of your being in the Western country on your last visit till he received your note.

Question. Did your father communicate to you our night's conversation? Answer. Yes.

Question. Before we rode? Answer. No: not till I returned from Washington.

Question. Do you recollect of my having made several inquiries also about the seminaries of learning, and of one that was projected in your neighborhood, and of my suggesting the necessity of encouraging it?

Answer. You spoke much, too, on that subject.

Question. Was there any thing serious in my conversation about the major?

Answer. Nothing particularly serious; you mentioned the incident.

Question. Did I seem to know any thing of Bradford before you told me?

Answer. You seemed to know the circumstances of the Western insurrection very well.

Question. Did you not tell me that Bradford was a noisy sort of a demagogue?

Answer. I did not: I have no objections to give my opinion of Mr. Bradford; I mentioned him to you as a mere lawyer.

Question. Did I seem to know that Bradford lived at Pittsburg before you mentioned it, and pointed out his house?

Answer. You did not seem to know it.

Question. Who were at dinner at your father's?

Answer. My father, mother, wife, sister, Colonel Dupiestre, Mr. T. Hulings, and my brother Tom.

*General Morgan* was then called in, at the request of the prisoner.

*Mr. Burr.* What was the situation of your father about the time of my visit?

Answer. He had lately had a fall, which had done him considerable injury.

Question. I mean as to his capacity. Did you not make apology to Judge Thilman for the state of his mind?

Answer. I did tell Judge Thilman that my father was old and infirm, and, like other old men, he told long stories, and was apt to forget his repetitions.

*Mr. McRae.* Did Colonel Burr draw a comparison between the Eastern and Western people? or what was his reply when you said you would be damned if the little town of Cannonsburg could be taken by so small a force?—What was the prisoner's reply to your exclamation?

Answer. When Colonel Burr said that with two hundred men he could drive the President and Congress into the Potomac, I must confess that I felt myself hurt, and replied, with some warmth, "I'll be damned, sir, if you could take the little town of Cannonsburg with that force." Colonel Burr replied, "Confine yourself to this side of the mountain, and it is another thing; or you are right."

*Mr. Burr.* Do you recollect that the probability of a Spanish war was mentioned?

Answer. It was a general subject of conversation.

#### *HENRICO COUNTY, State of Virginia, to wit:*

This 25th day of September, 1807, Colonel George Morgan, of Morgansey, in the county of Washington and State of Pennsylvania, appeared before me, Thomas H. Prosser, a justice of the peace for the county of Henrico aforesaid, and made oath that the annexed statement of his evidence, as given in the circuit court of the United States for the fifth circuit and Virginia district, upon an indictment in the case of the United States against Aaron Burr for treason, which is contained in the first and second columns of the second page of the Virginia Gazette and General Advertiser, No. 1,492 of Volume XXI., is as correctly printed as the said Morgan can now recollect, except as to the variations hereinafter mentioned: viz: In the 4th line of the said testimony, instead of "nephews," read "cousins" by the name "Pollock" of North Carolina, then at Princeton College, and a third by the name of "Edwards," the son of Pierpont Edwards, then of Connecticut. In the 28th line, dele "branded to me" and insert "brought." In the second line above the cross-examinations, dele the words "these gentlemen wrote a joint," and insert "wrote, or said they would write, as I requested, to the President," or perhaps to the Secretary of State.

And that the evidence contained in the said paper, thus corrected, contains the truth.

GEORGE MORGAN.

Given under my hand this twenty-fifth day of September, 1807.

THOMAS H. PROSSER.

*Cut out from a Pittsburg newspaper, called the Commonwealth, dated August 27th, 1806.*

The Hon. Aaron Burr was in this town *incog.* for several days previous to Friday last, when he departed, in company with a French or Spanish gentleman, his companion, for Kentucky. Our fellow-citizens, generally, feel anxious to know the object of Mr. Burr's journey, at this time; and as he was perfectly *taciturn* during his stay, many conjectures are afloat. We hope the Western editors will give a good account of him.



DEAR SIR:

PITTSBURG, August 21, 1806.

Being on my way to Lexington, I learn, with great satisfaction, that a road not very circuitous will take me near your door. I avail myself of the opportunity of one of my attendants, who is going forward with my baggage, to offer compliments and salutations, and to say that if this shall find you at home, I will have the pleasure of dining with you to-morrow and will take the liberty of introducing my friend and fellow-traveller Colonel Dupiester. We shall leave this after breakfast, and be with you before two.

Accept assurances of the great respect and consideration with which I am, your obedient,

A. BURR.

I beg to be recalled to the recollection of Mrs. M. and your son.

*Evidence of Col. George Morgan.*

WEDNESDAY, August 19.

Col. MORGAN, (the father of the last witness.) There has been a long acquaintance between Col. Burr and myself. He had introduced to my notice two of his nephews, by the name of ———, and a third by the name of Edwards, Pierpont Edwards. I had received many civilities from Col. Burr in New York, after these things had passed; from which I had formed such an attachment to him, that I never should have forgotten it, had not this late business taken place. About three years ago Col. Burr was under a considerable, and as I thought unjust persecution. I had then a younger son, (who is now here,) studying law at Pittsburg. I wished to make him known to Col. Burr, and wrote to invite Col. Burr to Morgansey; particularly on account of his persecution; but, in all probability, would have done so without. I enclosed the letter to my son at Pittsburg. Col. Burr, however, had left Pittsburg, before my letter reached it, and it now remains unopened in my son's scrutoire at Pittsburg. On the 24th last August I received a letter from Col. Burr, dated at Pittsburg, informing me that he should dine with me the next day. [Here *Mr. Hay* handed the letter to Col. M., who said the letter was dated on the 21st, and that he had not for some time seen it, as he had transmitted it to the President of the United States.] This letter was handed to me by a man, who called himself Count Willie. Col. Burr mentioned he had sent it by one of his attendants. I believe my son did not call on me that evening; but the next morning I informed him, if I was able I should certainly go and meet Col. Burr; and I requested him and his brother to do it, with a letter of introduction explanatory of their names and their intention. What conversation took place between him and my son I shall not state.

When Col. Burr and myself walked out together, he mentioned that Col. Dupiester was one of the first military characters of the age. I shall pass over the conversation and incidents during dinner. After dinner I spoke of our fine country; I observed, that when I first went there, there was not a single family between the Allegany mountain and the Ohio; and that by and by we should have Congress sitting in this neighborhood, or at Pittsburg. We are allowed to sport these things over a glass of wine; but I have no doubt that it will be the case. "No, never," said Col. Burr; "for in less than five years you will be totally divided from the Atlantic States." The colonel entered into some arguments to prove why it would and should be so. The first reason was, the produce of the sale of the Western lands being carried to the Atlantic States, and that the people to the West should not be tributary to them. He said that our taxes were heavy; and demanded, why we should pay them to the Atlantic parts of the country? By this time, I took an opportunity to observe, God forbid that any such change should take place, at least in my time! This observation terminated the conversations as to that particular point. Next, Col. Burr spoke of the weakness and imbecility of the Federal Government. [*Mr. Wirt*. Who started that subject? Answer. Col. Burr, as one of the reasons for a division.] I do not recollect saying any thing on the subject; but it struck my mind very forcibly that that all was not right. He said, with two hundred men he could drive Congress, with the President at its head, into the river Potomac; or that it might be done; and he said, with five hundred men he could take possession of New York. What struck me was, that he appealed to Col. Dupiester if it could not be done, and he bowed assent. There was a reply made to this, by one of my sons, that he would be damned if he could take our little town of Cannonsburg with that force. Some short time after this, Col. Burr went out from the dining room to the passage, and, as he went out, he made a motion to my son Thomas, who did not perceive it, and no person could interpret what it meant; however, as he went out, he beckoned to him. They then walked out together, and had some conversation; what that conversation was, I shall leave to my son himself to tell. Soon after, a walk was proposed by some of the company to my son's mill. The observations made by the ladies as to the probable designs of Col. Burr, it is unnecessary to mention; but our women are all democrats. When they returned, my son told me to be cautious, and said, "You may depend on it, Col. Burr will this night open himself to you; he wants Tom to go with him." After the usual conversation, Col. Burr went up stairs, and, as I thought, to go to bed. My daughters went to bed. My wife was reading to me, as is usual when the family have retired. About 11 o'clock, and when I thought he had been asleep an hour, she told me that Col. Burr was coming down, and, as she had heard my son's conversation, she added, "Now you'll have it." Col. Burr came down with a candle in his hand; Mrs. Morgan immediately retired. The colonel took his seat by me; he drew from his pocket a book, which looked like a memorandum book. After looking in it some time, he asked me if I knew a Mr. Vigo, a Spaniard, at Vincennes. I replied, yes; I knew him, I had reasons to know him; one was, that I had reason to believe that he was deeply involved in the British conspiracy in '88, as I supposed; the object of which was to separate the States, and which Gen. Nevill and myself had assisted to suppress. I called it a nefarious scheme to aim at the division of the States; I was careful to put great emphasis on the word *nefarious*. Col. Burr, finding what kind of man he had to deal with, suddenly stopped, thrust into his pocket the book which I saw had blank leaves in it, and retired to bed. I believe I was pretty well understood. The next morning Col. Burr and Col. Dupiester went off before breakfast, without my expecting it, in company with my son; and from that time to this I have not seen him but in this place. My son, on his return, gave it as his opinion (his mother and I having already made up ours) that I should apprise the President of our impressions, and point out a mode by which Col. Burr might be followed step by step. [*Mr. McRae*. In your conversation at the table, after your son had said he would be damned if your little town of Cannonsburg could be taken with such a force, do you recollect that the prisoner drew any comparison between the Eastern and Western people? Answer. Yes, perfectly; he said, "keep yourself on this side of the mountain, and you'll never be disturbed;" by which I understood him to mean disunion.] There is one more circumstance which I must state to the court. The Sunday after, the judge of our circuit court dined with me. I requested him to mention the circumstances to Gen. Nevill, and invited him the following Sunday to dinner, with Judges Thilman and Roberts, for I had business of the first importance to communicate. They did not dine with me on that day, but they did on the following Sunday. These gentlemen wrote a joint letter to the President, informing him of my communications to them.

*Cross-examined.*

*Mr. Burr.* Are you certain that I came down in the night?

Answer. Yes. Mrs. Morgan said, Col. Burr is coming down—now, you'll have it.

Question. What sort of a book was the one I had in my hand? Was it bound?

Answer. It was not so large as this; I do not recollect whether it was bound, as it would not be very polite in me to take particular notice of such things, when gentlemen are at my own house.

Question. When you spoke of a nefarious plan, to what transaction did you allude?

Answer. To Vigo's plan, which I conceived was intended to dissever the Union.

Question. Did the ladies take any part in the conversation at dinner? Answer. They *felt* it.

Question. Who were present when Judge Thilman saw you?

Answer. Gen. Nevill and Judge Roberts.

Question. Was there any other from Pittsburg? Answer. None.

Question. Your conversation was then jocular about the moving of Congress to Pittsburg?

Answer. I spoke in a jocular manner; but I was seriously of that opinion, and am so still.

Question. Did not some person at table say a movement of that kind would produce a separation of the Union?

Answer. I do not recollect.

Question. Did you not once live on the Mississippi?

Answer. I did, with the approbation of my country.

Question. Where was it? Answer. At New Madrid.

Question. On which side of the Mississippi? Answer. The west.

Question. In the Spanish territories?

Answer. With the approbation of the Spanish Government.

Question. How long did you live there?

Answer. About forty days. I went from that place to New Orleans, where I detected a British spy.

Question. In what year? Answer. In '88.

*Evidence of Jacob Allbright.*

WEDNESDAY, August 19.

*Mr. Hay.* Our object is to prove by *his* testimony, the actual assemblage of men on Blannerhasset's island. It goes, of course, to prove directly the overt act.

JACOB ALLBRIGHT. The first I knew of this business was, I was hired on the island to help to build a kiln for drying corn; and, after working some time, Mrs. Blannerhasset told me that Mr. Blannerhasset and Colonel Burr were going to lay in provisions for an army for a year. I went to the mill where I carried the corn to be ground after it had been dried. I worked four weeks on that business in the island; last fall, (or in September,) after Blannerhasset had come home—he had been promising me money for some time; I stepped up to him; he had no money at the time, but would pay me soon. Says he “Mr. Allbright, you are a Dutchman.” But he asked me first and foremost, whether I would not join with him, and go down the river. I told him I did not know what they were upon; and he said “Mr. Allbright, we are going to settle a new country;” and I gave him an answer, that I would not like to leave my family; he said he did not want any families to go along with him; then he said to me “You are a Dutchman, and a common man; and as the Dutch are apt to be scared by high men, if you'll go to New Lancaster, where the Dutch live, and get me twenty or thirty men to go with us, I will give you as many dollars.” I went home then, and gave him no answer upon that. In a few days after, a number of boats came and landed at the island; the snow was about three inches deep, and I went out a hunting; I was on the Ohio side; I met two men; I knew they belonged to the boats, but I wanted to find out; and they asked me whether I had not given my consent to go along with Blannerhasset down the river. As we were talking together, they named themselves Colonel Burr's men, belonging to the boats landed at the island. When they asked me whether I had not consented to go down with Blannerhasset, I put a question to them; I told them I did not know what they were about; and one of the gentlemen told me they were going to take a silver mine from the Spanish. I asked the gentlemen whether they would not allow that this would raise a war with America; they replied no, and said that as there were but a few of them, if they went with a good army, they would give it up, and nothing more would be said about it. I had all this conversation with two of the men; these men showed me what fine rifles they had; then I went to the island, and Blannerhasset paid me off in Kentucky notes; people, however, did not like these notes, and I went over to Virginia to get them changed; I got two of the notes changed, and one, a ten dollar note, was returned on my hands. I went to the island again the day the proclamation came out; but before I went to Blannerhasset's house, I heard he was not at home, but at Marietta; I went to the Virginia side, where I met three other men belonging to the boats with three complete rifles; they made a call upon me to take them to the island in my canoe, and I excepted to it, but afterwards I carried over the third man, who stood close by my canoe when I came down to it. After being some time on the island, I went down to the four boats; Blannerhasset was not at home yet, and I saw some of the boat people shooting at a mark; they had a fire between the bank and the boats; I went up to the house, and Blannerhasset came home; he seemed very much scared; one of the men came up to ask him for something, and he told him “Don't trouble me, I have trouble enough already.” He went up to his chamber, and I saw no more of him; I asked an old gentleman to go up to his chamber and change my note for silver; he did go and brought me silver. By and by I heard that they were going to start that night; thinks I “I'll see the end of it.” This was the night of the very day that Blannerhasset got back from Marietta; he got back before night; when night came on, I was among the men, and also in the kitchen, and saw the boatmen running bullets. One of them spoke out to the others, “Boys, let's every one of us mould as many bullets as we can fire twelve rounds.” After that, I saw no more till after twelve o'clock at night; then Blannerhasset came down from the chamber and called up some of his servants; he had four or five trunks; there were not trusty hands enough to carry them to the boats, and some person called after my name, and asked me to help them; and I carried one of the trunks and moved along with them; when we got down, some person, I don't particularly know, but think it was Blannerhasset himself, asked me to stand by the trunks till they were put in the boats. When the last of them went off, I saw men standing in a circle on the shore; I went up to them; perhaps they were five or six rods from the boats. The first thing I heard was, their laying plans how Blannerhasset and Comfort Tyler should get safe by Gallipolis; one Nahum Bent was called forward, and, when he came, Blannerhasset asked him whether he had not two smart horses; N. Bent answered no, he had but one; then Blannerhasset told him to go to Captain Dennie and get his sorrel horse; and N. Bent told him that the sorrel horse had no shoes on; and Blannerhasset said the roads were soft and would not hurt the horse. Blannerhasset told N. Bent to meet him and C. Tyler with the horses somewhere about Gallipolis; Bent inquired how he was to find him out; should he inquire for him? “No.”

"Have you no friends there?" "No." Mrs. Blannerhasset then came forward, and she told Blannerhasset and C. Tyler that they must take a canoe and get into it before they got to Gallipolis, and fall down the stream of the Ohio, for nobody would mind two people going down the stream; she said she would pay for the canoe; N. Bent was told to meet them above Gallipolis about daybreak, and then they might go round Gallipolis. Then a man by the name of Tupper laid hands upon Blannerhasset, and said, "Your body is in my hand, in the name of the commonwealth," or such a word as that. As quick as Tupper made that motion, there were seven or eight muzzles levelled at him. Tupper looked about him, and said, "Gentlemen, I hope you will not do the like." A man next to me, about two yards off, who had a shot gun said, "I'd as leave as not." Tupper then changed his speech, and said he wished him luck, and safe down the river. Tupper before told Blannerhasset he should stay and stand his trial; but Blannerhasset said no; the people in the neighborhood were coming down next day to take him, and he would go. Next day after I saw the Wood county militia going down. The people went off in the boats that night between twelve and one o'clock.

Question. All?

Answer. All but one, who was a doctor. All had some kind of arms.

Question. How many were there, in all?

Answer. About twenty or thirty, in all, to the best of my knowledge, but I did not count them. All the men, however, were not on shore; some were in the boats; every man I saw had arms of some sort.

Question. At what time of the year was this?

Answer. I do not recollect the particular time; I recollect the year, but not the month.

Question. Do you recollect whether it snows in that climate in September?

Answer. I do not recollect; I know not the month, only the year; it was last fall.

*Examined by the counsel for the prosecution.*

*Mr. Wirt.* Had you seen Colonel Burr on the island? Answer. Yes.

Question. Was he there before Blannerhasset went to Kentucky? Answer. He was.

Question. Under whose command were the boats?

Answer. Comfort Tyler and Mr. Knox were the commanders, I believe.

Question. Did the boats quit the island at the time of hearing about the proclamation? Answer. Yes.

Question. Did the county militia go there next day? Answer. Yes.

*Mr. Burr.* Did you see Peter Taylor there that night? Answer. I did.

Question. Did you hear him converse with Blannerhasset or any other person?

Answer. I do not recollect.

*Mr. Wirt.* How long did Aaron Burr remain on the island?

Answer. I do not recollect.

Question. How long was he there before the arrival of the boats?

Answer. About six weeks.

*R. E. Parker,* (one of the jury.) How long was it from Colonel Burr's leaving the island, to Blannerhasset's leaving it?

Answer. I cannot tell; I did not take particular notice; I do not live on the island.

Question. How long did the boats continue there?

Answer. I don't know.

*Cross-examined.*

*Mr. Burr.* Do you know General Tupper? Answer. Yes.

Question. Is that the person? Answer. Yes.

Question. When the muskets were levelled at him, did they seem to have a mind to hurt him?

Answer. Yes; a gentleman near me said, "I'd as lieve shoot as not."

*Mr. Burr.* You said differently on a former occasion; don't you recollect saying before, it looked like exercising?

Answer. I do not.

[A desultory conversation here ensued between the opposite counsel. *Mr. Burr* professed that it was his intention to degrade the witness by invalidating his credibility. The cross-examination proceeded.]

*Mr. Burr.* Have you not been examined before? Answer. Yes.

Question. By whom? Answer. By Mr. Jackson.

Question. Had he not printed questions in his hand? Answer. He had a paper in his hand.

Question. Did he set down your answers? Answer. Yes.

Question. How long after the guns were pointed at General Tupper, before the men went to their boats?

Answer. I do not recollect; any thing that I am not certain of I cannot speak to.

Question. Was Mrs. Blannerhasset there when the guns were pointed? Answer. Yes.

Question. Was Tupper inside of the circle? Answer. Yes.

Question. Was she, too? Answer. I don't recollect.

Question. Did you see Mr. Woodbridge there? Answer. I don't know him.

Question. How long did you work with Blannerhasset? Answer. Six weeks.

Question. At what time was it you saw me there? Answer. I do not recollect.

*Mr. Burr.* The counsel for the United States know, I presume, this circumstance, and have testimony to ascertain it.

*Mr. Hay.* We have not, as far as I am informed.

*Mr. Burr.* I will state that it was on the last day of August and first of September that I was on the island.

*Mr. Anthony,* (one of the jury.) Did you see any powder? Answer. No.

*Mr. Hay.* Were you in the boats? Answer. I was not.

*Mr. Burr.* Where does General Tupper live? Answer. In Marietta.

Question. Does he not belong to the State of Ohio? Answer. Yes.

Question. When did you first know him? Answer. Last fall.

*Mr. Burr* then asked the clerk for the statement which he had taken of Allbright's testimony, when it was submitted to the court on a former occasion, on the motion for holding Colonel Burr to higher bail. The clerk handed him the copy, and the prisoner proceeded with the examination:

You said before, that the men who raised their muskets against General Tupper were not in earnest?

Answer. That was a piece of my opinion. I did not know whether they were in earnest; as there was no quarrel among them, and no firing afterwards.

*Mr. Burr.* I beg the court to call on the prosecution for the deposition of this witness, taken before John G. Jackson.

*Mr. Hay.* Can gentlemen, when they please, thrust their hands into my portfolio?

*Chief Justice* was not satisfied that the court had a right to call for the affidavit.

*Mr. Wickham* said it was obvious that there were certain suspicions attached to the credibility of the witness; and that it was their desire to compare his present testimony with his former affidavit.

*Mr. Hay* objected that *Mr. Jackson* might not have taken down the testimony of the witness in his language, but couched it in his own; hence there might be an apparent variation between the present evidence and the affidavit. Besides, the witness might not have recollected a great many circumstances at that moment, which have subsequently occurred to his mind since he was set to thinking upon them.

*Mr. Burr.* We have a right to coerce this paper; if gentlemen will not surrender it, I may at all events avail myself of their refusal. My object is to prove such a diversity between the statements of the witness at different times, as may destroy all faith in his recollections.

*Mr. Hay.* Then, sir, although I might retain this paper, the gentlemen are welcome to make all the use of it they can; take it. [*Mr. Hay* thereupon delivered them the paper; but no use was afterwards made of it.]

*Mr. Burr* then proceeded. Did you say that all in the circle had arms? Answer. All that I saw.

Question. How many were there in the circle? Answer. I did not count.

Question. What kind of guns had they? Answer. Rifles and shot guns.

Question. Did you see any guns with bayonets? Answer. I saw none.

Question. When did you see most arms, in the day or in the night?

Answer. I saw more of them in the day; but it was in the night that I saw most arms in their hands.

*Mr. Parker*, (a juror.) Why did you think that most of them had arms?

Answer. Because I was with them almost all night; in the day I saw some of them shooting at marks; and I saw other arms at that time lying upon the beach. From the evening, until they started, I think I saw arms enough to arm all the men who were there.

*Mr. Wickham.* Did you see them all with arms at once? Answer. No.

Question. Did you know the men who had arms? Answer. No.

Question. How, then, are you certain that you did not see the same arms at different times in the hands of different persons?

Answer. I don't know, certainly.

*Mr. Burr.* If gentlemen have now done with the witnesses as to the overt act, or when they have done, I will thank them to inform us; for then we shall have some considerations to offer to the court.

*Mr. Hay.* We have other additional testimony to offer on this very point.

#### *Examination of William Love.*

*Mr. Hay.* Were you on Blannerhasset's island?

Answer. Yes: but not there at the time when Colonel Tyler's boats arrived there; I was then at Marietta; and it was on Sunday that I went down in a skiff with two barrels of salt.

Question. How many boats were at the island? Answer. Four.

Question. How many men?

Answer. I cannot tell you; but I suppose about twenty or twenty-five, belonging to Col. Tyler's boats.

Question. Did you see any arms?

Answer. I saw the men had rifles; I know that *Mr. Blannerhasset* took away with him two blunderbusses, one pair of horse pistols, a pair of pocket pistols, and a dirk; some fuses were put in the boat, but not more than three or four.

Question. And what arms had Tyler's men?

Answer. Pistols, dirks, and rifles they brought there; but not all were armed with rifles; I know not whether they were armed with different things. Being *Mr. Blannerhasset's* servant, (that is, his groom,) I went down the river with him.

Question. Did you see Taylor and Allbright there?

Answer. I knew Peter Taylor very well, and I saw Allbright; I saw *Mr. Woodbridge* too.

Question. What time did you set sail?

Answer. We were the last to embark, and we set off between 12 and 1 o'clock; we parted with General *Tupper* in the greatest friendship.

Question. Did you see the prisoner on the island?

Answer. I never saw Colonel *Burr* on the island; I first saw him at Natchez, about two and a half years ago.

Question. What took place after you left the island?

Answer. That night was very cold; the next morning we stopped and made fires. *Mr. Blannerhasset* and Colonel *Tyler* went ashore and called the company together; and the best I could make out was, that the Governor of Ohio had issued State warrants against *Mr. Blannerhasset* and *Tyler*; and that they wanted to make their escape as fast as possible. I went down with the party to Bayou Pierre, where—

*Mr. Burr* expressed a wish that the attention of the witness should be at present confined to the transactions on the island.

*Mr. Martin.* Gentlemen had better confine themselves to facts within the district of Virginia. When they travel beyond the district, we shall have some important questions to bring forward; we shall object to the production of such evidence.

*Mr. Hay* acquiesced, for the present, in this arrangement.

#### *Cross-examined.*

*Mr. Burr.* Were not some of *Mr. Blannerhasset's* clothes put up in the boats? Answer. Yes.

Question. Were not his books put up in boxes and trunks? Answer. None, that ever I saw.

Question. How long had you lived with *Mr. Blannerhasset*? Answer. Ten or twelve days.

Question. How many guns had the party?

Answer. I do not know; a great many of the men went out a hunting.

Question. Did you see any thing like military appearance?

Answer. The men were in a state of preparation to defend themselves, because they expected people from the mouth of Kanawha to attack *Blannerhasset* and the island. And, to the best of my opinion, they did not mean to be killed without some return of the shot. It was said at Marietta that the people of Kanawha were to attack him; and I suppose they would have done the best to resist. I should be sorry if a man slapped me on my face without returning the blow.

Question. Was there no disturbance among the party on the island?

Answer. None: I did not part with my friends in England more comfortably than in parting with the people on the island.

*Mr. Parker*, (a juror.) Did you ever see all the men with arms?

Answer. I cannot say. When I got to the mouth of Cumberland river, I saw a chest of arms opened.

*Mr. Burr*. Were any chests of arms put into the boats at the island?

Answer. Not that I saw. They might have been put on board without my seeing them. Many things were put into the boats before I got in.

*Mr. McRae*. Was the chest which you saw opened at the mouth of Cumberland the same as those that you saw go from the island? Answer. No.

Question. What did you think of this business?

Answer. I understood the object of the expedition was to settle the Washita lands.

*Mr. Hay*. Were the persons who went from the island young active men? Answer. Yes.

*Mr. Burr*. What kind of looking men were they?

Answer. They looked like gentlemen, such as live upon their own property.

Question. Did they look like men used to work? Answer. They did not.

The witness added that Mrs. Blannerhasset was at the boats when they started, and that the night was rainy and freezing.

*Examination of William Love continued.*

FRIDAY, September 18.

*Mr. Hay*. Did you not go down with the boats?

Answer. I went down from Mr. Blannerhasset's island; I considered myself as his servant.

Question. Did you see any boxes of arms? Answer. I saw one chest in Mr. Floyd's boat.

Question. How many men went from Blannerhasset's island? Answer. About twenty-five.

Question. Did any more men join you on the way? Answer. None.

Question. Were there any other boats at the mouth of Cumberland?

Answer. Some, but not belonging to our party.

Question. Did any men join you before you got there? Answer. Mr. Blannerhasset did.

Question. How many boats went from the mouth of Cumberland river?

Answer. I do not recollect how many.

Question. Were there ten—were there six? Answer. There were more than six altogether.

Question. Did no one join you at the mouth of Cumberland but Col. Burr? Answer. Yes, some more.

Question. Who were in the other boats?

Answer. Mr. Floyd had joined us with three boats at the falls of the Ohio: one was loaded with provisions, and the rest had provisions likewise.

Question. How many men were in these boats? Answer. I do not recollect.

Question. Were there twenty? Answer. There were about eight.

Question. How many boats were there in all?

Answer. There were four of Colonel Tyler's; two of Colonel Burr's, from Nashville; one of Mr. Ellis's, and two of Mr. Floyd's, who joined at the falls of Ohio; and Captain Dean's boat, called the commissary boat; and one small boat of Mr. Blannerhasset's.

*Mr. Hay*. Tell me what you know about the arms; and recollect what you said before on this subject. [Counsel for the accused objected to this mode of interrogation.] How many chests of arms did you see at the mouth of Cumberland?

Answer. I saw one chest and a box with rifles; there were several other chests like that one; but whether they contained Mr. Blannerhasset's books, or the arms, I am not able to say.

Question. What was the size of the chest? Answer. Of course, as long as a musket.

Question. But of what depth?

Answer. I never measured the dimensions, but it was about as deep as my knee.

Question. Could you straddle over it with your legs? Answer. I could not.

Question. Where did you first see this chest? Answer. At the mouth of Cumberland.

*Mr. McRae*. What sort of arms? Answer. French.

Question. I mean of what form and nature—were there any bayonets? Answer. There were.

Question. Was this box opened?

Answer. It was opened by the carelessness of the people who took it in the boat.

Question. What kind of chest was it? Answer. It was rough.

Question. Were there any others of the same appearance?

Answer. Yes, but I know not their contents.

Question. Do you recollect one thing, were these chests heavy? Answer. They were.

Question. Did you see any other military apparatus; any bullets?

Answer. I did. There were some bullets in a barrel, standing at the bow of one of Col. Tyler's boats. Some said there were about six hundred in it.

*Mr. Wirt*. Did you see any powder?

Answer. I am not certain whether I saw one or two; but I am certain that I saw one tin canister of powder, that was put on board at Blannerhasset's island.

*Mr. Blannerhasset*. You said that you saw the boxes that were said to contain my books in the commissary boat; did you notice them? Answer. I did not see them.

Question. Did any one tell you that I had put arms on board? Answer. No one.

*Mr. Hay*. Did you go ashore at the mouth of Cumberland? Answer. I did.

Question. What passed there?

Answer. All the young men went up. Col. Burr wanted them to come up for him to pay his addresses to them?

Question. Well, and where did he receive them? Answer. A little piece above the bank.

Question. You did not see them form a circle? Answer. No; I was not with them.

*William Love called in again.*

MONDAY, September 21.

*Mr. Hay*. Where did you separate from the party? Answer. At Bayou Pierre.

*Mr. Hay*. State the circumstances which induced you to leave them?

Answer. The boat was going down to Natchez, and I went down in it.

Question. What boat? Answer. The boat with two horses in it.

Mr. Wirt. Did you go in Boyce's boat to Natchez? Answer. Yes.

Mr. Hay. Did you go in consequence of any direction from Mr. Blannerhasset? Answer. I did not.

Question. Why did you leave them?

Answer. I was not in the party, and I thought I might as well leave them.

Question. Was there no particular circumstance as to Mr. Blannerhasset, which induced you to do it?

Answer. Yes; when I was in the boat Mr. Blannerhasset ordered me out, for he wanted to speak to the men in my absence. I was not pleased at this, as I thought my life as sweet as the rest of them. Captain Elliott, however, came and told me I might join as a volunteer, and gave me a musket. I went over to the party; but finding that I could not keep as high as the rest of them, I got discontented, and was determined to go to Natchez.

Question. In what boat did you see the chest of arms? Answer. In Major Floyd's boat.

Mr. Wirt. Do you know any thing of the guard? Answer. I was not there at that time.

Mr. Hay. In what boat were the other chests?

Answer. I do not say they were arms, but I saw some boxes on board of Captain Dean's boat.

Mr. Wirt. Did you say you had no other reason for quitting but because you could not keep up appearances?

Answer. None.

*Cross-examined.*

Mr. Burr. Who brought you round here from New Orleans?

Answer. General Wilkinson. I was introduced to him by Sergeant Dunbaugh, before I was subpoenaed. Every one of the party whom he could find was carried to the general.

Question. Did General Wilkinson ask you any questions? Answer. He asked some.

Question. Was this before or after you were subpoenaed? Answer. Before.

Question. Did you receive any money?

Answer. I received about twenty dollars from the military agent after I was subpoenaed. Since I came here I have refunded it to the marshal.

*Testimony of Thomas Hartley.*

FRIDAY, September 18.

Mr. Hay. Were you at the mouth of Cumberland?

Answer. No, I was at Fort Massac when the boats were there; I had left it two weeks before.

Question. You were with Colonel Burr at Fort Massac?

Answer. I was. [Colonel Burr objected to this question; Fort Massac was in the Indiana Territory.]

Question. Did you descend the Mississippi, and with whom?

Answer. With Mr. Fort and Mr. Hopkins.

Question. Where were you joined by Mr. Burr's party?

Answer. Just below Fort Massac. They passed the fort in the night, and we joined them next morning.

Question. How many boats had they? Answer. About eight or ten.

Question. Do you know whether they had any arms in the boat?

Answer. I saw none but fowling-pieces.

Question. Did you descend the river with them?

Answer. Yes; I went to New Madrid by the directions of Colonel Tyler.

Question. Were you not left behind to enlist men?

[The counsel for the accused objected to the principle as well as form of this question. After some discussion, the Chief Justice decided that the principle of the question might be relevant.]

Mr. Hay. Will you state, then, for what purpose you were left behind?

Answer. All the boats landed at New Madrid on New year's day, and stayed four days. Mr. Hopkins and Mr. Wood, and myself, went before to get more men. We got two, and some more joined at Nantes-de-Grace.

Question. On what terms did they join?

Answer. At twelve and a half dollars a month, and one hundred acres of land besides.

Mr. McKae. And what services were to be performed?

Answer. They were to go to the Washita country, and also to descend to New Orleans to work on Colonel Burr's boats.

Mr. Wirt. Was Colonel Burr looked on as the head of this party? Answer. He was.

Question. Did you and these recruits understand that they were to be placed under Colonel Burr's command?

Answer. They were to be delivered to him, and to go on board his boats.

*Cross-examined by the accused.*

Mr. Burr. Who wrote the articles under which they were engaged? Answer. Mr. Hopkins.

Question. Repeat them? Answer. I do not particularly recollect them.

Question. But there was something about the Washita lands?

Answer. They were to go there after they had gone to New Orleans.

Mr. Wirt. These men who were engaged in New Madrid, did they join the detachment?

Answer. They did, at the mouth of Cole's creek.

Question. Do I understand that the sole object was the settlement of the Washita lands?

Mr. Botts objected to these questions. How could these transactions affect Colonel Burr, when they took place in his absence? The objection was overruled; and Mr. Hartley replied, that the contract declared that they were to serve for six months; that they were to settle on the Washita lands, but that they were to go on to New Orleans.

Mr. Wirt. Did you see the men assembled before they arrived at the Chickasaw Bluffs?

Answer. I did not overtake them before they got to Cole's creek.

Mr. Burr. You said they were to go to Washita and to New Orleans; were they to go in any event?

Answer. They were to go to the Washita, but the articles did not specify what business they were to follow; the only service which was mentioned was, that they were to work the boats down.

Mr. Baker objected to this kind of evidence. He contended that the best sort of evidence ought in every case to be produced; and that no paper ought to be mentioned which was not exhibited in court. The objection was overruled; when Mr. Hay asked the witness whether he was certain they were to go to New Orleans first?

Answer. I am; I recollect the articles were read, after we got into the boat.

Mr. McKae. And they were to serve six months?

Answer. They were.

*Examination of Simeon Poole.*

THURSDAY, August 20.

I never was on the island at that time, but was opposite to it; I saw boats and men there, if I mistake not, about the 10th of December. I arrived opposite the island about dusk, at the distance of about 150 or 120 yards from it. I do not know how many boats were there. I saw people walking about in the evening; and in the course of the night they built a fire; and I saw some persons by the light that appeared to be armed, and as if they were sentinels.

*Mr. Hay.* Why did you think they were?

Answer. I do not know they were, but they appeared so to my view. I did not go over that night, nor did I offer to go. Boats were passing and re-passing during the night from the island to the main land, which I supposed belonged to the island; not large boats, but small craft. I did not speak to them. I stood as much undiscovered as possible, as I was authorized by the Governor of Ohio to apprehend Blannerhasset, and I went for that purpose.

Question. Were there any indications of arrangements about a watchword?

Answer. Yes; in the evening I saw some boats cross, when a particular word was given. When the people on the Ohio side wanted to go across, they would hail for a boat; the people on the island would ask "what boat?" If the answer was "I's boat," the boat immediately put off.

*Cross-examined.*

*Mr. Burr.* How long did you stay out that night?

Answer. Perhaps till 10 o'clock.

Question. Was it not cold enough to render a fire pleasant?

Answer. It was.

Question. Is it not usual for boats to build fires on the banks when it is so cold?

Answer. It is.

The witness also stated, in the course of his examination, that there seemed to be a good many men on the island; that lanterns were passing during the night between the house and boats, as if there was business between them; that he could not say whether the persons whom he had called sentinels were not merely loitering around the fire; that he thought it likely that, if he too had used the watchword, the boats would have put off for him; that he heard several hails from the Ohio side that did not give the word, and no boat came from the island; but a boat always came when that answer was given. He himself was on the Ohio side.

*Examination of Maurice P. Belknap.*

*Mr. Hay.* Will you tell us, sir, what you saw on the island?

*Mr. Belknap.* On the evening of the 10th of December I was at the island of Mr. Blannerhasset. I arrived there between 8 and 9 o'clock in the evening. I hailed a boat, and they asked my name. Having given it, a skiff was immediately sent over, with two of Blannerhasset's servants. Having crossed, I met with Mr. Woodbridge, who returned to the house with me. When I went into the house, I observed a number of men, who, from the promiscuous view I had of them, might have been about twenty. The two or three I noticed near the door had rifles, and appeared to be cleaning them. These were all the arms I saw, for I merely passed through the room where they were. Near the place where I landed, I noticed two or three boats, and people about them. It was a dark evening, and the lights in the boats was the only circumstance which made me notice them.

When cross-examined, Mr. B. said that he had given no watchword when he hailed, but only his name. He was not certain whether any other person had crossed during the night. He saw Mr. Dana there, but does not know when he crossed.

*The testimony of Maurice P. Belknap continued.*

WEDNESDAY, September 9.

I was requested by Mr. Blannerhasset to carry a letter to John Jordan, at Lexington, Kentucky. In that letter was enclosed one to Colonel Burr. Some time previous to Blannerhasset's asking me to go to Lexington, I stated to him that I believed the expedition was an unlawful one. I showed him a letter which I had received from one of my friends, and told him I would have nothing to do with the expedition. He declared that it was not unlawful. For that reason, he read to me his letter to Colonel Burr. In that letter, he, in substance, congratulated Colonel Burr on his acquittal at Lexington, and that the grand jury did not find a bill against him; he mentioned the state of the boats building on the Muskingum, though I do not particularly recollect what he said concerning them.

[Here Mr. Belknap was asked at what time was this? He answered, about the middle of November, 1806.]

The letter mentioned likewise the quantity of provisions that he should have to take down the river with him; (I particularly recollect corn meal as one of the articles;) and also that he should probably take his family down with him. The letter was of considerable length; I cannot recollect half of it. I delivered it to Mr. Jordan. He broke the seal of the cover addressed to him, and requested me to take the enclosed one to Colonel Burr, at Frankfort. I carried it to Frankfort, and delivered it to Colonel Burr; and took a letter back from him to Blannerhasset. Colonel Burr, before he closed his letter, handed it to me; I read a part of it, and asked him an explanation of a part which I did not understand. He then took it and read to me the whole, as I supposed. The substance was, that he thanked Mr. Blannerhasset for his exertions in preparing the boats; he stated he should probably leave that place in eight days for Nashville; that he should probably go down the river before Blannerhasset; that he was glad to hear that his family was going down; and that he would procure for them a comfortable settlement at Natchez or at New Orleans, until they could be better situated on the Washita; he requested Blannerhasset to make all possible speed, as the probability was that the river would close soon.

*Examined by the counsel for the United States.*

*Mr. Hay.* Do you recollect that he stated any other reasons? Answer. No.

Question. Did you carry any verbal instructions?

Answer. Yes; Burr requested Blannerhasset to have the boats in the day time to carry a white flag, and in the night a lamp.

Question. Believing, when you were first informed of this expedition, that its object was lawful, had you not acceded to it? Answer. Yes.

Question. Supposing its object was proper and lawful?

Answer. Yes; Mr. Blannerhasset said the officers of Government knew and approved of it.

*Mr. McRae.* Did he mention the object of the enterprise?

Answer. He stated that he expected there would be a war with Spain; and, on that event, those who went down the river would join the regular army, and go against the Spaniards. If there was no war, they would then make a settlement on the Washita. He mentioned several persons to me who had joined it; among the rest he named General Eaton and Mr. Gallatin; he named General Wilkinson too.

*Mr. Wirt.* Did you go down with him? Answer. I did not.

Question. What prevented you?

Answer. On my return, I found in the post office a letter for me from young Mr. Danielson, General Eaton's son-in-law, stating the substance of General Eaton's deposition. I repeated this important contradiction of one of Blannerhasset's statements to a number of my friends; and this occasioned many to abandon the expedition, finding they had been deceived.

*Mr. Hay.* Had you any conversation with Colonel Burr?

Answer. No; he only asked me the prospect as to the boats and the number of men; I had very little conversation with him.

*Mr. McRae.* You say that you and many others withdrew from the enterprise on finding yourselves deceived?

Answer. Yes; I recollect that Mr. Cushing, Mr. Dana's brother, and several others from Marietta, forsook it.

*Mr. Hay.* Did you carry no message from Burr to Blannerhasset, warning them to depart in consequence of danger?

Answer. No; nothing but what I have related; except that he said it appeared, from the newspapers, that the public mind was much agitated; that, therefore, there might be some difficulty in getting down the river; but he hoped they would not oppose the constituted authorities.

Question. Were the men preparing to depart when you got to the island?

Answer. Yes; I was surprised to find so many men in the hall; they appeared to be in confusion; and one of them was wiping a gun. I supposed their number to be about twenty.

*Mr. Wirt.* When Burr spoke of those boats and men, did he speak of them as one having authority over them?

Answer. He spoke of them as one concerned; I do not recollect that he said any thing about authority.

*Mr. McRae.* When he spoke of the people going to descend the river, did he call them *his people*?

Answer. I do not recollect that; but he was speaking of the people who Blannerhasset had informed him were coming down.

Question. Did he speak as being in connexion with them? Answer. He did.

*Mr. Hay.* Did you hear nothing of the proceeding of the Legislature of Ohio before you carried the letter?

Answer. Not till my return.

[The Chief Justice here observed that that Legislature did not meet till afterwards. Colonel Burr said "the Legislature did not meet till the 4th of December; and Frankfort, where Mr. Belknap saw me, is about two hundred miles from the island." *Mr. Hay.* I did not know the date of Mr. Burr's letter. *Mr. Belknap.* It was dated about the last of November, or 1st of December; and I returned to the island about the 10th of December.]

*Mr. McRae.* Upon your return to the island, had you any private conversation with Mr. Blannerhasset?

Answer. Yes.

Question. Did he make any inquiries concerning Colonel Burr?

Answer. He asked about his health, and the probability of his going down the river.

Question. Did nothing of any moment occur relating to Blannerhasset's departure?

Answer. Nothing that I recollect.

Question. Did he not state the reasons of his departing so precipitately?

Answer. He said he expected some difficulty, and had detained Tyler some days; he had kept his proceedings secret, and apprehended some danger from the people of Kenawha, if he did not depart immediately.

Question. Did you carry no despatches for Jordan? Answer. None.

*Mr. Wirt.* Did you understand both from Blannerhasset and Burr that they were connected in the enterprise?

Answer. Yes.

*Mr. McRae.* Was there much rumor and noise among the people on this subject before you went to Lexington?

Answer. Yes.

Question. Was it not the opinion of the people that they intended to invade Mexico?

Answer. There were various opinions concerning them.

[Mr. Martin and Colonel Burr both objected to this question as improper.]

Question. Did Colonel Burr ask you about the state of the public mind?

Answer. Yes; he asked me what was going on *abroad*; such was his expression; and I told him.

Question. Did he make no other inquiry?

Answer. He asked if I had seen any thing in the papers from the Government on this subject. I answered that I had not.

*Mr. Hay.* What did he say when you mentioned that alarms had been excited?

Answer. He said they proceeded from wrong impressions.

*Mr. McRae.* What invitations were held out to induce you to join in the enterprise?

Answer. None particularly; except that if, when I descended the river, I should not find Generals Eaton and Wilkinson either there or coming there, and if there was no Spanish war, then Blannerhasset was to bear my expenses back.

Question. Then you considered yourself as engaged for a Spanish war? Answer. I did.

Question. And Mr. Gallatin was to have joined?

Answer. Yes, most particularly; so Mr. Blannerhasset said.

#### *Cross-examined by the accused and his counsel.*

*Colonel Burr.* Do you recollect any specific offer of land which I made to Mr. Blannerhasset in my letter?

Answer. No. I recollect you authorized him to offer a certain quantity to young men.

Question. Do you not recollect I offered him forty thousand acres? Answer. I do not.

Question. Did I not show you a map of the land? Answer. You did.

Question. Did I not show you some deeds for the land? Answer. I do not recollect.

Question. Do you recollect that I stated in my letter the advantages and disadvantages of his coming down; that, if he could not live in peace with his neighbors, he had better come down?

Answer. I recollect something in that way. But the impressions on my mind were that you expected him to come down.

Question. You state that you had offers from Blannerhasset; had you any from me? Answer. Not from you.



Question. Did I mention any thing about a party with Tyler? Answer. No.

Question. How many guns did you see on the island? Answer. I saw no more than three.

Question. Did I ever speak of the party on the island as *my people*?

Answer. No. Your expressions were generally *they*.

*Mr. Hay.* When you arrived at the island, and made your communication to Mr. Blannerhasset, did you immediately retire to bed and not examine particularly? Answer. Yes.

*Chief Justice.* What did Mr. Blannerhasset say to you about your finding Generals Eaton and Wilkinson?

Answer. He said, if I did not find them at the place to which we were to go, and there was no Spanish war, he would bear my expenses home again. He said, in case there was no Spanish war, they were to settle Washita lands.

*Mr. McRae.* Do you recollect any others whom he mentioned to you as concerned in the enterprise?

Answer. He mentioned Mr. Dayton, Mr. Devereux of Baltimore, and Colonel Smith of New York.

*Mr. Wirt.* Did he say that Colonel Burr was concerned?

Answer. In our first conversation on the subject, he said he did not know what Colonel Burr meant to do; and, as to his influence, he observed "you know he is not high in the confidence of his country." In all the other conversations he did speak of him as the head of the party.

*Mr. McRae.* Did you say that you stated to Mr. Blannerhasset the reasons for your declining?

Answer. I did to his lady, after his departure.

*Mr. Wirt.* Did I understand you correctly as saying that Colonel Burr said he had no improper design, and that the people were under wrong impressions? Answer. Yes.

Question. Were you at the boats?

Answer. No; I landed some rods above them.

*Mr. Carter Berkeley,* (one of the jury.) Did you hear Blannerhasset say that the men came down the river to the island by Burr's direction? Answer. I did not hear him say one way or another.

#### Examination of Edmund P. Dana.

THURSDAY, August 20.

On the evening of the 10th December I understood that the boats were to start with Comfort Tyler and his men down the river. Two other young men and myself were determined to cross over from Bellepré where I live. We went down to the landing opposite the island, about dusk; took a skiff, and landed at the upper part of the landing. We then went to the house. Tyler's boats lay below our own about seven or eight rods. I heard some persons talking, but it was dark and I could not distinguish any one. We went into the hall, a large room, where there were a number of men; I remained but a short time and did not count them, but I suppose there were about fifteen or sixteen. One of them was running bullets; and there was nothing but hubbub and confusion about the large fire. I was then introduced into a chamber, where there were Tyler, Blannerhasset, Colonel Smith of New York, and several other gentlemen. I was introduced to Mr. Smith and Dr. McCastle, who had his lady there. Colonel Tyler I had seen the day before.

*Mr. Coleman,* (a juror.) Is it proper to ask any questions about the conversations which took place with those gentlemen?

*Chief Justice.* It is left to the consent of the accused.

*Mr. Burr.* If any of the jury think proper, I can have no objections. The inquiry was not pressed.

When cross-examined, Mr. D. said he was a perfect stranger to the people in the hall, but that on his going in they did not appear to be alarmed.

*Edmund P. Dana sworn.*

FRIDAY, September 25.

I never saw Colonel Burr but once previous to my seeing him in this place.

In November last Mr. and Mrs. Blannerhasset came to my house in Bellepré; his object was to purchase cider. In the course of our conversation, he said that he was going down the river, that he had been purchasing land in the West in company with Mr. Burr and others, and that he was going down to settle it. This was about the middle of the day, and my father gave them an invitation to stay to dinner. They stayed, and there was a good deal of conversation at dinner on these subjects. Mr. Blannerhasset stated the particular advantages of the Washita land above the rest of the country; that it was near the market, and calculated for the raising of cotton. He said there was a large association for this purpose, and that he wanted young men to go. Those who embarked early, if they succeeded in the undertaking, would no doubt make their fortunes. I observed to my brother, who was sitting with us, that if fortunes were so easily made, he had better go. Mr. Blannerhasset replied, that he wanted such men as we were. He said he did not want to carry us without my father's consent. My father observed that we were our own men, and might act as we thought proper. I think Mr. Blannerhasset bargained for five or six barrels of cider, which he said he was going to carry down the river with him. He invited us to the island, where he would give us more particular information of his designs.

A short time after I was in the orchard gathering apples. Mr. Blannerhasset came to me, to talk more about the enterprise down the river: he asked me if I had any serious intention of going. I said I was unsettled; I would embrace any favorable opportunity to better my situation; and if I knew the object of this enterprise, I could better tell whether I would go or not. I observed that there were some rumors that the plan was unfavorable to the Government, and, if it was, that I would have nothing to do with it. He pledged his most sacred honor to me, and swore on the honor of a gentleman, that the plan was not hostile to the Government; and he went on to name several characters who he said were concerned; that the association was very extensive, spreading from Maine to Georgia. I asked him to name them. He said that Colonel Burr was one, whose talents he then highly commended. I said, if the plan was a lawful one, it was a good one, from the high opinion I had formed of his talents. He said that General Wilkinson was to join with his army. He mentioned General Jackson, of Tennessee, who was then preparing a body of militia, (two or three thousand, I think,) and who was ready to join them. He mentioned General Dayton. I think I asked him if the Swartwouts of New York were not concerned. (There was a gentleman then at our house by that name.) He said they were. He named a number of other characters, whom I do not recollect.

*Mr. Hay.* Were you on the island on the night of their departure?

Answer. I was. Mr. Blannerhasset told me if I would come over to see him, he would show me a plan of the Washita country. Some few days after this I went over to the island. Mr. Blannerhasset was at home, but engaged with some gentlemen who were there. He made no further communications to me, seeming to doubt whether I was seriously disposed towards his plans. I stayed only a few minutes. I now recollect that I have omitted

a part of the conversation with him. When he said that Generals Wilkinson and Jackson were going to join with their troops, I asked him what this was for—if for the settlement of lands, they surely were not necessary. He said that there were a great many Indians and Spaniards in that country, whom they must go prepared to resist.

I had no further conversation with him till the 9th or 10th of December, when he sent a servant to know whether he could get three or four horses to ride to Marietta; I said that he might have all that I had. About twelve o'clock in the day several gentlemen came, among them were Mr. Blannerhasset, Mr. Tyler, and I think Mr. Smith: there were six gentlemen. I understood they were going up the Muskingum after the boats. Some time in the afternoon they returned. They rode to the landing opposite the island, and sent the horses down. I understood, from flying reports, that they expected opposition, and had returned. Hearing that they were to start that evening, I felt anxious to see their departure, and to find out their object. With two young men I went down to the river, found a skiff at the landing, and passed over. We landed just above where Tyler's boats lay, went to the house into a large room where a number of men were collected around the fire, and Colonel Tyler among them. I told him that I understood they were about to start down the river. We walked out into the north wing of Mr. Blannerhasset's house together, and there a young man by the name of Bent observed to me that he understood from Mr. Blannerhasset I had some intentions to join.

*Mr. Botts* objected to this species of testimony. Did Mr. Blannerhasset hear of this conversation afterwards and approve it? *Witness.* No.

*Mr. Wirt.* Who was in company with you? *Witness.* Mr. Tyler was.

*Mr. Hay* contended that a declaration made in the presence of one accomplice would bear upon all the rest.

*Mr. Botts* contended that if this kind of testimony were admitted, it would be impossible to exclude any source of information or conjecture, newspaper statements, or flying reports.

The *Chief Justice* observed, that as he was sitting there in the character of an examining magistrate, where the rules of evidence were not so inflexibly rigid as in a court of justice, and as Tyler was probably a party concerned, he was disposed to hear the testimony.

*Witness.* I replied, that when I knew the object of the expedition, and liked it, I would then determine; that Mr. Blannerhasset had been telling me a story about settling land, in which I did not place much confidence. Colonel Tyler observed that it was a fact they had made the purchase, but that they had other objects in view. I told him that I had my own opinion on the subject; that I supposed their operations lay towards Mexico: if they were, I felt strongly disposed to be friendly towards them. There was at that time a strong talk about a Spanish war. He observed that I was not much mistaken in my opinion. I told him that since the subject was first mentioned to me by Mr. Blannerhasset, I had been at some pains to examine the geography of that country; that I found the people there very numerous, and that this handful of men would not be able to make any impression on them. Colonel Tyler observed, that with five hundred well armed and well disciplined men he thought they would be able to effect it. I asked him if they had attended to the different routes through that country. He observed, perfectly; they were acquainted with every cow-path in that country. He said they were not going for plunder or rapine, but to relieve the distressed inhabitants of Mexico, and that they had been invited for five years past. I think I observed then, (although I am not very positive in the expression,) that if that was their object, and they would avow it, they would get three men to join them for one that they got now. I think his answer was, that it was not politic that their military movements should be divulged, or that their object should be known to any but their leaders; that the Spaniards would get information of it, and fortify themselves.

The conversation closed here; I wished them success in their enterprise, and told them that if I thought proper to join them, it would be at some point down the river; I was not then ready. Colonel Tyler withdrew into the chamber. Mr. Blannerhasset observed that they were going to start that night; that the Legislature had passed a law which he thought unconstitutional; that he did not apprehend an arrest but on account of the delay. He said something about his going, that he was sorry after living so long among us to be forced to go down in the night, but he was afraid of delay, he was afraid of being stopped; and the season was so far advanced the river might freeze up, and he could not go down. About nine o'clock I bid them adieu, and left the island.

#### *Cross-examined.*

*Mr. Botts.* Did Blannerhasset and Tyler speak of a Spanish war as an event that would certainly take place?

Answer. They did. I think Colonel Tyler said there was a strong prospect of war, and, if there was one, he would be there ready to join in it.

#### *Examination of Israel Miller.*

FRIDAY, August 21.

*Mr. Miller* stated that he had arrived on the island between the 7th and 10th December last, in company with Colonel Tyler and Israel Smith, with four boats and about thirty-two men, with five rifles and about three or four pairs of pistols, in all, that he knew of; that he had joined them at Beaver, and gone down with them to Blannerhasset island; and there he saw one blunderbuss and two pairs of pistols. He saw but one man running bullets.

*Israel Miller.*

MONDAY, September 21.

*Mr. Hay.* Were you at the mouth of Cumberland?

Answer. I was. I went down with Mr. Tyler from Pennsylvania.

Question. Had you any communication with Mr. Burr?

Answer. I was introduced to Mr. Burr by Mr. Tyler at the island opposite to the mouth of Cumberland. I never held any conversation with Mr. Burr.

Question. How many men were there at the mouth of Cumberland?

Answer. On the whole, between 60 and 70. I am certain there were not one hundred.

Question. What did Mr. Burr say to the party on the island?

Answer. He said he had something to communicate, which he would take another time for.

*Mr. McRae.* How many boats were at the mouth of Cumberland?

Answer. I believe, ten.

Question. How many men in each boat?

Answer. There were seven in the boat I belonged to; I know not how many were in the others.

#### *Cross-examined.*

*Mr. Burr.* How many men went from Blannerhasset's island?

Answer. About thirty-one men.

Question. Were these men used to labor—to farming, or mechanics? Answer. Most of them were fit for it. There were only a few of them not used to labor.

Question. Did they not do hard work? Answer. They did.

Question. What arms did they bring from Blannerhasset's island?

Answer. I saw only one blunderbuss, one fusee, and a pair of pistols.

Question. How much powder? Answer. I saw only a small keg.

Question. How many pounds do you suppose it contained? Answer. About ten or fifteen.

Question. Were they not short of powder to kill game? Did they not very often come into your boat and borrow some? Answer. They did.

Question. What kind of game? Answer. Ducks and turkeys.

Mr. McRea. Do they kill this kind of game with bullets? Answer. Yes.

Mr. Burr. If the gentleman had ever been in Kentucky, he would have known that it was considered inglorious there to kill a squirrel, or even ducks, with any thing but bullets.

James McDowell.

FRIDAY, September 18.

Mr. Hay. Did you go as low as the Chickasaw Bluffs? Answer. I did.

Question. What number of men were assembled at the mouth of Cumberland river?

Answer. About one hundred.

Question. How many additional men joined them there? Answer. I do not recollect.

Question. Did you see any boxes of arms? Answer. No.

Question. Did you see any guns with bayonets? Answer. I saw a few.

Question. Any pistols? Answer. Six or eight pairs, and some rifles.

Question. Do you know of any men who joined them at Fort Massac?

Mr. Burr objected to this question. Fort Massac was in the Indiana Territory.

Mr. Hay. Did you see any powder? Answer. Yes.

Question. What quantity? Answer. A couple of small casks.

Question. Did you see any bullets, and what quantity?

Answer. I helped to run some myself, and I saw one barrel about two-thirds full. I saw those bullets below Bayou Pierre.

Question. Did you see Blannerhasset and Smith? Answer. Yes.

Question. Did this party seem to be under Burr's command?

Answer. They said they were Colonel Burr's boats and party. They regarded themselves as under his direction.

Question. Were there any other officers apparently under his command?

Answer. Yes. Colonel Tyler was an officer, and Mr. Blannerhasset seemed to be one; but not to have so much command as Colonel Tyler.

Mr. Wirt. Did you see any agricultural tools, such as ploughs and hoes, adapted to the settlement of lands?

Answer. Not any.

Question. Were there any families; that is, any men with their wives? Answer. There were two families.

Question. Of what description of character was this part composed? Answer. Principally of young men.

Question. Did they appear to be men accustomed to plantation labor?

Answer. Some of them appeared fit; but most of them seemed like gentlemen.

Mr. Hay presumed that it would not be departing from the opinion of the court if he asked a question concerning some transactions out of the United States which might serve to elucidate the state of the party at the mouth of Cumberland. Might he not, for instance, inquire whether the witness had seen any boxes of arms at Bayou Pierre; because it was perfectly fair to infer that, if they had not been subsequently received, they must have been with the party at the mouth of Cumberland river.

Mr. Burr. No precise inference can be drawn from that circumstance, because these arms may have been received into the boats below the line of Tennessee.

The Chief Justice thought it a proper question: if the acts attempted to be proved were done in the United States, evidence might be drawn from any place to prove them. But no evidence could be produced to prove an act that was not done in the United States.

Mr. Baker. This is really a strange mode of inferring circumstances by contrast. The witness says expressly that they were not at the mouth of Cumberland, and yet he is to be interrogated whether he did not see them at Bayou Pierre.

Mr. McDowell. I did not say that they were not at the mouth of Cumberland; I said only that I did not see them there.

Mr. Hay. Was there any fact to induce you to believe that there were chests of arms on board?

Answer. I did not see them; but they took in some boxes at Blannerhasset's island.

Question. Did they take in any boxes between the mouth of Cumberland and Bayou Pierre? Answer. None.

Mr. Wirt. You say there were about one hundred men at the mouth of Cumberland river. Was there any accession to this party afterwards?

Answer. It was increased before we got to Cole's creek.

Question. What was the total amount of the party?

Answer. There were about one hundred and thirty at Cole's creek.

Question. Was there any application to you to join them? Answer. Mr. Blannerhasset applied to me.

Question. In what manner?

Answer. He asked me to go along with him; but I said I did not wish to go without knowing where they were going. He was at me two or three times. He said that many men were going without knowing any more than I did. I told him I had very little in the world, but that I did not wish to leave it in that way.

Mr. Burr here interrupted the examination. He observed that the counsel for the prosecution were bound to prove the overt act first; that there was no impropriety in producing circumstances explanatory of the overt act; but how could these conversations between other persons, and held in his absence, contribute to establish this act; or how could they affect him?

Mr. Hay contended that these circumstances might contribute to show the intentions of the party and the character of the enterprise.

The Chief Justice considered this as admissible testimony. If the counsel for the prosecution charge a military assemblage at the mouth of Cumberland, they were at liberty to produce every circumstance explanatory of the nature of the assemblage. He considered conversations among the men themselves at the mouth of Cumberland as admissible, because they contributed to show the nature of the expedition; and why should not conversations

that were afterwards held be as explanatory as those which were there maintained? The charge, too, was not confined to the mouth of that river, but was extended to any place below that which was in the limits of the United States. It is, then, immaterial where these conversations passed, because they make a part of the transactions at the places actually charged.

*Mr. Botts* objected that these conversations were not held within the United States, because the jurisdiction of the Mississippi had never extended beyond the margin of the Mississippi. Some conversation here ensued, when *Mr. McDowell* was dismissed, and *William Love* (the quondam groom of *Blannerhasset*) was called into court.

*James McDowell, again called in.*

MONDAY, September 21.

*Mr. Hay.* How far did your evidence go on your former examination?

*Mr. Wirt.* The court stopped him within the limits of the United States.

*Mr. Hay.* Do you recollect any thing that passed after you left the mouth of Cumberland?

The witness replied, to successive interrogatories, that he saw eight or ten arms in the boat which he sat out in, the boat of *Captain Tyler* and *Major Smith*; that he saw guns, but not so many, in the other boats; that *Colonel Tyler* was the *captain* of that boat; that he thought there were about one hundred and thirty men at *Cole's Creek*; that at a little bayou below *Bayou Pierre*, the boats stopped and *Colonel Burr* got out; he knew nothing of clearing ground for exercising the men; he did not see the boxes opened; that some of the boxes were four feet long and some six; that they were heavy, and he could not lift them; he saw six or seven boxes; that a few miles below *Cole's creek*, they went up on a hill, and formed a circle; *Colonel Burr* told them he was a thorn in their side, so long as he remained with them; that he had been taken from them two or three times; he had been carried on his trial to *Washington*; and that he was now about to leave them; he told them what his was theirs, (alluding, as the witness supposes, to his property;) and that they might go on and settle the *Washita* country which he had purchased.

*Cross-examined.*

*Mr. Burr.* Did you see *General Wilkinson* at *New Orleans*?

Answer. I do not know whether I saw him.

Question. Who invited you to come here?

Answer. I was summoned in *Pennsylvania*.

*Mr. Blannerhasset.* Do you recollect being in *Dean's boat*?

Answer. I do.

Question. Do you not recollect that its roof was leaky?

Answer. I do.

Question. Do you not recollect that I expressed some fears lest the leaks should injure my boxes?

Answer. I do not recollect.

*Examination of Jacob Dunbaugh.*

SATURDAY, September 19.

*Mr. Hay.* Will you describe the situation of the party at the mouth of the *Cumberland river*?

Witness. Am I to be confined to the *Cumberland river*?

*Mr. Hay.* You may go down to the *Chickasaw Bluffs*.

*Mr. Botts.* Go down to the *Mississippi river*, and whether you are to go further the court will instruct you.

Some desultory conversation here ensued on this point, after which the witness proceeded.

On the 26th December, 1806, very early in the morning, a small skiff, with four men and a *Mr. Hopkins*, arrived at *Fort Massac*. Some time after the arrival of this skiff, *Captain Bissel*, (commanding at the fort,) detailed me for command to go to the mouth of *Cumberland river* to purchase a beef for him.

Question. What were you?

Answer. I was, and am still, sergeant in the army of the United States. He told me I was to call on *Colonel Burr* with his compliments; and if *Colonel Burr* wanted my assistance, that I was to furnish it. *Captain Bissel* told me this *Mr. Hopkins*, who came in the skiff with four men, was going up with me. When we got half way up the *Cumberland river*, we stopped, and I asked *Mr. Hopkins* his business at *Fort Massac*, and he said it was to ask *Captain Bissel* whether he would oppose *Colonel Burr's* passing by the fort. I got to the mouth of *Cumberland*, about half an hour before sunset on the 26th December, and landed; *Colonel Burr* was then encamped on *Cumberland island*. After I had crossed over to the island, I saw *Col. Burr*, and delivered *Captain Bissel's* message. *Colonel Burr* said he was much obliged to him, and that *Captain Bissel* was very good; *Col. Burr* asked me "is not this my old friend?" I had seen him before. He said he believed I drank no brandy, and asked me if I would not have a glass of wine. When I drank I said "here's success to *Col. Burr* and his undertaking;" and *Mr. Blannerhasset* (this was the first time I ever saw him) stamped his foot and said "Amen." *Colonel Burr* told me I must take breakfast with him next morning; I replied that I would. On the 27th I saw *Colonel Burr*, and told him I was going to the garrison. He told me to bear his compliments to *Captain Bissel*, and asked me if I could take a barrel of apples to him; I told him I would. Whilst they were getting the apples on board, the wind sprung up very fresh, and I was not able to start. In the course of that day I crossed him several times over to the *Kentucky shore*, and several of his men. During that day, *Colonel Burr* asked me how I would like to go down the river with him; I replied very well, if I could obtain the consent of my general; he said that would make no odds; he would fix it without. This was on the 27th, and on the 28th I called on *Colonel Burr*, and told him I was going to *Fort Massac*; he sent his compliments to *Captain Bissel*, but said he expected he would get there before me; I told him that he might man his barge as well as he could, I would arrive there before him. I arrived in the garrison some time in the afternoon.

*Mr. Botts.* There you may stop. It is impossible to progress without running into some impropriety, unless we ascertain the limits within which the witnesses are to be confined.

*Mr. Hay* observed that he did not mean to prove any acts at *Fort Massac*.

After some conversation, the examination proceeded.

*Mr. Hay.* Did you see any military parade?

Answer. I saw the men drawn up at the mouth of the *Cumberland*.

Question. How many men?

Answer. I did not count them; but I suppose there were about one hundred.

Question. What kind of men? Answer. Generally, young men.

*Mr. Wirt.* Did they look like hard laborers? Answer. The principal part did not.

Question. How drawn up? Were they drawn up in a line? Answer. No; they were drawn up in three wings.

Question. What do you mean by three wings?—divisions?

Answer. [The witness here described their position, by drawing a figure on the floor with his foot.] They described three sides of a square; Colonel Burr was introduced by Colonel Tyler, beginning at the left; the party gradually fell in, and formed a circle.

*Mr. Hay.* How introduced? Answer. He went round and shook hands with every man.

*Mr. Hay.* Did you not see some chests of arms?

*Mr. Burr* objected to this manner of putting the question.

*Mr. Hay* admitted he had put the question inadvertently; he merely wished *Mr. Dunbaugh* to state what he knows of the chests of arms.

*Mr. Botts.* State what you know of any chests of arms within the United States.

*Witness.* I did not see more than a few rifles at the mouth of Cumberland.

*Mr. Hay.* I think the court yesterday decided that we were at liberty to state any circumstances out of the United States which were explanatory of the acts done within the United States.

On this topic a long and desultory discussion ensued. The Chief Justice at length decided, that if an overt act be laid at the mouth of the Cumberland river, if a military assemblage was said to be *there* assembled, that evidence beyond the limits of the States might be produced to show the military attitude of the party; that, with respect to this particular question, if the witnesses could show that no other arms were put on board, and if certain arms were put on board at a certain place, it was some presumption that these arms had been at the mouth of Cumberland river; and that he understood it was the intention of the prosecution to show that this party were in such a state at such a place, that they might be able to infer that the party were in a similar state at the mouth of Cumberland. In this point of view he conceived that such evidence was admissible.

*Mr. Hay.* State, then, *Mr. Dunbaugh*, what you know on this subject. Did you leave Fort Massac with Colonel Burr?

Answer. I overtook him at New Madrid on the 1st of January.

Question. Did you then go down the river with him?

Answer. Yes; in his own boat.

*Mr. Wickham* repeated his objections to this kind of evidence. How was the witness to know whether arms might not have been subsequently put on board the boats? He was not always in Colonel Burr's boat, nor was Colonel Burr's boat with the rest. Can this be good testimony?

*Chief Justice.* The attorney is to show that hereafter; he is to show that there was no connexion between the boats and the shore.

*Mr. Wickham.* But suppose he has no testimony to that effect?

*Chief Justice.* Whether arms were subsequently introduced is a mere matter of inference, dependent on the whole of the evidence on both sides. It depends on a variety of circumstances, such as the situation of the shore and the country, &c.

*Mr. Hay.* State, then, *Mr. Dunbaugh*, what you know about the arms on board the boats?

*Witness.* Some time in January we left Bayou Pierre, and descended to Petit Gulph, three miles below, on the opposite side; Colonel Burr went ashore, and returned to the Petit Gulph; the boats all shoved off at once; Colonel Burr's was rather behind. The night we left Petit Gulph, Colonel Burr and Wyllie went into the bow of the boat for an axe, auger, and saw; they went into Colonel Burr's private room and began to chop; he ordered no person to go out, but I did go out; I saw a skiff lying aside of Colonel Burr's boat. After they had done chopping, a *Mr. Pryor* and a *Mr. Tooley* got out of the window; I got on the top of the boat, and saw two bundles of arms tied up with cords, and sunk by cords going through holes at the gunwales of Colonel Burr's boat; I observed to *Mr. Pryor* that he must be careful to bring up the boat, or else it could not get close to shore.

*Mr. Hay.* How many arms were there?

Answer. There were about forty or forty-three stands I saw, besides pistols, swords, blunderbusses, fuseses, and tomahawks.

*Mr. Wirt.* Is not the coast opposite to New Madrid a part of Tennessee?

Answer. No; it is the Indiana Territory.

Question. Were you on board any of the other boats? Answer. Several.

Question. Did they keep together? Answer. They did when they could.

Question. Did you see arms in the other boats?

Answer. I saw several stands of arms, that is, muskets with bayonets, in *Floyd's* boat, and about twelve rifles.

Question. Were you near enough to Colonel Burr, at the mouth of Cumberland, to hear his observations to his party?

Answer. I was; he said there were then too many bystanders to divulge his plans.

Question. Were any men obtained, after you joined them?

Answer. One, who got aboard at New Madrid.

Question. Were you commissioned by Colonel Burr to obtain men?

Answer. No; not citizens.

Question. What do you mean by the word "citizens?"

Here *Dunbaugh* was stopped by the opposite counsel, and his examination proceeded no further on this day.

#### Conclusion of Jacob Dunbaugh's evidence.

MONDAY, September 21.

*Mr. Hay.* State what passed between Colonel Burr and yourself, about your getting people to join him?

*Witness.* I stopped before with saying that Colonel Burr had not spoken to me to engage citizens, but he had spoken to me about soldiers. On the 30th of December, after Colonel Burr had obtained Captain Bissel's consent for me to go with him, I went to Colonel Burr, where he was encamped, about a mile or two below the garrison at Fort Massac, on the Indiana side; Colonel Burr asked me into his cabin, (a private room he had,) and asked me if I could not get ten or twelve of the best men in the garrison to go along with him; I asked him how it was to be done; he said, "get them to desert;" I told him no; he asked me if I could not steal out of the garrison arms, such as muskets, fuseses, and rifles; I told him that I would not, if I could, for him or any other man on earth; that I had always been well treated by the officers of the army; I told him that I had a rifle of my own, and he told me to bring it with me, and he would pay me for it. I started then to the garrison, and prepared myself to go; that was, after Colonel Burr had obtained liberty of my captain.

The counsel for the accused contended that this kind of testimony was not at all relevant to the subject. After some discussion, the examination proceeded.

*Witness.* At the mouth of Cumberland, *Walter Davidson* engaged a man by the name of *Casey*.

Question. On what terms? *Witness.* I do not particularly recollect.

Question. How do you know that Davidson was the agent of Col. Burr?

*Witness.* He belonged to the party, and told me he was an agent for Col. Burr.

The substance of the engagement was, he was to receive \$12 50 per month for six months, clothes and victuals for six months, and 100 acres of land, to fight against all opponents. This Mr. Davidson, Plumb, and Andrew Wood, were sent to New Madrid to enlist more men.

[The witness here returned to that point in his narration at which he had been interrupted on his former examination.]

When I returned to Fort Massac, on the 28th December, I gave Col. Burr's compliments to Capt. Bissel, and told him that Col. Burr had sent him a barrel of apples. The next day (29th) this Mr. Davidson, Plumb, and Andrew Wood, came to the garrison very early in the morning, in a skiff; this was the time when they told me they were going to enlist more men for Col. Burr. They bought a skiff of me, that was left with me to sell by a Mr. Cutler, a surveyor; their own skiff was afterwards carried off by Col. Burr's party. That evening, after sundown, a barge came down to Fort Massac with twelve men in it; Col. Tyler and Major Hill were in it, and I think also Major Smith. They went up to Capt. Bissel's quarters, where they stayed about twenty minutes, and I then heard Col. Tyler tell the boat's crew to return to where Col. Burr was encamped, with some other instructions that I did not hear. Between 12 and 1 o'clock that night Col. Burr's boats passed by the fort, and landed about one or two miles below the garrison. [*Mr. Hay.* How many men were then in the garrison? Answer. Forty-four men. Question. Was that the usual complement of men? Answer. No; some of the troops had gone to Newport, and some to other places. Question. Was there any artillery? Answer. None. Question. How wide is the river at that place? Answer. About a mile wide.] Next morning Capt. Bissel told me to get six men, with the Clinker boat, to take him down the river a small piece. While the men were getting ready, a Mr. Fort, (perhaps his christian name was John,) who had been lying there several days, asked me how I would like to go along. I told him I should like it very well, if I could get leave to go. He told me he had been speaking to Capt. Bissel the evening before, and that Capt. Bissel had consented to let me go. While the boat was getting ready, Capt. Bissel, Col. Tyler, Major Hill, and I believe Major Smith, came down. Capt. Bissel got into his own boat, the rest pushed off in the boat that had been lying there several days, and fell down in company with him to where Col. Burr was encamped. Capt. Bissel went into Col. Burr's boat, and, while there, Col. Burr asked him to let me go with him. I heard it, because though I was not in the same room, there was a thin partition between us, and I heard him ask Capt. Bissel: I did not hear Capt. Bissel's answer. Capt. Bissel came out, got into his own boat, and, after going one or two hundred yards, we landed and walked up to the garrison. On 30th December, while I was in the military store, a man came in, who brought two letters from Col. Burr; he gave Capt. Bissel one and the other to me. Capt. Bissel went out, and after I had done in the store he called me, took me through the sally port to the back of the garrison, and asked me whether Col. Burr had been speaking to me about a furlough. I told him no. He asked me whether I wanted a furlough to go. I told him, with his approbation and advice, I would take one. Capt. Bissel said he would not advise me, but if I wanted one for 20 days, he would give me one. He told me before the 20 days were out I should see the general. He asked me if Col. Burr had told me any secrets, and, if he had, that I must keep them to myself. I accepted of Capt. Bissel's offer, and he told me to get ready to go with Col. Burr. I then went and saw Col. Burr, and the conversation passed about the men and arms, which I have already related. That evening (on the 30th December) Capt. Bissel sent for me to his quarters, and told me he was going to advise me what I was to do; he advised me never to forsake Col. Burr; that he would do something for me; he told me that if ever Col. Burr got on a field of battle, never to leave him on the ground: at the same time he made me a present of a silver breastplate. That evening I went to Capt. Bissel's for my furlough; he gave me a furlough, with a letter to Gen. Wilkinson, to be delivered by Col. Burr. Col. Burr had then started, and I was to give him the letter as soon as I overtook him. On the 31st December, being the day for muster and inspection, I asked Capt. Bissel if I was to show my clothing; I said they were all packed up and on board. He told me I must borrow some for inspection; which I accordingly did, agreeably to his orders. Whilst the men were on parade, I went to his lady's quarters to take my leave, and, on my return, Capt. Bissel having brought the men to a ground, he told me, "Dunbaugh, I wish you success, let you go where you will." I wanted to see Dr. Tuttle before I went, and Capt. Bissel told me if I had no particular business I had better go on, and if any one asked me where I was going, I was to say I was only going a few miles down the river, and that I was coming back again. There was one of Col. Burr's boats with eight hands to take me to him.

We overtook Col. Burr on the 1st January, at New Madrid; I handed him the letter for Gen. Wilkinson, and he broke it open. I told him the letter was for Gen. Wilkinson. He asked pardon, took me into his cabin, and sealed it up. I asked him what boat I was to go in, and he said in his own, as its accommodations were better than in any other. We left New Madrid about 11 or 12 o'clock that day, (1st January.) Andrew Wood remained at New Madrid, and Plumb and Walter Davidson, who had been sent on to enlist men, got on board the boats, and Mr. Hopkins was left in their places to enlist. After we got into the stream, a keel boat came alongside, and took Col. Burr into another boat some hundred yards off. I saw him on the bow of that boat, giving some instructions, but I could not hear him. Maj. Floyd had charge of this keel boat and crew, and I understood they were instructed to be at Natchez in four days. When we got within 45 miles of the Chickasaw Bluffs, Col. Burr asked me if I would go ahead with him to Chickasaw Bluffs, in a small boat, as I was acquainted with the river. I told him I would. We got into a small boat with twelve more men, and he gave general orders to the other boats to follow on, so as to reach the Bluffs early next morning. We got there between 12 and 1 o'clock that night, (3d January.) After we landed, Col. Burr told me I must go up to the garrison, and ask the commanding officer if he could not get quarters that night for himself and men. When I arrived at the garrison, I was conducted to Lieut. Jackson's quarters; he returned his compliments, and said he would furnish them with lodgings. Col. Burr went up with some of his men and supped. The next morning Col. Burr asked me if I was acquainted with the men in the garrison. I told him I was. He asked me if I could not get ten or twelve of the best men to desert. I told him I would not. He then said he would speak to them himself, and get two of the best men, and asked me to name them, which I did. [Upon being interrogated, the witness said there were nineteen men in the fort, few pieces of cannon, and the river about as wide as at Fort Massac.] Some time in the afternoon, I asked Col. Burr if he had got the men to go with him. He said he had. Some time that evening, he told me that Lieutenant Jackson and the other men would follow in a few days. That day Col. Burr employed a man, one Skinner, to run him some musket balls. He run him 600, for which Col. Burr paid him one dollar. He bought three dozen tomahawks out of the factory, which Col. Burr distributed among his men; some he had helved. That day all the boats landed at the Bluff, and on the 5th they all started, except a small boat left for Col. Burr. He soon overtook us, and got into his own boat. No one came from the garrison with him. We proceeded to a place called Palmyra, 35 miles above Bayou Pierre, on the 10th January. Col. Burr again asked me if I would go down to Bayou Pierre with him.

*Mr. Wickham* asked the court whether the witness should proceed? How was this kind of testimony calculated to prove the overt act? How was it relevant to the charge? Was it not better for gentlemen to extract whatever they deemed material out of the witness by putting interrogatories?

*Mr. Wirt.* The witness was just coming to certain declarations of the accused, which directly related to the objects of this expedition; when he has arrived at Bayou Pierre, and is about to tell something that is important, he is stopped.

*Chief Justice* wished the attorney to put interrogatories.

*Mr. Hay.* Did you ever get out of Colonel Burr's boat to go into another?

Answer. Never, except at Chickasaw Bluffs and Bayou Pierre, when I went with Colonel Burr, at his particular request?

Question. Did you go ashore at Judge Bruin's? and state what happened there.

The counsel for the accused objected to this general interrogatory.

*Chief Justice.* Ask him whether any thing happened there respecting this expedition?

*Mr. Hay.* Perhaps the witness may omit facts, because he deems them unimportant, which I may consider extremely relevant. Did any thing happen at Judge Bruin's respecting a publication? and state what it was.

*Witness.* On Sunday, the 11th January, while we were three or four hundred yards from the shore, Colonel Burr told me to arm myself with a rifle, and conceal a bayonet under my clothes; he told me he was going to tell me something I must never relate again; he then told me that General Wilkinson had betrayed him; that he had played the devil with him, and had proved the greatest traitor on the earth. I told him I could not believe it, and asked him how he knew it; he said he had seen published in a paper a letter, which he had some time before written to General Wilkinson in ciphers; he mentioned that General Wilkinson had made oath to this letter before the court, or in open court, I do not recollect which; he then told me he was fearful of being injured or taken; that I must keep a good look out about Judge Bruin's. Colonel Burr went into Judge Bruin's to breakfast, and I went into the cotton gin that was near the house; a boat came, and he told me to take a spy-glass and see whether it was his boat; I could not determine; he then directed me to go down, and, if it was his boat, to fire a musket.

Question. Where is Judge Bruin's?

Answer. About a mile and a quarter below Bayou Pierre.

*Mr. Wirt.* Where did he say he had seen the paper?

Answer. The paper had been handed by Judge Bruin to Colonel Burr the evening before.

Question. What was the conversation at Judge Bruin's?

Answer. Colonel Burr asked him if he had any papers; he handed him this paper, and, after reading it fifteen or twenty minutes, he rose up, and said he must go to the boats.

*Mr. Hay.* Did the troops from the boats land there? Answer. Yes.

Question. With what view did the men go ashore below the mouth of Bayou Pierre?

Answer. They landed about two or three miles below, in the Louisiana Territory.

The opposite counsel objected to these questions, but were overruled by the court.

*Mr. Hay.* State what happened at the landing of the men.

*Witness.* Some days after the men landed, (they all landed,) Colonel Burr ordered ground to be cleared for a parade ground, for the purpose of exercising the men; I never saw the ground myself, nor the men exercising. Some of the men, however, are here; Dr. Menholland is one of those men who assisted in clearing off the ground. There was a guard of twelve men paraded at this place; Wyllie, for one, had a rifle and sword.

*Mr. Wirt.* Were there any Indians at that place? Answer. None.

Question. What produced this guard?

Answer. They understood that the militia were coming to take Colonel Burr, and these twelve men were placed to alarm the boats.

Question. Was this before or after sinking the muskets? Answer. It was before.

The witness, upon being further interrogated, deposed: That a Mr. Lemaster had taken out of a hogshead, then in Mr. Blannerhasset's boat, a barrel of potatoes, with which he said he was going to fill the box of arms, so as to make it appear like a box of potatoes; that he was asked, in the presence of Colonel Burr, to go and help to clear the ground; that Colonel Fitzpatrick came to take an inventory of all the goods and arms that he could see; but that he did not see Colonel F. search for the arms.

*Mr. Burr.* Where was I all this time?

Answer. I know not, but I saw you handing two or three muskets out of the cabin window of your own boat into Mr. Blannerhasset's boat. The witness further stated that the arms which were sunk were sunk between Petit Gulph and Cole's Creek; that Colonel Burr was looked upon as the commander-in-chief of the expedition; that, in the night, his boat was distinguished by two lanterns, placed one above another, whereas the rest had but one; and that, in the day time, handkerchiefs were hoisted in some of the boats, by way of flag.

#### Cross-examined.

*Mr. Burr.* You say your furlough was for twenty days? Answer. It was.

Question. After the expiration of this furlough, were you not advertised as a deserter? Answer. I was.

Question. Were you taken up. Answer. I was not.

Question. When you got to Baton Rouge, did you write to General Wilkinson? Answer. I did.

Question. What did you write?

Answer. That my furlough had been taken from me; and that, if he would send me a furlough or a pardon, I would come on in three days.

Question. Did you promise to give any information against me? Answer. I did not.

*Mr. Wirt* observed that he was authorized by General Wilkinson to say that he had the original furlough given by Captain Bissel.

*Mr. Martin.* Did he send you a pardon? Answer. General Wilkinson wrote to me to come down.

Question. Have you that letter?

Answer. No; it was taken from me at Baton Rouge; Governor Folk has it at this moment.

Question. Did you write to Captain Bissel?

Answer. I did; I mentioned to Captain Bissel that, as both of us might be injured by this transaction, if he would say that he had sent me as a spy, it would clear both him and myself.

Question. When were you discharged from the army?

Answer. I was not discharged in 1805, when I travelled with you.

Question. Why were you discharged? show your hand to the court.

Answer. There is my hand, (one of the fingers appeared to have been injured;) I can show my discharge; I procured a substitute, and many have liberty to procure them.

*Mr. Hay.* Hand me the discharge. [The witness accordingly presented it.\*]

*Mr. Burr.* Did you come round with General Wilkinson? Answer. I did.

Question. Were you subpoenaed? Answer. I did not know I was.

Question. Who requested you to come round from New Orleans?

Answer. I came by request of General Wilkinson.

Question. Did he say for what? Answer. He said as a witness.

Question. You gave a deposition in New Orleans? Answer. Yes.

Question. At whose request? Answer. At General Wilkinson's.

Question. When I came down the Mississippi in 1805, by whose orders did I have the men?

Answer. I thought by General Wilkinson's.

Question. Had they arms? Answer. I think not.

Question. Had they colors? Answer. They had, and they were flying every day.

Question. Did you not tell me you expected your discharge? Answer. Yes.

Question. Do you not know that the soldiers at Chickasaw Bluffs wanted to go with me, and I refused them?

Answer. I recollect that you wanted me to get them to go, but I refused.

Question. Did you not tell me that some of them wanted to go? Answer. I mentioned one or two.

Question. Did any go? Answer. No.

Question. Why? Answer. You told me that the lieutenant and all would follow in a few days.

*Mr. Wirt.* This previous voyage you took the year before. Were they not troops of the United States?

Answer. They were.

Question. These soldiers; were they going where their company was?

Answer. The whole company were going to New Orleans; and this barge, with ten men, was sent on ahead.

Question. And this flag belonged to them? Answer. It did.

*Mr. Wickham.* Were they regimental colors? Answer. They were colors made for the barge.

*Chief Justice.* Did you tell Captain Bissel that Colonel Burr had applied to you to get the men to desert?

Answer. I did not.

*Mr. Wirt.* Did you not reject the proposition? Answer. I did.

At the request of the Chief Justice, the witness here described the particular manner in which the arms were unk. He said that they were so deep in the water as to prevent the boat from going within fifty yards of the shore. He also related his visit to Judge Bruin's, where Colonel Burr got the newspaper. He also stated, at the request of the court, the contents of his letter to General Wilkinson; that if he would send him the furlough, which Lieutenant Rodney had taken from him, or a pardon, he would be there in three days. General Wilkinson informed him that he had behaved very wrong in leaving the man he was going down with; but if he would come down, he should not be molested.

*Mr. Wirt.* Where did the party break up? Answer. A few miles below Cole's creek.

Question. How far is Cole's creek from Bayou Pierre? Answer. About twenty-five miles.

Question. When was it that this parting speech was made at Cole's creek?

Answer. About the 6th or 7th of February.

TUESDAY, September 22.

*Jacob Dunbaugh* was re-examined. He stated there were two keels and four batteaux; that Mr. Burr had told him, between Chickasaw Bluffs and Bayou Pierre, that his first object was to seize Baton Rouge, and make that his home until he could collect his forces, which he expected would amount to 10 or 12,000; he stated that Mr. Blannerhasset told him that Governor Ffolk, of Baton Rouge, would order the men to take the flints out of their guns; he said that some of the men went up the Red River.

Upon being cross-examined, he stated that he had made a deposition at New Orleans at the request, but not compulsion, of General Wilkinson; that he was well acquainted with the construction of batteaux; that they could go up stream, and that they were built for that purpose.

*Evidence of Stephen S. Welch.*

MONDAY, September 21.

Question. Were you at the mouth of Cumberland?

Answer. I was. I only joined there. I was there with a load, and Captain Berry wished me to join and go down the river to make a settlement, for that it was advantageous to young men. I said that I had no incumbrance; and, being a single man, I was willing to go.

Question. Who is Berry? Answer. John Berry, a man I met there.

*Mr. Burr.* He was called captain of the boat. *Witness.* He was appointed captain of the boat I went in. I agreed to go down. The proposition made to me by Captain Berry was to settle the Washita country; to have a certain portion of land, besides other compensation.

Question. What was it? Answer. Captain Berry offered me ten dollars a month; but I said I was not for hire, and, as I was a young man, would go as a volunteer.

Question. Did you descend the river with them? Answer. Yes.

Question. Do you recollect hearing any conversation from Mr. Burr to Mr. Floyd, on the subject of arms?

Answer. I do not.

Question. Did you go to Bayou Pierre? Answer. I did, and also to Natchez.

Question. What became of Mr. Blannerhasset?

Answer. I think he went down to Natchez with us. I think that the boat with his family aboard was struck on the point of an island above Natchez, and that I assisted to get her off. I did not see Mr. Blannerhasset there, but I was told that he went to Natchez.

On being further interrogated, the witness deposed that he was on the piece of ground cleared for exercising; that he was stationed there with sixteen or seventeen others as a guard to watch the boats, about 200 yards from it; that the boats were then on the west side of the Mississippi; that he understood, as the reason of this arrangement, that militia were expected to come and carry the boats to Cole's creek; that the orders of the guard were to let no one pass to the boats without giving the countersign "look sharp;" and to fire if any one attempted to pass, not with an intention of hitting them, but as an alarm to the boats; that a Mr. Noland from Berry's boat gave the orders, but he knew not who gave them to him; Noland was sometimes styled lieutenant, and sometimes

\* The discharge states that, "having served three years and six months, and being permitted to procure a substitute in his place, J. D. is hereby discharged."



ensign; that sentinels were placed out; who were relieved every two hours through the night, till daylight; the guard were not.

Question. Were you ever better informed about the object of this expedition? The witness said he had not been from those who had any authority, or who he supposed were better informed than himself; but there was a talk among the men that they were going to take Baton Rouge.

Question. Why did your impressions change?

Answer. The witness said that he did not know who was the first person that started such a conversation, but that he had first heard it from two or three or more who were talking in the bow of the boat; that he came forward and heard it; that it was further said that they were going to drag the men to Florida. Some of them were very much scared at the time. He further said that there were somewhere about one hundred men at the mouth of Cumberland; that they had no agricultural tools, no ploughs, hoes, or harrows, except edged tools to fell timber; that the search made by Captain Fitzpatrick was at the bayou below Bayou Pierre; that, being only in one boat when it was searched, he does not know whether the search was a fair one; that he never saw, but did hear, that arms had been sunk and concealed; that he saw, not heard, of the stopping a leak produced by two auger holes and ropes in the back part of the gunwale, in the cabin occupied by Mr. Burr; for that Mr. Pryor being unable to stop the leak, he had called him, and he had stopped it.

*Cross-examined.*

*Mr. Burr.* Did you know Dean's boat?

Answer. It sailed with us in company from the mouth of Cumberland; but I do not certainly know whether it was connected with us.

Question. What became of Boyce's boat? Answer. It went down to Natchez.

*Mr. Wirt.* Who dismissed you from this party?

Answer. When the boats were stopped, and the eruption took place, I went down to Natchez.

*Mr. Wirt.* When Colonel Burr left the party, was there any ceremony of parting? any speech?

Answer. He did speak to them. He said he would have to leave them till he could see them again. I think he said his property was to be distributed among them.

Question. Was any thing said about wages; about the means of paying them? Answer. I don't recollect.

*Mr. Burr.* How did you come round from New Orleans? Answer. I came with General Wilkinson.

Question. Were you subpoenaed? Answer. I was.

Question. Had you any communication with General Wilkinson?

Answer. Not till after I had received the subpoena.

Question. Did you receive any money there? any from General Wilkinson?

Answer. Yes. I received ten dollars from General Wilkinson, to help me to bear my expenses as a witness.

Question. Did you give any deposition there?

Answer. None but some statement of my evidence taken down by General Wilkinson; but I did not give my qualification to it.

*Samuel Mozley.*

MONDAY, September 21.

*Mr. Wirt.* Were you with this party? Answer. I was.

Question. Where did you join them? Answer. At the falls of Ohio.

Question. Were you at the mouth of Cumberland? Answer. I was.

Question. In whose boat did you descend the river?

Answer. In Captain Berry's boat, which was built at the falls of the Ohio, and there joined the party. Major Floyd's boat also joined them there, besides a small batteau, which was not loaded with provisions, as the other two were.

Question. Did you not proceed down the river with the boats which came from Blannerhasset's island?

Answer. Yes; who were sometimes in company with them.

Question. How many men were at the mouth of Cumberland?

Answer. I suppose not more than one hundred.

Question. Did you see these men introduced to Colonel Burr? Answer. I did not.

Question. Nor heard his speech? Answer. I heard nothing about it till I got to New Orleans.

Question. Did you conceive that you belonged to this party? Answer. I did.

Question. With whom did you make an engagement?

Answer. With Mr. Berry of Indiana, twelve miles from Jeffersonville.

Question. What was the nature of that engagement?

Answer. To descend the Ohio and Mississippi, and to ascend the Red river, to settle the Washita lands. I was not certain whether these lands belonged to Colonel Burr or Mr. Lynch; but I supposed the latter. It was also stated, that, should our frontiers be invaded by the Spaniards, we were to render every assistance in our power to resist them.

Question. How many arms were in your boat? Answer. About eight or nine.

Question. How many men? Answer. About sixteen.

Question. Were you at the bayou below Bayou Pierre? Answer. I was.

Question. Did any thing of consequence occur there?

Answer. I do not know what you may deem important.

Question. Were there any guards stationed there?

Answer. There were; and for this purpose the militia were said to be crossing the river above us in rafts, and the guards were to give the alarm.

Question. Was any ground cleared to exercise men?

Answer. There was ground cleared, but I do not know for what purpose.

Question. How large a slip? Answer. About half an acre.

Question. To what purpose was it applied? Answer. I know not; but the guard were stationed there.

Question. Was it that the guard might stay there?

Answer. I know not; but when it was cleared I did not see the necessity of clearing it.

Question. What instructions were given to the guard?

Answer. I heard only from others, that if any one approached, they were to fire two guns; and then the guard were to go off in a small boat.

Question. Do you think the object of this enterprise was to settle lands?

*Mr. Burr* objected to such inquiries. How could the mere opinions of a witness have any influence in a court of justice? Might not those opinions be formed from idle rumors? Gentlemen have substantially asserted that four-fifths of the people of this State have been duped by such false rumors. The same means of deception were used in Kentucky; but they were not so easily duped as the gentleman represents the Virginians to have been.

*Chief Justice.* Let the question be proposed in this form: Did you see any thing in the party itself which induced you to think there was a different object?

Answer. I did not before the arrival of the militia, when I began to entertain doubts of the object.

*Mr. Wirt.* Was there any part of your engagement about a service of six months?

Answer. We were engaged for six months.

*Mr. McRae.* What service?

Answer. I am not certain. We were to stay there to settle land; and it was supposed the settlement would be made in that time.

Question. What consideration were you to receive?

Answer. Ten dollars a month and one hundred acres of land.

*Mr. Wirt.* Had you any manual exercise as you went down?

Answer. We had, on the roof of the boat, two or three times.

Question. The boats were roofed? Answer. Yes; they were flat on top; the exercise was of our own accord.

*Mr. Hay.* Did you see the same operation in other boats? Answer. I did not.

*Mr. Wirt.* Did you see any thing of the search by Colonel Fitzpatrick?

Answer. I was there. It happened at Thompson's bayou.

Question. Did Fitzpatrick see all the arms?

Answer. The muskets were taken from our boat before Colonel Fitzpatrick made the search.

Question. To what boat were they carried? Answer. I know not; but they were taken out of ours.

Question. Do you know any thing about the burying or concealing of arms? Answer. I do not.

Question. Do you know any thing of holes bored in the gunwales of Colonel Burr's boat? Answer. I do not.

Question. You were in your own boat, I suppose?

Answer. I was. We were at too great a distance from them to have seen any such occurrence.

Question. Do you know any thing of it from public conversation among the men?

Answer. I understood that the arms had been concealed. I heard it talked of in the company of the men, by different persons, that they were tied to a sawyer,\* also that they were taken up the bayou and buried; and that they were concealed underneath Colonel Burr's boat.

No cross-examination.

*Chandler Lindsley.*

MONDAY, September 21.

Question. Where did you begin with your voyage?

Answer. I descended the river with Mr. Ellis from Pittsburg.

Question. What was the object of the voyage? Answer. Mr. Ellis called it a trading voyage.

Question. Did you join the party at the mouth of Cumberland? Answer. I did.

Question. What do you suppose was the force at the mouth of Cumberland?

Answer. I should suppose that there were about seventy or eighty men. The circle, to which Colonel Burr was introduced, consisted of thirty or forty; and I should suppose they composed about one half of the whole.

Question. Did you stop at Cincinnati? Answer. I did.

Question. Did you receive any information of the party there?

Answer. I heard that Colonel Burr had been there a day or two before, and had excited some consternation among the people there.

Question. Did you stop at the falls of the Ohio?

Answer. The water was low, and occasioned us to remain there two or three days.

Question. Was any of the party there?

Answer. Mr. Kibby was there, engaging men to settle the Washita land.

Question. Do you recollect his Christian name? Answer. I do not.

Question. On what terms did he wish to engage?

Answer. Mr. Kibby stated to us the articles of agreement. They were nearly the same as those which Mr. Moxley has described.

Question. Were there any signatures to the articles? Answer. There were about ten or twelve.

Question. What were the terms?

Answer. It obligated them to go down the Ohio and Mississippi, and ascend the Red River to the mouth of Black River, and those waters, up to the Washita river; and it was annexed, that if the frontier was invaded, they were to resist.

Question. Did you descend the Mississippi?

Answer. I went to Natchez with Major Floyd and Ralston, and about fifteen others, in a keel boat, purchased by Colonel Burr of Mr. Ellis.

Question. What was in that boat? Answer. Bar-iron, hoes, mattocks, and a few barrels of apples.

Question. Do you know where the bar-iron and other articles were obtained?

Answer. Yes; they were purchased by Colonel Burr of Mr. Ellis, at the mouth of Cumberland.

*Mr. Wirt.* Was Mr. Ellis's being there accidental?

Answer. At the time Mr. Ellis was at the falls, Major Floyd talked of making a contract with Mr. Ellis for these articles: he did not, however, buy them, but told Mr. Ellis that he would see Colonel Burr on the river, and he was confident that the colonel would purchase the whole.

Question. Where were these articles from? Answer. From Pittsburg.

*Mr. Wirt.* My object is to ascertain, sir, whether Burr's meeting with Ellis was in consequence of any previous arrangement between them, or the mere effect of accident. Can you inform me as to the point? Was Mr. Ellis's voyage preconcerted with Col. Burr?

Answer. Mr. Ellis, sir, was on a general trading voyage.

*Mr. Hay.* How many of those articles were there?

Answer. I know not. Mr. Ellis has, I believe, an inventory of them; and he is here.

*Mr. Wirt.* Was Mr. Blannerhasset at the mouth of Cumberland when the tools were purchased?

Answer. He was.

\* A sawyer is the log of a tree, or a whole tree, fixed to one end in the bottom of the Mississippi, and plays up and down with the current like a man who is sawing timber.

Question. Was any proposition made to you to join the party? Answer. There was.

Question. Who made it?

Answer. Colonel Tyler asked me. I told him that if there was nothing hostile in their views, and there was a prospect of gain, I would join. He said if there was any thing hostile, he would be as far from it as any man.

Question. Did you not join?

Answer. I did. I had a right to withdraw whenever I pleased. The greater part of Colonel Tyler's men were, I think, on the same terms.

*Mr. Hay.* Why did you make that reservation? Answer. From the reports which were then in circulation.

*Mr. Wirt.* What were the terms?

Answer. I joined on the same terms as the other young men who were with him. Colonel Tyler told me he was going to settle Washita land, and those who went on first were at liberty to purchase land.

*Mr. Hay.* For what time did you engage? Answer. I was at liberty to leave them whenever I pleased.

*Mr. Wirt.* Did you hear any observations from Colonel Burr at the mouth of Cumberland?

Answer. Only a few words. He said that he had intended to have communicated his designs at that place, but that certain reasons prevented him. I understood him to say that Colonel Tyler, Major Smith, and Floyd would make those reasons known to us.

*Mr. Wirt.* Do you know any thing of the transactions at Thompson's bayou? Answer. I was not there.

No cross-examination.

*Chandler Lindsley again called.*

SATURDAY, October 3, 1806.

*Colonel Burr.* Do you know whether Dunbaugh, after his examination, had an opportunity of seeing his deposition?

Answer. I recollect sometime in June, he said he could recollect his affidavit given in New Orleans, *verbatim*. He said he had a copy of it. Some time afterwards he was in his chamber, and I was passing by or was in the same room with him, and I saw him on the bed with a paper in his hand. I asked him if it was a copy of his affidavit, and he said yes.

Question. Did you afterwards see it in his hand. Answer. No.

*Mr. Martin.* At what time did you see him with that paper?

Answer. In the month of June, previous to his examination before the grand jury.

*Mr. Hay.* Where do you reside?

Answer. My former residence was in Connecticut.

Question. Where is it now?

Answer. I have no fixed place, but expect to return to Bristol in Connecticut.

*Mr. Wirt.* Is that the place of your nativity? Answer. Yes.

*Examination of John Mulhollan.*

MONDAY, September 21, 1806.

*Witness.* Do you wish me to state where I joined the party? *Mr. Hay.* Yes.

*Witness.* I joined Mr. Tyler and Mr. Smith at Beaver, in Pennsylvania.

*Mr. Hay.* Was there any agreement between you, or what was your reason for joining them?

Answer. My first reason was, my meeting with a William Davis, from the back part of the State of New York. He said that he was going down with a party to see the country. I wished, too, to see the country, but Mr. Davis told me he could not engage me, but he would go to Beaver and mention me to Mr. Tyler. When Davis got to Meadville, he met with Major Smith, to whom he communicated my wishes, and informed him that I was at Waterford. Major Smith called on me at Waterford, presented me with Mr. Davis's compliments, and informed me that Mr. Davis and himself would be pleased to see me at Beaver. There I met with Mr. Tyler; he told me that he had an idea of going up the Red River to settle land.

Question. Did he mention Colonel Burr's name?

Answer. He did not mention his name while we were at Beaver.

Question. And why did you go? Answer. I felt much disposed to see the country.

Question. Was there no particular contract made with you? Answer. Not at that time.

*Mr. Wirt.* Was there any agency given you to engage men or provisions?

Answer. I was sent back to Waterford to hurry on salt for salting provisions that were expected at Beaver. I was also to engage what men I could; they were to find themselves in clothes and blankets.

Question. Did you engage any men? Answer. Yes, several; about fifteen from Meadville.

Question. What terms did you hold out to those men?

Answer. That they were to ascend the Red River.

Question. Were no lands promised them? no compensation? Answer. None.

Question. What instructions did you give them; or were they to go to Tyler?

Answer. They were to go to Colonel Tyler, at the mouth of Beaver, for such instructions as he thought proper.

Question. Did you receive any instructions as to the kind of men you were to engage? Answer. None.

Question. As to the young or old? Answer. I would not, of course, engage old men.

Question. Any with families?

Answer. Some with families did go; I was allowed to take any I thought proper.

Question. Did you go to Blannerhasset's island? Answer. I did.

Question. Was it known at Beaver that the Marietta boats were to be of the party?

Answer. It was not. I knew that Blannerhasset was to join, but I believe the boat I was in would not have stopped at the island, had it not been grounded.

Question. Did Blannerhasset go with you from the island? Answer. He did.

Question. Was there any difficulty about his going with you? was any vote taken?

Answer. Major Tyler and Smith asked us if we were willing that he should go with us; and we said we had no objection. It was mentioned among us, that he was under some apprehension of a mob arresting him.

Question. Was there any rumor or alarm among you about the militia of Kanawha or Wood county?

Answer. We had heard that there was a mob coming, and we were determined to resist them; but we should not have resisted the militia with legal authority.

Question. What do you mean by "legal authority?" do you mean that if they had a warrant from the civil authority, you would not have resisted?

Answer. Such was our meaning; but we would have resisted a mob.

Question. What do you mean by a mob?

Answer. If the mob had come, we should have asked for the authority under which they acted; and if they had none, they should have gone away without gaining their intentions.

Question. Was there any preparation made for resistance?

Answer. Not that I know of.

Question. Any bullets run?

Answer. There were; but they were to kill game and shoot at marks, which we frequently did on the river.

Question. Where were you joined by other boats?

Answer. By two of Mr. Floyd's, at the falls of the Ohio.

Question. Did you see any arms?

Answer. There were about thirty-five or thirty-six muskets or stands of arms, which I saw when we got to the Mississippi.

Question. Any arms of any other description, such as rifles?

Answer. There were three or four rifles.

Question. What particularly happened on going down the river?

Answer. At Shawneetown there was an address drawn up to the Washita or Western Land Speculation Company, tendering our services in any legal and honorable enterprise. This was signed by all of Tyler's party.

Question. Who formed that company?

Answer. There were no names mentioned in the address; but I considered Colonel Burr as one, though his name was not mentioned.

Question. Who drew up the address?

Answer. Major Tyler and Smith.

Question. Are the phrases "legal and honorable enterprise," repeated from memory? Answer. They are.

Question. Was it presented by Tyler and Smith? Answer. It was.

Question. How many signers were to it? Answer. About thirty or thirty-two.

Question. Had you any assurance that the plan would be disclosed to you at the mouth of Cumberland?

Answer. None from those who had a right to be informed. Such, however, was the talk among the men as we went down.

Question. When you were at the mouth of Cumberland, were you introduced to Colonel Burr?

Answer. I was, on the 27th December. We arrived there on the 26th.

Question. What took place on this introduction?

Answer. Nothing particular.

Question. At this introduction did the party form any thing like the three sides of a square?

Answer. They did.

Question. Was he introduced along the line?

Answer. He was, to the men, one by one.

Question. After this ceremony, was there any speech from Colonel Burr?

Answer. I was not near enough to hear what he said, but I understand he said he would impart something at another time.

Question. Did you receive any instructions to run bullets and make cartridges?

Answer. One day, while we were in the Mississippi, Colonel Burr came into our boat, and asked whether there was any one there that could make cartridges? I told him that I never had made any, but I believed I could make them, and I made three or four dozen.

Question. Did Colonel Burr act as the head of the party?

Answer. I considered him as such.

Question. Did you understand that the real object was to settle Washita lands?

Answer. It was so stated.

Question. Was there no occurrence or particular conversation which induced you to believe there was a different object?

*Mr. Botts.* Was there any conversation in the presence of Colonel Burr?

Answer. It was not a general conversation.

*Mr. Hay.* Is it a fact, or is it not a fact, that many of the men did suppose there was a different object?

Answer. I do not recollect, nor did I attend to them; because I did not suppose they knew more about it than myself.

Question. Do you know any thing about the seizing of Baton Rouge?

Answer. I never heard it before we got below Bayou Pierre, and then there were some conversations among the men about it; but I did not hear it suggested by any person that there was any design of invading any part of the United States, nor did I ever hear any thing from Colonel Burr, or any of the leaders, about invading Mexico.

The counsel for the accused said that it was unnecessary to make any statement on that subject.

*Mr. Hay.* The present inquiry relates as well to the misdemeanor as to the treason.

*Mr. Martin.* We have never heard of such a charge before.

*Mr. Hay* observed that he had also reduced this charge to writing, and had notified its existence to one of the opposite counsel, though it had never been publicly read in court. The clerk then read the paper in the following terms:

"The attorney of the United States for the Virginia district charges Aaron Burr, Herman Blannerhasset, and Israel Smith, with a misdemeanor against the United States, in beginning, or setting on foot, or preparing, or providing the means of a military expedition or enterprise, against Mexico, a province in North America of the King of Spain, with whom the United States are at peace."

*Mr. Hay.* It is immaterial, besides, whether this charge has been preferred; because, though the charge actually alleged is treason, yet, if the other crime should occur during the investigation of the evidence, it is the province of the court to inquire into it.

*Chief Justice.* It would certainly be unnecessary to re-examine the same witnesses a second time.

*Mr. Wirt.* Did you then hear nothing of the Mexican invasion?

Answer. I did not, from any leading characters.

*Mr. Hay.* Who did you consider as the leading characters?

Answer. Colonel Burr, Tyler, Smith, Blannerhasset, and Floyd.

Question. Had you not been informed of the plan by the President's proclamation?

Answer. That did not reach us before we got to Bayou Pierre.

Question. Were you at Thompson's bayou? Answer. I was.

Question. Do you know any thing of the ground that was cleared for exercising the men?

Answer. I assisted in clearing it.

*Mr. Burr.* The witness does not, perhaps, attend to the question: Was this ground cleared for exercising the men?

Answer. There was a talk that it was for that purpose; but I do not know whether it was for that.

*Mr. Wirt.* Do you say that the men never exercised there?

Answer. Never to my knowledge.

Question. Do you know any thing of the guard?

Answer. Yes. Sometimes, in the afternoon, a young man came up the river in a canoe, and said there were four hundred militia, without any authority, coming to destroy the boats that night. This was told to Colonel Burr, and we determined to get out of their way, if possible. Major Floyd concluded to put out sentinels to give us information of their approach. The signal was to be the firing of a gun.

*Mr. Wirt.* I understand this bayou is below Bayou Pierre? Answer. It is.

Question. I understood you also that you did not receive the President's proclamation before you arrived at Bayou Pierre?

Answer. I said that you had not reached us before we got to Bayou Pierre; but I am not certain whether it was there that we received it.

*Chief Justice.* Had you received the proclamation before the guard was put out?

Answer. I do not recollect.

*Mr. Burr.* Was it not afterwards?

Answer. I do not recollect; I heard that it was contained in some newspaper, perhaps in your boat.

*Mr. Wirt.* Do you know any thing of the search?

Answer. I do; I was in our boat at that time. When Colonel Fitzpatrick came, Colonel Tyler lifted the curtain, and he was introduced. We did not once change our posture.

Question. How many arms did he find there?

Answer. There were a couple of rifles belonging to a Mr. Lamb, and some pistols.

Question. Did you hear of the searching of the other boats?

Answer. I did not trouble myself about them.

Question. Did you hear of the sinking of arms? Answer. I did not.

*Cross-examined.*

*Mr. Wirt.* How many guns had you at Beaver? Answer. Five rifles.

Question. Did you see any more guns at any other time? Answer. I did not.

Question. Among the four boats that went from the island, how many?

Answer. Not more than five that I saw.

Question. Did you stop accidentally at the island?

Answer. I supposed so at first; but I afterwards understood that Colonel Tyler and Mr. Blannerhasset were connected.

Question. How much powder had you with you? Answer. About twenty-five pounds.

Question. Did you not borrow from one another? Answer. We did.

Question. Was the powder scarce among you at last? Answer. It was.

Question. Was there any game killed?

Answer. I believe two deer were killed at the time we were at the island.

Question. Was there any disturbance on the island? Answer. None.

Question. Had you any reason to believe that any of that party would have assisted in any unlawful design?

Answer. None.

Question. Did you see a printed report by Mr. Fitzpatrick? Answer. No.

Question. Did you understand that the country was much alarmed there? Answer. They were.

Question. And that the party was to be mobbed? Answer. Yes.

Question. That they were coming on board at night with tomahawks and knives? Answer. I do not recollect.

Question. Would not the militia have suffered extremely if I had not fed them?

Answer. I know that you sent over provisions to them.

Question. How many of them were there? Answer. About seventy.

Question. Did you not understand that I had made a treaty with Cowles Mead, for the preservation of my people?

Answer. I did not know it.

Question. Who sent us word that we must move down to the mouth of Cole's creek?

Answer. Major Fleehearty. The answer from Major Floyd was, that he must get more militia.

*Mr. Burr.* This was a piece of impertinence in Fleehearty; for it was after the stipulations entered into between Mr. Mead and myself. I was at that time fifty miles off, at Washington, Mississippi Territory, where I went to stand a trial.

*Mr. Blannerhasset.* Did you hear of any report about arresting me on the night I left my island?

Answer. I did hear something about it, but I believe it was not before the next morning.

Question. By whom? the militia? Answer. No.

*Mr. Hay.* Did you not hear of an arrest by General Tupper?

Answer. I did not; but the morning after I left the island, Mr. Blannerhasset himself mentioned that he understood there was a writ or warrant to do it, and asked us if we were willing to take him along after that was out.

*Mr. Wirt.* Was Major Fleehearty a militia officer? Answer. He seemed so, from his dress.

*Mr. Burr.* Was there not a good deal of talk about a Spanish war?

Answer. Yes. I saw a good deal about it myself in the newspapers.

*Evidence of Hugh Allen.*

TUESDAY, September 22.

*Mr. Hay.* Where did you embark? Answer. I embarked at Beaver, with Major Tyler and Smith.

Question. On what terms?

Answer. Mr. Tyler and Mr. Smith told me they were going to settle lands; and that whatever profits they shared I should share, I bearing an equal proportion of the expenses.

Question. How many men did you see at the mouth of Cumberland? Answer. About seventy.

Question. Was that the whole party?

Answer. Perhaps there might be more. Mr. Tyler's party was about forty; and Mr. Floyd's about thirty or forty; so there were, in all, about seventy or eighty.

Question. How many men came with Mr. Burr to the mouth of Cumberland? Answer. I do not know.

*Mr. Wirt.* Did Tyler's and Floyd's parties arrive there together? Answer. We got there first, by a few hours.

Question. When did you arrive there? Answer. On the evening of the 26th of December.

Question. Had Colonel Burr a party like Tyler and Floyd?

Answer. There were a number of boats there which I understood were Colonel Burr's.

Question. Did any thing occur to change your opinion of the object of this enterprise?

Answer. The only ground of my ever changing my opinion was, when I understood that the Government designed to arrest Colonel Burr.

*Mr. Hay.* And do you think that men would have left the better part of the world to go and settle a wilderness? Why did you go?

Answer. I made my calculations on this subject; Mr. Tyler and Mr. Smith had said that the object was the settlement of lands which would be profitable.

*Cross-examined.*

*Mr. Burr.* How many guns were in your boats? Answer. Five rifles, and one fusee gun.

Question. Did you get any more except at Blannerhasset's island? Answer. None.

Question. Did you ever see muskets and bayonets in those boats? Answer. Never.

Question. What was the construction of the boats? Were they able to go up the stream?

Answer. They were.

Question. Did you ever see any boats that could go up the stream with them?

Answer. I never saw the experiment tried.

Question. Do you know whether I had a single man at the mouth of Cumberland with me, except Dunnahue, the pilot?

Answer. I do not know him, nor how many were with you.

[Mr. Burr here stated that he had hired hands at Nashville to bring him down to the mouth of Cumberland.]

*Mr. Burr.* Were you present when I was introduced to the party?

Answer. I was; when you were introduced, you said you had intended saying something to us then, but for certain reasons of your own you had deferred it.

Question. Did I say that I had any thing like secrets to disclose? Answer. You did not.

Question. Had you any reason to suspect that any of the party meditated hostility against the United States?

Answer. Never.

Question. What do you call the captain of a boat? is it not every man who stands at the helm?

Answer. The way was to make him captain who is supposed to be the best waterman.

Question. How are new countries settled? Is it not the way to send a party on before, to explore it, and prepare for the reception of others?

Answer. I never settled a new country; but I suppose that is the way.

*Mr. Wirt.* Ay! that is an historical fact, for which we had better apply to the general records of nations.

Question. Did you see any powder on Blannerhasset's island?

Answer. I saw a quarter cask with about 25 lbs. of powder.

*Mr. Burr.* Did you use that continually on the river?

Answer. Those who chose did.

Question. Did you know of any more powder on board the other boats?

Answer. None, till latterly.

Question. Were there not some kegs of biscuit? Answer. Yes.

Question. Were there any bullets in barrels?

Answer. All the bullets I saw were in canisters on Blannerhasset's island.

*Mr. Wirt.* Had you any reason to believe that you were going to New Orleans?

Answer. Not before I got to Natchez, when I determined myself to go down.

WEDNESDAY, September 23.

On account of Mr. Fisk's indisposition, the following deposition was taken and read:

The affidavit of David Fisk, of lawful age, who being first sworn before me, Daniel L. Hylton, a justice of the peace for the county of Henrico, saith: that some time in the month of September, 1806, a certain Davis Floyd, of the Indiana Territory, came to this affiant, and asked him if he did not wish to take a voyage down the river with him during the course of the fall or winter; that he was going to settle a new country, the Washita, on the Red River. This happened either the next day, or a few days after Colonel Burr had left Jeffersonville, the residence of the said Floyd. At that time this affiant did not tell him whether he would go or not; but about two or three weeks afterwards he did agree to go, the said Floyd having several times mentioned what a fine chance there would be for him; that they would not agree to give to any one man more than twelve dollars a month, and one hundred and fifty acres of land at the end of six months, besides clothes and provisions; but as he and this affiant were well acquainted, if he would have a confidence in him, he would do something very clever for him; and if they succeeded in their object, there would be fortunes made for all that went. This affiant asked what other object they had besides settling the Washita land. The said Floyd answered, that there was a new road to be cut a great distance, and several houses to be built, which would be a very profitable undertaking. No positive bargain was made between the said Floyd and this affiant. On the 16th of December, 1806, this affiant moved down the river from the falls of the Ohio, in the Indiana Territory, with the said Davis Floyd, with two boats and one batteau, which the said Floyd had built there. On the same day, just as they were about to start, they were joined by Herman Blannerhasset, Comfort Tyler, and Israel Smith, with four batteaux and a number of men; the exact number he cannot state, nor does he know the number that started with the said Floyd; but when the boats joined Colonel Aaron Burr at the mouth of Cumberland, (which was of a Saturday night, either on Christmas night or the first Saturday after Christmas,) he understood that the whole number of men, including those of the said Aaron Burr, were one hundred and three. After the boats had left the falls of the Ohio three or four days, he discovered for the first time, on board one of said Floyd's boats, a chest and a box, the former of which, it afterwards appeared, contained muskets and bayonets, a few fuses, and blunderbusses and pistols; the latter rifles. A day or two afterwards, the said Floyd inquired of the men if they did not want, each of them, a gun to take care of; that he had some there which he was afraid would get rusty. The chest and box were then opened, and all the arms taken out and cleaned, and some of them occasionally used by the men in hunting as they went down the river. There were, as near as he can judge, between twenty-five and thirty muskets with bayonets, two or three fuses, three or four

blunderbusses, ten pairs of pistols, and about eight or ten rifles. Some short time after the boats had joined Col. Burr, and before they had got into the Mississippi river, while this affiant was lying sick on his trunk, he heard the said Floyd tell several of the men that they were going to take Baton Rouge and Mexico; this affiant asked how they were going to do it with so few men; the said Floyd answered, that a large party of men were to join us at Natchez, and General Wilkinson and his army were to join us at the mouth of Red River. Nothing of importance occurred till the boats got down to Bayou Pierre. A day or two before their arrival there, Colonel Burr took a boat and four or five men, and went on ahead, as this affiant understood, to do some business, which he expected to do before the boats got down. Floyd's boat, in which he went himself, and in which this affiant was, arrived there on a Sunday morning, and the other boats not till the evening. On our arrival, Colonel Burr was standing on the bank of the river, about a mile above the town; some short time after the men from our boat went ashore, this affiant saw Colonel Burr and a certain Robert A. New (who had the charge of Floyd's boat in his absence, he having then gone to Natchez,) talking together for some time. The said New then came on board our boat, and called all the men into it, and said he understood they were all going to be stopped, and inquired of them whether they would stand by Colonel Burr and go on, or quit. Most of the men were for going on, but two or three were for quitting. In the course of that day, this affiant mentioned to the said New that he mistrusted they were going upon some unlawful scheme. He assured him that they were not, that nothing was going to take place but what was lawful and countenanced by the Government. After dark the boats were removed over to the other side of the river. This affiant inquired the reason of their being removed, and was answered by the said New, that there was a party of men coming to take them, and it was best for them to make their escape. The boats lay seven or eight days at that place, and then moved about six miles lower down. While the boats were lying there, they were searched by several military officers, by the permission of Colonel Burr; but the night before they were searched, all the muskets and pistols, except a few pairs belonging to individuals, were taken out; the rifles were left. This affiant never knew what became of the muskets and pistols; some of the men said they were sunk in the river; others that they were hid in the woods. One night, while the boats were lying at the place, a young man came and said there were three or four hundred men crossing above us, and many below us, and that we should all be taken. A guard was posted at some distance from the encampment on that night, but what their orders were this affiant does not know, as he was not one of the number. After our removal from this place, Colonel Burr went to the town of Washington to stand his trial; but it not coming on, he returned. He remained with the party one night, then went again to take his trial, and did not return till it was over. He remained with the boats one day, told the men that he had stood his trial and was acquitted; but that they were going to take him again, and he was going to flee from oppression. He said that what property there was the men might sell, and make the most they could of; and if there was not enough to satisfy them, they might go to the Washita land, and take up what land they wanted, and go to work upon it. The boats and provisions were taken to Natchez, and part of them sold, and part of the provisions stored which would not readily sell, and the money divided among the men. The boats were different in their construction from any this affiant had ever seen, rather larger than were usual on those waters; and such of them as were sold, brought seventy-five dollars apiece; the usual price of boats being from twenty to thirty dollars. But there was a great demand for boats at that time to freight cotton down the river.

Question. After the boats and men had joined Colonel Burr at the mouth of Cumberland, who appeared to have the command of the expedition?

Answer. It was generally understood that the expedition was under the command of Colonel Burr; but I do not recollect to have heard him give any orders, except as to the sale of the boats and provisions, after we were stopped; though I often saw him in conversation with Blannerhasset, Tyler, Smith, Floyd, and New, and supposed that he communicated his orders to them.

DAVID FISK.

HENRICO COUNTY, &c.

Sworn to before me, in due form, agreeably to law, this 22d September, 1807.

DANIEL L. HYLTON.

Question by defendant. How did you understand the number of men to be one hundred and three?

Answer. From some of the men; I never counted them. This included the men in all the boats at the island.

Question. How many men came with Colonel Burr?

Answer. I do not know, but not more than three or four, I believe.

Question. Do you include Dean's, Ellis's, and Boyce's boats? Answer. Yes.

Question. Where did the conversation with Floyd, about Mexico and Baton Rouge, take place? and was Colonel Burr, Blannerhasset, or Smith, present?

Answer. I do not recollect at what place it happened; but neither of the three gentlemen named above was present.

Question. Was Colonel Burr present when the boats were searched, or was he then at Washington?

Answer. He was with the boats.

Question. Did Blannerhasset have any command over any of the boats?

Answer. None, except his own boat, which was in company.

Question. Did you not, at this time, expect a war with Spain?

Answer. I did; it was the general expectation of the party.

Question. How did you understand Mr. Floyd, as to Mexico and Baton Rouge?

Answer. I expected we were going on in the event of war, and that we should be joined by the army of the United States.

Question. Were you not told that, in the event of no war, you were to settle the Washita lands?

Answer. Yes; and, after we were stopped, Colonel Burr advised us to proceed and make the settlement.

SEPTEMBER 23.

The foregoing questions were put to Mr. David Fisk by the counsel for Colonel Burr, and his answers thereto sworn to in my presence, a justice of the peace for the city of Richmond.

ANDERSON BARRET.

*Evidence of Alexander Henderson of Wood county.*

About the last of August, or first of September, 1806, Mr. Blannerhasset wrote to me that he and Mrs. Blannerhasset intended to visit my family in the course of a few days. On the day appointed he and Mrs. Blannerhasset came in company with my brother John. After taking some refreshment, Mr. Blannerhasset entered into some conversation about the severance of the Union; he mentioned the advantages that would arise to the

people in the Western country from a separation; that we were paying three or four millions of dollars towards the support of the present Government, when with one hundred thousand we might support a Government of our own. He mentioned Colonel Burr's name, as a man of brilliant or splendid talents, as well as of great goodness of heart; (or some expression of that sort;) that he had made the fortunes of hundreds without at all advancing his own; he mentioned, as an instance, the Manhattan Bank and Company. This conversation took place before dinner. After dinner a walk was proposed to my mill. I objected to it, as I was weak, and not able to walk. Mr. Blannerhasset mentioned that I was as well able to walk as himself, and insisted that I should go along with my brother and himself. Shortly after we got into the meadow Mr. Blannerhasset mentioned that he had a great deal of confidence in my brother and myself. We assured him that we should not betray it, and that it was not misplaced. He then mentioned that, under the auspices (I think that was the expression) of Colonel Burr, a separation of the Union was contemplated; that no particular line of division had as yet been fixed on, whether it was to be the Allegany, or whether or not the South Branch of the Potomac; (I well recollect that he mentioned the rich settlement on the South Branch was to be included;) that New Orleans was to be seized; the bank or banks of New Orleans to be seized; that all the military stores in that country were to be seized; that a park of artillery, at or near New Orleans, which was said to belong to the French, (I think fifty pieces,) and which Mr. Jefferson was too economical to purchase, was also to be seized, and that country revolutionized in the course of nine months. He mentioned that the principal characters throughout the Union were acquainted with or concerned (I do not recollect which) in the enterprise; that the officers of the army and navy were secured. He mentioned General Eaton as being engaged; Mr. John Graham; Mr. Alston, Colonel Burr's son-in-law, as enamored of the scheme. He mentioned other names, I think, but I cannot recollect any, except Robert G. Harper, who was either concerned or engaged. My brother asked Mr. Blannerhasset what kind of Government was intended to be established? Mr. Blannerhasset mentioned that it was not yet determined on, but a more energetic one than the present was contemplated. My brother asked him if any foreign Power was to be engaged in it? He said that there was not. My brother asked him, if John Randolph, member of Congress, was acquainted with and engaged in it? Did I mention that Mr. Blannerhasset said that he himself had embarked in the scheme? Mr. Blannerhasset replied that Mr. Randolph was not. He mentioned the great advantages that would arise to those who took an early and active part in this enterprise. Mr. Blannerhasset then mentioned his own property.

*Mr. Wirt.* What it was worth?

Answer. Yes. He mentioned that he was a partner in the firm of Dudley Woodbridge & Co.; that he had property in the funds of Great Britain. He mentioned that he had five thousand dollars (I think such was his statement) in the hands of a gentleman in Philadelphia or New York; that he had a suit against Mr. Woodbridge's father, in Marietta, for some five or ten thousand dollars, I do not remember which. He valued his property on the island at fifty thousand dollars. I do not recollect of any other particular communication from Mr. Blannerhasset.

*Mr. Hay.* With what view did you understand this detail of his property was made?

Answer. Shall I tell you my impressions? I have omitted one particular expression of his as relating to his English funds; "that they could not get at them."

*Mr. Wirt.* Did he say who they were?

Answer. He did not; but I supposed the Government of the United States, in case of hostilities.

*Mr. McRae.* Did you understand with what view it was he spoke of his other property?

*Mr. Martin* objected to any such interrogatories about the *impressions* or *inferences* of a witness. If the publication of this trial goes to Europe, what a contemptible opinion will it afford of our judiciary proceedings!

*Chief Justice.* Was there any thing else, besides what you have stated, from which you made this inference?

Answer. Nothing else.

*Mr. McRae.* Was there any thing calculated to make a particular impression on your mind?

Answer. My impression, from his statement, was, that he intended to show, if he risked so much property, that we might surely risk the little that we had.

*Mr. Wirt.* Will you state the answer you made to this application?

Answer. We did not positively tell Mr. Blannerhasset that we would join in the enterprise, but that we must take time to consider it; that we had relations on this side of the mountains, whom we must consult.

*Mr. Wirt.* Did Mr. Blannerhasset mention the effect this revolution would have on Wood county?

Answer. He said that it could not long remain neutral, and that we must take an active part for or against.

*Mr. Blannerhasset.* Do you mean Wood county?

Answer. I mean that part of the country.

*Alexander Henderson's testimony continued.*

WEDNESDAY, September 23, 1806.

*Mr. Wirt.* Could you understand why your brother inquired whether John Randolph was not concerned?

Answer. Because Mr. Blannerhasset had mentioned that the leading characters in the Union were concerned, and we considered John Randolph as a man of great character, and a leading man.

*Mr. Wirt.* Did you understand whether he said any thing of Mr. Jefferson?

Answer. Mr. Blannerhasset said, if Mr. Jefferson was any way impertinent, that Colonel Burr would tie him neck and heels, and throw him into the Potomac.

Question. What did he say of his means of opposition to the Government?

Answer. He mentioned that, with three pieces of artillery and three hundred sharp shooters, he could defend any pass in the Allegany mountains that he had seen, against any force the Government could send against him.

*Mr. Wirt.* Did he show you any composition he was about to publish?

Answer. He showed me the first and second numbers of the *Querist*, which he intended to publish; at all events he showed me one, which he read to me, and then gave it to me to read the over night; I kept it all night and returned it to him next morning.

*Mr. Hay.* Did he say that he had written those pieces? Answer. So I understood.

*Mr. Wirt.* Did he say that he was going to publish them?

Answer. He said that he was going to Marietta next day to attend to the publication; for that the printer was a timid man, and required to be backed.

Question. What did you inform him about your own intentions?

Answer. We informed him that we knew not whether we could or could not join in the scheme; we, however, told Mr. Blannerhasset that he must not consider us as in any way committed.

*Mr. Wirt.* Do you recollect he if told you what particular circumstances would prevent your long remaining neutral? was it any commercial arrangement?



Answer. I think he said that, being in possession of the New Orleans county and the mouth of the river, we could not long remain neutral.

Question. Do you carry your produce to market through that channel? Answer. We do not.

*Mr. Hay.* He said that Mr. Graham was engaged; had you seen Mr. Graham on the subject?

Answer. I had not seen Mr. Graham for eight or ten years before; but I saw him a short time after this interview. On the 20th of November I received a letter from Mr. Graham, earnestly requesting an interview with me at the mouth of Little Kanawha. I met him there on the 22d. I must confess that I felt every inclination to disclose this secret to him when I first met him, but I did not conceive myself justifiable, because I had promised to keep this communication secret. Considering, however, that Mr. Blannerhasset had positively assured me that Mr. Graham was positively concerned in it, I asked him first if he was concerned in any scheme with Colonel Burr down the river. He said he was not; and, moreover, that he was authorized to prevent and arrest any such illegal proceedings. I did, then, conceive myself justified in communicating to him the substance of the scheme. Before this time, about the 1st of October, we had determined to oppose the scheme; and went down to the mouth of Kanawha to inform Mr. Blannerhasset of our intentions, but he was gone down to Kentucky, perhaps with Mr. and Mrs. Alston; and we then sent a message to that effect to Mrs. Blannerhasset, that they might not be deceived as to our intentions. At the same time, my brother and myself proposed a meeting of the citizens of Wood county, in order to obtain the sense of the people on what course they ought to pursue.

*Mr. Hay.* And was there a meeting? Answer. There was.

Question. Did you come to any resolutions? Answer. We did.

*Mr. McRae.* What was the substance of them?

Answer. That we were determined to support the constituted authorities of our country.

*Mr. Martin.* And were the resolutions published?

Answer. They were, I think, in a paper published in Morgantown.

*Mr. Hay.* Do you know Blannerhasset's writing? Answer. I am not certain.

Question. Did you ever see him write? Answer. I do not recollect.

Question. Did you receive those two letters from him? Answer. I did.

*Mr. Hay.* This letter, dated on the 31st August, mentions his intentions to visit you.

*Witness.* It may not be improper to state what gave occasion to that second letter. Mrs. Blannerhasset insisted on taking my little boy home for two or three weeks with her family; I agreed to it reluctantly. Three or four days after they had left us, I sent my overseer for my boy, who brought the child, with that second letter from Mr. Blannerhasset. This second letter covered an extract from a Marietta paper, signed "Querist," relative to the "Western World," and referred to in that letter.

*Mr. Wirt.* Do you know Peter Taylor? what is his character?

Answer. I have heard no one speak of him but Mr. Blannerhasset, who spoke of him in very high terms.

Question. What is your brother's name? John G. Henderson? Answer. Yes.

Question. Did he not represent Wood county? Answer. He did some years ago.

#### *Cross-examined.*

*Mr. Blannerhasset.* Have you not been a representative of Wood county? Answer. Yes.

Question. You lived in Wood county some time before I knew you? Answer. I did.

Question. Had you any reasons for not cultivating my acquaintance sooner?

Answer. I had: the reasons were partly private, and partly political: I have no objection to state those reasons: the political reason, that you were a democrat, and I was opposed to the present administration.

Question: Do you not recollect that I opposed the election of your brother, J. G. Henderson; and that my vote was refused?

Answer. I do: for I then personated my brother.

Question. Do you not recollect that it was refused because I had at that time no deed for my land?

Answer. I do.

Question. Do you not recollect that I had the honor of voting for you on a subsequent occasion?

Answer. I do.

Question. Was it not after that election that our acquaintance was formed?

Answer. It was; before that election I do not recollect to have known you.

#### *Alexander Henderson's cross-examination continued.*

THURSDAY, September 24, 1806.

*Mr. Blannerhasset.* Do you recollect, at the time of our conversation, you expressed any personal dislike of Colonel Burr? Did you not express a sense of hostility towards him?

Answer. I am sorry that the gentleman has put the question; I am sorry to wound any man's feelings wantonly. But I always thought him a dangerous man, and the late occurrences have not at all changed my opinion.

*Mr. Martin.* How long has your opinion of him been formed?

Answer. Ten or fifteen years ago, when he was making the tour of Virginia.

*Mr. Martin.* Not when he was said to be fixing means to overturn the Federal administration?

Answer. I do not recollect; but I heard much at that time of Colonel Burr.

[*Mr. Hay* here wished to identify the two letters, which Mr. Henderson had presented to the court from Mr. Blannerhasset.

*Mr. Botts*, however, admitted them.

They were then read by Mr. Hay, but they contained nothing important. The examination then proceeded.]

*Mr. Hay.* Did you, sir, read the "Querist?"

Answer. I read the first number in manuscript; it was signed *Querist*.

Question. I think you said, yesterday, that Mr. Blannerhasset confessed he was the author, and was going to Marietta to publish it?

*Mr. Blannerhasset* rose, and objected to reading these publications on such evidence. He observed that somebody may have written under the same signature on the very same subject; and that there was a lacuna or chasm which was required to be filled up.

*Mr. Hay.* We will fill up that chasm; Mr. Neal copied it.

*Mr. Neal* was then called into court and sworn.

*Mr. Hay.* Will you state to the judge what you know of the publication in the Marietta Gazette, under the signature of *Querist*?

Answer. About 1st September Mr. Blannerhasset sent for me, and told me that he had something to copy about the division of the States, and that the printer had met with some difficulty in understanding the writing of the first number. I copied the second and third numbers, and carried them to Fairlamb, the printer at Marietta, and gave them to him.

Question. Did you read the papers as they came out?

Answer. Yes; Mr. Blannerhasset supplied me with the whole.

Question. Did they correspond with the manuscript? Answer. Yes; the very same, I think.

The court accepted them, but, on the suggestion of Mr. Hay, the reading was waived, and they were to be put into the possession of the Chief Justice.

At Mr. Hay's suggestion, all the witnesses who had been examined were agreed to be discharged, except General Eaton; he declared that he did not "wish to go."

*Alexander Henderson again called in by the counsel for the accused.*

Here, at Mr. Wickham's request, the counsel for the prosecution read the numbers of the *Querist*, from the Ohio Gazette. They consist of a short interlocutory essay, containing some strictures on "The Western World," and of three other numbers, whose decided object appears to have been to demonstrate to the Western people the advantages that would result to them from a dissolution of the Union, and their constitutional right to adopt this expedient. Every line of them breathes the air of a discontented, disaffected, and revolutionary spirit.

Mr. Wirt (to the court.) It is remarkable that Colonel Burr was at the island on the 1st of September, and the first number of the *Querist* is dated on the 4th.

*Evidence of John Graham.*

THURSDAY, Sept. 24.

In the latter end of October last I received a letter from Mr. Madison, requesting that I would pass through the Western country, on my return to New Orleans. I know not whether it be proper to assign to the court the reasons of this wish. It may serve, however, to explain my conduct in the Western country. Mr. Madison stated to me, as a reason for this request, that Government had received information from various quarters that a project was on foot to sever the Union, or to invade the territory of Spain.

Mr. Wickham objected to this explanation.

Witness. It was to show that I had acted in obedience to my duty as an officer of the Government.

Mr. Wickham. What office did you hold? Answer. I was Secretary of the Orleans Territory.

When I arrived at Marietta, about the middle of November, I made inquiries, and heard what it may not, perhaps, be proper to state. Mr. Duval called on me, and informed me that Mr. Blannerhasset had just arrived with him, and would wait upon me. After passing the usual compliments, and expressing his pleasure at seeing me, he begged leave to read to me certain letters, which he had received by Captain Elliot, of the Western country, who had just returned from Pittsburg. Mr. Blannerhasset made many inquiries relative to Comfort Tyler, Dean, and Butler, and the preparations which they were making for their expedition down the river; what number of men and settlers they had obtained. Mr. Elliot gave him to understand that there would be more settlers than there would be boats for them. When Blannerhasset received this information, he observed that they could descend in his boats, as he had more boats than men. Before Captain Elliot quitted the room, Mr. Blannerhasset handed me a letter, which he said he had received, a few days before, from Colonel Burr, in Kentucky. Shall I state my recollection of the contents of that letter?

Mr. McRae. Do you believe the letter to have been Colonel Burr's?

Answer. I believe it was Colonel Burr's writing; for, though I had never seen Colonel Burr write, yet I had seen many letters said to be written by Colonel Burr. I merely mention this letter to show that it gave rise to a conversation between Mr. Blannerhasset and myself, relative to the contents of this letter. The conversation was somewhat desultory, nor do I particularly recollect the order in which the several topics were introduced. In general, I recollect that Mr. Blannerhasset animadverted upon the conduct pursued towards Colonel Burr at Frankfort; stating, however, his belief that this conduct was not authorized by the Government. He mentioned that Colonel Burr had purchased, from Colonel Lynch, I think, a certain part of the Baron Bastrop's grant in the Territory of Orleans. He stated, also, that he was to have an interest in this purchase, and seemed desirous of impressing on my mind a belief that the object of his preparations was the settlement of this land; but I cannot now recollect that, in the course of conversation, he did positively avow it. His object seemed to be to avoid an explicit avowal; but he said that they avowed that this was their object; that it was a legal one, and Government would have no right to interfere, until it was ascertained that they (meaning Colonel Burr and himself, as I understood) had an ulterior object. He contended that they had a right to go towards this object with just such preparations as they thought proper. This was an opinion in which I did not acquiesce. I made few inquiries; but he admitted, in the course of conversation, that he was building boats for the expedition in which he was engaged with Colonel Burr; that he was engaging young men, single and without families, to go down armed; he said they would have no cannon, but they would have rifles. He stated, in the course of conversation, the use to which these rifles might be applied—to resist the Indians and Spaniards, or to kill game. It is justice to Mr. Blannerhasset to add, that he said he did not solicit men to go; that he took such only as pleased to go; and that he did not expect more than three hundred men would go with him. He stated, also, that he was engaging provisions for this same expedition. From what I had heard after my arrival at Marietta, and from the manner in which Mr. Blannerhasset entered my room and made these communications, I was rather induced to believe that he conceived me to be one of the party.

Question. Why from his manner?

Answer. My acquaintance with him before was slight, and yet he was extremely polite to me, and expressed how happy he would be at seeing me in his own house. For reasons which it is unnecessary to take up the time of the court with, I was anxious to undeceive Mr. Blannerhasset. I asked him if he had stated that I was one of the party. He said that he had, and that he had understood so from Colonel Burr. When I assured him I was not, he expressed considerable surprise, not by verbal declarations, but by the marked air of his countenance. He observed to me that I did not know Colonel Burr, and passed some eulogiums upon him; and asked me, in a very impressive manner, whether I had not heard of an association in New Orleans for the invasion of Mexico. I told him that I had not, and ventured to assure him that there was no such association there. He told me that there certainly was, and that about three hundred men had signed to such an association, (I think that was his expression,) for the purpose of invading Mexico. After I had repeated my thorough conviction that there was none such, and assigned the fact of his being deceived about me as a presumptive reason why he should be deceived about others, he told me that he had obtained this information from Mr. Bradford.

Considering Mr. Blannerhasset at that time as a deluded man, I endeavored to draw him off from the undertaking in which he was engaged; and, considering it was more the policy of the Government to prevent than to punish such enterprises on the Ohio, I informed him that, so far from being concerned in the plan, I was an agent of the Government authorized to inquire into the facts relative to this enterprise in the Western country, and to take such steps as might be necessary for repressing it. I then stated to him, from reasons drawn from Colonel Burr's visit to New Orleans in the preceding summer, from the information which Government had received, and from the nature of the preparations which Mr. Blannerhasset himself was then making, *why* I believed that the object of Colonel Burr was either to attack the territories of the United States, or those of Spain. I assured him, at the same time, that any collection or combination of armed men on the Ohio would, under these circumstances, be considered as a violation of the laws, and repressed accordingly. He again contended that they had a right to go down the river as they thought proper, inasmuch as they avowed the settlement of the Washita, which was a legal object. Though we could not agree on this point, he asked me whether there would be any objection or opposition made to those men, if they went down in small parties. I gave him to understand that this would depend upon circumstances; but that, when they were collected, they would be arrested, and the enterprise would end in the ruin and disgrace of all those who were concerned in it.

During this conversation, I stated to Mr. Blannerhasset, pointedly, that I knew not the opinions of Mr. Jefferson or Mr. Madison; that these were my own opinions; and that I had power to act under the Government of the United States as circumstances required; that I was authorized to call on the constituted authorities of the country, if the constitution was about to be violated. I wish the court to understand that I was to consider the moving down the Ohio as a violation of the law, and I was then to call on the constituted authorities. When I spoke of the reasons which influenced my belief as to Colonel Burr's plans, Mr. Blannerhasset observed to me, that, however acute the opinions of gentlemen might be, he and Colonel Burr were as well acquainted with the constitution and the laws as the administration itself; and that they knew very well what they were about.

Question. What produced this remark?

Answer. I do not recollect, but perhaps it may have been the arguments which I had used to show that the expedition was a violation of the laws. Mr. Blannerhasset said that he had joined his friends in this undertaking, and could not abandon them, unless they consented to give the thing up; and asked me if he was at liberty to communicate to Colonel Burr the information I had given him. I told him he was. I do not recollect whether I have mentioned the opinion I expressed to Mr. Blannerhasset of the validity of Bastrop's grant. I told him all that I knew of the title, and that Colonel Burr would have no title to it; and that, if he had, the Orleans land could be no object with Mr. Blannerhasset.

Mr. Wirt. How came you, sir, informed about this title?

Answer. I had been at New Orleans, where the subject was much talked of.

Question. Have there been any judicial proceedings about it?

Answer. I told Mr. Blannerhasset that Mr. Lynch claimed under Mr. E. Livingston; that this was a considerable purchase; and that Mr. Livingston had invalidated this contract in court.

[Mr. Burr. I deny that this is a fact.]

The next day, perhaps that afternoon, I met Mr. Blannerhasset at another house, in company with gentlemen, most of them strangers to me. Mr. Blannerhasset was speaking, and avowing that Mr. Burr had a great many friends in Kentucky. I observed that this would much depend upon his object; if to settle the Washita lands, the people would wish him well; but if it was to attack the territories of Spain, or those of the United States, he would have very few friends. In reply, Mr. Blannerhasset observed that, whatever was his object, he either had, or would have, a great number of friends. This was in a public room in a tavern; several gentlemen were present; I recollect particularly a Major Sproat. Either on that evening, or the evening of the next day, Mr. Blannerhasset said he was writing to Colonel Burr. He invited me to his room, and wished to know how much of our conversation he might communicate to Colonel Burr. I told him the whole, if he chose; that the information was intended for him, but that he might communicate it to Colonel Burr. During this time, and for a few days afterwards, the intercourse between us was friendly; but, after I had had a conversation with Mr. Henderson, I had no further communications with him, save dining with him one day at the same table, and he arose immediately after dinner; and I did not see him again until we met in the Mississippi Territory.

Mr. Hay. Had you any communication with Mr. Burr?

Answer. I had, and in the Mississippi Territory too. In consequence of the information I had received from Mr. Henderson and others, I lodged information with the Governor of Ohio, and a law was passed; and I was also instrumental at Frankfort, in Kentucky, in the passage of a similar law. Their object was to put an end to these expeditions. When I arrived at the little town of Washington, in the Mississippi Territory, about the latter end of January or beginning of February, I heard that Col. Burr was in the house.

Mr. Hay. Where is Washington? on the Mississippi river?

Answer. No, it is ten miles from it, and seven miles back of Natchez. It is the seat of Government of the Mississippi Territory. I waited on Col. Burr, principally with a view to ascertain whether the information I had given to Mr. Blannerhasset had been communicated to him. I asked him whether Mr. Blannerhasset had communicated our conversation to him. He said he had. I told him, on entering his room, that I had just arrived from the upper country, and perhaps he might be anxious to hear the news. He told me that Mr. Blannerhasset had accused me of a breach of hospitality. I replied that I never was in his house in my life. He spoke of his protested bills drawn in Lexington, and seemed to attribute their protest to the measures adopted by the Government. I told him that just before I left Lexington, the merchants there had received information that they would be paid. He said that they ought to be paid, as the man on whom they were drawn had the funds to pay them with. He then spoke of the measures pursued by Government as ruinous and rigorous, (I am not certain which was his expression;) that they had detained his people. [Question. Was this before or after his trial? Answer. It was before; he had then entered into recognizance.] He said that he had invited investigation into his conduct; he spoke of the measures of the military, and his determination to resist them; I understood him to mean the military of the United States; he either said he had, or that he would, order his people to resist them. He said that he had claimed the protection of the civil authority, and thought *that* protection would be adequate to his safety. He spoke, too, of the Washita settlement; I believe he told me that he should send his people there, but did not know whether he should venture into the Territory himself; intimating, as I thought, an apprehension of General Wilkinson. He asked me, if I knew what had given rise to the President's proclamation. I told him that I did not, unless it was General Eaton's communication. The court will see, from the date of the proclamation, that any information I could have imparted had not then reached the seat of Government. Col. B. observed, that the machinations of his enemies had led to these proceedings; and that facts did not support and justify them. I assured him that those who were alarmed and agitated were not his enemies; at least, this was the idea I intended to convey; and after stating to him the alarm extending through the Western country, I proposed to him that he should make some

public declaration as to his real object. His reply to this was, that he was a party concerned, and that no declaration of his could have any effect. He seemed disposed to ridicule the idea of his bringing about a separation of the Union by physical force; that it was to be produced by moral, not physical causes. I mentioned to Col. Burr that I had heard in the Western country of a considerable number of men, perhaps 2,000, being collected for the purpose of invading Mexico. His reply was, that he supposed *that* event was in case of a war with Spain. I told him no, that I had not understood it as depending on that condition. He then said something about the Washita lands, and replied, that perhaps when they had a separate Government, something of that sort might be attempted (meaning, as I understood, the invasion of Mexico.) Soon after this, or at least before I had heard any explanation of what he meant by a "separate Government," a gentleman of his family came in, and I took my leave. I had no further conversations with Mr. Burr or Mr. Blannerhasset. I lodged an information against Mr. Blannerhasset, and was with him before a magistrate.

*Mr. Hay.* Did you make particular observations to Mr. Blannerhasset about the sort of preparations he was making?

Answer. He spoke of the settlement of the Washita as their object. He never positively told me it was, but he said they avowed it as their object. I observed to him as a reason why I should not think it was, that young men without families, or without any of the implements of husbandry, were engaged to go. He said that their arms were to kill turkeys or Indians. He then launched out into an abuse of the administration, their neglect of the army and navy, &c. I forgot to state this circumstance. When Mr. Blannerhasset met me, to know how far he was at liberty to communicate my opinions to Colonel Burr, I urged to him the impropriety of his engaging in these objects he said it was impossible that Colonel Burr could have so much deceived him and his son-in-law, Mr. Alston.

*Mr. Wirt.* Was this remark after you had announced yourself as the agent of Government?

Answer. It was.

Question. Did he say any thing to your objection about the want of implements of husbandry?

Answer. He did say something about the opening of roads, but he never did tell me the real object.

Question. Do you know any thing of the Washita land?

Answer. I never was on it.

Question. What is its character?

Answer. Some say it is good, and some say it is bad. I believe the greater part of it is covered with water, but there is some very fine land.

*Mr. Graham cross-examined.*

THURSDAY, September 24.

*Mr. Burr.* Did you ever see Bastrop's patent? Answer. Never.

Question. Did you read it?

Answer. No: I always understood that there never was one.

*Mr. Burr.* You have said that the greater part was water; I will assure the court that it was to be laid out without any water. Were you ever examined before?

Answer. Yes: I made a deposition when I lodged information before the Legislature of Ohio.

Question. Were you examined on any other occasion?

Answer. I was before the grand jury.

Question. Did you say any thing then of a conversation you had with General Nevill?

Answer. Yes: I told General Nevill that I had come to make some inquiries into this affair. General Nevill informed me what had passed in his conversation with Mr. Morgan. He said the people had apprehended that your object was the separation of the United States; but that if it was the invasion of Mexico, you would be better received on your return than you had ever been.

Question. Did you not then speak of the boats? Answer. I did.

Question. Did you not say they were unfit to go up the stream?

Answer. I so understood at that time.

Question. Do you not know that they were seized by Government to send troops up the stream?

Answer. I did not hear of it before I came here.

Question. Did I give you a welcome reception?

Answer. I was not acquainted with your manner. It was cold, but I thought respectful.

Question. Have you not heard Governor Williams, Mead, and Rodney say that they would not suffer the military to take me?

Answer. I most certainly recollect that I both thought and said that it was improper to take you by military authority; and I heard Governor Williams say, if the attempt was made, he was not authorized to sanction it.

Question. Had you not heard of the stipulations made to me by Williams and Mead?

Answer. I knew not of Governor Williams stipulating with you; I heard of Mr. Mead's doing it.

Question. Was there no law to arrest me?

Answer. I mentioned to Governor Williams that, if the laws were not sufficiently energetic to meet such occurrences, it was better to provide one; but I never saw the law.

Question. Did you not hear of an officer being there to arrest me?

Answer. I had a conversation with a Lieutenant Peter, who was lately in this place, relative to this subject.

The counsel for the prosecution objected to this course of examination.

*Chief Justice.* If Mr. Burr means to allege these measures as an excuse for his own military preparations, he may press these inquiries.

*Mr. Burr.* I did suppose, from the sort of duties which Mr. Graham discharged in that country, that he must have known of the stipulations of Mead and Williams; and that, in direct violation of these, a party of officers in disguise, (that is, without their uniform,) and with concealed weapons, as dirks and pistols, were there to seize me. Mr. Graham certainly knows something on this subject.

*Mr. Graham.* I can only speak of my conversation with Governor Williams and Lieutenant Peter, for with no others did I communicate on this subject. Governor Williams told me that a Dr. Carmichael had been authorized to come to the Mississippi Territory and seize you; whether this was before or after your trial, I know not. He said that he was extremely unwilling to have any such thing done. I observed that it was extremely improper to suffer a person to be seized, who was then in the custody of the law. He said that he had remonstrated with Dr. Carmichael; that Doctor Carmichael had given it up, and returned.

*Mr. Burr.* Did Carmichael belong to the army?

Answer. No: to the Mississippi Territory. I was proceeding to state that the night Colonel Burr left Washington, I heard some of the officers in the room in which I slept conversing about him, and one of them observed, that if Colonel Burr was not arrested on that night, he would make his escape. The gentlemen left the room, and

I afterwards understood from Lieutenant Peter, that an application had been, or was about to be, made to Governor Williams, for permission to arrest Colonel Burr. Lieutenant Peter having understood that I had heard part of this conversation, informed me that he had come with other officers to arrest Colonel Burr; and I advised him to do nothing that would violate the laws of the country. He gave me to understand, that at that moment he felt himself bound to obey the orders of his general, like a good soldier. I urged every consideration I could suggest against the exercise of military authority; and I did then understand that it was not his intention to proceed against Colonel Burr. Indeed, I understood that Colonel Burr had made his escape. I advised Governor Williams to make such arrangements with him as would send him on to Washington for trial, or to detain him in that Territory for trial.

*Mr. Blannerhasset.* You stated that you had given information against me, and led to a prosecution?

Answer. I did not say that I had led to a prosecution, but only that I had given information against you, that you might be taken to the district where the expedition had been fitted out.

Question. Why did you prefer Judge Toulman to Judge Rodney; the last being the senior judge?

Answer. I made no choice.

Question. Did you not understand that Judge Toulman was the judge of Tombigbee county?

Answer. I understood that he was judge of the Mississippi Territory, and Judge Toulman still insists upon it that he possesses this authority.

Question. Did you not apply to the Attorney General of that Territory?

Answer. Certainly not. Judge Toulman would have interfered, but Judge Rodney issued a writ of *habeas corpus*.

Question. Was it by direction or request of the Government, that you informed against me for the misdemeanor?

Answer. By neither.

Question. Do you not expect to pay the \$1,000? Answer. I expect not.

Question. To whom are you to pay it?

Mr. Graham here addressed the court; he said that Judge Rodney had refused to send Mr. Blannerhasset round for trial; but held him to bail; that he himself had been recognised; that the court was to sit some time in May; the judge considered the Supreme Court as the proper tribunal; the Attorney General thought otherwise, that before the court met he had besides been indisposed, and had obtained the certificate of his physician that he could not attend that court.

*Mr. Burr.* Are you still secretary of the Orleans Territory? Answer. I am not.

Question. Do you now hold any office under the Government, and what is it?

Answer. I am chief clerk in the office of Secretary of State.

Question. Was there any arrangement made to seize Colonel Burr after their judicial proceedings against him?

Answer. Governor Williams and myself both agreed that his trial in the Mississippi Territory was a mere farce, and that something ought to be done. He proposed to see Colonel Burr, and make some arrangements with him to come on to the city of Washington for his trial. Colonel Burr informed him that he was merely going to ride to Colonel Osborne's for that night. Governor Williams informed me that he received a great coat at the suburbs of the town, and disappeared.

*Mr. Wirt.* Was not Col. Burr held in recognizance? Answer. Yes.

Question. Did you see such a recognizance? Answer. Yes; I saw it myself in the clerk's office.

*Mr. Burr.* If it is there, I pronounce it to be a forgery.

*Mr. Hay* observed that the truth would appear in time.

*Mr. Hay.* Were any legal proceedings pending at the time of his departure?

The witness asked the court if this was a proper question?

*Chief Justice.* It is a mere difference of opinion about a fact.

*Col. Burr* contended that this recognizance had been complied with. (Governor Williams says not.)

*Mr. Hay.* Was his departure from Washington sudden?

Answer. It was certainly sudden, as Governor Williams told me he had been promised with a call from Col. Burr. FRIDAY, September 25, 1806.

*Mr. John Graham* was again called in at the request of the accused.

*Mr. Wickham.* You stated something about a communication from Mr. Blannerhasset, respecting Mr. Bradford?

Answer. I stated that Mr. Bradford was the person who (according to Mr. Blannerhasset) had given him the information respecting the Mexican association at New Orleans.

*Mr. Burr.* Do you know whether it was the practice then to seize on individuals by military authority?

Answer. I recollect to have been at Natchez, when about sixty persons were arrested on the suspicion of being concerned with you.

Question. I do not mean so late a period as that. As you were appointed to an office under the Government, I wish to know whether you, as an agent of Government, would countenance military arrests?

Answer. I certainly would not.

TUESDAY, September 29.

The examination of the witnesses was resumed on the part of the United States, although Colonel Burr was still unable to attend on account of his indisposition.

*Mr. Graham* observed, that when he was before the court the other day, he had omitted, he believed, to detail a part of a conversation which he had with Mr. Blannerhasset. He was also apprehensive that he had not been so explicit in relation to his conversation with General Nevill as he could have wished. He, therefore, requested permission of the court to add a few observations, by way of explanation.

He said that Blannerhasset observed, in the course of their conversation, that both Colonel Burr and himself believed that the people of the Western country would be benefited by a separation of the Union; but they had found that they were not ripe for the measure; and as they had no personal views, they were not disposed to hasten the event. I understood him to mean that the people of the Western country were not ripe for the measure. I think Mr. Blannerhasset went on to say that this was an event that must happen; but of this I am not so certain. This conversation took place at Marietta.

*Mr. Hay.* At what period of the conversation?

Answer. At the first conversation. Indeed I had but one conversation with him; our subsequent interviews and conversations were merely casual.

*Mr. Hay.* Was it at the first part of your conversation with him?

Answer. No: Towards the close; and after I had informed him that I was an accredited agent of the Government.

I have some reason to believe that I may have been misunderstood with respect to what I said relative to General Nevill. Colonel Burr had asked before what conversation I had about a gentleman in the neighborhood

of Pittsburg, before the grand jury, without mentioning his name. The allusion was understood to be to General Nevill; and whenever I mention the name of a gentleman, it is my wish to state every circumstance which occurred as nearly as possible. My recollection of the conversation with General Nevill is this: After detailing the conversations which he had had with others, he said that there had been strong prejudice against Colonel Burr about Pittsburg: that the people there were attached to the Union, and believed that Colonel Burr had intended to separate it. Afterwards, he said there was reason to believe that the expedition was meditated against the Spaniards, and his visits might be more welcome.

[From the rapidity of Mr. Graham's pronunciation, it was impossible for us\* not to commit some inaccuracies in the report of his testimony. Mr. Graham's absence prevented us from having the opportunity of correcting it before it was published. The two following errors occur in the statement of his opinion as to the Washita land:

Mr. Graham did not tell Mr. Blannerhasset that Colonel Burr would have no title under Bastrop's grant. He hazarded a doubt, or gave an opinion on that subject, for which he assigned his reasons; among these, that Colonel Lynch (under whom he understood Colonel Burr claimed) had purchased a part of this grant from Mr. Edward Livingston; that he had not complied with the conditions of the contract; and that it had been set aside by a decree of the Supreme Court of the Orleans Territory. From the manner in which this circumstance is reported in the Enquirer, it might be supposed that Colonel Lynch had no claim to any part of this grant, save what he derived from Mr. Livingston; an idea which Mr. Graham never meant to convey to Mr. Blannerhasset for any other person; for he expressly told Mr. Blannerhasset that Colonel Lynch had a claim to a part of this grant, which he derived from another source. Mr. Graham mentioned the purchase from Mr. Livingston, because he was under the impression that Colonel Lynch had sold his whole interest in this grant to Colonel Burr.

When Mr. Graham was asked as to the character of this land, he answered, that those who were interested in it said it was very good; those who were not, said that some of it was fine land, but that a great part of the grant was covered with water. Mr. Graham did not mean to say, as it is stated in the Enquirer, that the "greater part" was in that situation.]

*Evidence of John G. Henderson.*

THURSDAY, September 24.

I rode with Mr. Blannerhasset and his wife to my brother's house on the second Monday in September last: When we got near to my brother's, Mr. Blannerhasset introduced the subject of the separation of the Union. He stated, I think, that it was to be conducted under the auspices of Colonel Burr. He mentioned that there were many eminent characters in the Eastern and Western States concerned. He mentioned the names of General Eaton and Mr. John Graham, perhaps others at that time; I do not recollect. I do not believe that any thing more passed between us till we arrived at my brother's; when we got to my brother's, we took some refreshment (dinner.) I was not much in company with Mr. Blannerhasset till dinner, and I do not know whether his conversation led to that subject or not. After dinner we walked into the meadow; my brother, Mr. Blannerhasset, and myself. The subject was then renewed, under injunctions of secrecy, which we agreed to observe: Mr. Blannerhasset observed that it was a subject of great importance. He stated that the object was the separation of the Union; he mentioned characters who were concerned in it; observed that Colonel Burr was at the head of it, or words to that effect. He spoke very much in praise of Colonel Burr; mentioned an instance of his goodness of heart with respect to the Manhattan Company, and making the fortunes of many without benefiting himself. General Eaton's and Mr. Graham's names were again mentioned as concerned, and a number of others whom I do not recollect, that were acquainted with it; among the rest was Mr. Harper, and Mr. Alston's name was mentioned as being highly pleased with the scheme. In the course of conversation, Mr. Blannerhasset observed that New Orleans would be seized. He mentioned that the park of French artillery at New Orleans, which Mr. Jefferson was too economical to purchase, was to be procured; whether seized, or obtained in any other way, I do not recollect. He stated that the people in the lower country were displeased with the present Government on account of their interests not being protected or attended to. He seemed to apprehend no opposition in that quarter. He said the attempt would be made in less than nine months; that he himself had embarked in it. He observed that it would be a favorable juncture for effecting the object, owing to a want of energy in the administration; I am not, however, certain whether he, or which of us, made the observation; we all three concurred in it. I think Mr. Blannerhasset observed, that he hoped he should see my brother at the head of a regiment of horse at some time, but I do not recollect. He seemed anxious for us to join. Some time in the course of conversation, the name of Mr. Granger was mentioned; I thought in a threatening style, as if he would have cause to repent his having made use of an expression some time before published, importing that danger was threatening in the West. I do not know whether my brother was present during this observation. Mr. Blannerhasset said, that we must take an active part one way or the other, as we could not remain neutral. He mentioned an expression of Colonel Burr's, respecting the people in the city, or the administration, that if they were anywise impertinent, he would tie them neck and heels, and throw them into the Potomac.

*Mr. Hay.* Did I understand you to say that this was an expression as quoted from Colonel Burr?

Answer. Yes. We desired Mr. Blannerhasset, just before he left my brother's, not to consider us as committed; that it was a subject which required reflection; and that we must consult our friends on this side the mountain, who were interested in that country. I mentioned it to my father, under the same injunctions on which I had received it from Mr. Blannerhasset. I recollect having asked Mr. Blannerhasset, when he spoke of the leading characters of the Union, whether John Randolph had been made acquainted with it. He answered no.

*Mr. Wirt.* Why did you put that question?

Answer. Because Mr. Blannerhasset had said that the leading characters of the country were concerned I asked Mr. Blannerhasset what kind of a Government he would establish in the Western country. He said that this was not yet determined, but that a more energetic one than the present would be adopted. I asked Mr. Blannerhasset, also, if any foreign Power was concerned. He assured me there was not.

*Mr. Hay.* You asked him what form of government was to be established? Answer. Yes.

Question. Where did you suppose the seat of this energetic Government was to be?

Answer. He did not mention, but I supposed it was some central place.

*Mr. McRae.* Did he mention the line of division?

Answer. He did not particularly, but he said that the people in the South Branch would be in an awkward situation.

Question. Did he mention the Allegany? Answer. I do not recollect.

Question. Did he mention any thing about commanding the passes of the Allegany?

Answer. Yes. He said that, with a few cannon and a few sharp shooters, he could defend any pass in the Allegany.

Question. Did he mention the "Querist" in your presence? Answer. He did.

Question. What did he say of it?

\* By us it is meant the Richmond Enquirer from which journal this report is principally copied.

Answer. He read one number of it. The first words in it were, "Universal history every where teaches or informs," or some such expressions.

Question. Did you remember what was the object of these pieces?

Answer. I understood that it was to promote the separation of the Union.

*Mr. McRae.* Do you recollect any observations about Blannerhasset's property?

Answer. I think he estimated his property on the island at \$50,000; and besides, he had a small fund in Europe, which he said would be safe. He said they could not touch that.

*Mr. McRae.* What did he mean by "they?"

Answer. I do not know his allusion; but I suppose he meant the Government.

*Mr. Wirt.* Do you recollect any observation about the expense of supporting Government?

Answer. He said that we were contributing three or four millions to the present Government, when one hundred thousand would be sufficient for a Government of our own.

*Witness.* I have omitted to state that, after my brother received his last letter from Mr. Blannerhasset, my brother and myself went down to inform him of our decided opposition to this plan. He and Mr. Alston were gone down the river, and we directed the overseer to inform Mrs. Blannerhasset of our intentions. There was a subsequent meeting of the people of Wood county on this subject, and resolutions were adopted in opposition to the scheme; and a month afterwards, the militia volunteered their services to suppress it. Shortly after I left that country for Dumfries.

*Cross-examined.*

*Mr. Wickham.* Was this conversation in earnest or jocular? Answer. Perfectly serious.

Question. Did you hold any conversations with Mr. Blannerhasset before this which led to it? Were you in the habit of expressing opinions adverse to the Union? Answer. I never was opposed to the Union.

Question. Is it talked of in that country?

Answer. It has been talked of as an event that would take place in half a century or a century.

Question. Was your deposition ever taken? Answer. It never was.

Question. At whose instance did the meeting of the people you spoke of take place?

Answer. Several of us called it, and, among the rest, my brother and myself.

Question. And they passed resolutions about this plan? Answer. They did.

Question. How were they informed of this scheme?

Answer. From reports in the county.

Question. Did you communicate any information to this meeting?

Answer. No; nor my brother; any thing but general observations.

Question. What was the purport of these resolutions?

Answer. Nothing but to prepare for the danger which was to be apprehended. One of the resolutions alluded particularly to Colonel Burr.

Question. Was Mr. Blannerhasset's name ever mentioned?

Answer. A proposition was made to insert Mr. Blannerhasset's name in one of the resolutions; but I opposed it.

Question. Did you communicate on this subject with Mr. Graham?

Answer. I had left the county at that time.

*Mr. Martin.* What were your politics? Answer. They were federal, and are so still.

*Mr. McRae.* What have you considered Mr. Blannerhasset's politics to be? Answer. Democratic.

*Chief Justice.* Did you understand that this separation was to be effected by political means, quietly, or by force?

Answer. I understood him to mean, that if the lower country was in their possession, it would bring the upper country along with it.

*Mr. McRae.* And he conceived the lower country to be dissatisfied with the Government? Answer. He did.

*Mr. Wirt.* Did Mr. Blannerhasset state the manner in which this revolution was to be brought about?

Answer. No; he did not.

Question. Did the meeting in Wood county arise from any of Mr. Blannerhasset's declarations, or from the movements on the Ohio? Answer. I suspect the last.

*Mr. Blannerhasset.* What movements?

Answer. I did not myself use that word. I alluded to the building of the boats and kiln-drying meal, &c.

*Mr. John Henderson* returned to supply an omission in his evidence: that Blannerhasset informed him, that the officers of the army and navy were disgusted with the administration, and disposed to join. Mr. Blannerhasset also mentioned, in the course of the day, that General Moreau was expected to reside near Pittsburg.

SATURDAY, September 26.

*Mr. John G. Henderson* wished to correct an error in his evidence, with respect to the time of the second meeting of the people in Wood county. The first meeting was on a Monday, and the second on the Saturday following.

*Evidence of Charles Duval.*

THURSDAY, September 24.

Two years ago I saw Mr. Burr in New Orleans, but never since; but I have had frequent communications with Mr. Blannerhasset. The first time I ever had any was at Marietta, in September, 1806, when I had flour to sell. I asked him whether he did not want to buy flour, and he engaged twenty barrels; he did not, however, receive more than five or six barrels of it. I mentioned to him that I had understood from Mrs. Blannerhasset that he was going down the river, and a number of my acquaintances were going with him, and that I did not know but that I too would go, if I knew what he was going for. He told me that Colonel Burr and himself and others had purchased large tracts of land, and wanted settlers to go on it. I told him I had land enough at home, and that I did not want to go to settle land. He then represented it as though there was something else in view; but he did not tell me at that time. He said that a number of people were going who had never asked what they were going for; they believed it to be something worth going for. They were leaving their plantations, their neighbors, every thing. He said if he was going to leave his, I might surely leave mine; and that I might suppose it was for something very handsome. I mentioned something about his leaving his own plantation; a man who was so well situated as he was. He said that what he had there he did not regard as a straw, in comparison of the object which he had ahead. I had a great many interviews with him on the subject; sometimes he told me one thing, and sometimes another. I told him that Mrs. Blannerhasset had informed me that Mr. Graham was one of the party. Mr. Blannerhasset agreed that it was so. The court will be pleased to notice that Mr. Graham and myself had once



travelled to New Orleans together. He mentioned, if I would go with him, could I arm myself with a gun? I told him I had a rifle that I could take with me; that I never had used a musket. He said that that would answer. He asked me if the young men on the Muskingum, who were like to go with me, had arms or could get them? I told him it was probable they all had arms, as they belonged to the militia. He said, if they would find arms, he would find ammunition. Just before Mr. Blannerhasset's boats went off, Mr. Graham came to Marietta, and Mr. Blannerhasset was that night at my father's house. My father told me that my old friend Mr. Graham was in town; and Mr. Blannerhasset told my mother that she had better not let me go to see Mr. Graham, for Mr. Graham would certainly persuade me to go down the river.

*Mr. Hay.* Will you state the different objects which Mr. Blannerhasset held out to you?

Answer. He mentioned to me that he was going out into the Spanish territory, about the same time that he spoke of my arming; and said he supposed we should have a little fighting to do; but the Spaniards were cowards, and would soon run.

*Mr. Hay.* Did you understand where you were to fight the Spaniards?

Answer. Somewhere about the Washita lands; that they might be troublesome, and that he wanted men of my description to do it.

*Mr. Hay.* Did he profess any other object?

Answer. My father asked him what he wanted me for; if to work, that I would not work at home. He said he did not want all to work. He wanted men of my description; he did not care if he had 1,000 such.

When he was bringing up this kiln-dried meal, I asked him what it was for; he said that it was to take down the river. I asked him why he did not get flour. Because, he said, they were going into the Spanish country, and flour would not keep as well. He told me he wanted us to get knapsacks to carry eight or ten days' provision for marching. I mentioned I was a poor traveller, and I would get me a Spanish horse and ride. He said he was going out among the Spaniards, an ignorant set of men, and he wanted clever young men to go and take command of them; to have a commission and some office too. I mentioned to him that I would not hesitate to go there and stay two or three years, if I could make my fortune. He said, if I once got there, he'd warrant I never would return, I would be so fond of the place. I told him I never wished to go to a place whence I could not return to visit my friends. He said I should like the country so well, that I would be contented to stay there. He told me that when we got to the mouth of Cumberland river we should be joined by Colonel Burr and the whole party, when the whole secret would be divulged; and if I did not like it, he would bear my expenses back to Marietta. I told him that if I went down, and a number of my friends were going also, I should like to have choice of my boat's crew. He said if it was so, I must still expect to be under the same regulations as regular troops; that was, that we might have the privilege of choosing our own officers, till we got to the mouth of Cumberland; there we were to meet Colonel Burr; and we must then submit to such regulations as Colonel Burr thought proper. My motive for making this proposition as to my friends was, that a number of strangers were going, and I did not wish to be with them. I recollect nothing further of any great importance.

Mr. Duval's further examination was postponed, and the court adjourned till to-morrow.

*Continuation of Charles Duval's testimony.*

FRIDAY, September 25.

*Mr. Hay.* Do you recollect any conversation with Mr. Blannerhasset about the temper of the people of New Orleans?

Answer. Mr. Blannerhasset told me that the citizens were dissatisfied with the Government under which they lived, and with Governor Claiborne; and that he would go to the Spanish country, and there establish a Government independent of the Government at New Orleans. He mentioned, at the same time, that Mr. Graham was much beloved by the people and party there. I observed to him that when I was in that country, I frequently heard the people talking against Governor Claiborne.

Question. Did he mention a particular time for the execution of this project?

Answer. He mentioned that he was to be at New Orleans by Christmas.

Question. Do you recollect of General Tupper's saying any thing about Allbright (a witness for United States) after Tupper returned home?

Answer. I did not hear him; but I heard people say that Tupper had declared Allbright had perjured himself, and he would make it appear.

Question. Did you know Allbright, and what was his character?

Answer. I was at Bellepré a few days before I left home; and the people said that Allbright was an honest industrious Dutchman, and they would take his word as soon as General Tupper's.

*Mr. Wickham* objected to these inquiries. Why were they not made when General Tupper was here?

*Mr. Hay.* It is a great pity, indeed, that he did not wait this investigation.

*Mr. Wickham.* He did wait six months.

*Mr. Hay.* Had you any particular communications with Mr. Blannerhasset about your going with him to New Orleans?

Answer. He told me that I might go to New Orleans with him, and if, when I got there, I did not like the place, I might see Mr. Graham, who was a particular friend of mine, and he would, no doubt, put me into some business.

Question. Was this before or after you understood that Mr. Graham was not of the party?

Answer. It was after. Mr. G. advised me to have nothing to say to this project; and that if I wanted to go down the river, it would be more to my credit to go any other way.

Question. Do you know any thing of the kiln-dried meal?

Answer. I do; it was ground and stored at my father's mill; about sixty barrels were of kiln-dried meal, and twenty or thirty that were not kiln-dried. The boats dropped down and took in the meal.

Question. Where is your father's mill? on the Muskingum? Answer. It is.

Question. Do you say that Blannerhasset's boats dropped down and took in the meal?

Answer. I do.

Question. What boats?

Answer. Those which were built by Colonel Barker up the Muskingum. Ten of these boats were finished. They dropped down to the mill about half way to Marietta, took in the meal, and stopped at Marietta.

*Mr. Hay.* Were any uncommon exertions made to finish the boats by a certain time?

Answer. Mr. Blannerhasset said if the boats were not all done by a particular time, he would take those that were finished, and leave the rest; and Col. Barker got all the hands he could.

Question. And were any additional hands employed for completing the boats within the short time prescribed by Mr. Blannerhasset?

Answer. There were.



*Cross-examined.*

*Mr. Wickham.* Did Mr. Blannerhasset say any thing to you of a war with Spain?

Answer. Yes; he mentioned to me, I think, that he expected there would be one.

Question. And was it pretty generally expected in that part of the country?

Answer. I believe it was.

Question. Was it generally wished for? Answer. I think not.

Question. Have you made any other affidavit than in this court? Answer. None.

Question. Did you give no information to Governor Tiffin? Answer. None.

Question. What has become of the boats and kiln-dried meal?

Answer. Eaten up, I suppose, by this time.

*Mr. Martin.* What! the boats too? Who took this meal?

Answer. It was taken by General Buel, and, as it was said, under the orders of the Government.

Question. What became of the boats?

Answer. They were taken to a creek at Marietta. Some were sunk, some were broken to pieces, and others were fitted up to carry away troops of the United States.

*Mr. Burr.* Were these troops taken up the Mississippi above its junction with the Ohio?

Answer. So I heard.

Question. To St. Louis? Answer. I heard so.

DAVID C. WALLACE SWORN.—In the fall of 1806, Mr. Blannerhasset informed me that he was engaged in a plan with a number of persons, which he thought would be highly advantageous, and that he was authorized to offer me the appointment of *surgeon-general*; I inquired, surgeon-general of what? and he replied, that he was not at liberty to explain, until I had engaged in the expedition; he used various arguments to induce me to join; he said that I should be in very excellent company; that the association would consist of respectable individuals, and particularized Col. B.; he thought that after so long an intimacy I might rely on his friendship. The conversation ended with my peremptory refusal to join in any expedition, the nature and plan of which I was not fully informed of, and approved. I heard Mr. Blannerhasset make proposals to several individuals to join; offering one hundred acres of land, each man to furnish himself with a rifle and blanket; he stated that when they got to the mouth of Cumberland the plan was to be disclosed; all those who did not like it were at liberty to return; some of the men engaged, others took time to consider the proposition fully. At this time the boats building up the Muskingum were nearly completed, and a general rumor prevailed that Burr, Blannerhasset, & Co. were preparing an expedition to dismember the States, and to carry the war into Mexico. When Mr. Blannerhasset again asked me to join, I replied that the same objections continued, and that I was not yet informed of the objects of the expedition; to which he replied, "You have heard what we were about;" which I understood as assenting to the truth of these reports. I told Mr. Blannerhasset that I expected they would be stopped descending the river: to which he replied, that he did not believe the country would be able to stop them; that he would have five hundred men from Marietta; he would have seven boats at that place, and they would be joined by others from above. I remarked that the people in the Western country were excellent marksmen, and that the woods on the banks of the river would afford them an excellent covering for firing upon those who were descending the river. He replied that, "in that case, we would land a party, and set fire to every house and town." I rode with Mr. Blannerhasset to see the boats that were building up the Muskingum, where he showed the builder of the boats and myself the articles by which the people under his command, as he called them, were to be governed on descending the river. Each boat's crew was to choose the captain, until they joined Colonel Burr at the mouth of Cumberland, where he was to direct their proceedings. At the boat yard he directed the builder to have an apartment fitted up in his boat for Colonel Burr, as he expected the colonel, when he joined him at the mouth of Cumberland, would sometimes wish to stay with him. During the ride, I observed to Mr. Blannerhasset that I did not believe the plan would succeed, as the people generally detested and execrated the plan. To which he replied, "if the people could not see their interest, we will not cram the measure down their throats." Mr. Blannerhasset showed me some letters he had received from Colonel Burr about this period—[*Mr. Wirt.* At what time was it? Answer. Between September and the time of going down the river.]—in one of which he admonished him not to be alarmed by the rumors respecting his arrest in Kentucky, as he apprehended no danger but delay to retard the intended settlement on the Washita. A person present (Captain Elliott) inquired whether Colonel Burr had mentioned any thing about the expedition; to which he replied, "No; nothing comes to us on that subject by the mail." Mr. Blannerhasset spoke to me to furnish them a quantity of medicines, and such directions for using them, as were calculated for a military expedition.

In a conversation with Colonel Burr in 1805, he expatiated upon the situation of the Western country; on its being compelled to pay large sums for the sale of lands which were spent in the Atlantic States, and on the \$3,000,000 which he said we paid for tax. These observations made by Colonel Burr induced me to believe—

*Mr. Botts* objected to the witness stating any of his own inferences.

*Witness.* Col. Burr observed that this same money would vastly improve the commerce of the Western country.

*Mr. Hay.* Did you ever read the *Querist*?

Answer. I read the 1st and 2d numbers at Cincinnati.

Question. Did the observations in these papers recall to your recollection your conversation with Mr. Burr?

Answer. They did. When I saw these papers, I was asked my opinion about the author; I said that in my opinion, Colonel Burr had suggested the ideas, and that Mr. Blannerhasset had put them into words.

Question. Were the rumors that you spoke of general?

Answer. They were so. They were in every man's mouth.

*Cross-examined.*

*Mr. Wickham.* Have you had a medical education?

Answer. Yes; I received it in the University of Pennsylvania.

Question. Had you ever performed any surgical operation?

Answer. I had not. I never practised physic, nor did I ever intend it.

Question. Was this conversation with Mr. Blannerhasset after or before your refusal to join?

Answer. All the conversations were after that.

Question. Did any of the men applied to by Mr. Blannerhasset in your presence go?

Answer. I do not know.

Question. What was the tenor of these rumors?

Answer. That this party intended to effect a separation of the Union, and to carry an expedition into Mexico. Question. When the offer of surgeon general was made to you, did you believe it to be serious?

Answer. I cannot be certain of Mr. Blannerhasset's motive for making this proposition, but supposed that his object was to induce me to join, although I had not practised physic.

*Mr. Martin.* Were you in the habit of curing gun-shot wounds, or cutting off limbs?

Answer. No, sir, nor did I wish it.

*Mr. Wickham.* When were you in Philadelphia? Answer. In 1799 and 1800.

Question. Whose lectures did you attend?

Answer. I attended Dr. Woodhouse's, Rush's, Wistar's, and Barton's. Wistar was joint professor of anatomy and surgery with Shippen.

Question. Did you attend all the lectures? Answer. Yes, sir.

*Mr. Hay.* How long were you engaged in the study of medicine? Answer. Seven years.

*Mr. Hay.* Did Mr. Blannerhasset know of this? Answer. He did.

*Mr. Wirt.* Did you attend any surgical operations in the hospital?

Answer. I did, one winter.

*Mr. Wickham.* With whom did you study?

Answer. I studied about three years with Dr. White of Philadelphia.

*Mr. Hay.* Was this the same as Dr. White of Baltimore? "No," said Mr. Martin; "he was then in Ireland."

*Witness.* What, Dr. White of Philadelphia?

*Mr. Martin.* Oh! no; Mr. Hay and myself *understand* each other.

*Evidence of Robert Wallace.*

FRIDAY, September 25.

Question. Where do you live? Answer. I live in Marietta.

Some time last fall, I received a message from Mr. Blannerhasset to come down to the island. I went; it was soon after Mr. Blannerhasset returned from Kentucky. After I had been there some time, Mr. Blannerhasset took me into a small room, and said he wished to speak to me privately. He then asked me if I had not heard that he was going down the river; I told him that I had; he asked me if I would go with him. He said he was not then at liberty to reveal the object entirely, but if I would depend on his friendship he would do well for me. He spoke of the settlement of the Washita land, but intimated that there was something else in view. On the same evening there were several young men at Mr. Blannerhasset's house from Bellepré; they were all requested to join the expedition and go down with him; they were all to furnish themselves with a rifle and blanket. The next morning I had some more conversation with Mr. and Mrs. Blannerhasset. Among other things, I asked whether Government countenanced this expedition; I had heard something from Captain Elliott, the evening before, that this was an expedition intended against Mexico. Mr. Blannerhasset replied that it was immaterial whether Government aided it or not; Government was weak; they would have nothing to do with Government, unless it opposed the expedition; in that case, they would make resistance. Mr. Blannerhasset laughed at my staying at home and spending my life in obscurity behind the counter; it was a dull life; he told me if I would go with him, I would have an opportunity to distinguish myself. On the next day I rode up to Marietta with Mr. Blannerhasset, and on the way he was engaging several young men to go down the river with him, offering them lands; among the rest was one Rattburn, a schoolmaster; I told him he was a drunkard, and could do nothing towards the settlement of lands. "No matter," said Mr. Blannerhasset; "when he is brought under good discipline, he will make a good soldier, and his allowance will not be large enough to make him drunk." Mr. Blannerhasset was then going up the Muskingum, to see after Colonel Burr's boats that were building there, and to hurry their finishing.

Mr. Blannerhasset was at my father's house afterwards, and I was in the room when he offered my brother the place of surgeon general. My father told Mr. Blannerhasset he had better give up the enterprise, and stay at home on his island; that it was impossible he could succeed; that his force was too small, and the opposition too great. Mr. Blannerhasset said that General Wilkinson and the army would join him. When I was at the island, Mr. Blannerhasset told me that he expected we should have a little fighting with the Spaniards, but that they were great cowards, and would soon run and leave every thing in our possession. In the month of August, Mr. Blannerhasset was at my father's house, and used many arguments to prove that it was the interest of the Western States to separate themselves from the Union.

*Mr. Wirt.* Did Blannerhasset speak of Burr?

Answer. Yes, I understood that he spoke of him as the leader; I recollect to have asked him whether Colonel Burr was concerned. He answered, that he was one of the leaders. He also mentioned General Eaton as one concerned.

*Mr. Hay.* Did he mention what would be the result to you and to himself if the enterprise should succeed?

Answer. He said, if we succeeded, that our fortunes would be made; if not, that he was a ruined man.

Question. Did he say what he would do in case he met with resistance in his descent down the river?

Answer. Mr. Blannerhasset said they could land and burn the houses and towns, if the people attempted to oppose them:

Question. What arms did you see on the island?

Answer. I saw two or three guns, three blunderbusses, three braces of pistols, a sword and dirk, a keg of powder, and some bullets.

*Mr. Martin.* Were these arms owned by Mr. Blannerhasset for any long time?

Answer. Yes: I had seen them some time before.

*Cross-examined.*

*Mr. Wickham.* Did you ever agree to go with Mr. Blannerhasset?

Answer. I was undetermined if I should go; I said I was willing to go with my father's consent. Mr. Blannerhasset also said that he had so much respect for my father as not to wish me to go without it.

Question. Was there any talk of a Spanish war?

Answer. Mr. Blannerhasset gave some hints of such an event.

*Mr. D. Woodbridge* came into court to explain an observation which had been used on a former occasion. He said that the partnership accounts between him and Mr. Blannerhasset had been settled; from which it might be inferred that all their accounts had been settled. The truth, however, was, that though their partnership was dissolved, their private accounts were not yet adjusted.

*Return J. Meigs, Jun.,* was then introduced; he inquired whether he should state any thing about the seizing of the boats.

*Mr. Hay.* No, sir; I wish you to state particularly what passed between General Tupper and yourself.

*Mr. Burr.* And what is that inquiry to the court?

*Mr. Wirt.* It is to fortify Jacob Allbright's testimony. I presume that such will be the conclusion, if it appears that General Tupper has told Mr. Meigs the very things which Allbright has substantially related.

*Mr. Hay.* Has not General Tupper left his affidavit?

*Mr. Wickham.* I know not; but when that shall be produced to the court, it will then be time enough to introduce Mr. Meigs.

*Mr. Hay.* We have Mr. Meigs's affidavit, and, if it be necessary, we will introduce it. Mr. Meigs was then discharged from further attendance.

*David Gillmore sworn.*

Mr. Blannerhasset was in Marietta at the latter end of October, with General Tupper. Mr. Blannerhasset asked me if I was the person who gave tuition in Marietta. After a short introduction, he observed that he was about to descend the Ohio, and go up the Red River, to make a settlement; that he supposed the accumulations I might make from my instructions were not adequate to what I might make with him. He would like to have me go with him; that he was going to settle a new country, which would be advantageous to those who would volunteer to go round to that settlement. He mentioned the fertility of the country; the advantages of a market that was near to it, not far from New Orleans. He thought the prospects were so promising and flattering, that I could not hesitate a moment in determining in favor of going. I said, if I knew the object, and was certain of benefiting myself, I would have no objections to go. He then observed that Mr. Belknap was a fine and promising young man; that he stood high in his estimation, and he would give me the same privileges as Mr. Belknap would derive. That evening he insisted very urgently upon my going down the river with him. I wanted time to consider; but that if he would make any engagements on which I could rely, I was willing to join. I said I would call at his island on the next Saturday. We walked to Mr. Woodbridge's, and he made inquiries if I was acquainted with surveying. I said if I could get any thing in that way, I would go; but I had heard of other objects being in view.

*Mr. Hay.* Did you press him to disclose the real objects of this plan?

Answer. I did. He referred me to Mr. Belknap; and if I concluded to go, he would let me know more when I called on him.

Question. Did you see Mr. Belknap?

Answer. I did; but I had not time enough to enter into the merits of the cause. Afterwards I visited Mr. Blannerhasset, and he asked me whether I had determined to go down the river. I told him that I had not yet had sufficient time to talk with Mr. Belknap. I asked him what were the prospects and what were the discoveries of the objects he would make to me, and then I would tell him whether I would go or not. He said that I must engage first, and then he would tell me. Mr. Blannerhasset seemed willing to say very little on the subject, and seemed rather to consider me as a spy. I wanted some assurances, and perhaps intimated that I wanted every thing to be put on paper. I told him that I had heard they would bear the expenses of the people back; and I think he said that that would be very unreasonable. I made some inquiries as to their numbers; and he said that some were coming down the river from Pittsburg, enough to furnish crews to the boats that were building on the Muskingum; I think he mentioned two hundred. He mentioned General Eaton as engaged. I asked him whether he expected three or four thousand men down the river. He said he could not tell. I asked him if he expected one thousand. He could not inform me. He observed that it was necessary for every person who descended the river to carry arms. I asked him the reason; and he said that there were a number of Spaniards or Indians on the Red River, who might attack them if they were not armed. He then observed that he would prefer rifles in preference to common fowling-pieces.

*Cross-examined.*

Question. Did any person go from your part of the country but Mr. Blannerhasset?

Answer. No one from Marietta.

*General William Eaton, sworn.*

SATURDAY, September 26.

*Mr. Hay.* We only wish that part of your testimony, sir, which you have not yet delivered. You recollect that there was a part of it which was excluded by the decision of the court.

*General Eaton.* I know nothing concerning Blannerhasset and Smith. I have no recollection that their names were mentioned to me till after the prosecution was commenced. All that I know of Burr's project to dismember the Union is already before the court. After Colonel Burr had expressed to me the intended projects already related, and overcome my objections, he went so far as to assert that he would erect his standard at the seat of Government. Mr. Burr inquired of me with what officers of the marine corps and of the navy I was acquainted. I told him with most of them. It is impossible for me at this period to remember distinctly every adverb expressed to me in the course of conversation; but this I perfectly recollect, that if he could gain the marine corps, and secure to his interests the naval commanders, Truxton, Preble, and Decatur, he would turn Congress neck and heels out of doors, assassinate the President, (or what amounted to that,) and declare himself the protector of an energetic Government. If that distinct expression was not used, (though the impression is strong on my mind that it was used in the course of conversation) yet he used such expressions as these: "hang him," "throw him into the Potomac," "send him to Carter's mountain." Mr. Burr proposed to me to endeavor to gain the marine corps, and to sound Preble and Decatur, with whom I had been in habits of intimacy, but I had not been so with Truxton. A circumstance now recurs to my recollection. He also desired me to gain a Captain Davidson, a very brave man, and who is as honest as he is brave. Mr. Burr seemed to select a Mr. Reynolds, a lieutenant of marines, a handsome and excellent officer, whom he wished to engage. He grew importunate on the subject of the marine corps, and asked me, with some eagerness, how the marine corps stood. I answered him, "make yourself easy, sir; the marine corps stand as they should stand." Here, I beg leave to observe, that I never felt myself prepared to insult the honor of either of those gentlemen by making such propositions to them; and if I had thought them corruptible, I was not yet prepared. I remonstrated with Colonel Burr on the fallacy of his hopes to engage such men as Truxton, Preble, and Decatur in the projects he had conceived; observing that these gentlemen were clothed with well-merited honors, independent in their circumstances, and that such were not the materials for a revolution. This Mr. Burr admitted; but observed that they were undoubtedly like others, conscious of the imbecility of the Government, and, like all military men, would prefer (I think that was his expression) a Government of more energy, where enterprise would be encouraged and merit duly rewarded.

I stated obstacles to the project then in speculation, such as I thought insurmountable. I asserted that it would be impossible to find a party of men in this country who would support him in projects of such a treasonable, and,

I think I said, murderous nature. He observed that he knew better the dispositions of the principal citizens of the United States than I did. He made reference, I think, to the political divisions of the people. At this distant moment, however, I cannot be positive. I recollect to have mentioned to Colonel Burr that I had lately travelled from one extreme of the Union to the other; and though I found a diversity of political sentiment among the people, they appeared united at the most distant aspect of national danger. He again recurred to the weakness and want of energy of the administration, and to his own resources; he seemed to make his project meritorious, as he said the degraded situation of our country required more energy in the Government; he said that the blow must be struck, and if he struck it at that time and place, he would be supported by the best blood of America. I observed that one solitary word would destroy him. He asked me what word. I said "USURPER." He smiled at my want of confidence, and quoted examples from ancient and modern history, in which I think were named Julius Cæsar, Cromwell, and Bonaparte. Much speculative conversation passed, which I cannot distinctly recollect, but which went to convince me of the unprepared state of the people of these United States to defend themselves against an energetic blow; which conversation was pretty much closed by this observation of mine, that if he should succeed at the seat of Government, his throat would be cut in six weeks by Yankee militia.

*Cross-examined.*

*Mr. Baker.* At what time was this conversation held?

Answer. Between the middle of February and the last of March, 1806.

Question. Cannot you come nearer to the time?

Answer. We had frequent conversations. I received various notes from Colonel Burr, requesting to see me. Our conversations were commonly held at the house of Mr. Wheaton, sergeant-at-arms, where Colonel Burr boarded. I frequently dined at that house with gentlemen in Congress, and we sometimes passed an hour or a half before dinner in conversation. We had interviews at other times, when the subject was started.

*Mr. Botts.* At what particular period was it, sir, that you exclaimed against the views of Colonel Burr?

Answer. As to the time, I do not recollect.

Question. I mean as to the stage of your communication?

Answer. It was when he opened his views to me of overturning the Government. But, through the whole of our intercourse, I used such strong expressions of disapprobation against his plans, that Colonel Burr ought to have been satisfied that he had no right to use *my* name.

Question. Was there no particular expression by which you conveyed to him your unwillingness to associate in his plans.

Answer. I have already stated to the court that my expressions must have convinced Colonel Burr that I was not disposed for the enterprise.

Question. Was there no particular objection you made more distinguished than any other by energy of language?

Answer. None more so than I have already stated. I did not think it good policy to awaken the suspicions of Colonel Burr.

Question. Do you recollect the time when you threw off the mask?

Answer. It was when I told him that the people were not prepared for his usurpations; that the very name of *usurper* would put him down; and although he might calculate on the weakness of some quarters of the Union, yet there was strength in the north, which would cut him off. When Colonel Burr returned to the subject of dismembering the Union, the central project seemed to have been abandoned.

*Mr. Wickham.* You said that it was not your policy to be more explicit; will you explain what you meant by that observation?

Answer. I have already given you an explanation of that before the court and the jury, but I will repeat it. I knew not that Mr. Burr had made communications to any one else; and if I had positively declared that I would oppose him, I doubted whether he would not turn the tables upon me. I had a further view. Had Mr. Burr, by means unknown to me, got his outrage upon the Government into motion, I should have endeavored to have been near him.

Question. Was your conversation about the marine corps before or after throwing off the mask?

Answer. I think that it was previous. My memory, as to time, is not the most accurate. Many things may have escaped my memory; and, as it relates to the question of time, I cannot be positive on the subject.

*Mr. Botts.* Did you say that your toast was printed in a Springfield paper?

Answer. I was about to observe, with the permission of the court, on that subject. I never meant to be positive on that point. I am impressed with the opinion that this toast went through the hands of Stephen Pynchon, of Brimfield, and through him to said paper. The toasts have been given to the public, and it is more than possible I gave it more than once.

Question. Who was the printer of the Springfield paper?

Answer. I do not at this time recollect his name, though he is among the number of my friends.

*Mr. Wickham.* Or the title of the paper? Answer. "The Spy."

*Mr. Botts.* You have detailed a number of harsh expressions which you used to Colonel Burr. Did he keep in perfect good temper all this time?

Answer. Colonel Burr, sir, has a powerful command of his muscles; I did not find at all times that they were unruffled; I could read in his countenance sometimes concern, sometimes solicitude, and sometimes a disposition to make a trifle of my objections.

Question. I think you said that it was generally your purpose not to disclose, in your intercourse with Colonel Burr, that you were inimical to his views?

Answer. You understood me correctly.

Question. But that, nevertheless, his muscles were sometimes ruffled? Answer. They were.

Question. Were your observations then of a nature to ruffle him?

Answer. I spoke to Colonel Burr, sir, with much plainness; and, even if I had been cordial in my approbation of his plans, I should have sounded my objections, that I might have tried his force. I have done the best that I could for my country; I have attempted to exert all my wisdom; it was a painful ground on which I was taken. I took the advice of two intelligent gentlemen, (whose names I am at liberty to mention,) and they did not think it advisable for me to make a full disclosure to the Government, for my solitary communication would not avail against the weight of Colonel Burr's character; for, with all the evidence even now before the world, I still feel the weight of that character.

*Mr. Baker.* And who were the gentlemen that advised you?

Answer. The Honorable Samuel Dana and John Cotton Smith.

*Mr. Burr.* Had we any conversation before the month of January?

Answer. It recurs to me as highly probable that I first spoke to you, in Philadelphia, between the 20th and 24th of December.

Question. On this subject?

Answer. I had a communication with another gentleman, at that time, of a very indefinite nature. At Philadelphia you gave me no distinct nor well-digested ideas of the project, but you spoke of a Spanish war.

*Mr. Martin.* We must have that gentleman's name. Who was it?

Answer. Jonathan Dayton.

*Mr. Burr.* Had you any expectations or promises of a military command from Government?

Answer. It is true that the chief clerk in the Department of War, though in confidential terms, asked me whether I would accept a vacant rank of lieutenant colonel on the establishment; I answered that I would take no rank on a peace establishment. There were no other overtures to me on this subject; but, when there was a prospect of war, you, and other men whom I thought as honorably of as I then thought of you, proposed a command to me in case of war. It is true that a gentleman near the Government asked me if I would take a command under the celebrated General Miranda. I asked him if he was authorized by Government to make this proposition? He said no! I then observed the question required no measure, (as I found that, too, to be a project of darkness.) I was determined to know to what it all tended.

*Mr. Baker.* Who was that man?

Answer. Dr. William Thornton. I will ask the indulgence of the court to make one observation. It has been asserted by Colonel Burr that it was his intention to disqualify me for the stand which I now occupy; I shall remain here a reasonable time to indulge him in the attempt; it will not avail him. *Let him look through all the pages of my life; he may find some errors and extravagances there, but he will find neither felony, nor fraud, nor neglect of duty.*

*Evidence of General Wilkinson.*

SATURDAY, September 26.

*Mr. Hay.* Will you be so good as to state the written communications made to you by Colonel Burr, and the oral communications of Mr. Swartwout?

*General Wilkinson.* On or about the 8th of October of the last year, (1806,) I was sitting, in the evening, with Colonel Cushing, at his quarters, and with him alone, when a gentleman entered.

*Mr. Hay.* At what place?

Answer. At Natchitoches. The gentleman inquired for Colonel Cushing, who rose and received him; he presented a letter to the colonel, who broke the seal and read it. The gentleman then announced himself to be the Mr. Swartwout referred to in that letter, and Colonel Cushing introduced him to me as the friend of General Dayton; handing me, at the same time, the letter, a copy of which I have, and the contents of which I well recollect. The general then produced a paper, said to be the deposition of Colonel Cushing, which comprehended this letter.

*Mr. Botts.* When you are about to show a paper, you will please submit it to our inspection.

*General Wilkinson.* I shall be governed by the judge in that respect.

*Mr. Botts.* Then we shall request the judge to govern you in that respect.

*General Wilkinson.* I shall endeavor to conduct myself with propriety, and in the most decorous manner to the court.

[Here General Wilkinson recapitulated the contents of the letter, which may be seen in the annexed deposition of Colonel Cushing, marked A.]

Mr. Swartwout took a seat, and informed us that, being on his way down the Mississippi for New Orleans, in company with a Mr. Ogden, they had heard at Fort Adams of the impending operation against the Spaniards, which had induced him to ascend the Red River in order to join me, and volunteer his services in the campaign; and that Mr. Ogden had proceeded on his journey to New Orleans. Colonel Cushing retired for a few minutes, and, pending that interval, Mr. Swartwout slipped from his side pocket a letter and packet or envelope, which he said he was charged by Colonel Burr to deliver to me. I hold the letter in my hand, and it is a formal letter of introduction of Mr. Swartwout by Colonel Burr.

*Mr. Martin* observed that, if any letters were produced, they should be lodged with the clerk, where both parties might have an opportunity of inspecting them.

*Chief Justice.* Not unless they are read. [The letter was laid upon the clerk's table.]

I inquired of Mr. Swartwout where Colonel Burr was; he answered that he was in Philadelphia, or that he had left him there. Colonel Cushing returned, and the conversation took a general course. After some time Mr. Swartwout withdrew, and I retired to my chamber, and in the packet or envelope I found a letter addressed to me in cipher from Colonel Burr.

*Chief Justice.* I did not understand you. How did you get that letter?

Answer. It was in the packet or envelope. This letter was principally in cipher; the closing paragraph, however, was in the ordinary script; I resorted to the key, and attempted an interpretation of the letter; I did not complete it, but discovered enough in the course of the evening to satisfy me that there was some illicit project on foot. I arose early in the morning, and called on Colonel Cushing, my second in command, and adjutant and inspector to the army; I stated to him that Mr. Swartwout had borne me a letter from Colonel Burr, the nature of which I explained; and observed to him that Mr. Swartwout's declarations that he had come with a view to volunteer his services in the campaign against the Spaniards were merely intended to cover his real design; I then communicated to Colonel Cushing the measures which I should pursue, enjoining on him, at the same time, to observe the strictest secrecy. Were it permissible to be read, here is a statement of facts, sworn to by Colonel Cushing. [The general held, at this time, in his hand, the paper marked A.]

*Mr. Wirt.* This statement is signed by Colonel Cushing, with a certificate of his qualification, in legal form, annexed.

*Mr. Wickham.* An affidavit forming no part of the case before the court cannot be introduced.

*Mr. Hay.* General Wilkinson states that, on the morning after the letter was partly deciphered, he stated to Colonel Cushing its contents, and communicated to him the measures which he should pursue. These are facts detailed in that deposition, and, if the gentlemen do not wish to see them, there is an end of the controversy.

The general proceeded. One paragraph of the letter I have observed was in the ordinary script. [Here the paragraph was read by General Wilkinson in the following words: "He is a man of inviolable honor and perfect discretion; formed to execute rather than to project; capable of relating facts with fidelity, and incapable of relating them otherwise; he is thoroughly informed of the plans and intentions of \_\_\_\_\_, and will disclose to you as far as you inquire, and no farther; he has imbibed a reverence for your character, and may be embarrassed in your presence; put him at ease, and he will satisfy you."] I determined to avail myself of this reference to

obtain from Mr. Swartwout that information which I could not discover from the letter—that is, the object to which Colonel Burr expressly directed his views; and, in the course of several days, I obtained from him, substantially, the following facts: That he had left Colonel Burr at Philadelphia, occupied almost day and night on an enterprise which he had in contemplation: that he lived in a retired part of the city, in a small house, with several rooms, where he received persons with whom he had to transact business; and that he saw no two persons at the same time; he observed to me that Commodore Truxton was frequently with him, and zealously engaged in his enterprise; he observed, at the same time, that a man who superintended the public buildings at Washington was also zealously engaged in his enterprise; he did not recollect his name, but on my mentioning the name of Latrobe, he said *that* was the man. He said that he had been despatched by Colonel Burr from Philadelphia, and had traversed the States of Ohio and Kentucky; I so understood the gentleman at that time, but have since discovered that he descended the river.

*Mr. Botts.* By whom did you understand that he had descended the river?

Answer. By a man who informed me that he had rowed him down from Pittsburg.

Another reason why I may have been mistaken was this: he informed me that he had passed to Frankfort in quest of General Adair, for whom he had despatches for Colonel Burr; and, not hearing of him there, had returned back to Lexington in pursuit of him, where he was informed by Major Waggoner that General Adair (being in ill health) had gone to some medical spring, and that, if he would wait a few days, he might see him; that he did so, and thus had an interview with him, without incurring any suspicion; at which time he delivered his despatches. He said General Adair was zealously engaged in the enterprise, and observed, "tell him that I will not write to him, but that I expect to meet him at the place; that he may depend I will meet him at the spot;" or words to that effect.

Mr. Swartwout proceeded to inform me that he came to Louisville, and felt himself at a loss how he should reach me with the most certainty; that a rumor had prevailed there that I had descended the river. Finally, on the advice of Mr. Floyd, he determined to go across the country, under an expectation of finding me at St. Louis. Accompanied by Mr. Ogden he prosecuted his journey to Kaskaskias. Finding that I had descended the river, he determined to alter his route; he purchased a skiff, employed hands, and followed me down to Fort Adams. At this point I asked him whether this sudden change of route might not expose him to suspicions? He said that, to guard against this, he had wounded his horse with his penknife, and informed the people that his intentions were to have visited St. Louis; but, having experienced this accident, he should pursue his original destination, which was to descend the river to New Orleans. On arriving at Fort Adams, and discovering that I had proceeded to Natchitoches, he determined to follow me; and his friend, Mr. Ogden, (pursuing his route,) went on with despatches from Colonel Burr to his friends in New Orleans. Mr. Swartwout informed me that Colonel Burr, supported by a numerous and powerful association, extending from New York to New Orleans, was about to levy an armed force of seven thousand men, with a view to carry an expedition against the Mexican provinces; that five hundred men would descend the Allegany river with Colonel Swartwout and a Major or Colonel Tyler; that the boats were already built. He observed that this Territory would be revolutionized, where the people were ready to join; and that some seizing, he supposed, would be necessary at New Orleans; that they expected to make their embarkation about the first of February; that they proposed landing at La Vera Cruz, and marching from thence to Mexico. I observed to him that there were large sums of money in the Bank of New Orleans. He replied that he knew that full well. I observed, "surely you will not violate private property?" He said, "we mean only to borrow, and will return it;" that they must equip themselves at New Orleans; that naval protection would be had from Great Britain; that Commodore Truxton and the officers of the navy were so disgusted with the Government, that they were ready to join; and that pilot-boat built schooners were contracted for on the southern coast of the United States for the service.

He inquired of me whether I had heard of Dr. Bollman? and, on my replying in the negative, he expressed some surprise; observed that Dr. Bollman and a Mr. Alexander had been despatched from Philadelphia, by sea, to New Orleans, with despatches from Colonel Burr to me, and that they must have arrived. Mr. Swartwout informed me that he was obliged to go to New Orleans; and was also under engagements to meet Colonel Burr and General Dayton at Nashville on the 20th of November. I think Mr. Swartwout left Natchitoches about the 18th of October for New Orleans, as I understood.

It may be proper, in this stage of my testimony, to say that the envelope, which contained the ciphered letter from Colonel Burr, covered also two other letters. To save misapprehension, it may also be proper to say that, when I speak of an envelope, it is in contradistinction to a sealed packet. It occurs to my recollection that a letter, addressed to John Peters, Esq. of Nashville, was enclosed in the envelope, as well as another letter, from General Dayton, in cipher. (See Dayton's letter, note C.)

*Mr. Baker.* Do you say that the letter from General Dayton was enclosed in another ciphered letter?

Answer. No. I say expressly the reverse. It came with it.

*Mr. Wickham* objected to reading the letter from General Dayton. He said that General Dayton being absent, he had no opportunity of consulting him, or of ascertaining his wishes respecting it. If there be no other evidence that the letter was from General Dayton, except that a letter was received by General Wilkinson, purporting to be a letter of General Dayton's, it was not evidence.

*Mr. Hay.* The fact stated by General Wilkinson is, that he received this letter. It may have had a considerable influence with him, as to the course which he pursued. He received the letter, together with another ciphered letter from Colonel Burr; and the fact being that he received this letter, purporting to be a letter from General Dayton, it surely may be read.

*Mr. Wickham.* If the letter by itself would not be evidence, its being connected with others would not make it so.

*Mr. Hay.* On that distinction I mean to offer it. If General Dayton were before the court, he might require some other evidence as to the authenticity of the letter. General Wilkinson is telling his whole story; he is to give his whole narrative; and all the circumstances will bear upon each other.

The *Chief Justice* at first said that, if General Wilkinson could say that the letter influenced his conduct, it might be read; but, finally, he observed that, on the motion now before the court, it might be improper to read it. If it be the intention of General Wilkinson to state that certain conduct of his was produced by that letter, he may state that such conduct was produced.

*General Wilkinson.* I must say this letter materially influenced the measures which I pursued.

*Mr. Hay.* There is certainly a wide difference between this case, a mere examination before a judge, and a trial before a jury. This letter may identify General Dayton with the meeting at the mouth of Cumberland.

*General Wilkinson.* Here is the letter, addressed to J. Peters, Esq., signed A. Stephens. It appears to be in a disguised hand; but I have no doubt of its being the hand-writing of Colonel Burr. (See note D.)

I returned from the operations against the Spaniards the 5th of November, and on the next morning—

*Chief Justice.* To what place did you return? Answer. To Natchitoches.

On the morning of the 6th November a small Frenchman (whom I had never seen before, nor have I ever seen him since) presented a packet to me and took his leave. This I found to be a letter from Dr. Bollman, covering a letter from Colonel Burr. The letter from Dr. Bollman, in his proper hand-writing, bears date September 27th, 1806, from New Orleans. (See note \* \* \*) Here is the ciphered letter enclosed by Dr. Bollman; and I find it is an exact duplicate, as it professes to be, of the one received by Mr. Swartwout, with this variation: "Dr. Bollman, equally confidential, better informed on the subject, and more intelligent, will hand this duplicate." [This letter was laid upon the clerk's table.] That letter also enclosed one from General Dayton.

*Mr. McRae.* Of the same tenor as the former? Answer. No; quite different.

This letter of General Dayton is partly in cipher, and partly in the common script. (See note E.)

*Mr. Wirt.* Are you acquainted with General Dayton's hand-writing? Answer. Perfectly.

*Mr. Hay.* How did you become acquainted with it?

Answer. From a long and familiar correspondence. Here is a letter from General Dayton to me, introducing his son, which will show the similarity of the hand-writing: [here the general produced the letter of introduction.] On the same morning I received the following information from Natchez, in a letter from James L. Donaldson, dated the 30th November, 1806: [here General Wilkinson offered to read the letter, but it was rejected by the court.—See note F.] In consequence of the receipt of this letter from Mr. Donaldson, and my reflections on the letters from Colonel Burr, I determined to concentrate my whole force at New Orleans as soon as possible. [Mr. Hay said that he was willing, in order to save time, to waive every thing which related to the operations of the army; and requested that General Wilkinson would proceed to relate what occurred at New Orleans.] I proceeded from Natchitoches to Natchez, and, descending from that place, reached Fort Adams on the 18th of November, where I found Mr. Swartwout, who had been taken ill on his route from Natchitoches to New Orleans, and, for his accommodation, was invited by some one of the officers to that place. He informed me that Mr. Ogden had reached that place on his way to Tennessee; but, being alarmed by the rumors which prevailed in that part of the country, he was afraid to proceed, and had halted there. I inquired of Mr. Swartwout whether Mr. Ogden had borne any letters. He said that he had not; but that Lieutenant Spence, of the navy, had been sent, some time before, from New Orleans through the country, with letters from Colonel Burr. I proceeded on, and reached New Orleans on the 25th of November, in the evening; and on the 26th, in the morning, I received this letter from Doctor Bollman: [here General Wilkinson produced the letter.—See note G.] This letter reminds me of a circumstance which I had omitted. The morning after I had received the letter of Doctor Bollman at Natchitoches, I acknowledged the receipt of it in a short note, and informed him that I should be in New Orleans about the 20th. I did not call on Doctor Bollman till the 30th. After the ordinary salutations, I inquired whether he had heard of Colonel Burr since his arrival. He informed me that he had not. I asked him whether he had heard of Lieutenant Spence's arrival in Tennessee. He inquired how I came to know any thing of Lieutenant Spence. I informed him that it was through Mr. Swartwout. He assured me that he had sent despatches for Colonel Burr by Lieutenant Spence, and that he had heard of his arrival at Nashville. He then inquired what part I meant to take. I observed that I felt myself delicately situated. It was impossible that I could take any part while I held my commission, and I was so circumstanced that I could not get rid of it. He asked me what I thought of the competency of the force of the undertaking. I observed that it depended upon a variety of circumstances, such as winds, weather, composition and appointment of the troops, skill in conduct, the resistance of their opponents, and other causes on which the success of military operations depends. But I gave it as my opinion that the force was insufficient. He said that Colonel Burr had gone too far to retract; that he had numerous and powerful friends in the United States, who stood pledged to support him with their fortunes; and that he must succeed. He then inquired of me my opinion as to the state of the magazines of provisions in New Orleans. I observed that, if Colonel Burr descended with the force proposed, they would starve, unless he brought provisions along with him; for I had before ascertained precisely the quantity then on hand. He said that it was his opinion, also, that there would be a scarcity of provisions; that he had written to Colonel Burr on the subject, and that he expected a supply from New York and Norfolk, where Colonel Burr had many friends. He said that he had noticed in the public prints the sailing of some vessels with flour, and supposed that they might be destined for that place. I did not see Doctor Bollman afterwards till the 5th of December, the day after the arrival of the mail; and I called on him to inquire the news. He said that he had seen a letter from Colonel Burr, of the 30th of October, in which he stated that he should be at Natchez on the 20th of December, with two thousand men, to be followed by four thousand more; and that he could have raised or levied twelve thousand men as easily as six, if he had thought them necessary. I then informed Doctor Bollman that, if Colonel Burr came to New Orleans, I should oppose him. He replied, they must come there for provisions and equipments. He observed that Colonel Burr had great confidence in me; but he did not know what had passed between us; and asked if I could not make such a defence as would cover my reputation, and still permit him to come. I replied in the negative, and we then parted. Some few mornings afterwards, he called at my quarters; there was a gentleman in the room, and I took him into the piazza. He said that he wanted to know my determination. I expressed my surprise, and told him that he knew my determination.

*Mr. Hay.* While you were thus extracting from Dr. Bollman the secrets of his party, were you taking any measures for the security of New Orleans?

Answer. Yes; my orders and instructions will show what measures I deemed it my duty to pursue. For these I am responsible to the Executive of the United States.

*Mr. Martin.* Are the ciphered letters filed? Answer. Yes.

Question. Is the key furnished? Answer. Here it is.

[Mr. Botts mentioned the situation of Mr. Tazewell, who was summoned as a witness on the part of Colonel Burr. He said that Mr. Tazewell had represented the situation of his family to be such as to require his immediate return home. Mr. Botts observed that, although he had introduced the request of Mr. Tazewell to be discharged, he should be compelled to oppose it.]

*Mr. Tazewell* stated that he had been unexpectedly summoned, he well knew, to answer interrogatories as to certain proceedings before the grand jury; that he had just been informed of an occurrence in his domestic affairs which made it indispensably necessary for him to return immediately; that there were many gentlemen in this place and its vicinity of the grand jury who were as competent to give evidence on the points to which he should be called upon to depose as he possibly could be, and who would be subjected to no kind of inconvenience in attending. If he were to be examined at all, he requested that it might be immediately done, for the situation of his family was such that he should be compelled to return.

The *Chief Justice* said to Mr. Tazewell that he knew full well that it was not in the power of the court to discharge him.

*Mr. Botts* said it was impossible to examine Mr. Tazewell till General Wilkinson had gone through his testimony. It was not possible to know the importance of his evidence till General Wilkinson was cross-examined.



*Mr. Hay* observed that it was an unprecedented measure to introduce any member of the grand jury to prove what had passed in the jury room.

*Mr. Botts.* We have not said for what purpose we mean to introduce him.

*Mr. Hay.* I presume I may be permitted to *presume* for what purpose.

*Mr. Baker* said that he meant to speak generally of the propriety and convenience of giving testimony as to what passed in the grand jury room. One good effect, at least, would result from it: that, by introducing witnesses to prove what had passed there, it would prevent people from giving information to the grand jury which they could not support elsewhere.

*Mr. Botts* called for the key to the ciphered letters of Colonel Burr. General Wilkinson handed him a small pocket dictionary, and a paper containing certain hieroglyphics.

*Mr. Botts.* In the duplicate received by Dr. Bollman there is an erasure; will you be so good as to explain the cause of it?

*General Wilkinson.* That erasure was made by myself, and the words afterwards introduced by me. I have a deposition which will be more satisfactory than my own explanation.

*Mr. Botts.* Whose deposition? Answer. Mr. Duncan's.

[*Mr. Wirt* read the deposition of Mr. Duncan; for which see note H.]

*Mr. Botts.* When was the erasure made?

Answer. During the sitting of the Legislature in New Orleans.

Question. When were the words restored? Answer. I cannot now state with certainty.

Question. Was the letter exhibited to the Legislature?

Answer. It was introduced, but I confined myself to oral communications.

Question. What was the occasion of the erasure?

Answer. To put it out of the power of a certain faction in the Legislature, to whom, at that time, I intended to submit the paper; to conceal it from that faction who were opposed to my measures, and who, I believed, were inimical to the true interests of their country, and were laboring to excite suspicions that I was connected with Colonel Burr, in order to destroy the public confidence in me, and thus to defeat my measures. At the head of this faction I considered John Watkins, Esq., the Speaker. Having determined not to submit the letter, I restored the words.

Question. Did you prepare any translation to submit to the Legislature?

Answer. No; I only made notes.

Question. Did you make a translation for any other purpose? Answer. Only a partial and imperfect one.

Question. For what purpose? Answer. To understand it.

Question. Was there any other occasion for which a translation was made? Answer. No.

Question. Did you make any translation for the Executive? Answer. No.

Question. Were those words, "yours, postmarked 13th of May, is received," erased? Answer. Yes.

Question. Where is the copy of your letter covering a copy of that of Colonel Burr, and your deposition to the President of the United States?

Answer. It is among my papers.

*Mr. Hay.* Do I understand you correctly when I suppose you say that the translation intended for the Legislature of New Orleans was sent to the President?

Answer. No.

*Mr. Hay* immediately observed that, on recollecting dates, he perceived that he had misunderstood General Wilkinson; that the letter was sent to the President before the session of the Legislature of New Orleans.

*Mr. Botts.* Do I understand you to say that this was *your* translation of the letter which was intended for the Legislature of New Orleans?

Answer. No; it was Mr. Duncan's.

*Mr. Botts.* Have you ever sworn that this was a true translation? Answer. No; only substantially so.

*General Wilkinson.* May I be permitted to offer a few words of explanation? When Doctor Bollman was arrested, I will confess to you that I was so little acquainted with judicial proceedings, that I did not know it was necessary to do more than accompany him with a letter of advice. I was about to send him off in this way, when Mr. Duncan suggested to me the propriety of sending forward a deposition to justify his commitment. I put the letter into the hands of Mr. Duncan, with the key; and he made out the interpretation. When Mr. Duncan presented the translation to me, I stated my objections to the omissions. He urged me to sign the deposition. The time was urgent; the express waiting; and I confess that I feared a rescue. This did not give me much time to consult my understanding. If I had, it is probable that I should have resisted the signing of the deposition, with those omissions, notwithstanding my confidence in the judgment and integrity of my counsel. I was also at the time oppressed by domestic afflictions; and my mind was hurried and agitated by the painful and interesting scenes which surrounded me.

*Mr. Botts.* Were there variations between this original letter in cipher, and that sent on to the President?

Answer. Yes.

Question. Were they noticed by you or by Mr. Duncan in your presence?

Answer. I suppose so; because I objected, generally, to the omissions.

Question. How was the cipher formed?

Answer. It consisted of an American edition of Entick's dictionary, and of hieroglyphics.

Question. Which was formed first? Answer. The dictionary.

Question. When was that formed? [Here General Wilkinson referred to a letter, without a signature, dated in 1800; and said he presumed it must have been formed about that time.]

Question. Do you know the time of the year? Answer. I presume it was October.

*Mr. Baker.* To whom was that letter addressed? Answer. To myself.

Question. By whom was it written?

Answer. By Col. Burr. [Gen. Wilkinson observed that it was a private letter, to which he had referred merely to refresh his memory, the concluding paragraph of which is, "When I receive your cipher and your address, you shall hear from me." Mr. Wickham insisted on seeing the letter; Gen. Wilkinson refused; but said it was at the disposal of Col. Burr, and handed it to him.]

*Mr. Botts.* With whom was the cipher formed? Answer. Col. Burr and myself.

Question. When were the hieroglyphics agreed upon?

Answer. To the best of my recollection the hieroglyphics, which refer to the alphabet, were formed about the change of the administration, after the induction of the President. The hieroglyphics are divided into two parts: one part relates to the alphabet and figures, and the other part to arbitrary names or designations.

Question. When were the arbitrary names established?



Answer. I think in the year 1795 or 1796, but not delivered to Colonel Burr at that time.

Question. Who originally devised the cipher?

Answer. That you hold in your hand (the hieroglyphics) was devised partly by myself, and partly by Captain Campbell Smith.

Question. Are you sure that it was in 1796 in which that part was devised?

Answer. I think I said in 1795 or 1796, but could not ascertain which; but, adverting to the motives which induced me to form it, I think it was in 1794.

Question. Are there no circumstances which can enable you to ascertain the time?

Answer. I could have proved with certainty the time, if a witness whom I had summoned had attended. Here is another cipher made by Captain Smith, in 1794; and the hieroglyphics representing the President and Vice President are the same with those used in the cipher with Col. Burr.

*Col. Burr.* What was the mode adopted by you of sending round the prisoners? By public vessels?

Answer. No. My plan was to engage passages on board private vessels, and to lay in a double stock of stores for their accommodation.

Question. When did your despatches go on board the vessel? Can you ascertain the time?

Answer. Not without recurring to my correspondence.

*Mr. Wirt.* You had been for many years in habits of intimate correspondence with Col. Burr? Answer. Yes.

*Continuation of Gen. Wilkinson's evidence.*

TUESDAY, September 29.

*Gen. Wilkinson,* addressing the judge:

From the rapidity with which the interrogatories were put, and the promptitude of my answers when last before you, I fear some misapprehension may have occurred; I therefore beg leave to explain the facts to which the interrogatories appeared to be pointed, which I trust I shall be able to do clearly, concisely, and satisfactorily.

The only explanation of the ciphered letters of Col. Burr, transmitted by Swartwout and Bollman, which I have made, was done hastily, and by piecemeal, at Natchitoches; I think I have called this an imperfect interpretation, and I have done so, because, although it gave me their full sense, yet, by omissions and abbreviations, it could not be well understood by another.

On reflection, I think it was from this document, and not from notes, that the purport of Col. Burr's letters was given to the Legislative Council and Representatives of the Territory of Orleans. I find the summons from the House bears date the 15th of January last, and I believe the examination commenced on the 17th. It lasted two days, and therefore I cannot recollect the particular course or circumstances. I find, by references to my papers, that certain documents were submitted to the clerk to be read under restrictions; and it is probable I carried with me to the House all the papers respecting the subject of inquiry.

I have some impression that this same document was proffered to the grand jury to aid them in their interpretation of the ciphered letters of Colonel Burr, but I cannot speak with certainty. This examination lasted several days, and, like that before the Legislative Council and Representatives of the Territory of Orleans, was diffuse, desultory, and complicated; and therefore it is impossible for me to charge my memory with minutiae.

The interpretation of Mr. Duncan was made the 25th or 26th of December, 1806, twenty days before my examination by the Legislative Council and Representatives of the Territory of Orleans.

I did not transmit an interpretation of the ciphered letter to the President, but I well recollect explaining it to Mr. Isaac Briggs, the confidential messenger sent with my letter of the 12th of November, who was charged also to make oral communications to the President.

By reference to the original letter, it will be found that a deposition is attached to it: this was done preparatory to the transmittal of it to the President, as was my intention, by a special messenger; but the fear that it might be lost changed my determination. I kept it in my possession, and brought it with me.

Referring to Colonel Burr's letter of the 10th of October, 1800, I have said that I believed the cipher depending on the book was formed in that year, yet it may have been afterwards. I perfectly remember that, about that period, Colonel Burr informed me he had to send one hundred and fifty miles for the counterpart of the book; and, also, in answer to a letter I wrote him from the frontier of Georgia, the Oconee river, in the year 1802, he then being in Charlestown, he informed me he could not write as freely as he wished, as he had not the cipher with him.

In accounting for the erasure of the duplicate of Colonel Burr's letters, I have mentioned the apprehension which had been excited of my being an accomplice of Colonel Burr's, and that I was preparing for his reception. This device had excited such alarm, and the friends of Government were so incensed, that I was cautioned by Silas Dinsmore, Esq. to take care how I moved, as I was in danger of being tarred and feathered.

After General Wilkinson had finished his address to the court, Mr. Martin asked him if he had the original translation of the ciphered letter of Colonel Burr? His answer was, I have not. I have looked for it, but cannot find it.

General Wilkinson then said that he wished to present the deposition of Captain Walback, formerly a member of his family. It went to explain his very general habit of corresponding in cipher. (See the deposition of Captain J. B. Walback.)

*Mr. Wickham.* Have you ever accurately deciphered the letter sent to the President?

Answer. No. I have said before that the only interpretation I ever made was hastily done at Natchitoches.

Question. Then you are not able now to point out the difference between Mr. Duncan's translation and the original letter?

Answer. Specifically I cannot, *substantially* I can. Such parts were left out as were calculated to inculpate me, for the reasons already stated.

Question. I observe one of the ciphers is in hieroglyphics designed in 1799 or 1801.

Answer. That is erroneous. When the hieroglyphics were formed, they were taken from a small slip of paper, and annexed to that in your hand to prevent its being lost.

Question. Can you tell when they were made?

Answer. I cannot, precisely. I have before stated the time, as nearly as I can.

Question. Can you tell upon what occasion they were made?

Answer. For the purpose of communicating with Colonel Burr.

Question. Do you recollect your having sent a letter to Colonel Burr, from St. Louis, in May or June, 1806?

Answer. I have such an impression, but have not the most distant recollection of its contents.

*Mr. Wirt* submitted it to the court whether it could be proper for the opposite counsel to interrogate General Wilkinson as to a letter which was in their own possession. If they meant to rely upon the letter as evidence, they ought to produce it. He considered it unfair to select such parts as might tend to inculpate General Wilkinson, and keep back those which would lead to an explanation of his conduct.

*Mr. Wickham* said it was their own paper, and they were not bound to produce it till they thought proper. Their object was to cross-examine the witness, and see whether he was consistent with himself. This they had a right to do.

The *Chief Justice* said that the question would not be permitted to have any bearing on the cause, unless the letter was produced. Any thing drawn out of the letter would not be testimony, unless the opposite party, who had it in their possession, would exhibit it to the court; but it was obvious that they had another object, which was to ascertain the consistency of the witness.

*Mr. Wirt*. If the object be to shake the credibility of the witness, is it not fair to him and to the conduct of the cause to exhibit the whole letter?

*Mr. Baker*. A very ingenious mode has been adopted by the gentlemen. We put the questions, and they undertake to furnish the answers, without leaving it to the witness to do it himself. We do intend to shake the credibility of General Wilkinson, and to make him produce the shake himself.

*Mr. McRae*. I understand the court to say that the examination, as to the contents of the letter, shall have no effect, unless the letter itself be produced.

*Chief Justice*. General Wilkinson says that he has no recollection of the contents of the letter. The subject-matter of the letter cannot be established by the examination; but the witness may be cross-examined for the purposes avowed by the opposite counsel.

*Mr. Wickham*. Do you recollect that you did write to Colonel Burr in 1806?

Answer. I have before stated that I have such an impression; but I have no recollection of the contents of any communication made to him, although I remember the motive which induced me to write.

Question. You have no recollection of any particular expression?

Answer. No: except in a letter of October or November, 1805.

Question. Have you no recollection of any expression or sentiment expressed in your letter of 1806?

Answer. I have no recollection.

Question. Was it your expression that we should have a war with Spain?

Answer. It was my opinion; and there was a very general impression that we should have a war with that Power.

Question. Do you recollect writing any thing respecting the measures of the Government in relation to a war with Spain? Have you no recollection of any opinion expressed in a letter to Colonel Burr?

Answer. I do not recollect having expressed any opinion respecting the measures of the Government. The only expression of which I have any idea, is one used in a letter of October or November, 1805, in which, I believe, I say, "I fear Miranda has taken the bread out of your mouth."

Question. There were letters published from you while in the neighborhood of the Spaniards. Have you copies of these letters here?

Answer. I have the whole correspondence.

Question. We only want the letters of September and October, which state that war with Spain is inevitable.

*General Wilkinson*. I think I may have said so, and I believe that I have papers here which throw some light on the subject. Here are my instructions to the officer who commanded the troops when they left St. Louis. (General Wilkinson handed to Mr. Wickham copies of his instructions to Colonel Cushing.)

*Mr. McRae*. What is the date of those instructions?

Answer. The 6th and 8th of May, 1806.

*General Wilkinson* said that he would with pleasure submit the whole correspondence, if he could do it consistently with his own ideas of propriety; but there were contained in it such secret military operations as it might be improper to expose.

*Mr. Wickham*. I think you state that, at that time, the expectation of a war with Spain was very general?

Answer. It was so; and, if my instructions to Colonel Cushing can be read, they will show my own impressions.

[Here Mr. McRae read the instructions of General Wilkinson to Colonel Cushing, of the 6th and 8th of May, 1806, for which see notes K and L.]

Question. I think you have said that there was a universal expectation of a war with Spain, about the time when the troops of that nation crossed the Sabine?

Answer. Yes, I have said so; I had made arrangements for a general attack.

Question. To what cause are we to ascribe the accommodation which took place between the two armies?

Answer. To a wish to spare the effusion of blood, and, perhaps, because on one side there was reluctance to fight.

Question. On which side? Answer. On the side of Spain.

Question. Can you tell the particular motive which induced them to recross the Sabine, and change their position?

Answer. I think I can explain them. Immediately on my arrival at Natchitoches, on the 24th of September, I addressed a letter to Governor Cordero, whom I considered the commander-in-chief of the Spanish forces on that frontier; I communicated to him my orders from the President, and urged him, on the ground of right and of humanity, to withdraw his troops from the east of the Sabine, and recross that river. Whether this or the vigorous preparations for offensive operations which I immediately commenced on my arrival at Natchitoches, produced the effect or not, I cannot tell; but the fact is, that the Spaniards, about the 27th of the month, raised their camp at Bayou Pierre, marching by their right, intersected the highway from Natchitoches to Nacogdoches, about twenty miles in my front, pursued that route, and recrossed the Sabine about the 29th or 30th.

Question. Was this after you had received the ciphered letter? Answer. No; it was some time before.

Question. Had you any correspondence with the Spanish commandant on the subject of Colonel Burr's expedition against Mexico?

Answer. None. The earliest communications which I made on that subject were after my return to Natchez?

Question. Has the jurisdiction of the United States ever been exercised as far as the Sabine?

Answer. I cannot tell.

Question. Was it in consequence of instructions from the Government that you concluded the convention with the Spanish commandant? Answer. No.

Question. I do not recollect whether that convention has ever been published? Answer. Never.

Question. Have you any copy of that convention?

Answer. Yes; but, until it shall be the pleasure of the Government to publish it, I do not think myself at liberty to divulge its contents; I do not think it reconcilable to the duty of a military commander to anticipate his Government in the publication of official communications.

Question. Were there any secret articles in that convention? Answer. None. There was but one article.

Question. Was there any sum of money agreed to be paid on either side? Answer. Not one cent.

Question. You note two letters of the President, one of the 21st of October, and the other of the 12th of November, 1806. Have you a copy of that of the 12th of November? and will you give me leave to ask whether that letter was before the grand jury?

Answer. It was submitted to the grand jury.

*Mr. Wickham* said that they called for a copy of that letter; if the counsel on the other side thought proper to oppose it, they might do it at once.

*Mr. Hay*. We shall certainly oppose the production of the letter; the President has been consulted on the subject, and he has excepted such parts as he thought it would be improper to produce.

The *Chief Justice* remarked that, after the President had been consulted, he could not think of requiring from General Wilkinson the exhibition of those parts of the letter which the President was unwilling to disclose.

*Mr. Wickham*. The whole letter having been before the grand jury, and acted upon by them, we certainly have a right to call for it also.

Question. Were the Spaniards in considerable force on the east side of the Sabine?

Answer. They were reputed to be so.

Question. What was the strength of the army of the United States?

Answer. About five hundred effective men.

Question. What orders did you receive from the Government in the months of December and February last?

Answer. I cannot say what particular orders I received during those months. Owing to the frequent changes of my position, I was for more than six months without orders. But it is impossible for me to answer the interrogatory to the extent to which it is put, without subjecting myself to severe military penalties; nothing can be more improper or dishonorable than to divulge military orders of a secret or confidential nature.

*Mr. Wickham*. There can be no doubt but, under the sanction of the oath which General Wilkinson has taken, he may be compelled to give testimony as to the points on which he has been interrogated. In England, nothing is more common than for the most secret transactions to be disclosed in a court of justice. Considerations of delicacy in the witness have never been permitted to have any weight.

*Mr. Hay*. There is a material difference; those were cases between individuals; this is a communication from the Executive Government. We are not at liberty to dive into the secrets of the Executive Department to know what orders they give to their agents, and to proclaim those orders to the world—orders which were given for the public good. There can be no doubt but that the public good does require that various orders of the Government should forever remain a secret.

*Mr. Wickham*. The gentleman did not understand my question. I asked General Wilkinson what orders he had received from Government in relation to Colonel Burr.

Question. Did you receive any orders to attack Colonel Burr and his party?

Answer. That question may require some qualification.

Question. Did you send any officers in disguise to take Colonel Burr?

Answer. I sent three.

Question. Their names?

*Mr. Hay* said that he did not think General Wilkinson was bound to answer such questions; that he was not bound to furnish evidence against himself, or to subject himself to prosecution. Although he believed that the exigencies of the times would justify the measure which General Wilkinson had adopted, it was left with himself to determine whether he would answer the question or not.

*General Wilkinson*. If the question goes to criminate myself, I presume that I am not bound to answer it.

*Chief Justice*. Would General Wilkinson be subjected to an action for sending to apprehend Colonel Burr, unless he had been seized?

*Mr. Hay*. It may go to criminate him as a military man; he may have acted without orders.

*Mr. Wickham*. I do not presume that he acted *without* orders, but under the orders of the Government.

The *Chief Justice* said that he could not perceive the application of the evidence; but, as evidence was introduced to show the flight of Colonel Burr from Washington, this, he presumed, was intended to account for it.

*Mr. Wickham*. Will you state the names of the officers sent to apprehend Colonel Burr?

Answer. Captain Hook, Lieutenant Peter, Lieutenant Mulford, Doctor Davidson of the army, and Doctor Carmichael, of the Mississippi Territory.

Question. Did you direct them to go without uniform?

Answer. I believe I did.

Question. Did you direct them to conceal the object of their mission?

Answer. I feel great delicacy in revealing my orders. I think I did mention to them the propriety of going in the attire of private citizens, to elude the vigilance of Burr's spies, many of whom were in New Orleans, and would give him notice of their departure from that place; it was also prudent to send them in that manner, that the jealousy of the Spaniards, through whose territories they had to pass, might not be excited. They were sent privately, for the success of the enterprise depended upon it.

Question. Did you give them written or oral instructions? Answer. Both.

Question. Have you copies of the written instructions? Answer. Not here.

Question. Will you furnish copies?

*Mr. Hay* objected to the production of those orders; he said that they had a right to impeach the credibility of the witness, but not to compel him to disclose the orders given to those under his command.

Question. Were these orders to seize Colonel Burr wherever they could find him?

Answer. They were sent on that service expressly. I think the orders were confined to Natchez; information having been received that Colonel Burr had taken up his quarters there.

Question. Were there any orders to seize him, even in court?

Answer. I cannot say, but presume there were not.

Question. Were any private soldiers sent on this service? Answer. No.

Question. Were any soldiers sent to Lieutenant Jones's gun-boats?

Answer. Infantry were furnished to supply the place of marines in all the gun-boats.

Question. Were any instructions sent by you that the men in Lieutenant Jones's gun-boats should act?

Answer. I gave Lieutenant Jones no orders, as he was not under my command.

Question. Was Commodore Shaw considered under your authority?

Answer. He was rather considered as co-operating with me; but he had a discretion of his own.

Question. Was there a recommendation to Commodore Shaw to give directions to Lieutenant Jones to take any measures to apprehend Colonel Burr?

Answer. I think the orders required him to do so.

Question. What orders were given for the disposal of Colonel Burr?

Answer. The orders were that he should be put on board a vessel, and sent by the way of New Orleans to the city of Washington.

Question. Were these orders written? Answer. I believe they were.

Question. What orders had you from the Government, or did you do it on your own authority?

[General Wilkinson took time till to-morrow to consider the subject, and to examine his papers.]

Question. When you were at New Orleans, were not letters addressed to other persons frequently brought to you from the Post Office; by whose orders were they delivered to you; were they opened, and with what view?

*Mr. Hay* thought they had no right to ask such a question. It might be important between the United States and General Wilkinson. But it does not appear to be proper to interrogate him as to his conduct any where, unless it has some bearing on the cause; nor can a witness be asked any question, the answering of which might subject him to a prosecution. If we had introduced evidence on that point, they had a right to cross-examine him.

*Mr. Wickham.* We may suppose, without impeaching the credit of General Wilkinson, that he will give as favorable an account of his conduct as any man standing in his situation may be disposed to do. General Wilkinson has detailed a number of facts to account for the conduct of Colonel Burr: he has taken very strong ground. We wish to show that the general has the strongest possible motive to criminate Colonel Burr. We were permitted to ask him about sending officers in disguise to seize Colonel Burr; we wish now to prove some other seizures. This evidence has a direct reference to the case of Colonel Burr. If General Wilkinson took all these measures, it will surely have a tendency to weaken his testimony.

*Mr. Martin.* We mean to show that General Wilkinson is identified with the Government; and the Government had declared they would justify him. We have a witness to prove the express declaration of the Secretary of War, that General Wilkinson stood low with the Government till his energetic measures at New Orleans had raised him in the estimation of the President. They can only justify his acts, by showing an impropriety in the conduct of Colonel Burr. The more we show that the constitution has been trampled on, and the rights of the citizens invaded, the more they will endeavor to show the impropriety of the conduct of Colonel Burr, in order to justify it.

*Mr. Hay.* Mr. Martin has avowed the motives of Colonel Burr's counsel to be to identify General Wilkinson with the Government. Admitting that General Dearborn had made the declarations ascribed to him; admitting that the President had formed that opinion of General Wilkinson, how can his answer to the question propounded have any bearing on this case? Suppose General Wilkinson should say, that, in consequence of the expected arrival of Colonel Burr, the agitated state of the country, and knowledge that he was surrounded by the accomplices and partisans of Burr in New Orleans, he had taken letters from the Post Office (and he would only have done what he ought,) how could it affect the present case? It is manifest that an answer of General Wilkinson must leave the question between the United States and Colonel Burr exactly where it was before.

*Mr. Wickham.* When these questions were asked Mr. Murray before, they were thought proper, and he was even cross-examined by the counsel for the prosecution. The gentleman had ascribed to Colonel Burr improper acts. Now, to impeach General Wilkinson's credibility, we show that he has been guilty of violent acts. Is he not interested to show the conduct of Colonel Burr to be improper, in order to justify his own?

*Mr. Baker.* Suppose, says Mr. Hay, this declaration of General Dearborn to be true; suppose that General Wilkinson did not deserve to stand high in the confidence of the Government; would it not have any bearing on the case? would it not leave the question between the United States and Colonel Burr exactly where it was before? At one time the counsel on the other side seem willing to give the general up. Now they stand forward as the champions of the worthy general. Suppose it be proved that he has thrust his hand, or directed others to do it, into the Post Office, and pillaged letters. Suppose it be proved that he has made erasures in letters, and then sworn that translations of them were true copies, which were as much like the originals as any other thing; and that he has sworn to this, that, and the other, whether true or false; will not all these things affect his credibility?

*Mr. Wickham* said that it was a question entirely for the consideration of General Wilkinson himself. If he thought proper to answer the question, it was not the business of the prosecution to interfere.

The *Chief Justice*, after making some remarks on the nature of the question, observed that General Wilkinson was not bound to answer any question that might criminate himself.

Some observations were made as to the extent of the opinion of the court. Mr. Wirt supposed, from the decision of the court in the case of *Wyllie*, that General Wilkinson could not be bound to answer the question.

*Mr. Wickham* thought directly the reverse.

*Mr. Wickham* (to General Wilkinson.) You have heard the opinion of the court. Were or were not letters addressed to other persons frequently sent from the Post Office to you; by whose orders, and were they opened, and with what view? Can you answer that question without criminating yourself?

Answer. I shall not answer that question.

*Mr. Wickham.* Were orders sent to stop and examine travellers?

Answer. There were. These were the joint orders of Governor Claiborne and myself. At that time Colonel Burr was daily expected at Natchez with two hundred men, and I wished to cut off all communication between that place and New Orleans, in order to prevent him from receiving information from his adherents, and to gain time for strengthening our defences. The imperious circumstances which justified this measure I will relate. A general panic had seized the friends of the Government in New Orleans.

[Here General Wilkinson was interrupted by the counsel of Colonel Burr, who objected to his stating the motives which governed him.]

*Mr. Wirt* said, that if the witness were called on to accuse himself of arbitrary acts, he ought to explain the motives with which those acts were committed.

*Mr. Wickham* said it was their wish to go on with the cause, without being interrupted with the explanation of the witness; and after they had gone through, the counsel for the prosecution might ask for any further explanation which they deem proper.

*Mr. Wirt* observed that he did not mean to interrupt the examination. But it was well known that the proceedings of each day are published; and it is important to the feelings of the witness that he should state the grounds on which he proceeded.

*Mr. Martin.* The proceedings have heretofore been published without regard to the feelings of Colonel Burr.

*Mr. Wickham* (to General Wilkinson.) When did General Adair arrive in New Orleans?

Answer. On the 14th of January.

*Mr. Wickham.* Has your conduct, in seizing Adair, Ogden, Swartwout, and others, been approved or disapproved by the Government? Have you received any communications from the Government on that subject?

*Mr. Hay.* It has been the constant effort of the counsel on the other side to identify General Wilkinson with the Government. We have heard of the plundering of the post offices, violating oaths, and prostrating private rights. Now it is asked if the Government approved of these acts. Is it decorous, is it proper, to pursue this

course? They may ask questions to implicate General Wilkinson, but is it proper to endeavor to cast an imputation upon the Government? I feel no solicitude on the subject; for when all the circumstances are considered, and the real situation of that country understood, though I will not say that the measures were strictly lawful, yet I will say the exigencies of the times called for them; and that the person who held the high and responsible situation of General Wilkinson was bound to pursue the course which he did. General Wilkinson still retains the command of the army. If the gentleman wish to infer from that circumstance that the Government approved of his conduct, let them do so.

*Mr. Wickham.* It is not our object to criminate the Government, but to obtain the truth. We hope that General Wilkinson will not say that his conduct has been approved by the Government. Is this a State secret?

The *Chief Justice* said, that he should be sorry to require an answer which would state the opinions of the Government. He was sorry that an objection had been made to answer the question.

*Mr. Hay* said, he believed that the Government knew nothing about it, and rather than it should be supposed that the administration directed measures which they were unwilling to avow, let them go on. He was willing that they should go on; and, instead of making this an inquiry into the conduct of Colonel Burr and his accomplices, let it be solely, as it seemed to be, an inquiry into the conduct of the Government.

*Mr. Wickham* repeated the same question to General Wilkinson, whether his conduct in seizing General Adair, Ogden, Swartwout and others, had been approved or disapproved by the Government; and whether he had received any communication from the Government on the subject?

*General Wilkinson* said he had no objection to answer the question, except so far as the answer might be considered a disclosure of what might be deemed private instructions. In the first instance, said General Wilkinson, I acted on my own responsibility. I have said that I was left six months without orders. But I seized no man under the orders of the President.

THURSDAY, October 1.

*General Wilkinson* was about to explain more fully some of the interrogatories put to him at his last examination, when he was interrupted by

*Mr. Wickham*, who declared that he felt no disposition to interfere with the explanations of the witness, but was very anxious to go on with the cause. With respect to the motives with which any act was done, he knew nothing and cared nothing.

The *Chief Justice* declared that General Wilkinson had a right to explain any interrogatories; and again repeated the substance of the opinion which he had before given.

*General Wilkinson* proceeded:—I have been asked whether, in October, 1806, I did not expect immediate hostilities with the Spaniards? I was required to account for the cause of the sudden change of position of the Spanish army? I was interrogated as to the convention with the Spanish commandant, and with peculiar delicacy I was asked whether any money was received as a condition? also, whether I had not posted guards on the high-ways about New Orleans, to intercept travellers? To these interrogatories, quite unexpected, I made such replies as I was then enabled to do from memory. By referring to my papers, they will show that I did expect a war with Spain so early as September, 1806. [Here the general referred to an extract of his letter of the 8th of September, and his letter of the 4th of October, 1806, to the Secretary of War, which were read. See notes M. N.] On my advance to take command of the barrier post, I passed Fort Adams on the 12th of September. There I found two letters from Colonel Cushing, detailing his correspondence with the Spanish commander. I was then asked for a copy of the convention. I am now about to do that for which my country and gentlemen of my profession may, perhaps, condemn me. But under the charges and insinuations by which my character has been assailed, I flatter myself that, should I be guilty of any impropriety, the circumstances in which I am placed will excuse me. Here are all the papers relative to that convention. [General Wilkinson produced a number of letters containing the correspondence between him and the Spanish commandants, about the time the troops of that nation recrossed the Sabine.]

*Mr. Martin* said they wished to have the papers, and hoped the court would have no objection.

The *Chief Justice* observed that he had no objection, but wished it to be distinctly understood that he would not coerce the production of any paper which related to a negotiation between this country and any foreign Government.

*Mr. Martin* said that would depend upon circumstances. He held it a sacred principle, that if the Government thought proper to prosecute a citizen, they were bound to produce every paper which might be necessary for his defence, or give up the prosecution.

*Mr. Hay* thought it would be improper to read the papers, because they related to a negotiation with a foreign Government, and because they had no relation to the subject before the court. General Wilkinson had, indeed, from the insinuations which had been made, been induced to produce those papers; but it was evidently done with a considerable degree of embarrassment, and would not justify the reading of them if it were otherwise improper.

*Mr. Wickham.* I have asked for the convention with the Spanish commandant, but am told that it was a State secret. I concur with Mr. Martin, that when an individual is prosecuted by the Government, no State secrets should prevent the production of every paper necessary for his defence.

*General Wilkinson* said, he wished it to be understood that these were very imperfect translations of the letters from the original Spanish, and therefore that he could not deliver them, but under the stipulation that they should be accurately translated before publication, as he had discovered Governor Cordero and Governor Herrera to be officers of polished education, from his correspondence with them. He had made this stipulation as a duty which military men owe to one another throughout the world. These letters contain the convention, a convention without an article.

The *Chief Justice* said that he would not compel the production of the convention, unless its bearings on the case be shown.

*Mr. Martin.* We have a right to it. I hope it will be noted that we have made a solemn demand of these papers.

*General Wilkinson* proceeded:—The next question which was asked was, whether I had not made private communications to Lieutenant Jones. I have said that I gave no orders to Lieutenant Jones; but if I had, here are documents to show, if not a justification of my conduct in all the measures I presumed, at least an extenuation. [Here General Wilkinson presented several papers, showing the agitated state of New Orleans, and the dangers with which it was threatened. They were not read. See O, P, Q, R.]

*Mr. Wickham* to General Wilkinson. Do you recollect the last question I put to you? Has your conduct in seizing Swartwout, Bollman, Ogden, and Adair been approved or disapproved by the Government? And have you received any communications from the Government on this subject?

*General Wilkinson* said he must refer to his honor to know whether he was bound to answer that question.

The *Chief Justice* declared that it might be answered under the restrictions already laid down.

*General Wilkinson.* I can say that three of those persons, perhaps four, were seized on my own responsibility, without any orders from the Government.

*Mr. Wickham.* Which three? Answer. Bollman, Swartwout, Ogden, and perhaps Adair.

Question. Had you any orders then or afterwards to seize them? Had you any orders with respect to the seizure of Colonel Burr by military force? Answer. No, not at that time.

Question. Had you any afterwards?

Answer. That is a question of very great delicacy with me. (Addressing the judge:) Can a question be fairly put, and an answer coerced, which may destroy a man's honor?

*Mr. Wickham* said there was no rule of law which prevented a witness from giving an answer, unless it subjected him to a criminal prosecution. Mere sympathies were no cause of refusal. However unpleasant these questions might be to General Wilkinson, it would be a shameful dereliction of duty in the counsel of Colonel Burr not to put them. He said that he had not experienced any sympathies towards his client.

*General Wilkinson* (to the judge.) Is a trial before a court-martial similar to a criminal prosecution? I might be subjected to military punishment, to as severe punishment as could be inflicted by a civil tribunal, for revealing my orders.

The *Chief Justice* said that he was not sure that General Wilkinson could be required to answer that question.

*Mr. Wickham* contended that there could be no articles of war which could punish a man for disclosing what he is called upon to declare in a court of justice. The court had a right to require the disclosure, and would enforce its own authority.

*Mr. McRae* contended, that when the answer required would lead to the discovery of a fact which might subject a man to punishment, it was always deemed a good reason to withhold it. He understood the answer which might be given by General Wilkinson to be of this nature. The question was calculated to extract from him a fact, the disclosure of which might tend to subject him to punishment. He could not say what would be done before a military tribunal, but it was possible that he might be punished if he should answer in a particular way. Suppose he should say that the Government did not authorize him to seize the persons of Burr and his accomplices, and that he acted upon his own responsibility; or suppose he should be acting under the authority of Government, but, upon examining his powers, should find that he had transcended them; would not a disclosure of this fact criminate him, and subject him to prosecution?

The *Chief Justice* said that the question did not lead to the fact of seizing those persons, but to the authority with which it was done. If General Wilkinson had committed the act with authority, he must show his orders.

*Mr. Wickham* said he did not believe that any thing which General Wilkinson could say would be legal evidence in the cause. It was not that kind of evidence which was admissible in prosecutions of this nature; but it was important to know what orders the Government had given, and whether he had exceeded those orders.

*Mr. Martin.* We wish to know the conduct and character of the Government on this occasion. We wish to know whether any, and what, orders were given by the Government. Is there to be one rule as to the prosecution who wish to take the life of one man away, and another rule as to the man whose life they seek to take?

*Mr. Hay* had no objection to an answer from General Wilkinson as to the conduct of the Government throughout. He said that Mr. Martin had disclosed his real object to be to try the Government and not the accused. Will this ascertain the innocence or guilt of Colonel Burr? The object evidently was to arraign the Government before the bar of the public; but he was perfectly satisfied that when the conduct of the Government should be known, the people of the United States would think that the Government had done exactly as it ought to have done.

*Mr. Wickham.* In commenting on the evidence we shall endeavor to show that a number of witnesses have been brought forward by the Government who have taken a most decided part in the prosecution; and that their real object has been to render themselves acceptable to the Government.

*General Wilkinson.* I had an order from the Government.

*Mr. Wickham.* From what department? Answer. From the administration.

Question. From whom? Answer. From Mr. Jefferson.

Question. Have you any written order?

Answer. I have among my papers, but I will not produce it; I had rather go to jail.

*Mr. Wickham* demanded the production of the order; but said that if General Wilkinson required time to consider the consequences of a refusal, he had no objection to allow it to him.

*General Wilkinson,* (addressing the judge.) You are, from professional experience, more competent to decide on the propriety of revealing my orders than I possibly can be. The letter which conveys the particular order alluded to may embrace a variety of other matter, many parts of which it would be highly criminal in me to divulge. I conceive I should forfeit my honor, and the confidence of all military men, if I were to reveal my correspondence with the Government, without the command of my superior.

*Mr. Hay* had no doubt but the order was in strict conformity with the law; but if there be private and confidential communications in the letter, it would not be required of General Wilkinson to produce it.

*Chief Justice.* If the order be mingled with other things, private and confidential, the court will not require its production.

*Mr. Wickham* (to General Wilkinson.) Did you, by letter or otherwise, request any person, not of the army, to seize Colonel Burr and put him on board a vessel?

Answer. I gave instructions to a gentleman who is now here, (Silas Dinsmore, Esq.,) and who is not of the army.

Question. Did you give such orders to others?

Answer. I recollect Doctor Carmichael, but no other person except the officers of the army.

Question. Do you recollect expressing to any person that he would confer the highest obligation on the Government by seizing Colonel Burr?

Answer. It is probable that I did, for those were my sentiments. My great object was to apprehend him and deliver him over to the civil power for trial; and the city of Washington was the place to which I wished him sent; but I had no idea of doing an injury to his person. I recollect a German came to me, and proffered to take Col. Burr; but, on coming to particulars, he said he would take him dead or alive. I was shocked at the idea, and declined employing him.

Question. Have you the cipher No. 2? Answer. I have not.

Question. Are you acquainted with a person by the name of Kibby?

Answer. I am acquainted with two of that name.

Question. Where do they reside? where does Timothy Kibby reside? Answer. In Louisiana.

Question. Have you had any communication with him on the subject of an invasion of Mexico, and when?

Answer. I cannot recollect; I have seen a deposition ascribed to him, inserted in the public prints, replete with falsehoods.

Question. You are not certain, then, whether you ever wrote to him on the subject?

Answer. I am certain that I never wrote to him specifically on that subject. He was an officer of the militia, and I might have corresponded with him on some matters relating to his command. I recollect to have received an order from the Government to ascertain the strength of the militia in the Territory, and I might have spoken or written to him on that subject.

Question. Can you say whether you did or did not? Answer. I cannot.

Question. Did you inform him of the object of Lieutenant Pike's expedition?

Answer. I think not, from the deposition I have seen; here are my orders to Lieutenant Pike. [General Wilkinson produced his instructions to Lieutenant Pike; see notes S, T.]

This is the information given by me to General Samuel Smith, which goes to illustrate my ideas of the state of our controversy with Spain. [Here General Wilkinson read the extract of a letter annexed, marked V.]

*Mr. Wickham.* You mentioned that Swartwout was with you about the 1st of October?

*General Wilkinson.* I think about the 8th or 10th; I believe I said the middle, because I marched on the 23d, and Swartwout had left me some days before.

*Mr. Wickham.* Your letter to the Government is of the 21st of October; will you assign a reason for so long delay?

Answer. I took time cautiously to draw from Mr. Swartwout what information I could obtain, lest I should excite suspicion. Another circumstance was, that I was busily engaged in making arrangements of the artillery, transports, and other military equipments, in order to take the field.

*Mr. Wickham.* You say, in your letter to the President, "that you are not only uninformed of the prime mover and ultimate objects of the daring enterprise; but you are ignorant of the foundation on which it rests, of the means by which it is to be supported, and whether any immediate or collateral protection, internal or external, is expected." I beg leave to ask, why you stated this to the President after getting the information you did from Swartwout?

Answer. The answer is very plain, but the question is complex; if you will dismember it, I can answer it.

*Mr. Wickham* read an extract from the letter, (being part of that just quoted,) and said, I think this is different from the information you gave the court.

*General Wilkinson.* I doubted the information I received from Swartwout; I could not suppose that Colonel Burr, or any other individual, would have the audacity or folly to undertake such an enterprise without the assistance of some foreign Power; I could not, therefore, view him as the prime mover, but as the instrument. I doubted Swartwout's declarations, and, although they had an effect upon my mind, I could not place solid confidence in them. He said that the people of the Territory were ready to join; he was a stranger in the country, and, therefore, could know nothing of their dispositions but from information; I was acquainted with them, and had heard of no such disposition.

Question. Then you doubted whether Swartwout was authorized to make these communications?

Answer. I beg your pardon; I believe that he was authorized and instructed to deliver me lessons of falsehood.

Question. Then you say that you still doubted?

Answer. It is so expressed in the letter.

Question. These expressions, I understand, conveyed the true state of your mind at that time?

Answer. I wish you to understand me. When I contemplated the audacity, the iniquity, and the folly of the enterprise, I did believe that Colonel Burr was stimulated by some foreign Power. With respect to revolutionizing the Territory, I could not place any solid confidence in it, until I received the communication of James L. Donaldson, Esq., when, combining all the circumstances, I wrote my letter of the 12th of November.

Question. Then I understand you to say that this was the true state of your mind at that time?

Answer. Yes. Propounding this question brings to my recollection a subject not thought of before. I inquired of Mr. Swartwout from whence Colonel Burr derived his funds; he said, from the aid of friends and the sale of property, in which sale he had been employed. I knew that Colonel Burr had no property. This declaration of Swartwout gave me less confidence in his communications.

Question. I observe, in your letter of the 21st of October, this expression—"my desire to avert a great national calamity." At that time you had doubts whether the enterprise might not be salutary?

Answer. Would it be improper to assign my reasons why I supposed it might be salutary? As I passed through Natchez, I understood that Mr. Meade, who exercised the functions of Governor, had spoken of an attack on the Spanish post of Baton Rouge, and I was informed by a Mr. Dunlop and a Mr. Smith, that he had said the Government would connive at the measure.

Question. This postscript on the letter: "should Spain be disposed to war seriously with us, might not some plan be adopted to correct the destination of the associates, and, by a suitable appeal to their patriotism, engage them in the service of their country? I merely offer the suggestion as a possible expedient to prevent the horrors of a civil contest; and I do believe that, with competent authority, I could accomplish the object." Am I to understand that this postscript contains the true state of your mind at that time?

Answer. There is some uncertainty whether that postscript is a part of the original letter; it is noted on the corner in my own hand-writing, and not in that of Mr. Burling, who was then one of my aids-de-camp, and by whom the copy was made.

*Mr. Baker.* It never was understood that a copy would be received by Colonel Burr. Now we see the necessity of having the original.

*General Wilkinson.* I have no sort of hesitation to state what my feelings were. If the Spaniards had been seriously disposed to war, I did believe that, by a suitable appeal to the feelings and patriotism of the deluded citizens who might have descended with Colonel Burr, they would have been induced to join our standard, and oppose a foreign enemy, sooner than enter into a conflict with their own countrymen. My idea was this: that the President should have forwarded to me blank commissions, to be offered to influential leaders.

*Mr. Wickham.* This postscript says nothing as to leaders, but to the body in general.

*General Wilkinson.* I cannot give any definite idea of my sensations at the moment; I think I could not have meant leader, but the leaders.

Question. If you were ignorant of the intention of the leaders, why not as well apply the expression to the leader?

Answer. Because I did not think I could offer any thing to him which he would accept.

Question. As to the postscript, you are uncertain whether it was written at the time of the original letter?

Answer. Though I am uncertain of that, yet I believe it contains a correct representation of my feelings.

*Mr. Randolph.* In case of actual hostilities, were you authorized to accept the services of volunteers?

Answer. I should certainly think I had.

Question. And to commission them?

Answer. No; but I might have mustered them. The President has no power to grant commissions, but with the approbation and consent of the Senate. I recollect that, during the administration of Washington, volunteers



were accepted: there were no commissions granted, but warrants of authority, which were obligatory in those corps, but conferred no command over an officer of the line.

*Mr. Randolph.* My question is this: if hostilities had been determined on with the Spaniards, would General Wilkinson have been authorized to accept the services of volunteers?

Answer. I think so at present, but a reference to my instructions will more fully show.

Question. And to drive the Spaniards beyond the Sabine, and pursue them into Mexico?

Answer. Not to pursue them beyond the Sabine.

Question. If the Spaniards had not made the convention, and receded from their position on the east side of the Sabine, would you have attacked them? Answer. Yes.

Question. From your own responsibility, or the orders of the Government?

Answer. From specific instructions. I had contemplated the possibility of such an event, and had given my orders accordingly. [These orders were not offered in evidence, but may be seen in note W.]

*Mr. Martin.* Did you not drive them beyond the Sabine?

Answer. (witness smiling.) It was a sort of driving.

*Mr. Wickham.* You say that the first intimation you had of Colonel Burr's designs was from the ciphered letter?

Answer. I have said so; but I had received a number of ambiguous hints before.

Question. In what way? Answer. By letter.

Question. When did you communicate the contents of this ciphered letter to the Government?

Answer. You will observe, in my letter of the 12th of November, reference is made to a confidential messenger, Mr. Briggs, to whom I repeatedly read the ciphered letter, to enable him to communicate the contents to the President.

Question. What communication did you make through Mr. Briggs? was it Mr. Duncan's translation?

Answer. No: Mr. Briggs left Natchez immediately after the date of my letter of the 12th of November; Mr. Duncan's translation was made in New Orleans after I arrived there.

Question. Have you the paper about you containing the instructions to Briggs?

Answer. I gave no instructions to Briggs except verbal ones.

Question. Have you the translation made by you?

Answer. No: I have looked for it, but cannot find it.

Question. Was it before the grand jury?

Answer. Yes; it was an old worn out paper.

Question. Was this information by Briggs an exposition of the whole contents?

Answer. I read the heads to him, and verbally explained the contents.

Question. Was the letter completely deciphered?

Answer. I have said *no* frequently; I have said that the only interpretation made by me was hastily done at Natchitoches?

Question. Then you did not relate the whole contents to Briggs?

Answer. I laid it before him, and explained the contents as already stated.

*Mr. Randolph.* I think in this letter you say "Miranda has taken the bread out of your mouth?"

Answer. No; you are quite mistaken. That letter was written, I believe, in October, 1805.

Question. Admitting it to have been so far back, how came it to be a matter of surprise to you that an expedition was set on foot, according with your own ideas? or that you should say Colonel Burr's views were not distinctly known till you received the ciphered letter?

Answer. I had received a number of ambiguous letters from Colonel Burr; and in a letter of mine to him, I made use of the expression "I fear Miranda has taken the bread out of your mouth," in order to draw from him his real object.

Question. In what manner did you consider Miranda as taking the bread out of his mouth?

Answer. If I can state the grounds of those opinions, I would say that they were derived from letters I received from Colonel Burr, which I am not at liberty to disclose.

*Mr. Randolph.* Was the position taken by the Spanish forces considered by the President as an invasion of our territory? Answer. Certainly.

*Mr. McRae.* I understood that opinion was founded upon what appeared in the public prints.

*General Wilkinson.* The President's orders were explicit to drive them out of the territory claimed by the United States. These orders I communicated to the Spanish commandants.

*Mr. Randolph.* In the intercourse between you and the Spanish commandants, were all the forms of war observed?

*General Wilkinson.* In what respect?

*Mr. Randolph.* As to the military interviews; I considered this a state of war.

Answer. Between Natchitoches and Nacogdoches there was a constant intercourse.

*Mr. Randolph.* But in the relation of one army to another?

*General Wilkinson.* I can state the situation. I remember that the day on which I reached the Sabine, my advanced guard captured three Spaniards without arms on the left bank. I had them returned to the Spanish commandant, and desired that he would not permit a repetition of the trespass.

*Mr. Wickham.* I think you said that you wrote to Colonel Burr from Natchitoches.

*General Wilkinson.* When did I say so?

*Mr. Wickham.* I thought I heard you say so.

*General Wilkinson.* You guess well; but if I am not mistaken, you got that information from Swartwout.

Question. Did you write? Answer. I did.

Question. What did you do with the letter? Answer. Destroyed it.

Question. Did it go out of your hands?

Answer. It did; it was sent to Natchez, to which place I followed, recovered, and destroyed it. I will give you my reasons for so doing. After writing, I received the letter from Mr. Donaldson, dated 30th of October, and conveying the information received from Myers Michael, which removed my doubts as to the extent of Mr. Burr's designs, and their sinister nature.

Question. Then I understand you to say, that Mr. Donaldson gave you the first correct information?

Answer. It excited very strong apprehensions in my mind that some general and deep-rooted conspiracy had taken place above:

Question. You have no recollection of the letter of the 13th of May?

Answer. No: I wish it could be produced. It would release me from all obligation to withhold the confidential letters of Colonel Burr:

Question. Did you write him any other letters?

Answer. I have an impression on my mind that I wrote him two or three letters.



*Mr. Wickham.* The ciphered letter gave you the first idea of a plan of revolutionizing the Western country?

Answer. The ciphered letter gave me no information on that subject.

*Mr. Wickham.* Did you ever give the Government any information before?

Answer. I had no definite idea of Colonel Burr's plans. I had received from him several letters of a very ambiguous cast, but they contained nothing treasonable. I wrote to a minister, (Robert Smith,) and in my letter I say "Burr is about something, but whether internal or external, I cannot discover. I think you should keep an eye to him."

*Mr. Wickham.* When was that letter written?

Answer. I cannot tell when I wrote it.

Question. When was Colonel Burr at St. Louis?

Answer. Colonel Burr was at St. Louis on the 11th of September, 1805, and left that place on the morning of the 19th: In the interim he had been in that quarter of the country where Kibby lives, though I do not know that he saw him.

Question. Which Kibby?

Answer. The fellow who gave the deposition which has been published.

Question. What is the date of your orders for descending the river?

Answer. I cannot tell.

Question. Have you those orders here?

Answer. I am not certain; most of my papers are in Williamsburg. The troops descended in the beginning of May.

Question. Did you authorize any officer to arrest any person after you descended?

Answer. No: I gave instructions to Lieutenant Peter, whom I had left at Natchez, and required him to give me regular information. [See deposition of Lieutenant Peter, note X.] At the time I descended the river we had no posts except the Chickasaw Bluffs, on the Mississippi, and Massac, near the mouth of the Ohio, except a small party at the Arkansas, and another opposite to Cincinnati.

*Mr. Hay.* Was there any post between the Chickasaw Bluffs and Massac? Answer. No.

Question. Was there any military post between Pittsburg and New Orleans?

Answer. None except those which I have mentioned.

*Mr. Wickham* asked General Wilkinson for his alphabetical cipher, who went to his lodgings for it.

*Mr. Wickham* (to General Wilkinson after his return to court.) Can you ascertain when the hieroglyphic cipher was made?

Answer. The arbitrary characters were designed, I think, in 1794; but I do not say it was given to Colonel Burr at that time.

Question. Will you give me leave to ask upon what occasion it was formed?

Answer. I will with pleasure. Pending the Indian war, we had unhappily much dissension in the army. I felt myself extremely oppressed and persecuted, and I had reason to believe that every artifice was put in operation to injure my standing with the Government, and to have me removed from service, if possible; and there were many who shared my persecution. In the autumn and winter of the year alluded to, a number of officers retired from the army, either on furlough or by resignation, among whom was that most gallant officer, Captain Leonard Covington, since a member of Congress. At this time my quarters were embosomed in a wilderness, and remote from any post office, and we had no regular mail. The cipher was, therefore, designed to secure safety to a free correspondence and an unreserved interchange of sentiment respecting public men and public measures, particularly such as related to the army.

*Mr. Wickham.* I think you say it was formed in 1794?

Answer. Yes; and I will give you my reasons. I have another cipher, in which the hieroglyphics representing the President and Vice President are the same as in that now before the court, which was designed by Captain Smith for Captain Covington, in the year 1794, at the time he retired from the army. [See an extract of a letter from Captain Covington to General Wilkinson, note Y.]

*Mr. Wickham.* I observe the word *republican* is represented in the hieroglyphic by '76, *aristocratic* by '89, *navy* by '96, *city of Washington* by a single house, and that an indifferent one. Pray, why was that, as the seat of Government was not removed till many years afterwards? I observe the city of Washington, but not Philadelphia, nor any place mentioned as the seat of Government.

Answer: The cipher was formed by my aid-de-camp, Captain Smith; and the designations originated in his caprice, without my privacy or participation.

*Mr. Wickham.* Do you recollect for what purpose New Orleans was designated in the hieroglyphics?

Answer. I can probably account for it. If you will refer to those periods, you will discover that we were in an equivocal situation with all the maritime Powers, more particularly with England and Spain. The navigation of the Mississippi had been a subject of much discussion, and one in which the Western people felt a considerable degree of interest. The Ohio is also designated. That is probably confined to mere locality. We were then engaged in a war with the Indians, and were in the woods on the waters of the Ohio: I have before said that I could not account for the various designations; but I offer these as circumstances which may have influenced Captain Smith in forming them.

*Mr. Wickham.* Do you recollect when the alphabet in cipher was put on this paper? (alluding to a paper on which the hieroglyphics were written, which he then held in his hand.)

Answer: Last winter; I believe they were put on to prevent them from being lost.

*Mr. Wickham.* Have you brought up the letter or communication from the Government which we wished to have here to look at? Answer: I have not.

*Mr. Hay.* I think you said there was no military post between Pittsburg and New Orleans, but Fort Massac, the Chickasaw Bluffs, and one at Cincinnati?

Answer. Yes; that at Cincinnati was established by the Government after the flight of Blannerhasset.

Question. Was there none at Natchez?

Answer. There were only Lieutenant Peter and a few men left at that place to keep a look out, and give me regular information.

FRIDAY, October 2.

*Mr. Wickham* called on General Wilkinson to produce the President's letter approving his measures.

*Gen. Wilkinson.* By referring to my papers, I discover I have made a mistake. I find I have no orders from the President directing the seizure of Colonel Burr; the order is from the Secretary of War, and has been already published, directing me to seize the principals in the enterprise. I did believe I had an order from the President specifically directing the arrest of Colonel Burr. The mistake arose from my misapprehension of the tenor of a letter from the President, of February, which blends public communications with private affairs.

*Mr. Wickham.* Have you no letter from the Secretary of War approving your conduct in general terms?

Answer. I never had such letter from him. The approval of my conduct is expressed in qualified terms.

*Mr. Wickham.* You wrote the President about these transactions; was the letter to which you referred an answer to these communications?

Answer. That letter in its public relation merely acknowledges the receipt of two letters from me, and the arrival of a confidential messenger I sent to the President. It gives some directions, but generally conveys information merely.

Mr. Wickham then applied for the production of this letter; it might be important to Colonel Burr in this point of view. General Wilkinson sends on certain communications by Mr. Briggs, and in this letter the President acknowledges the receipt of them. So that, by referring to that letter, it was easy to know what were the communications made to the President by General Wilkinson.

*Mr. Martin.* We have a right to demand this letter.

*Chief Justice.* It is easy to read the passage which refers to the two letters and to Mr. Briggs's communications. Mr. Martin proposed to put the letter into the hands of the Chief Justice, who might mark such passages as he might think improper to be read.

*General Wilkinson.* The letter is in the hands of the attorney for the United States.

*Mr. Hay.* If the court will state those subjects to which the letter should relate to have any bearing on this case, I am ready to produce such passages.

*Mr. Burr* observed that he knew of but one ground on which a public document should be withheld from a court of justice, which was, that it might contain something relative to foreign negotiations actually pending, and the public good required its concealment. But in the present case, the transactions referred to in the letter might have passed over; a letter, too, which is not a public document, but a private communication.

*Mr. Martin.* No Government ever dared to suppress information which was necessary to an individual against whom it had commenced a prosecution. There never was such an attempt to establish a new principle, as is done on the present occasion.

*Mr. Hay.* Mr. Martin asserts that there never was such an instance as the present, and that we are attempting to establish principles altogether new. I do not, sir, attempt to establish new principles; I do aver my confident opinion, that this paper does not, in the slightest degree, relate to the present case. I will not say that the gentlemen know this fact, nor do I say they have other objects in view; what effects they may have out of doors, what materials of declamation they may furnish to gentlemen of a certain way of thinking, I know not. But I do assure gentlemen, that when this letter is produced, it will have a very different effect from what they may contemplate. Mr. Hay then read the last paragraph of the letter.

*Mr. Burr.* If there be a single sentence in that letter relating to me, I have a right to demand it. Why is greater regard paid to the President's secrets than to mine? My papers have been fraudulently seized, and such passages only culled from them as suited the purposes of my enemies.

*Mr. Hay.* I am placed in an embarrassing situation; I have no objection to the production of this paper; but, in my opinion, it has not the smallest application to the present case. If this letter ever is produced, it will but place the conduct of the President on that high ground of propriety which has ever been contemplated and assigned to him by the people of the United States. If gentlemen want this letter, let them state *how* it is relevant. I am content that you, sir, (the Chief Justice,) should read this letter, or that any other person should; but I cannot consent to produce every paper which gentlemen may think proper to ask for.

*Mr. Wirt.* These gentlemen, it seems, are carrying on an impeachment against the President of the United States. What is their object in demanding this letter? It is no more than vainly to attempt to inculpate the President, and to gratify their spleen and their resentment against him. Is that their object? Is Aaron Burr more or less guilty because he has approved or disapproved the measures of General Wilkinson? They want to ask you which is the most guilty, Thomas Jefferson or Aaron Burr? Are you, then, trying the President? And even if you were, would you not have him here, and give him an opportunity of answering to his accusers? This letter, sir, if ever it is produced, will show that the motives of the administration were as pure and as proper as its friends could wish, or its enemies could fear; it will appear that the reprobated conduct of General Wilkinson, in this instance, was such as was justified by the circumstance of the case; and that if the administration have approved it, they have approved of nothing but what was proper. We hope that, unless the court be satisfied of the relevancy of this paper, they will not unnecessarily violate the sanctity of private correspondence.

*Mr. Wickham.* It has been said that we wish to inculpate the Government. No, sir, our object is to defend ourselves; and if, in doing this, we do inculpate the Government, so much the worse for them. When, sir, the Government have spent \$100,000 on this prosecution; when every quarter has been ransacked for evidence against us; is it not important for us to show from what motives this prosecution has been commenced? General Wilkinson has been under examination these two days. He has produced documents which he has mutilated and then restored. Gentlemen say that *he* is the pivot on which the prosecution turns. We wish, sir, to examine how far this witness has been consistent with himself, and what credit is due to his declarations.

*Mr. Martin.* It has been already decided in this court, that the President has no more rights here than the man who walks the streets in rags. "What!" says the gentleman, "will you then violate the sanctity of private correspondence?" Sir, when that gentleman made this declaration, I looked at his face to see whether it did not blush with shame, and even burst with blood, at expressing such a sentiment.

*Mr. Wirt.* I hope, sir, the redness of a man's face is no evidence of his guilt. Mr. Martin mistakes me. I demanded whether this court would violate the sanctity of correspondence, unless there was an adequate necessity for it.

The argument was continued for some time in this desultory manner; after which the Chief Justice observed, that he much regretted that any difficulty had occurred on the subject; that it was irksome to him, and it was with considerable reluctance that he required the production of such a paper; but that he did only what his duty prescribed to him; that it was impossible for him to determine, even if he saw the letter, how much of it was relevant to the present case, because he could not anticipate what ground of defence would be taken by the accused. He saw, however, no necessity for reading it in public.

*Mr. Wickham.* Let us see the letter, and then, if we think it to be relevant to the present case, we may read it in the cause; but no copy need be taken.

*Mr. McRae.* I should rather, sir, that it be exhibited in the most public form. It is the only way to avert the misrepresentation of its contents.

[Mr. McRae then read the letter marked Z.]

*Mr. Wickham* demanded the production of the whole letter of the 12th of November.

Question. General Wilkinson, did you lay it before the grand jury? Answer. I did.

*Mr. Burr.* The entire letter has been used against me before the grand jury. All idea of State secrets is therefore at an end; and there can be no objection to produce the whole of it in court. I shall expect that General Wilkinson will bring the whole of it into court to-morrow.

*Mr. Hay.* I have nothing, sir, to say on this subject.

*Chief Justice.* The President has certified his reasons for communicating only certain parts of that letter; and he believes that the other parts have no application to the present prosecution.

*Mr. Martin.* I hope the court has not already decided that point. Has not this court already declared that the President has no more power here than any other man? If this be law, for which gentlemen now contend, God forbid that I should remain a citizen of the United States! And is Mr. Jefferson to be a judge of the relevancy of evidence, in a prosecution in which he has taken so active a part against the accused? Mr. Jefferson, sir, is a man of no great legal knowledge. He was of no celebrity as a lawyer before the revolution, and he has since been so much engaged in political pursuits, that he has had time enough to unlearn the little law he ever knew.

*Mr. Hay.* The only end of this conversation is to abuse Mr. Jefferson.

*Mr. Martin.* Sir, we shall so use Mr. Jefferson as not to abuse him. Remember that the life and liberty of Col. Burr are shown to be no longer dependent on Virginians, and therefore I am freed from any restraint in declaring what I think. If Mr. Jefferson himself were here, would not this court call him before it, and make him disclose, upon oath, the contents of that letter? Suppose, sir, that in this letter General Wilkinson has denounced Governor Claiborne and Cowles Meade; suppose that he has represented all the people of New Orleans as disaffected; suppose that he has attempted to throw every influential man but himself under the suspicions of the Government, in order that he may raise himself into favor; is this a satisfactory reason why this letter should be respected or withheld?

*Mr. Burr* repeated that this letter had been laid before the grand jury; that it was, therefore, no longer a State secret; and that he had a right to ask for any thing which General Wilkinson had showed or said to the grand jury.

*Chief Justice.* After such a certificate from the President of the United States as has been received, I cannot direct the production of those parts of the letter, without sufficient evidence of their being relevant to the present prosecution. I should suppose, however, that the same source, which informed you of the existence of this paper, might inform you of the particular way in which it was relevant.

*Mr. Burr.* In such a case, I ask no man's opinion but my own.

*Chief Justice.* I cannot assist you.

*Mr. Burr.* Have not I a right to ask what any one said before the grand jury?

*Mr. Wickham* read certain parts of the *extracted and furnished* copy, to show that from the context of those parts, the omitted passages bore directly on the subject. The President of the United States might have had proper reasons, on account of General Wilkinson, to withhold those parts, but General Wilkinson himself has no right to withhold them; and if he produced the whole letter before the grand jury for the sake of criminating Col. Burr, he may certainly be called upon to lay it before this court.

*General Wilkinson* begged leave to correct the expression of the gentleman about his motives. He did not produce this letter before the grand jury to criminate Col. Burr, but to vindicate himself.

*Mr. Wickham.* That is the very thing which I say. Why did he wish to vindicate himself, but to give greater effect to his crimination of Col. Burr?

*General Wilkinson* begged leave to state another consideration. When he appeared before the grand jury, he recollects Mr. Taylor of the grand jury inquired of him, whether he introduced certain papers to vindicate his own conduct, and that he replied in the affirmative; he remembers, also, observing to the grand jury, that certain parts of his informations involved such delicate personalities, that he should not willingly give it publicity; and therefore he hoped what he said would be received in confidence; to which a member, (Mr. Barbour,) after some pause, replied, "Whatever you say here, sir, is received in confidence."

*Mr. Hay.* Mr. Tazewell is here, and will confirm that statement.

*Mr. Burr.* Then they did a very improper thing; and I hope this court will not countenance such a proceeding. The gentleman must be mistaken, sir. The grand jury could not thus receive secret information.

*Mr. Hay* observed that gentlemen acted very precipitately in condemning the grand jury unheard; and appealed to Mr. Tazewell for what he knew on this subject.

*Mr. Burr.* They have no right to introduce a witness now, when we have one under examination.

*Mr. Wirt* supposed that, when the grand jury was thus charged by the accused or his counsel, they had a right to appear in vindication of their own conduct.

*Mr. Burr.* That may be a pleasant occupation to the court *hereafter*; but at present we have a witness under examination.

After a long and desultory argument, the *Chief Justice* determined that the correct course was, to leave the accused all the advantages which he might derive from the parts actually produced; and to allow him all the advantages of *supposing* that the omitted parts related to any particular point. The accused may avail himself of them as much as if they were actually produced.

*Mr. Wickham.* We shall then insist, in the course of argument, that our suppositions, if not disproved, must be received as evidence.

*Mr. Martin.* And I shall take the liberty of stating what is actually contained in the omitted parts of the letter; for I know what they are.

*Mr. Wirt.* Mr. Martin, sir, is privileged to say what he pleases of any person or thing.

*Mr. Burr* (to General Wilkinson.) Was there not an order given by you to seize the person of Mr. Pintard?

Answer. I have no recollection that I gave such orders; and I conclude, from the circumstance of an explanation I made in the newspapers, that I did not.

*Mr. Burr.* I have seen an order, said to have been from you, for seizing him?

Answer. I do not recollect it; but if any such is shown to me, I shall certainly confess it.

Question. Did you give any orders to arrest Daverzac?

Answer. I gave general orders only; I stationed a guard about two miles above New Orleans, to stop boats and persons.

Question. What were the orders given to that guard?

Answer. To stop all persons descending the river.

Question. And to seize papers too? Answer. I do not recollect.

Question. Were the papers of Mr. Pintard brought to you?

Answer. They were, but they were immediately returned.

*Mr. Hay.* Is it the opinion of the court that General Wilkinson is to be interrogated about all his transactions at New Orleans? I object not to hearing the truth, but I cannot consent to this sacrifice and waste of time. I

believe it to be a principle of law, that, when a witness is introduced by the prosecution, he is only to be cross-examined about the points of his original testimony. Is this prosecution never to end? Or are we to wait to give the accused an opportunity of entrapping General Wilkinson, which they avow to be the object of these interrogatories?

*Mr. Wickham.* It is a novel idea just started by the gentleman. If such were the law, the prosecution need only to seize on the most material witness on behalf of the accused, examine him only as to a few points, and then dismiss him. All his evidence in favor of the accused would, consequently, be lost.

*Mr. Hay.* The law is laid down in 2d Atkins.

The *Chief Justice* overruled the objection, and the examination proceeded.

*Mr. Burr.* What letters directed to me did you take from Pintard or Daverzac? Answer. None.

Question. Did you return to those gentlemen all the papers you took from them?

Answer. I think I did not; but I do not recollect what part of them I retained.

Question. You have read the constitution; by what authority did you seize private papers?

*General Wilkinson* (to the court.) Am I bound to answer questions which may criminate myself?

*Mr. Burr.* To state the authority by which he seized the papers cannot criminate him, though the fact of seizing might.

*Chief Justice* (to General W.) When you discover that any question may criminate you, you need not answer it.

*Mr. Baker.* And when he does resort to that expedient, he is to be understood as shuffling from the question, and as likely to criminate himself by his answers.

*Mr. Wirt.* And it is also understood that, when called on in this manner, he may explain his conduct by drawing a picture of the defenceless condition in which he found New Orleans, and the necessity of resorting to such strong measures for its defence.

*Mr. Baker.* And if he does give us a picture, it must be a true and faithful one.

*Chief Justice.* I have stated to General Wilkinson that he is at liberty to explain the motives of his conduct.

*General Wilkinson.* Then, sir, I will explain and substantiate the motives of my placing this guard, and of my other measures. Here is a paper, a letter of advice from General Jackson to Governor Claiborne, warning him of the approach of a large body of men to New Orleans, combined and engaged for unlawful purposes. Here, sir, is a deposition which goes to show that Judge Prevost, the step-son of Colonel Burr, saluted a public officer in the streets of Orleans, and congratulated him on the arrival of General John Adair, as the second in command to Colonel Burr, at New Orleans. Here is a deposition of Commodore Shaw, which shows that Bradford, the printer, had reported a most terrific account of the movements in the upper country, of an armed brig being equipped, and even of 12,000 stands of arms being issued by Colonel Burr. These were the reasons for my taking such decided steps; and so impressed was I with the dangerous situation of my country, that, if I had omitted these precautionary measures, I should have deserved the severest denunciations of the Government. I was prompted by that pure patriotism which has always influenced my conduct, and my character for which I trust will never be tarnished. I shall continue to defy the utmost art, fraud, deception, and villany that my enemies can practise towards me.

*Mr. Wickham* objected to the production of the depositions.

After a desultory argument, the *Chief Justice* determined that it was not correct to read them. If these affidavits had been made previous to the transactions at New Orleans, they might have been read as explanatory of the grounds of General W.'s conduct; but, being taken since, they are objectionable, as every thing of that kind ought to be subjected to a cross-examination. General Wilkinson has stated the grounds of his own conduct, and very properly; but he has no right to support his explanation by illegal evidence.

*Mr. Baker.* The court having disposed of the depositions, the only question that remains relates to the letter. On this question two points occur: 1st, whether this is a correct copy of a certain letter; and, 2dly, whether that letter was written by General Jackson.

*Chief Justice* (to General Wilkinson.) Do you know the hand-writing of General Jackson?

Answer. I know it only by comparison; I never saw him write.

*Mr. Wickham.* Did you compare this letter? Answer. My clerk did, and he is here.

*Mr. McRae.* Is it not your best belief that this is a true copy of the original?

Answer. I believe it to be a correct copy.

Question. Did not this letter form the ground, in part, of your conduct?

Answer. It did certainly influence my conduct.

*Mr. Wickham* objected to its being read, because it was only proved to be a true copy by the general recollection of the witness.

Some desultory discussion ensued.

*Chief Justice.* Both sides admit that it is immaterial whether General Wilkinson's impressions of the state of New Orleans were actually true or false. Both sides admit that he may produce any letter which is verified by himself. But this copy is not proved by him to be a true copy. There is no objection to General Wilkinson's stating the contents of this letter; but that statement cannot be confirmed by the copy that is offered.

*Mr. Wickham.* There is one thing more to be considered. The court has not come to any positive decision as to the letter of 12th November. If General Wilkinson does not produce the omitted parts, by the rules of evidence we are at liberty to state and to use them, until they are disproved. General Wilkinson may, if he pleases, produce the whole letter at any subsequent period.

*Mr. Hay.* The President of the United States has prescribed the course which should be pursued. It is he, and not General Wilkinson, who withholds the omitted parts. Is it fair, then, that the opposite counsel should supply these omissions as they please, and that their suppositions should be received as evidence?

*Chief Justice.* I have already decided this question. It is certainly fair to supply the omitted parts by suppositions, though such ought not to affect General Wilkinson's private character. If this were a trial in chief, I should, perhaps, think myself bound to continue the cause, on account of the withholding the parts of this paper; and I certainly cannot exclude the inferences which gentlemen may draw from the omissions.

*General Wilkinson.* I have to offer, sir, a letter from James L. Donaldson, which Mr. Martin called for yesterday.

*Mr. Martin.* This is only an extract.

*General Wilkinson.* I had no other.

*Mr. Martin,* (returning the paper.) We take no extracts.

*Mr. Wirt,* (in an under key.) Unless it be of molasses.

*General Wilkinson.* I have also another paper; it is the extract of a letter from Mr. Covington, showing that the cipher was invented in 1794.

*Mr. Wickham.* Did you ever use these ciphers, or any of them, or any other cipher, in correspondence with the Baron Carondelet?

Answer. No; but I must reflect on that question before I answer it decidedly.

SATURDAY, October 3.

*Mr. Martin.* You offered an extract of your instructions to Lieutenant Pike yesterday; we wish to see them.

*General Wilkinson.* I have now in my hand a complete copy of those instructions. If they are admitted, I wish them to be read. [They were received and deposited with the clerk.] Mr. Martin had asked me yesterday respecting the information which Major Bruff had given to General Smith and Mr. Read, of the Senate. I have a copy of it. Here it is.

*Mr. Martin.* We only want to know when it was received.

Answer. I do not recollect; it was dated on the 1st of March, 1807, at the city of Washington.

*Mr. Martin.* Then it could have influence on your conduct at New Orleans. We do not want the paper.—[See note A A.]

*General Wilkinson* said that this same Major Bruff had been summoned here as a witness by Colonel Burr, to take revenge, as he had alleged, for past injuries.

*Colonel Burr* asked whether this was offered as testimony?

*General Wilkinson.* No; I only offer what I can prove.

*Colonel Burr* said that, if General Wilkinson had any further evidence to give, he would go on with it. But these appeared to be mere conversations, and he did not know whether dictated by passion or not.

*General Wilkinson,* (addressing the judge.) I stand here in a very complex character. On the one hand, summoned as a witness on the part of the United States; on the other, arraigned as an offender by Colonel Burr and his counsel. I therefore hope that, should I commit any impropriety, it will be ascribed to the peculiarity of my situation.

*Mr. Wickham.* I ask you if you had any communications with Timothy Kibby, and whether you had ever made any propositions to him as to an invasion of Mexico?

Answer. I cannot charge my recollection. There was a very general idea that hostilities with Spain would certainly take place. It is possible that I might have spoken to him, as an officer of the militia, with respect to the probable force which he could bring into the field in such an event.

Question. Have you ever made any confidential communications to him or to any other person on that subject?

Answer. I am not conscious that I ever did.

*General Wilkinson,* having been informed that there were no more questions to be propounded to him, addressed the judge as follows: Upon a former occasion you will recollect, sir, that reference has been had to a certain letter of which so much has been said. That letter is designated by the words said to be used in it, "yours, postmarked the 13th of May, has been received." Yet that letter has been withheld, under the pretext of delicacy; while we have seen it employed in the most artful and insidious manner to injure my reputation and tarnish my fame. Sir, I demand the production of that letter. I hope that a reputation acquired by nearly thirty years of service is not to be filched from me by the subtlety, artifice, or fraud of Colonel Burr and his counsel. I hope that, on Monday next, you will permit me to introduce a variety of letters and documents explanatory of the insinuations and innuendoes which are calculated to implicate me as an accessory in his plans. A member of the grand jury has been brought forward to state what my evidence was; which is an additional reason why I should be permitted to explain. It was my intention to have commenced my testimony by giving a regular detail of the proceedings of Colonel Burr from his first passage of the mountains, but I have been advised to confine myself to a narration of the occurrences which commenced at Natchitoches. It is now my duty to go back to that period, and trace Colonel Burr step by step.

The *Chief Justice* said that the court could not sit to hear any thing except what related to the cause. As to the intention with which General Wilkinson had done any particular act, he had been permitted to explain, in the whole course of his testimony. With respect to what had been drawn from Mr. Tazewell, as he understood it, there was no variation between his statement and that of General Wilkinson. The papers which General Wilkinson wished to refer to had as well appear before the public in any other way as through the channel of this court.

*Mr. McRae* said he did not know that General Wilkinson had gone so fully into an explanation of the various parts of his evidence as he intended. He had understood the court to say, that General Wilkinson might be permitted to explain himself as to any particular fact mentioned in the course of his testimony. It is the wish of General Wilkinson, on every occasion, to explain the motives which governed him; and if in some points he has not been so full as he intended, he hoped that the court would still hear him.

*Mr. Wickham.* General Wilkinson must necessarily stand in a very delicate situation. Very heavy charges are brought against Colonel Burr, which are attempted to be established by the testimony of General Wilkinson. It must have been foreseen that the counsel of Colonel Burr, if they did their duty, would endeavor to impeach the credibility of General Wilkinson as a witness. But this is a common case. It is a thing which may happen in the case of every witness who is brought before the court. A witness is brought forward on whose testimony much reliance is placed. He is, of course, cross-examined to see whether he be consistent with himself, or whether his credibility can be impeached. In the present case, I am certain that General Wilkinson has been treated with every degree of delicacy which the nature of the case would admit of. With respect to myself, I am conscious of having done nothing but what my duty dictated, and of having used as much delicacy towards General Wilkinson as his relation would justify. We do not see the necessity or propriety of General Wilkinson's entering into explanations. If these are to be made, they had better be reserved for some other time, and some other place.

*Colonel Burr.* General Wilkinson has been sworn to tell the truth, the whole truth, and nothing but the truth. If he has not told the truth, let him do it now; and not, by his explanations, interrupt the examination of other witnesses.

*General Wilkinson.* I have received, and have now in my possession, a number of letters from Colonel Burr, of an ambiguous nature, combining matters personal with matters political; but they contain nothing which would subject him to legal penalty or legal obstruction. I have before observed, that under the circumstances in which these letters were received, I did feel myself at liberty to divulge their contents without the permission of Colonel Burr. I now ask that permission, for I feel that delicacy which others profess to feel. The letter post marked the 13th of May, has often been mentioned, and has been used to injure my character, and envelope it in doubts and suspicions. This letter, if written at all, must have been in answer to one received from Colonel Burr. Why has it not been produced? I challenge its production; for if it were brought forward, it would release me from all obligation to silence, and would enable me to exhibit to public view the letters of Colonel Burr. Sir, I am incapable of uttering an intentional falsehood; and, under the solemnity of the oath which I have taken, I have no hesitation

in saying, that the declaration of that gentleman (pointing to Colonel Burr) that he had put the letter beyond his power and with my knowledge, is totally destitute of truth.

A A.

WASHINGTON, *March 1, 1807.*

Major Bruff communicated to S. S. and Colonel Read:

That Judge Easton, (immediately after the first number of the *Western World* appeared,) told him (Bruff) that it was in his power to ruin Colonel Burr; that he had told him his plans; that they were such as had made his hair stand on end, but he had gone so far that he could not recede. Bruff told him, that he owed it to himself, as an honest man, to inform Government. That I cannot do, said E., for I am under an oath of secrecy. But you had previously taken an oath, paramount to any other, to your country; I cannot tell, said E., but I will communicate the whole to you, if you will come under an oath of secrecy; indeed, continued he, Colonel Burr told me, that he had heard of you, that he had heard you was a brave man, had sense and firmness, and desired me to speak to you. I am therefore at liberty to tell you all the plans, if you will swear that you will keep the secret. Bruff refused, and advised Easton to act like a man of honor and a friend to his country, or he would hereafter repent.

*Evidence of Commodore Shaw.*

FRIDAY, *October 2.*

*Mr. Wickham.* For what is Commodore Shaw introduced?

*Mr. Hay.* To authenticate the copy of the letter from General Jackson to Governor Claiborne, shown to General Wilkinson.

*Commodore Shaw.* I recollect to have seen the original.

*Mr. Wickham.* You will please, sir, to state its contents.

*Commodore Shaw.* Governor Claiborne sent his servant to me with an invitation to dinner; adding that he wished to see me on public business. I was unable to wait upon him that day; but I saw him on a subsequent day, when he took a letter from his pocket and showed it to me. It was a letter from General Jackson to himself, and had been thrown into the office by some anonymous person. This letter gave Governor Claiborne a strong suspicion of General Wilkinson, and reminded him of the *ides of March*, and insisted upon the necessity of placing New Orleans in a state of defence.

*Chief Justice.* When was this? Answer. Some time in December.

*Chief Justice.* Did report convey any information of troops approaching New Orleans?

Answer. Yes. Every day in December and January rumors were arriving of the movement of troops on our southwestern frontiers; and my impression was, that every thing should be done for the safety of the city; and that if General Wilkinson had not taken the measures that he did, he would have deserved censure.

*Mr. McRae,* (looking in the letter in his hand.) Do you recollect whether General Jackson recommended in his letter, that the governor should use every possible means of defence?

*Mr. Wickham* objected to putting questions from the letter.

*Chief Justice.* You must not, sir, take the letter in your hand, and propose questions from it. It is really of no consequence whether the letter be read or not. No doubt the substance of it has been stated.

*Mr. McRae.* Have I no right to read over the letter, and afterwards to interrogate the witness as to its substance? It is my object, I confess, to draw out the substance of the original letter.

*Mr. Wickham.* In that letter were there not strong suspicions expressed against General Wilkinson?

Answer. There were.

*Mr. Wickham.* I should suppose, then, that General Wilkinson might have easily judged from that circumstance of the correctness of the rumors which were circulated about Colonel Burr.

*Mr. McRae.* State, sir, what you know of these transactions.

Answer. The alarm at New Orleans in December and January was very considerable. We did not know when the enemy would advance upon us. There was an apprehension of an attack by sea, and I was then authorized to purchase a large ship, to be stationed at the Balize. The gunboats, which had been ordered to enter Lake Pontchartrain, were commanded to take a different position. Some time after there was a report that a fleet, under English colors, was actually cruising off the mouth of the Mississippi; and this increased the alarm.

*Mr. Burr.* Was it a fact or not that this fleet was there?

Answer. I do not know. Such was the report, and it was brought by a packet which comes up weekly from the Balize. It was not said to be a fleet of merchantmen, but of ships of war. The report was, I believe, on the counting-house books. Mr. Bradford, the printer, also made a communication to me on the 6th of January, which produced a considerable effect. He informed me that he had spent some time in the city of Washington and Philadelphia; and from Philadelphia he had travelled to Pittsburg, and from thence proceeded to New Orleans; that he had seen a number of men under arms at the mouth of Cumberland river; two gunboats building, which the men at work on board told him would be delivered up by Colonel Lyon to Colonel Burr; besides a number of small arms, and a thirty-two pounder, ready to go aboard; and that this flotilla was to be under the command of Captain Talbot.

*Mr. McRae.* Did this information reach General Wilkinson?

Answer. Yes. I told him of it myself. The communication was made in the company of Mr. Hynes and Major Spence.

*Mr. Wirt.* What was the situation of New Orleans at that time? was it in a condition to defend itself against any attack by sea?

Answer. It was in a very defenceless condition.

*Mr. Wickham.* Were these rumors before General Wilkinson's arrival at New Orleans, or afterwards?

Answer. Afterwards. General Wilkinson made to me a full communication of all he knew; I dare say, a week before it was known to the public. He showed me the ciphered letter from General Dayton, with his signature to it. This enabled me the sooner to get my naval preparations ready.

*Mr. Hay.* Did General Wilkinson give you this information under injunctions to keep it secret until the proper time should come for divulging it?

Answer. He did; until he could obtain more complete information from some of Colonel Burr's agents then in town.

*Mr. Hay.* Was Colonel Freeman then at New Orleans? Answer. He was.

*Mr. Wirt.* What was the strength of the garrison in New Orleans?

Answer. In the upper fort there were three pounders and one twenty-four pounder. All the guns in the lower fort were dismantled. In the upper fort there were six men and a corporal's guard. I am sure there were not more than three guns there.

*Mr. Wirt.* What was the number of regular men in garrison?

Answer. It was a small garrison. Generally there were parts of four companies of regulars there. What was the precise number of men I do not recollect.

*Mr. Hay.* Did not those who were responsible for the safety of New Orleans suspect many of disaffection?

Answer. I did suppose that there were many in and near New Orleans who were inimical to the Government of the United States.

*Mr. Wirt.* Suppose an attack had been made by a fleet from below and an army from above, would the people of the city have resisted with a proper spirit?

Answer. I thought, sir, that the people were not as patriotic as they ought to have been. Many endeavored to discourage the belief that there was any danger of an attack.

*Cross-examined.*

*Mr. Wickham.* Did General Wilkinson show you the ciphered letter? Answer. Yes; in manuscript.

Question. Did he show you the translation? Answer. He did.

Question. Was it General Wilkinson's copy? Answer. I so understood it.

Question. As a copy of the whole letter?

Answer. Yes; as the true copy of the whole of the letter received by General Wilkinson through Mr. Swartwout.

Question. Did you say there were four companies of regulars at New Orleans?

Answer. I said they were not full.

Question. Was there any alarm before General Wilkinson got down? Answer. None, that I heard of.

*Mr. Wickham.* Did you suspect the people of New Orleans to be disaffected because they would not believe these rumors?

Answer. No; not for that reason. I believed them disaffected, for other reasons.

*Mr. Wickham.* Whilst these rumors prevailed, did the ordinary commerce of the flat-bottomed boats coming down the river continue?

Answer. It did.

Question. Did the mails arrive as usual?

Answer. They were not regular in January. I thought some of my letters were detained, and I then determined to communicate with the Government by water.

Question. Did you obey any orders from General Wilkinson?

Answer. No; our service was quite distinct; but I had orders to co-operate with General Wilkinson, and he might send the squadron to what point he pleased.

Question. Who gave you the orders to apprehend Colonel Burr?

Answer. They were from Government, and I think from General Wilkinson. My orders from the Government have been published, and I suppose Colonel Burr may have seen them in Natchez. The original orders are at my lodgings.

[Here Mr. Hay produced a copy of these orders.]

*Mr. Burr.* That is not the order, Commodore Shaw, which was published at Natchez?

Answer, (having read it.) The very same, sir, *verbatim*.

Question. Did you not see an order in the newspapers directing my boats to be destroyed? &c.

Answer. I did not, sir. These orders (those in his hand) were put on the custom-house books.

*Mr. Burr.* Was there any qualification "*if attacked*," in the order that was published?

Answer. There was.

Question. Was it not an order to attack and destroy, without any qualification? Answer. Oh, no, sir.

[Documents referred to in General Wilkinson's evidence.]

A.

*Deposition of Colonel Cushing.*

On or about the 8th of October, 1806, I was sitting at the dining-table in my quarters, at Natchitoches, with General Wilkinson, when a gentleman entered the room and inquired for Colonel Cushing. I rose to receive him, and he presented to me the letter from General Dayton, of which the following is an exact copy, viz:

DEAR SIR:

ELIZABETHTOWN, N. J., July 27, 1806.

This will be presented to you by my nephew, a son of the late General Matthias Ogden, who commanded one of the Jersey regiments in the revolutionary war, and whom you probably recollect. He is on his way to New Orleans, and is advised by me to call at your post, if it should be Fort Adams, or elsewhere upon the Mississippi, as I am told it is. His merits, and the esteem in which he is held by me, make me anxious to procure for him a welcome reception, even for the short stay of a few hours that he will be able to make with you.

Any instance of friendly attention or assistance shown to him and his very worthy companion, Mr. Swartwout, will be gratefully acknowledged, and regarded as a favor conferred on

Dear sir, your sincere friend and very humble servant,

JONATHAN DAYTON.

Colonel CUSHING.

The gentleman informed me that he was the Mr. Swartwout mentioned in the letter, and I presented him to General Wilkinson as the friend of General Dayton, and requested him to take a seat with us at table, which he did. Mr. Swartwout then observed that Mr. Ogden and himself, being on their way to New Orleans, had learned at Fort Adams that our troops and some militia were assembling at Natchitoches, from whence they were to march against the Spanish army then in our neighborhood, and that the object of his visit was to act with us as a volunteer. He remained with us some time, and conversed on various topics, but said nothing which could excite a suspicion against him; and he left us with a strong impression on my mind that his business to New Orleans was of a commercial nature, and could be conducted by Mr. Ogden during his absence. While he was in my quarters I was called out on business, and was absent from five to ten minutes.

The next morning I was walking on the gallery in front of my quarters, when General Wilkinson came up, and taking me aside, informed me that he had something of a very serious nature to communicate to me; so

much so, that although it was necessary to hold it in strict reserve for the present, he begged me to bear it in mind, that I might be able to make a fair statement of it at any future period. He then asked me if I knew or had heard of an enterprise being on foot in the Western States. I replied that I had heard nothing on the subject, and asked him what the enterprise was to which he alluded. He then said, "Yes, my friend, a great number of individuals possessing wealth, popularity, and talents, are at this moment associated for purposes inimical to the Government of the United States; Colonel Burr is at their head, and the young gentleman who delivered you the letter last evening is one of his emissaries. The story of serving as a volunteer is only a mask. He has brought me a letter from Colonel Burr, which, being in cipher, I have not yet been able fully to make out; but I have discovered that his object is treasonable, and that it is my duty to oppose him by every means in my power. He assures me that he has funds; says the navy are with him; offers to make me second in command, and to give the officers of the army any thing I may ask for them; and he requests me to send a confidential friend to confer with him at Nashville, in Tennessee. In fact, he seems to calculate on me and the army as ready to join him." I then asked the general whether he had received any information or instruction on this subject from Government; to which he replied that he had not, and that he must therefore adopt such measures as in his judgment were best calculated to defend the country. He said he would immediately march to the Sabine, and endeavor to make such terms with the Spanish commander as would justify him in removing the greater part of his force to the Mississippi, and that the moment this should be effected he would send me to New Orleans in a light barge, with orders to secure the French train of artillery at that post, and to put the place in the best possible situation for defence, and that he would follow with every man that could be spared from Natchitoches with all possible expedition. He told me that he would give the information he had received to the President of the United States, and solicit particular instructions for his government; but as delay might prove ruinous, he would pursue the course before suggested, as the only means in his power to save the country, until the pleasure of the President could be known. On our march to the Sabine, the general told me that he thought his presence at New Orleans at as early a period as possible was absolutely necessary, and that the moment he could make terms with the Spanish commander he would set out for that place, and leave me to bring on the troops.

T. H. CUSHING,

*Col. 2d Reg't. Inf'y, and Adj't. and Inspector of the army.*

NATCHITOCHEs, November 15, 1806.

Sworn to before me, at the city of New Orleans, this 20th day of May, 1807.

GEORGE POLLOCK,

*Justice of the Peace of the Parish of Orleans.*

B.

PHILADELPHIA, July 25, 1806.

DEAR SIR:

Mr. Swartwout, the brother of Colonel S. of New York, being on his way down the Mississippi, and presuming that he may pass you at some post on the river, has requested of me a letter of introduction, which I gave with pleasure, as he is a most amiable young man, and highly respectable, from his character and connexions. I pray you to afford him any friendly offers which his situation may require, and beg you to pardon the trouble which this may give you.

With entire respect, your friend and obedient servant,

A. BURR.

His Excellency GENERAL WILKINSON.

C.

*Copy of a letter from General Dayton to General Wilkinson, written in cipher, except those parts printed in italics. This cipher was designed by General Dayton, and founded on the hieroglyphics known to General Wilkinson and Colonel Burr.*

JULY 24, 1806.

X A ! . ) O ∪ / ÷ ∩ " V ∩ — O — IV"  
[ ]

It is now well ascertained that you are to be displaced in next session. Jefferson will affect to yield reluctantly to the public sentiment, but yield he will; prepare yourself, therefore, for it: you know the rest.

You are not a man to despair, or even despond, especially when such prospects offer in another quarter. Are you ready? Are your numerous associates ready? Wealth and glory, Louisiana and Mexico. *I shall have time to receive a letter from you before I set out for Ohio—OHIO. Address one to me here, and another to me in Cincinnati. Receive and treat my nephew affectionately, as you would receive your friend*

DAYTON.

D.

SIR:

I have concluded to undertake the land purchase which we talked of last winter, and determinet to go on the lands this fall—any number of settlers could be had on this side of the mountains, but I should prefer to have the greater part from the Western country. You promised to write about the horses, but have heard nothing from you, and suppose there will be no difficulty on that head. The money for the first payment is now ready. I shall be at Frankfort about the 15th Augus, and hope then to meet you and Colonel Lynch there; it is quite necessary that I should see Lynch, as I shall be provided with cash to go on vigorously with our speculation. Some of the concerned are now on their way to see you, and will be with you nearly as soon as this letter. Please to encourage them, and give them a good account of things.

Your humble servant,

A. STEPHENS.

JOHNN PETERS, Esq. Nashville.

*Letter from Doctor Bollman to General Wilkinson of September 27, 1806.*

SIR:

NEW ORLEANS, September 27, 1806.

I have the honor to forward to your excellency the enclosed letters, which I was charged to deliver to you by our mutual friend.



I shall remain for some time at this place, and should be glad to learn where and when I may have the pleasure of an interview with you. Have the goodness to inform me of it, and please to direct your letter to me, to the care of Messrs. Chew & Relf, or enclose under cover to them.

I have the honor to be, with great respect, sir, your excellency's most obedient servant,  
ERICK BOLLMAN.

General WILKINSON.

E.

MY DEAR FRIEND:

JULY 16, 1807.

As you are said to have removed your head-quarters down the river, and there is a report that the Spaniards intercept our mails which pass necessarily through the territory occupied by them, in order to reach you, I think proper to address you in cipher, that the contents may be concealed from the Dons, if they shall make so free as to open the letter. Take the following for the catchword or checkword, and you may very readily decipher the figures, viz: in your own hieroglyphics [ . ]; but in your alphabet thus:

[Hieroglyphics.]  
V  $\frown$  — O I A

Every thing, and even Heaven itself, appears to have conspired to prepare the train for a grand explosion; are you also ready? For I know you flinch not when a great object is in view. Your present is more favorable than your late position; and as you can retain it without suspicion or alarm, you ought, by no means, to retire from it until your friends join you in December, somewhere on the river Mississippi. Under the auspices of Burr and Wilkinson, I shall be happy to engage; and when the time arrives, you will find me near you.

Write and inform me by first mail what may be expected from you and your associates. In an enterprise of such moment, considerations even stronger than those of affection impel me to desire your cordial co-operation and active support.

DAYTON.

Wealth and honor. }  
Adieu! } BURR AND WILKINSON.  
Courage and union. }

Let me hear from you by mail, as well as by the first good private conveyance, and believe me, with the best wishes for your prosperity and happiness, most truly,

Your friend and servant,

JONA: DAYTON.

If you write in cipher, use the same word, viz: V  $\frown$  — O I A

F.

*Extract of a letter from James L. Donaldson, Esq., to General James Wilkinson.*

NATCHEZ, October 30, 1806.

Michael Myers arrived here to-day in thirteen days from St. Louis, on his way to New Orleans. He made a communication to me, with permission to transmit to you, which might stagger even credulity. On his information, he says he is certain, and most firmly believes in the intelligence he communicates. This is neither more nor less than that a plan to revolutionize the Western country has been formed, matured, and is ready to explode; that Kentucky, Ohio, Tennessee, Orleans, and Indiana are combined to declare themselves independent on the 15th November; that proposals have been made to some of the most influential characters at St. Louis, by an accredited agent of the conspiracy, to join in the plan; that this person, whose name Myers refuses to reveal, is in a most respectable line of life, and had the most unquestionable vouchers of his mission in French and English; that he declared if *money* was necessary, that it might be commanded to any extent.

It is proper to add that the persons thus applied to at St. Louis altogether refused to concur in any plan of the kind, saying that it should be only superior force that should dispense with their oath of fidelity to the United States. This may all appear to a person, as well acquainted as you are with the politics of the Western country, as a *second Spanish conspiracy*, and as such he ridiculed; and such is my impression of the wonderful plan. But Myers so firmly believed it, that, having set forth on his journey by land to the United States, he was induced by his fears hastily to return to arrange his business at all events, and prepare for an explosion. He most solemnly protests the truth of the communication, and declares there are only four persons in St. Louis who are privy to the disclosures made by the secret agent. It is not improbable that this may be a *ruse de guerre*, a stratagem set on foot by the patron of the Western World, to foster and keep alive the dissensions, which, excited by the pretended exposition of ancient conspiracies, may be fanned into a flame, by spreading an alarm of an immediate and pressing treasonable combination. This I am apt to believe is the case; and, in order more fully to succeed, they may study and affect mystery, as better calculated to excite suspicion, and that they may have the honor of a *new discovery*. However, be the matter as it may, I communicate it to you as I received it, and have only to regret that you had it not in person from Myers's information, of which, whatever your judgment might pronounce, the solemnity of his assertion, and his certainty of the plan, (although he was not at liberty to divulge the means,) must have staggered the mind capable of *believing it*.

G.

SIR:

NEW ORLEANS, November 25, 1806.

Your letter of the 6th inst. has been duly received. Supposing that you will be much engaged this morning, I defer waiting on your excellency till you will be pleased to inform me of the time when it will be convenient to you to see me.

I remain, with great respect, your excellency's most obedient servant,

ERICK BOLLMAN.

His Excellency GEN. WILKINSON, *Fauxbourg Marigny,*  
*the house between Madame Frevigne and Mlle. McCarty.*

## H.

The deposition of A. L. Duncan, a witness in behalf of the United States against Aaron Burr, taken at the request of said witness, but by the consent of George Hay, Esq., attorney for the United States in the district of Virginia, and of the said Aaron Burr, to be read in evidence, if required, on all trials, motions, or other proceedings in course of law, in which the said Aaron Burr shall be concerned, at the prosecution of the said United States.

I consent that this affidavit may be read in all cases in which the United States are concerned against Aaron Burr, in the same manner as above expressed.

GEO. HAY, *U. S. Attorney for Virginia district.*

During the commotions excited in New Orleans last winter by what was termed Col. Burr's conspiracy and his associates and accomplices in that place, I was called upon in my professional capacity by General Wilkinson for counsel and advice in some measures which he was about to adopt. The temper and disposition which I had discovered in New Orleans, and the reports which daily reached that city from above, induced the belief that half measures were not suited to the times, and that the public safety required the exertion of extraordinary energies. I therefore urged the general repeatedly to the seizure of suspected persons, and the declaration of martial law. When Bollman was seized, I suggested to the general the expediency of transmitting with him a statement of facts, on oath, to justify the step, and to warrant his commitment. He then put the letters which he said were written to him by Col. Burr, and which he also said were transmitted to him by Swartwout and Bollman, into my hands, on which, together with some further information and knowledge of their views which the general possessed, I framed the deposition which accompanied Bollman, intentionally omitting every thing which was calculated to inculpate the general, or which might, by exciting suspicions, have a tendency to weaken his testimony. Having prepared the deposition, I presented it to General Wilkinson to be deposed to, who strongly and repeatedly objected to the omission I had made, and urged warmly that the whole should be introduced. He also desired that a declaration of Bollman, with which he frequently interlarded his conversation, should be entered, viz: "That he had come to New Orleans with views to the settlement of lands on the Washita, and was a mere spectator." And it was only after a full exposition of the sole objects of the document, that I could prevail on him to depose to it. It is idle and absurd to impute any sinister intention to the omission, because, on any trial which might ensue, it was known the original documents must be introduced as they have been. I recollect, during the winter, General Wilkinson was called before the Legislature of the Territory to give an account of the state of public affairs, and he informed me he had intended to submit to their inspection Colonel Burr's duplicate, he having erased such parts as had been intended to implicate him, as he knew several of the members, and particularly the Speaker, to be interested in opposition to his measures, and for the promotion of such a state of things as were best calculated to favor Colonel Burr's enterprise. I understand that the erasure made on this duplicate was but partial, the general having determined to give oral information to the Legislature, which employed him two successive days; and that he considered the duplicate unimportant, (whilst the original has been preserved untouched,) excepting the short paragraph relative to Bollman, which is preserved in its original state, and the only words erased, "Your letter, post-marked 13th May, is received," have been re-inserted in the general's own hand. On or about the 15th August, since my arrival in this city, General Wilkinson put into my hands, and those of J. L. Donaldson, Esq. four or five letters, observing to us, "I submit to you those letters which I have not examined since I left St. Louis; they are from Colonel Burr; I do not recollect their particular contents, but having received them in confidence, and knowing they blend personalities with politics, I have not permitted myself to re-examine them, because I feel an insuperable repugnance to violate the trust of any man. I give them to you, here is the cipher, decipher them, consider their contents well, and then inform me whether their promulgation may be necessary to my honor." We did so, and we gave the general our opinion that the promulgation might be necessary and proper. From an examination of those letters, and the general's evident surprise, and prompt declaration of his ignorance when we communicated certain passages of these letters, it was my own and Mr. Donaldson's opinion, that he had but partially deciphered them.

In answer to interrogatories on the part of Colonel Burr, I recollect to have solicited the command of a party to Natchez for the purpose of arresting Col. Burr, and delivered from the instructions which the general possessed, together with the state of things at that period, that the measure was warrantable; and having seen several communications from the Government to General Wilkinson, and particularly that in reply to his letter of the 21st of October, I had no doubt of the sanction of Government to any measures which were calculated to defeat the views of Colonel Burr. I have seen communications of a confidential nature from the President to General Wilkinson, and I believe in reply to the general's letter of the 21st of October.

A. L. DUNCAN.

CITY OF RICHMOND, *set.*

Sworn to and subscribed before me, this 5th day of September, 1807.

HENRY S. SHORE.

Test: WM. MARSHALL, *Clerk.*

## I.

*Deposition of Captain J. B. Walback.*

I had the honor to become acquainted with General James Wilkinson some time in August 1799; became attached to his military family in December, 1800; was appointed an aid-de-camp in the spring following, and continued in that capacity until the last of November, 1804.

During the above period, I have witnessed that General Wilkinson did employ ciphers of different kinds in his correspondence; among them was an English pocket dictionary. Several of these ciphers I have made myself; designed copies of some of them are still in my possession, and others I have recognised since my arrival at the city of Richmond; particularly one to the late Gen. James Jackson, and another to the late Major General Alexander Hamilton; a third to a Mr. Hulings, then at New Orleans; a fourth to Colonel Cushing; a fifth to Mr. Silas Dinsmore, and one to myself. Several of these were projected in 1802 and 1803, at the time the port of New Orleans was shut, and for the purpose of procuring and conveying intelligence to the Government.

Question. Did you ever observe in General Wilkinson any act or disposition, which marked inattention to his duty, as to the zealous and faithful discharge of the trust reposed in him as an officer of the United States?

Answer. From my own observation and experience, (being now nearly twenty-six years in military life,) I can declare that I have never known an officer more zealously devoted to the service in which he was engaged, and I

can safely declare that I have never seen an officer of General Wilkinson's rank voluntarily and cheerfully expose himself to such privations, hardships, and sufferings in the course of his duty, as I have seen him meet with alacrity.

Question. Do you know the hand-writing of Captain C. Smith? Answer. I do.

Question. Are these hieroglyphics of his writing? Answer. They are.

Question. Are they the same which were employed by Colonel Burr in his correspondence with General Wilkinson?

Answer. They are the same which are employed in Colonel Burr's letters, shown me since my arrival at the city of Richmond, and said to be delivered by Messrs. Swartwout and Bollman to General Wilkinson.

Question. Do you recollect when Captain C. Smith left General Wilkinson's family?

Answer. Some time in July, 1801.

Question. Do you think General Wilkinson afterwards saw or was near him?

Answer. I am certain not, because General Wilkinson did not return from the Mississippi until May, 1804, and Captain Smith resided in the State of Maryland, and died in the winter of 1803 or 1804.

Question. Have you seen General Wilkinson employ the pocket dictionary now presented to you in writing cipher? Answer. I have.

Question. Will you say in what year?

Answer. I am not positive as to the year, but it was during the period I was attached to his military family.

Question. Did you hear a sentiment from General Wilkinson calculated to disaffect the troops, or to abate their zeal for its promotion?

Answer. No; on the contrary, I have witnessed that General Wilkinson always used his utmost endeavors to promote harmony, comfort, and good order among the troops, and, by his precepts as well as example, to insure subordination and patriotism.

J. B. WALBACK, *Captain Artillery.*

I am content that the above shall be read as evidence in all cases between the United States and Colonel Burr; and that any thing which may be added by the affiant, by way of answer to interrogatories, may also be read.

GEO. HAY, *U. S. attorney for Richmond district.*

CITY OF RICHMOND, ss.

Sworn to and subscribed before me, an alderman of the city aforesaid, this 5th day of September, 1807.

HENRY S. SHORE.

K.

SIR:

ST. LOUIS, *May 6, 1806.*

You are to embark to-morrow, and will sail early the next morning, with Lockwood's and Strong's companies for Fort Adams, and on arriving there, you are to add Campbell's company to your detachment, and must proceed without a moment's unnecessary delay up Red River to Natchitoches, where you are to take the command.

The point of your destination being deemed at present a critical one, it is desirable your companies should be kept complete to the establishment; and for this purpose you are to make such disposition of the recruits ordered from Tennessee or elsewhere, as may be found necessary.

Your remote position from the posts east of the Mississippi, renders it convenient and necessary that they should, as heretofore, report directly to and receive orders from head-quarters; but the commandants are to report to you monthly, and will be liable to your orders as senior officer of the district, whenever the public service may require the interposition of your authority, which should be made with due caution, to avoid clashing with the arrangements which may issue from head-quarters.

The posts west of the Mississippi are subject to your immediate command, and are to be governed accordingly. You are to appoint general courts-martial within the limits of your district, and are to decide on all sentences which may not affect a commissioned officer, agreeably to the rules and articles of war.

At the distance which separates us, it would be vain and presumptuous to prescribe precise rules for your conduct in command, where the occurrence of incidents and change of circumstances may be so unexpected and variable as to baffle anticipation, and to render positive orders destructive to the interests of the country. You are, therefore, to meet the public service with a sound discretion, and will be held responsible for events. The trust is a high and important one; but it is with singular pleasure I can observe, that my long experience of your judgment and capacity leaves no doubt on my mind, that the result will justify the public confidence, and prove honorable to your name and profession.

I will, therefore, submit one observation only to your consideration; it is, that you should not fail to employ the force confided to your command wherever it may be found most necessary to protect or defend the rights and interests of our country within the sphere of your authority.

With the warmest wishes for your fame and happiness,

I am, sir, your faithful friend, and obedient servant,

JAMES WILKINSON.

Col. TH. H. CUSHING, *2d regiment infantry.*

L.

*Instructions from General Wilkinson to Colonel Cushing.*

SIR:

ST. LOUIS, *May 8, 1806. 1 o'clock, A. M.*

Advice yesterday received from Major Porter makes it my duty to direct the acceleration of your movements by every practicable means, and I trust that in the present state of the waters, you may reach Fort Adams on the 20th inst.

On arriving at that port, the information you may receive must determine the course of your conduct. Should the Spaniards have resumed their positions east of the Sabine, or assumed a menacing aspect at Nacogdoches, you must add to your command every man at Fort Adams, excepting a mere *locum tenens*, leaving orders at that place for Lt. Col. Kingsbury to fall down to the mouth of Red River, and there wait the return of a sufficient number of your barges for his transport to the high grounds, from whence it may become expedient for you to march the whole of your command, excepting the boats' crews.

I hope Major Porter may have the precaution to transmit the Executive a copy of the information he has forwarded to me, and that you may receive from that source, at an early period, decisive instructions for your gov-

ernment; in the meantime, *though war be our trade*, it is not only opposite to the genius and disposition of our country, but also to its substantial interests. The sword must not, therefore, be drawn but in the last extremity, to punish outrage, to resist invasion, or repel an attack.

Should indications justify it, (and you must take measures to ascertain, if possible, the designs of your neighbors,) you are to call to your aid every man who can safely be spared from the garrison under your orders, and will employ every pains and exertion to put them in the highest state of fitness for offensive operations.

You will find, in the hands of Major Porter, an order from the Secretary of War, which might justify you in pushing your neighbors beyond the Sabine river, should they have recrossed it to the eastward. But, as it appears from the public prints that a pacific negotiation has, on our part, ensued these orders, you must not strain their construction to favor the effusion of blood, and involve our country in the certain calamities and uncertain events of war.

Learn, with all possible precision, the force, composition, and station of the troops opposed to you; be yourself prepared for combat; and, if a conflict must ensue, having previously animated your men by a strong exhortation, and sworn your officers in their presence to fall or conquer, make your onset with the bayonet; and your own glory, the honor of our arms, and the interests of the nation will be insured and maintained.

Wishing you life and laurels, health and fame, I am, your faithful friend and fellow soldier,

JAMES WILKINSON.

Colonel T. H. CUSHING, *1st regiment U. S. infantry.*

P. S. You are to take with you from Fort Adams an eight inch howitzer, which you will find there properly equipped and amply ammunitioned.

M.

*Extract of a letter from General James Wilkinson to the Honorable H. Dearborn, Secretary of War, dated*

NATCHEZ, September 8, 1806.

I arrived at this place last evening at six o'clock, and addressed a note to the Secretary of the Territory, (Governor Williams being absent,) of which you have a copy under cover with this answer; this morning I waited on him, and have seen the plan adopted by Governor Claiborne and himself, the first article of which appears to be in direct opposition to your order respecting the removal of the Spaniards from Bayou Pierre, to which place I understand they have fallen back from the vicinity of Adayes, and I hope they may continue there until my arrival at Natchitoches, for which place I shall commence my journey the moment after I have arranged with the Secretary of the Territory for such auxiliary force of militia as may eventually become necessary from his jurisdiction. Governor Claiborne has, I understand, arrayed militia in the western counties of the Territory of Orleans; but I shall discourage their march until I have penetrated the designs of the Spaniard, and may find him deaf to the solemn appeal which I shall make to his understanding, his interests, and his duty.

Let the President be assured, sir, I shall drain the cup of conciliation to maintain the peace of our country, and that the sword shall not be drawn but in the last extremity, after reason and remonstrance have failed to preserve inviolate our territory east of the Sabine; but, at the same time, that an awful responsibility restrains the inclinations and ambition of the soldier to this temperate course of conduct, in opposition to the order which I think I discern in the executive officers of these Territories, I will pledge my life to him that no act shall be suffered, within my knowledge, to tarnish the national honor or affect the lustre of his administration.

If the precautions embraced by my instructions to Colonel Cushing, of which I transmitted you a copy from St. Louis, have prevented the effusion of blood, I must believe I have done some good to the State, because the retro-spection of the Spaniards has rendered the ultimate appeal unnecessary, at least for the present; and as nothing can be lost and every thing may be gained by a little delay, it seems better that the opportunity for exciting hostilities should have escaped, than that it should have been seized on to let slip the dogs of war before the effect of conciliatory measures had been duly tested.

The retrograde of the Spaniards is not accounted for, but may be ascribed to three causes: the unhealthiness of the troops, the want of forage for the immense cavalcade with which they are incumbered, or the failure of provisions; but as they would scarcely have made so formidable and bold an advance, in the face of the prohibition uttered by Major Porter, without positive orders from the competent authority, it is reasonable to presume, when the cause of their progression has been removed, they may resume their former position, for which events some preparatory arrangements must be commenced. The Spaniards who have approached Natchitoches being all mounted and without artillery, and each private being obliged to keep up four horses and a mule for service out of his pay of one hundred dollars per month, it will be impossible for them to maintain a fortification; but the same circumstance will enable them to refuse or to give battle to our infantry, at their discretion. To remedy this disadvantage, and enable me, should I be forced to appeal to arms, to drive them effectually beyond the Sabine or to cut them up, I shall endeavor to procure about four or five hundred dragoons and mounted militia from the two Territories, unless I should find them so incautious as to enable me, by a forced march of the established troops, to surprise their camp under cover of the night; but this is scarcely to be expected, if the commanding officer possesses a spark of military knowledge or experience.

A blow once struck, it would appear expedient that we should make every advantage of it; and if men and means are furnished I will soon plant our standards on the left bank of Grand river. But I must beg leave to remark to you that, for distant operations, or the protection of our western frontier against the predatory incursions of the Spanish cavalry, a body of mounted men is absolutely indispensable.

N.

*Copy of a letter from General Wilkinson to the Secretary of War.*

SIR:

HEAD-QUARTERS, NATCHITOCHEs, October 4, 1806.

I yesterday morning received Governor Cordero's answer to my address of the 24th ultimo, copies of which you have under cover. The varied style of this letter, when contrasted with those of Governor Herrera to Col. Cushing and Governor Claiborne, combined with the circumstances of the Spanish troops having recrossed the Sabine to a man, has induced me, on the ground of economy and expediency, also to discharge the militia who had reached this place, and to countermand those under march, excepting about one hundred dragoons and mounted infantry, whom I shall retain in service until I am apprized of the determination of the Captain General Salcedo, to watch

the movements of our neighbors, to prevent their sinister intrigues with our disaffected citizens, and, should they re-enter our territory, to aid the established troops in expelling them.

The Spaniards raised his camp at the Bayou Pierre on the 27th ultimo, traversed the country to the highway leading from this place to Nacogdoches, which he intersected on the 29th, about twenty-six miles in my front; and on the 30th crossed the Sabine, and took post on the right bank, where Colonel Cushing left him the 1st instant. But, notwithstanding, I have been determined to diminish my force, as the pretensions of Governor Herrera have not been retracted, nor our jurisdiction acknowledged, and as the position taken on the right bank of the Sabine is a material departure from the state of things at the surrender of the province to us, and exposes our territory to immediate invasion, I shall continue my preparations for defence and offence, and to wipe off the species of stigma which cavillers may attach to the Spanish repossession of the ground from whence we had driven them; to give confidence to our friends, to confirm the wavering and the disaffected; and, above all, to assert unequivocally the pretensions of the Government, I have taken post within the limits claimed by the officers of Spain, and in a few days shall move forward to the east bank of the Sabine, where I shall wait the answer of the Captain General Salcedo. Were I required to justify this step, I should reply that the United States having forced a Spanish guard to retire from a position within their acquired territory, that Power protested against the act, denied their pretensions, and armed for the avowed purpose of recovering the ground from which they had been driven; that a Spanish commander of respectable rank, at the head of a considerable force in military array, did not only recover that ground, but took a position much nearer to our barrier, and far within our limits; that this officer claimed the jurisdiction of the country east of the Sabine to the Arroyo Hondo, in behalf of his master the King of Spain, and declared his determination to protect and defend it as such. Were we to suffer such outrages upon the national sovereignty to pass over without notice, injurious interpretations might be levelled at our military character, and our forbearance might be construed into a tacit dereliction of our claims.

Under these circumstances, and to do away the shadow of right which the Spaniards may endeavor to found on their posterior occupancy, I feel it incumbent on me to take possession of the controverted tract to its utmost verge, where my conduct will be regulated by that of my neighbors, who the last evening occupied the spot where Colonel Cushing left him on the 1st instant with his advanced guard mounted immediately on the bank of the river; but you may rest assured, nothing shall be done on my part to excite unreasonable jealousies or to provoke hostilities; and, therefore, to prevent the misinterpretation of my movements, I have taken the precaution to write Governor Cordero this day, warning him of my intentions, and the motives by which I am actuated, agreeably to the copy now transmitted you. Of the militia from this Territory, about four hundred have turned out, which was more than I expected. From the Mississippi Territory I have not yet heard, and therefore cannot say in what force they are advancing. I have hope, from the aspect of Mr. Cordero's letter, and the actual state of their military at this moment, of which I have acquired the most clear and particular knowledge, that our differences here may be adjusted on honorable terms, and without bloodshed. I shall, however, be prepared for events, and will keep you regularly advised of every material occurrence.

With great consideration and respect, I am, sir, your obedient servant,

JAMES WILKINSON.

The Honorable HENRY DEARBORN, *Secretary of War.*

O.

*Letter from General Andrew Jackson to his excellency William C. C. Claiborne, Esq.*

SIR:

NOVEMBER 12, 1806.

Although it is a long time since I sat down to write you, still that friendship which once existed remains bright on my part; and although since I had the pleasure of seeing you I have waded through difficult and disagreeable scenes, still I have all that fondness for my old and former friends that I ever had; and their memory has been more endeared to me by the treachery I have experienced since I saw you by some newly acquired ones. Indeed, I fear treachery has become the order of the day. This induces me to write you. Put your town in a state of defence, organize your militia, and defend your city as well against internal enemies as external. My knowledge does not extend so far as to authorize me to go into detail, but I fear you will meet with an attack from quarters you do not at present expect. Be upon the alert, keep a watchful eye on our general, and beware of an attack as well from your own country as Spain. I fear there is something rotten in the state of Denmark. You have enemies within your own city that may try to subvert your Government, and try to separate it from the Union. You know I never hazard ideas without good grounds; you will keep these hints to yourself. But I say again, be upon the alert; your Government I fear is in danger; I fear there are plans on foot inimical to the Union; whether they will be attempted to be carried into effect or not, I cannot say; but rest assured they are in operation, or I calculate boldly. Beware of the month of December. I love my country and Government; I hate the Dons; I would delight to see Mexico reduced, but I will die in the last ditch before I would yield a foot to the Dons, or see the Union disunited. This I write for your own eye and for your own safety; profit by it, and the ides of March remember.

With sincere respect, I am, as usual, your sincere friend,

ANDREW JACKSON.

Mrs. Jackson desires her best wishes to you.

P.

*Deposition of Commodore Shaw.*

Be it known that, on or about the 7th day of January, Anno Domini 1807, Mr. Bradford, printer of the New Orleans Gazette, waited on this deponent, Captain Shaw, of the United States' navy; and, after delivering a letter from a correspondent, he observed, that he had spent some time in the city of Washington and Philadelphia, and from Philadelphia he had travelled to Pittsburg, and from thence proceeded towards New Orleans; that the country through which he passed was filled with commotion, and that there were a great number of the friends and followers of Colonel Burr. Mr. Bradford also mentioned that he had seen at the mouth of Cumberland river some of the public gun-boats, and a number of men employed in fitting them out, and that they were to join Colonel Burr; that the men at work on board the gun-boats told him (Bradford,) that Colonel Lyon had given up the gun-boats to Colonel Burr, and that he (Colonel Lyon) was one of Burr's partisans. Bradford further observes that he saw a number of small arms which he supposed were carried on board the gun-boats, and that the men at work on board the gun-boats informed him (Bradford) that Colonel Burr had issued arms and ammunition to twelve thousand men

that Burr's flotilla consisted of seven gun-boats and a brig of ten guns; and that Captain Talbot was commander of the flotilla. Bradford also observed, that he was suspected; and that, in order to show his innocence, he would wait on General Wilkinson and disclose to him all he knew concerning Burr and his plots; and further this deponent saith not.

JOHN SHAW.

Sworn and subscribed before me, this 12th day of May, 1807.

B. CENAS, *Justice of the Peace.*

Q.

*Deposition of Commodore Shaw and William Tharp.*

Be it remembered, that this day, to wit, the 16th day of April, Anno Domini 1807, personally appeared before me, the subscriber, one of the justices of the peace for the city and parish of New Orleans, John Shaw, Esq., captain in the United States' navy, and William Tharp, Esq., who being first duly sworn on the Holy Evangelists of Almighty God, declare and say, that on or about the 15th day of January last, 1807, passing from the coffee-house, about the hour of 12 o'clock at noon, they were accosted opposite the principal by Judge Prevost of this place, who observed that he was happy to inform these deponents that General Adair, the second in command to Colonel Burr, had arrived in town, and was then at Madame Nourages; that he had just waited on him, or had seen the man who had created so much stir, who said Colonel Burr would be in town in three days after him; that it would soon be discovered if the constitution and justice would prevail, or that of the usurpation of power and tyranny manifested in the measures at present adopted. Other remarks were made by the judge, in tone and gesture discovering evident marks of irritation and opposition to the measures of the officers of the Government, and impressed one of these deponents with an idea that the judge's object was to be personal with Captain John Shaw, and extorted a reply that he (Captain Shaw) knew no private character; he obeyed and executed his orders without partiality, and should always be alert to meet and apprehend the disturbers of the peace and harmony of his Government. These deponents remained but a few minutes with Judge Prevost, and went to the lodgings of the captain, where the deponents considered it correct to inform General Wilkinson that General Adair was then in town, which Captain Shaw did by sending his servant with a note to General Wilkinson.

JOHN SHAW,  
WILLIAM THARP.

Sworn to and subscribed before me, the day and year within written.

B. CENAS, *Justice of the Peace.*

R.

*Copy of a letter from Wm. White to Col. Andrew Burk, of New Orleans.*

DEAR SIR:

MIDDLETON, December 22, 1806.

Expect a large military force to take possession of your city; should it not happen before this reaches you, you may look out with hourly expectation of seeing it, headed by Col. Burr.

This is intended, should you see it in time, to apprise, in order that you may be in readiness to make your advantages of the times. A number of persons from this neighborhood are engaged in this expedition; amongst the number is your old acquaintance, Mr. A. Ralston.

Believe me to be, though much disappointed, still respectfully, yours,

WM. WHITE.

Col. ANDREW BURK, *New Orleans.*

S.

*Instructions to Lieutenant Pike.*

SIR:

ST. LOUIS, June 24, 1806.

You are to proceed without delay to the cantonment on the Missouri, where you are to embark the late Osage captives, and the deputation recently returned from Washington, with their presents and baggage, and are to transport the whole up the Missouri and Osage rivers to the town of the Grand Osage.

The safe delivery of this charge at the point of destination constitutes the primary object of your expedition, and therefore you are to move with such caution as may prevent surprise from any hostile band, and are to repel with your utmost force any outrage which may be attempted.

Having safely deposited your passengers and their property, you are to turn your attention to the accomplishment of a permanent peace between the Canzes and Osage nations; for which purpose you must effect a meeting between the head chiefs of those nations, and are to employ such arguments, deduced from their own obvious interests, as well as the inclinations, desires, and commands of the President of the United States, as may facilitate your purpose and accomplish the end.

A third object of considerable magnitude will then claim your consideration. It is to effect an interview and establish a good understanding with the Ya-i-tans, I-e-tans, or Cammanchees.

For this purpose you must interest Whitehair of the Grand Osage, with whom and a suitable deputation you will visit the Panis Republique, where you may find interpreters, and inform yourself of the most feasible plan by which to bring the Cammanchees to a conference. Should you succeed in this attempt (and no pains must be spared to effect it) you must endeavor to make peace between that distant powerful nation, and the nations which inhabit the country between us and them, particularly the Osage; and, finally, you will endeavor to induce eight or ten of their distinguished chiefs to make a visit to the seat of Government next September; and you may attach to this deputation four or five Panis, and the same number of Canzes chiefs. As your interview with the Cammanchees will probably lead you to the head branches of the Arkansas and Red River, you may find yourself approximated to the settlements of New Mexico, and, therefore, it will be necessary you should move with great circumspection, to keep clear of any hunting or reconnoitering parties from that province, and to prevent alarm or offence; because the affairs of Spain and the United States appear to be on the point of amicable adjustment; and, moreover, it is the desire of the President to cultivate the friendship and harmonious intercourse of all the nations of the earth, and particularly our neighbors the Spaniards.

In the course of your tour, you are to remark particularly upon the geographical structure, the natural history, and population of the country through which you may pass, taking particular care to collect and preserve speci-

mens of every thing curious in the mineral or botanical worlds, which can be preserved and are portable. Let your course be regulated by your compass, and your distances by your watch, to be noted in a field-book; and I would advise you, when circumstances permit, to protract and lay down in a separate book the march of the day, at every evening's halt.

The instruments which I have furnished you will enable you to ascertain the variation of the magnetic needle and the latitude with exactitude; and at every remarkable point, I wish you to employ your telescope in observing the eclipses of Jupiter's satellites, having previously regulated and adjusted your watch by your quadrant, taking care to note with great nicety the periods of immersion and emersion of the eclipsed satellite. These observations may enable us, after your return, by application to the appropriate tables, which I cannot now furnish you, to ascertain the longitude.

It is an object of much interest with the Executive, to ascertain the direction, extent, and navigation of the Arkansas and Red River; as far, therefore, as may be compatible with these instructions, and practicable to the means you may command, I wish you to carry your views to those subjects, and, should circumstances conspire to favor the enterprise, that you may detach a party with a few Osages to descend the Arkansas under the orders of Lieutenant Wilkinson, or Sergeant Balling, properly instructed and equipped, to take the courses and distances, to remark on the soil, timber, &c. &c., and to note the tributary streams. This party will, after reaching our post on the Arkansas, descend to Fort Adams, and there wait further orders; and you, yourself, may descend the Red River, accompanied by a party of the most respectable Cammanchees, to the post of Natchitoches, and there receive further orders.

To disburse your necessary expenses, and to aid your negotiations, you are herewith furnished six hundred dollars' worth of goods, for the appropriation of which you are to render a strict account, vouched by documents to be attested by one of your party.

Wishing you a safe and successful expedition, I am, sir, with much respect and esteem, your obedient servant,

JAMES WILKINSON.

Lieut. Z. M. PIKE.

T.

*Additional instructions to Lieutenant Pike.*

SIR:

CANTONMENT, MISSOURI, *July 12, 1805.*

The health of the Osages being now generally restored, and all hopes of the speedy recovery of their prisoners from the hands of the Pattawatamies, being at an end, they have become desirous to commence their journey for their villages, you are, therefore, to proceed to-morrow.

In addition to the instructions given you on the 24th ultimo, I must request you to have the talks, under cover, delivered to White Hair and the Grand Peste, the chief of the Osage band, which is settled on the waters of the Arkansas, together with the belts which accompany them. You will also receive, herewith, a small belt for the Panis, and a large one for the I-e-tans or Cammanchees.

Should you find it necessary, you are to give orders to Mongrain, the resident interpreter at the Grand Osage, to attend you.

I beg you to take measures for the security and safe return of your boat from the Grand Osage to this place.

Doctor Robinson will accompany you as a volunteer. He will be furnished medicines, and for the accommodation which you give him he is bound to attend your sick.

Should you discover any unlicensed traders in your route, or any person from this Territory or from the United States, without a proper license or passport, you are to arrest such person or persons, and dispose of their property as the law directs.

My confidence in your caution and discretion has prevented my urging you to be vigilant in guarding against the stratagems and treachery of the Indians, holding yourself above alarm or surprise; the composition of your party, though it be small, will secure to you the respect of a host of untutored savages.

You are to communicate from the Grand Osage, and from every other practicable point, directly to the Secretary of War, transmitting your letters to this place under cover, to the commanding officer, or by any more convenient route.

I wish you health, and a successful and honorable enterprise, and am,

Yours, with friendship,

JAMES WILKINSON.

Lieut. Z. M. PIKE.

V.

*Extract of a letter from General Wilkinson to General S. Smith, dated*

FORT ADAMS, *September 12, 1806.*

At this moment thus stands the account between us and the Spaniards on the side of Texas: we dishonor the armies of Spain, and (as they allege) violate their territory, by forcing their advanced post, and compelling their officer to fall back many miles. (See General Dearborn's order to Porter.) In consequence, the Spaniard reinforces, advances, resumes his former ground, and braves us. We remonstrate and menace, but he keeps possession of the disputed tract. Is not the balance against us? It is, my friend, and I will restore what we have—I trust in Heaven without bloodshed; but at all events.

W.

GENERAL MORNING ORDERS.

HEAD-QUARTERS, CAMP LA PIEDRA,

26 miles from Natchitoches, *October 28, 1806.*

Parole.—C Sign.

The depending movement of the troops is not to seek an enemy, but to assert a right of sovereignty; this right is denied by the Spanish commander in our front, who has recently warned the general, that he considers his advance an act of hostility, which his orders compel him to resist. Whatever, then, may be the calculation or the result, the safety and honor of the corps and the national interests require that every individual attached to the expedition should move and act as if an engagement were certain and inevitable. We are obliged to wait the

attack, and our opponents, being all mounted, may give or refuse themselves at their discretion; and, of consequence, will avail themselves of any advantage we may offer them.

The signal to prepare for action, when encamped, will be a gun from the left, on which every man who bears arms will take his place in the line, and the whole wait orders. The signal to form when under march, will be a gun from the front. The infantry, with their field pieces, will immediately form two lines with two hundred yards interval, and on the flanks of the road. Farrar's dragoons will retire by the road to the rear, and form column prepared to charge. Major Welch's mounted infantry will skirmish, and fall back on the right or left of the front line, as the ground and other circumstances may render most advantageous. The moment the signal is given, the rear guard, pioneers, and every man of the line are to join their corps, leaving their packs and teams in charge of Mr. Ragan and the engagees of the quartermaster's and contractor's departments. Should an attempt be made to turn our flanks, which is probable, the infantry will form the hollow square, and the artillery take post on the angles to enfilade the enemy with grape and canister. Major Welch's men to retire towards the rear, and endeavor to outflank our assailants; keeping up as quick and deadly a fire as possible. An officer to each division of the infantry will take post with the front rank; every other officer will be in the rear to see the men do not throw away their fire; and if one should be found so dastardly as to give back, to put him to instant death.

Under all circumstances, the artillery will receive orders when to fire; but the infantry, with shouldered arms, are to wait the approach of the enemy, until within forty yards, when the front rank is to present, level well, fire, and charge bayonet. If the enemy are not broken or staggered, the second rank are to take aim at their breasts, and when at fifteen yards are to pour in their fire, and, should they still come on, are to be received by both ranks with dauntless resolution on their bayonets. The dragoons are reserved for a critical effort, and will receive orders when and where to make it. The gentlemen will bear in mind that whatever may be the order of the charge, the instant they close with the enemy, the action will become pell-mell. They should be careful to level their blows at the neck, rather horizontally than perpendicularly, and in general to cut and pass from man to man.

The Spanish force is greatly superior, and all mounted, but is undisciplined. Their attack will be made in great disorder, and probably with velocity and an air of boldness; because they will depend more on noise and appearance than the solid shock. It will be our part to present a rampart of bayonets whenever attacked. Let the officers be attentive to their men, and the men be silent and obedient to their officers. Let each individual put confidence in his own strength and the co-operation of his flank files. Above all, let us avoid hurry, which always produces confusion; and superiority of numbers will serve but to augment our triumph and increase the honor of our arms.

#### X.

I arrived at Natchez about the 27th of October, from the Missouri, where I received a letter from General Wilkinson, dated Natchitoches, 23d October, 1806, directing me to despatch an express with a return of my detachment, and to fall down to Fort Adams, and take the command of that post. I arrived at Fort Adams about the 3d of November, and took command from Lieutenant Sevier; on my arrival, I found a Mr. Swartwout confined in the doctor's quarters, with a violent attack of the bilious fever. I was introduced to him, I think, by Dr. Davidson, who informed me that Mr. Swartwout had been to Natchitoches, and on his return to the mouth of Red River had been violently attacked and sent up to the garrison for medical aid; that he had gone down to see him, and found him in a dreadful humor, and had advised his embarking on board a barge which was ascending to the fort, where he could be more comfortably situated, and have his constant attendance. On the 12th I received letter No. 1, hereunto attached, dated Natchitoches, 6th of November; this was handed me by Lieutenant Graham, who informed me of the termination of the expedition to the Sabine, and that the troops were then on their return. Letter No. 2, hereunto attached, informed me of the return of the general to Natchez, which created some anxiety in my mind, in consequence of the orders exacting secrecy and ordering boats for the movement of all the military stores from Fort Adams. On the 15th, several of the officers arrived from Natchitoches and visited their families, who were all at a loss to account for the rapid movement of the troops from Natchitoches to New Orleans, and the embarkation of the military ordnance stores at Fort Adams confirmed us in the belief that danger was apprehended from some quarter, and that New Orleans must be the point of attack. We continued in this situation until the morning of the 18th, when the general arrived and requested me to walk with him to the battery, where he communicated to me the designs of Colonel Burr, informing me that he had received several letters from Colonel Burr, through one of his agents, (Mr. Swartwout,) and that Burr's principal attack would be upon New Orleans. I was never more astonished, not having heard that any suspicions were entertained against him; I informed the general the situation in which I found Mr. Swartwout on my arrival, and requested leave to arrest him. The general refused, saying that he expected to get much more out of him; that he had held out to Swartwout the idea of his not opposing Colonel Burr, and he should assemble his whole force at New Orleans, to enable him to defend that place and defeat the whole plan. I was directed to continue my civilities as before, for fear that Mr. Swartwout might get alarmed at the movement of the troops and military stores. On the 19th I received orders to proceed with my command to Natchez, with instructions to take the necessary measures to ascertain the approach of a body of armed men from the Ohio country, and to give the general the earliest information by express, of every movement from that quarter, either at Natchez, or by sending a confidential party up the river above the Yazoo, in the disguise of hunters; and I accordingly communicated regularly every information I could collect. About the last of December I saw two letters, one from the Postmaster of Nashville to Henry Turner of Natchez, dated the 13th of December, stating that Colonel Burr was then in Nashville, and that he meant to proceed on the 20th to the mouth of Cumberland, where, report said, he would have assembled from five to eight thousand men, and that it was generally believed that he intended a visit to Mexico. The other letter to a Mr. Wood from Nashville, spoke of Colonel Burr's being in Nashville; that two of his proselytes had left town that morning for New Orleans by land; from the best of my recollection the above statement of the letters to Turner and Wood is correct, and Colonel Burr's arrival very daily expected by all persons at Natchez. For my own part, I did not doubt it; and considering this information as all important to the general, I proceeded for New Orleans, arrived there on the 2d January, and communicated it to him. Soon after, this information was corroborated by the arrival of Bradford, the printer of the Gazette d'Orleans.

GEORGE PETER.

COUNTY OF WASHINGTON, *scilicet*.

On this 19th day of September, 1807, George Peter came before me, a justice of the peace for the county aforesaid, and made oath on the Holy Evangely of Almighty God, that the facts stated in the foregoing are true as stated.

THOS. CORCORAN.



## Y.

*Extract of a letter from Leonard Covington to General Wilkinson.*

MAY 15, 1807.

You well know how much has been said and insinuated about the memorable ciphered letter, handed you by Swartwout, and of the means by which you unlocked the cipher; and although this circumstance has never been explained by yourself or the administration, and has been seized upon by your enemies as matter for crimination and ground for suspicion, yet I have never been at a loss, in my own mind, for the satisfactory explanation. You may not, perhaps, recollect, that in the year 1794, when I left the Western country, [army,] that you requested me to interchange with you a cipher for the purpose of corresponding thereby; and at the time you informed me that you had practised that method with many of your friends. This circumstance coming to my recollection, I have examined amongst my old papers, and found the cipher, which is at your service, if it, and the circumstances connected therewith, can in any way advantage you. Pray snatch one moment, if possible, and let your friends here know how you feel and are situated, &c. &c. Your favors by Mr. J. Johnson all came safely to hand, and have warmed the feelings of your friends in this quarter. I pray God to keep you in his holy protection, and that he may make thine enemies thy footstool; farewell.

L. COVINGTON.

Gen. JAMES WILKINSON.

## Z.

DEAR SIR:

WASHINGTON, January 3, 1807.

I had intended yesterday to recommend to General Dearborn the writing to you weekly by post, to convey information of our western affairs as long as they are interesting; because it is possible, though not probable, you might sometimes get the information quicker this way than down the river; but the general received yesterday information of the death of his son in the East Indies, and, of course, cannot now attend to business. I therefore write you a hasty line for the present week, and send it in duplicate by the Athens and the Nashville routes.

The information in the enclosed paper as to proceedings in the State of Ohio is correct. Blannerhasset's flotilla of fifteen boats and two hundred barrels of provisions is seized, and there can be no doubt that Tyler's flotilla is also taken, because on the 17th December we know there was a sufficient force assembled at Cincinnati to intercept it there, and another party was in pursuit of it on the river above. We are assured that these two flotillas composed the whole of the boats provided. Blannerhasset and Tyler had fled down the river. I do not believe that the number of persons engaged for Burr has ever amounted to five hundred, though some have carried them to one thousand or thirteen hundred. A part of these were engaged as settlers of Bastrop's land, but the greater part were engaged under the express assurance that the projected enterprise was against Mexico, and secretly authorized by this Government. Many were expressly enlisted in the name of the United States. The proclamation which reached Pittsburg, December 2, and the other parts of the river successively, undeceived both these classes, and of course drew them off; and I have never seen any proof of their having assembled more than forty men in two boats from Beaver, fifty in Tyler's flotilla, and the boatmen of Blannerhasset's. I believe, therefore, that the enterprise may be considered as crushed; but we are not to relax in our attentions until we hear what has passed at Louisville. If every thing from that place upwards be successfully arrested, there is nothing from below that [is] to be feared. Be assured that Tennessee, and particularly General Jackson, are faithful. The orders lodged at Massac and the Chickasaw Bluffs will probably secure the interception of such fugitives from justice as may escape from Louisville, so that I think you will never see one of them. Still I would not wish, till we hear from Louisville, that this information should relax your preparations in the least, except so far as to dispense with the militia of Mississippi and Orleans leaving their homes, under our orders of November 25. Only let them consider themselves under requisition, and be in a state of readiness, should any force too great for your regulars, escape down the river. You will have been sensible, that those orders were given while we supposed you were on the Sabine, and the supposed crisis did not admit the formality of their being passed through you. We had considered Fort Adams as the place to make a stand, because it covered the mouth of Red River. You have preferred New Orleans on the apprehension of a fleet from the West Indies. Be assured there is not any foundation for such an expectation, but the lying exaggerations of these traitors to impose on others and swell their pretended means. The very man whom they represented to you as gone to Jamaica and to bring the fleet, has never been from home, and has regularly communicated to me every thing which passed between Burr and him. No such proposition was ever hazarded to him. France or Spain would not send a fleet to take Vera Cruz; and though one of the expeditions, now near arriving from England, is probably for Vera Cruz, and perhaps already there, yet the state of things between us renders it impossible they should countenance an enterprise unauthorized by us. Still I repeat that these grounds of security must not stop our proceedings or preparations, until they are further confirmed. Go on, therefore, with your works for the defence of New Orleans, because they will always be useful, only looking to what should be permanent, rather than means merely temporary. You may expect further information as we receive it; and though I expect it will be such as will place us at our ease, yet we must not place ourselves so, until we be certain, but act on the possibility that the resources of our enemy may be greater and deeper than we are yet informed of.

Your two confidential messengers delivered their charges safely. One arrived yesterday only, with your letter of November 12. The oral communications he made me are truly important. I beseech you to take the most special care of the two letters which he mentioned to me—the one in cipher, the other from another of the conspirators of high standing, and send them to me by the first conveyance you can trust. It is necessary that all important testimony should be brought to one centre, in order that the guilty may be convicted, and the innocent left untroubled. Accept my friendly salutations and assurances of great esteem and respect.

TH: JEFFERSON.

*Evidence of Gabriel G. Van Horne.*

THURSDAY, October 1.

*Witness.* I was at the Chickasaw Bluffs at the time of Colonel Burr's descent down the river. On the 4th day of January, 1807, Lieutenant Jacob Jackson came to the United States' factory at Fort Pickering, accompanied by a gentleman, whom he introduced to Thomas Peterkin, United States' factor, Peter Morgan and myself clerks to said factory, as Colonel Aaron Burr. After some conversation, Colonel Burr and Lieutenant Jackson left the factory, and went to the garrison. Shortly after, one of the soldiers of the garrison came to the factory

with an order signed A. Burr, for thirty pounds' weight of lead; twenty-eight pounds were delivered to the soldier. In the space of about four hours the same soldier returned to the factory with a number of musket balls in his hat, saying he wanted to have them weighed, to know how much the original quantity had lost in running the balls. After his having them weighed, he took them away in his hat. In the course of the day, some boats came to the Bluffs, and the men came up to the factory. Colonel Burr requested Mr. Peterkin to let the men have goods, and he would pay for them. Colonel Burr was frequently at the factory in the course of the day, and often had conversations with Mr. Peterkin.

In the evening, Mr. Peterkin, Mr. Morgan, and myself went to the garrison, where we found Colonel Burr. I took notice that Colonel Burr was frequently called to the door by the men that had arrived in the boats, to have private conversation with them. Lieutenant Jackson asked Colonel Burr when Mr. Blannerhasset would be there? to which Colonel Burr replied, that he was then floating by, and could not land his boat. In the morning Colonel Burr came to the factory, and demanded a bill for the articles which his men had got the day before. The bill was made out, amounting to sixty or seventy dollars, which he paid. The only articles I can remember were the lead, three dozen tomahawks, and three bear skins. After paying the bill, Colonel Burr departed, and I saw him no more.

*Cross-examined.*

*Mr. Burr.* What kind of tomahawks were these; were they intended for war or for more peaceable purposes?  
*Answer.* They were such as were generally used for shingling.

*Mr. McRae.* Would they do well for fighting? *Answer.* They would answer very well.

*Evidence of George Poindexter, Esq.*

*Mr. Hay.* Is this the original agreement entered into between Cowles Meade, acting Governor of the Mississippi Territory, and Aaron Burr?

*Answer.* Yes. If it is proper, sir, I will state the circumstances which led to the agreement, and Col. Burr's surrender to the civil authority of the Mississippi Territory.

*Chief Justice.* Proceed, sir.

*Witness.* On the day preceding the date of this agreement, I was appointed by the Hon. Cowles Meade, then the acting Governor of the Mississippi Territory, an honorary aid-de-camp, for the express purpose of visiting Colonel Burr at the boats near the mouth of Bayou Pierre, on the western margin of the river Mississippi; which I did in company with Major William B. Shields. The object of this visit was to gain correct information as to the situation of Burr; to ascertain his views so far as he would communicate them, and to procure his pacific surrender to the civil authority. We were accompanied by a Mr. Ralston, one of Burr's party, who had called on Judge Rodney to give his deposition. We arrived that night at Judge Bruin's, who resides near the mouth of Bayou Pierre. The next morning we proceeded down the river till we came opposite to Colonel Burr's boats, and Ralston gave a signal for a boat, which was immediately sent over for us. Before we embarked we were joined by Colonel Thomas Fitzpatrick. Several persons, then unknown to me, but whose names I have since understood, came on horseback to the bank of the river, and crossed with us. I supposed them to be agents, sent by Burr into the country, to collect information respecting the public sentiment concerning him, and to induce the citizens to believe his plans were laudable, and sanctioned by Government. When we reached the western bank of the river, we were met by Colonel Burr, to whom Major Shields handed a letter of which he was the bearer from Mr. Meade, acquainting Colonel Burr with the object of our visit. In the letter there was a sentence relating to the restoration of tranquillity in the Territory, which sentence Burr repeated once or twice with a sneer, adding, that "he had no intention to injure the citizens of the United States." Colonel Burr then expressed himself to this effect: "As to any projects or plans which may have been formed between General Wilkinson and myself heretofore, they are now completely frustrated by the perfidious conduct of Wilkinson, and the world must pronounce him a perfidious villain." Burr, also, in speaking of Wilkinson, said: "If I am sacrificed, my portfolio will prove him to be a villain." He further stated, that so far from having any designs hostile to the citizens of the United States, he had intended to have met Mr. Meade at Gibson Port on the day of a general muster, which happened at that place about the time of his arrival at Bayou Pierre, but was deterred from doing so, by a belief that he would be assassinated were he seen passing through the Territory. He then pointed to his boats, and asked if there was any thing military in their appearance. I told him it was true his men did not appear to be armed, but they were just such persons as I should expect to see about a camp; they did not seem to be in a situation to settle themselves on farms. I also remarked to Colonel Burr, that I had no hesitation in giving him the most perfect assurance of personal safety while in the Territory, until he should be disposed of according to the laws of his country; that the object of Mr. Meade in calling out the militia was to preserve inviolate the laws and constitution of the United States; that if that object could be secured without the employment of force, it would be preferable; but assured him that force would be used, if necessary, for which purpose the militia were then on their march to arrest his progress. Colonel Burr declared his willingness to submit to the civil authority, and proposed that an interview should take place between himself and the acting Governor on the next day, at some convenient place in the Territory; that we should guaranty his person from actual violence in the mean time, and restore him to his boats, if Mr. Meade should not accept his surrender to the civil authority; that his boats and people should keep the position they then occupied, until after the proposed interview took place; and that in the mean time, *his people* (as he called them) should commit no breach of the peace, nor violate any law of the United States or of the Mississippi Territory. The place designated at which Colonel Burr should meet the Executive was the house of Thomas Calvit, a respectable citizen of the Mississippi Territory, who resides near the mouth of Cole's creek, where the detachment of militia which had ascended the river were stationed. The substance of these propositions was committed to writing at the request of Colonel Burr, and copies interchanged. The copy given to Colonel Burr is in the hand-writing of Major Shields; and that which remained in our possession is in the hand-writing of Colonel Burr, subscribed by him in my presence, and also by the witness, Colonel Thomas Fitzpatrick. Colonel Burr, according to stipulation, descended the river on the 17th day of January last, (the day after the agreement was entered into,) as far as the mouth of Cole's creek, in company with Colonel Fitzpatrick, who directed him to be taken in charge by Captain Davidson's company of dragoons, and conducted to the house of Mr. Calvit. In a short time after Colonel Burr's arrival, Mr. Meade and himself commenced a conversation on the subject of his surrender to the civil authority of the Territory. I do not know every thing that passed between them, but understood the following terms were offered to Colonel Burr by Mr. Meade: 1. That the agreement entered into for the purpose of procuring that interview should be declared void. 2. That Burr should surrender himself unconditionally to the civil authority, and proceed directly to the town of Washington. 3. That his boats should be searched, and all military apparatus found on board of them to be disposed of as the Executive

should think fit. To these terms Mr. Meade required Colonel Burr's unequivocal reply, as I understood, in fifteen minutes; and if not agreed to, Burr was to be instantly returned to his boats, and the militia ordered to seize the whole party by force. The terms were agreed to, and carried into effect. Colonel Burr declared himself unwilling to fall into the power of General Wilkinson, and requested, if any attempt should be made to seize him by a military force from New Orleans, that it might be opposed. I was myself of opinion that General Wilkinson would make no such attempt, as it would tend to subvert the laws and constitution of the United States, and also the municipal regulations of the Territory. Had such an effort been made while Mr. Meade was the acting Governor, I have reason to believe that he would have maintained the empire of the law and the rights of the civil authority by force, if necessary. Major Shields and myself attended Colonel Burr to the town of Washington, where he was delivered over to the custody of the law, and the examination of the witnesses immediately commenced before Judge Rodney. A committee of five gentlemen, as well as I recollect, was appointed to examine the boats, who proceeded up the river for that purpose, and, I believe, made their report to the Executive.

I was then called on in my official capacity as attorney general to give a written opinion as to the course which ought to be pursued with Colonel Burr. I did so, and that opinion, I believe, was filed in the office of the Secretary of the Mississippi Territory. My opinion was, that we had no evidence to convict Colonel Burr of any offence in the Mississippi Territory; that the supreme court of the Territory to which a jury was about to be summoned, had no original jurisdiction of any prosecution, and could only take cognizance of points of law reserved at the trial in the circuit court; that, therefore, Burr ought to be sent under a sufficient guard, directed to the city of Washington, where the Supreme Court of the United States would be in session, and the judges attending from every part of the Union could direct the accused to be tried in the district where from the evidence it might appear that an overt act of treason had been committed. But Judge Rodney thought differently, and a *venire facias* was issued, requiring the attendance of seventy-six jurors at an adjourned session of the supreme court of the Mississippi Territory held in February last. From the number of jurors attending, a grand jury of twenty-three persons was selected, who received a charge from Judge Rodney, and adjourned until the next day. At the meeting of the court the next morning, I moved to discharge the grand jury; 1st, Because the court did not possess original jurisdiction in any case; 2d, Because the depositions submitted to my inspection did not furnish sufficient evidence to convict Colonel Burr of the offences with which he was charged, so as to bring them within the Mississippi Territory; 3d, That a warrant might issue, transmitting the accused to a court having competent jurisdiction to try and punish him, if guilty of the crimes alleged against him. The court being divided on this motion, it was overruled. The grand jury then retired. I determined to prefer no indictment, and left the court. In the evening, while I was engaged in the Legislature, a message was sent me by the court requesting my attendance. I immediately repaired to the court-room, and was desired to look at the presentments of the grand jury. I perused them, and found that the grand jury had presented the acting Governor for calling out the militia—the manner in which Colonel Burr had surrendered to the civil authority—the proceedings at New Orleans; and I believe the General Government itself did not escape. I felt and declared my astonishment at such unwarrantable proceedings, and informed the court that I should take no further notice of the presentments, and retired. Judge Rodney, I believe, likewise censured the conduct of the grand jury. It may be proper to mention that a respectable proportion of the jury withheld their signatures from those presentments. Colonel Burr that evening went to the house of Colonel Osmun, and disappeared. I afterwards attended the court, and had a judgment *nisi* entered on the recognizance given by Colonel Burr and his securities, Lyman, Harding, and Benajah Osmun; a *scire facias* was issued and served on the securities, which is now depending before the supreme court of the Mississippi Territory. What happened after Colonel Burr withdrew I know not, except from hearsay.

*Cross-examined.*

*Mr. Martin.* Have you a copy of the recognizance said to have been entered into by Colonel Burr?

Answer. I have not, but have seen a copy in the hands of Mr. Hay.

Question. Were you present when it was executed? Answer. No.

*Mr. Martin.* You said that the judges ordered seventy-six jurors to be summoned. Who were the judges?

Answer. Bruin and Rodney.

*Mr. Wickham.* Do you know any thing of military men sent from New Orleans to seize Colonel Burr?

Answer. I understood that there were, and that a Dr. Carmichael, who resides in the Mississippi Territory, was one.

Question. Was there an expectation in that part of the country that General Wilkinson had sent men for that purpose, and that Colonel Burr would be seized?

Answer. It was talked of, and generally disapproved.

Question. Where was Colonel Burr at the time of his entering into the convention on the west side of the Mississippi?

Answer. He was in the Territory of Orleans, and, in pursuance of his agreement, came over to the Mississippi Territory.

Question. Did Colonel Burr seem to be apprehensive of military force?

Answer. He did not, except that he was particularly unwilling to fall into the hands of General Wilkinson. He inquired of Colonel Fitzpatrick, Major Shields, and myself, whether there was any pass or way above Natchez through which he could get to Washita, and wished to know whether there was any person who could be employed to pilot him. We gave him no satisfactory answer on the subject. My own impression was, that he wanted to establish himself on the Washita as a place of rendezvous, to which his men might rally.

Question. Have you understood that an officer of the army was sent by General Wilkinson to take Colonel Burr?

Answer. I heard a lieutenant of the army (but I had rather not mention his name) say that he was one of the persons employed for that purpose.

[Here Mr. Hay offered to read the recognizance entered into by Colonel Burr in the Mississippi Territory.]

*Mr. Martin* objected to its being read, and declared it to be a forgery. He said he was willing to answer the consequences to Judge Rodney, and to give it under his hand that it was a forgery.

*Mr. Hay.* Judge Rodney is so near, Mr. Martin, that you can answer for it with perfect safety.

*Mr. Poindexter.* Mr. Harding, one of the securities in the recognizance, said that the recognizance returned by Judge Rodney was not the one entered into by Colonel Burr, Mr. Osmun, and himself. But I do not think it was believed by one honest man in the Territory.

*Mr. Hay.* Did the paper, of which this is an authentic copy, bear any mark of erasure?

Answer. Not that I recollect. It was in the usual form in which Judge Rodney took other recognizances; that the person bound should attend from day to day, until discharged by the court. The recognizances of Blannerhas-

set and others, taken on the same occasion, were in the same form. Judge Rodney informed me that Mr. Harding sat down to draw the recognizance, and, after beginning it, said it was useless to go through with it; that they would acknowledge themselves bound before him, and he might make out the recognizance in due form at his leisure.

*Mr. Wickham.* Then you understood Mr. Rodney to say that the recognizance was not reduced to writing until the departure of Colonel Burr from his presence?

Answer. I so understood him.

Question. Then it was no recognizance at all? Answer. That is a question of law.

*Mr. Hay.* As something has been said about Mr. Rodney, what is his general character?

Answer. One of the most honest men under heaven, and an old revolutionary patriot.

*Mr. Hay.* And this is the man who has been charged with forgery by Mr. Martin!

*Mr. Martin.* Let him be who he will, I charge him with having returned a different recognizance from that which was entered into before him.

FRIDAY, October 2.

Mr. Poindexter was again called, and further examined.

*Colonel Burr.* Do you recollect whether it was one of the stipulations between Mr. Meade and me that military authority should be laid aside?

Answer. You were not required to surrender yourself a prisoner of war, but you surrendered unconditionally to the civil authority.

Question. Did not Mr. Meade promise to disuse all military authority as to me?

Answer. I do not recollect to have heard Mr. Meade say any such thing.

Question. Did you not hear Mr. Meade felicitate me on my fortunate escape from a party who were armed with knives and tomahawks for the purpose of coming on board my boat and massacring me?

Answer. I was not present at any such felicitation.

Question. Had Mr. Meade in his possession any document which would authorize him to issue any civil process against me?

Answer. Mr. Meade was an executive officer, and could not issue a civil process in any case.

Question. Did not Mr. Meade declare to me that there was not any document in the Territory to authorize the issuing of civil process against me?

Answer. I do not recollect to have heard any such declaration.

Question. Had Judge Rodney any document before *him* that would authorize the issuing such process?

Answer. That is a matter of opinion. There were sundry depositions in his possession, some of which were given by persons belonging to your party; many of whom voluntarily came forward and had their own depositions taken, in order to induce a belief that they had forsaken you. That was the general impression, as it appeared to me, and I believe it to be the fact. In those depositions they stated nothing of importance against you.

Question. Were not some persons seized by military force, and brought before Judge Rodney?

Answer. Not after your surrender to the civil authority, until the discovery of a paper which was said to have been taken out of the cape of a negro boy's coat. There was then some seizures at Natchez, by order of the Executive; and the persons seized were detained under a guard a short time, but whether they were brought before Judge Rodney or not I do not know.

Here Mr. Poindexter observed: One circumstance I omitted to mention yesterday which took place at the time when I visited Burr's boats. A boat commanded by a Lieutenant Paterson of the militia, with between twenty and thirty armed men, landed about two hundred yards below, on the west side of the Mississippi, for the purpose of ambuscading the men of Burr's party who were separated from their boats, and were amusing themselves in the woods. A person whom I did not know at that time, but whom I have since found to be Davis Floyd, approached Col. Burr, and asked him what was to be done; saying that a boat had landed a short distance below on the same side of the river; that he was not afraid to attack the boat, provided such were his directions. Col. Burr immediately requested Col. Fitzpatrick to interfere to prevent any attack from the boat; which he immediately did, and directed the lieutenant to return with his men to the mouth of Cole's creek.

*Colonel Burr.* Did you not hear Mr. Meade say that if Wilkinson should attempt to arrest me by military force, he would join me with the militia to prevent it?

Answer. I never did; but I remember Mr. Meade said that he would not permit any military force to come into the Territory, and arrest you out of the hands of the civil authority, if he could prevent it. He kept some militia in readiness for the purpose of supporting the civil authority, and acting as circumstances might direct. We were of opinion that a majority of the people who were about the court-house at Washington at the time the grand jury made their presentments were the friends of Burr, consisted generally of persons who had come promiscuously into the Territory, and it was supposed would interfere to rescue him, if necessary. My own impression was, and I believe it was the general impression, that he wished the force immediately about himself to cut a diminutive figure, while a majority of his adherents were dispersed over the country for the purpose of making favorable impressions on the people concerning him.

*Mr. Hay* here produced the papers said to have been found in the cape of the negro boy's coat, which paper is in the following words: "If you are yet together, keep together, and I will join you to-morrow night. In the mean time, put all your arms in perfect order. Ask the bearer no questions, but tell him all you may think I wish to know. He does not know that this is from me, nor where I am." Directed to C. T. and D. F.

*Mr. Hay* asked Mr. Poindexter if that was the original paper said to have been found in the cape of the negro boy's coat. He answered yes.

*Mr. Hay.* Who were supposed to be meant by C. T. and D. F.?

Answer. Comfort Tyler and Davis Floyd.

Question. Is that paper in the hand-writing of Col. Burr? Answer. I believe it is.

*Mr. Wickham.* Where did you first see that paper? Answer. In the hands of Governor Williams.

*Col. Burr.* How long were the persons who were seized at Natchez, after that note was found, detained in custody?

Answer. I do not recollect how long, particularly; but one or two days, I believe. Many of the young men arrested at Natchez declared that if Burr's designs were against the Government of the United States, they would be the first men to turn against him, and cut his throat. There are a number of them now remaining in the Territory; for he has supplied us with schoolmasters, singingmasters, dancingmasters, and doctors in abundance.

*Mr. Hay.* Where was Colonel Burr at the time when this paper was found?

Answer. He had disappeared, and was generally supposed to be at a Doctor Cumming's, near Gibson Port.

The undersigned certifies that the foregoing is a true statement of his evidence, as given in open court in the examination, on a motion to commit Aaron Burr, on a charge of treason against the United States.

OCTOBER 13, 1807.

GEORGE POINDEXTER.

*Evidence of Major James Bruff.*

TUESDAY, October 6.

*Mr. Martin.* Had you any communications with General Wilkinson about the time of his return to St. Louis?

*Mr. Hay* requested that the object for which the witness was introduced should be stated.

*Mr. Martin* said it was to prove the same as Timothy Kibby; that General Wilkinson held out the same inducement to him to join in an expedition against the Spaniards.

*Mr. Hay* objected to the introduction of the testimony on principle; he said that no man could be presumed to come prepared to explain every particular act of his life; that the *general reputation* of a witness could alone be inquired into, in order to assail his character. This he held to be a sacred rule of law and of justice.

*Mr. Martin* contended that the evidence was pertinent. General Wilkinson had declared that he had no knowledge of Colonel Burr's views till he had received the ciphered letter; we will prove that he had. He did not mean to say that the views of Colonel Burr were criminal; on the contrary, they were perfectly innocent; nor would General Wilkinson have been guilty if he had joined in them; but now General Wilkinson, in order to obtain favor with the Government, had turned traitor to Colonel Burr.

*Mr. Wickham* argued that the testimony of Major Bruff was admissible, to show an inconsistency in that of General Wilkinson.

*General Wilkinson.* May I be permitted to make one observation? I am not in the smallest degree surprised at the language which has, upon this and several other occasions, been used by the counsel of Colonel Burr—men who are hired to misrepresent.

*Mr. Wickham.* I will not submit to such language from any man in court.

The *Chief Justice* declared the style of General Wilkinson to be improper, and that he had heard too much of such language in court.

[General Wilkinson apologized. He said that it was impossible he could offer any intentional disrespect to the court, but he could not remain silent when he heard himself called a traitor.]

*General Wilkinson* proceeded: I am astonished at the explanation of the objects for which this witness is called; had I known the purpose for which he *volunteered* his services, (for he was not summoned,) I should have been able to produce documents to show the long, the implacable hatred which he has borne towards me.

*Mr. Wickham* said that Major Bruff was under the protection of the court.

*General Wilkinson.* I pray that his testimony may be introduced.

*Mr. Hay* observed that he had no doubt of the law, as to the right to impeach the credibility of a witness by showing an inconsistency in his testimony; he admitted that, if Major Bruff's evidence were introduced for that purpose, it was proper; but if for any other purpose, it was improper. They had no right to interrogate him for the purpose avowed by *Mr. Martin*; to show that General Wilkinson entertained the same views as Colonel Burr. However, as General Wilkinson was content that Major Bruff should proceed, he would not object.

The *Chief Justice* declared that he would not hear the witness as to any *particular* allegations against General Wilkinson; but with respect to any inconsistency in his testimony he must hear him.

*Major Bruff* proceeded: My testimony will arise from a number of conversations with General Wilkinson.

In four of these conversations General Wilkinson took me aside; in three of which he locked me up in his room. The first hint I had of a connexion between General Wilkinson and Colonel Burr was drawn from two paragraphs in Kentucky newspapers, in the spring of 1805, before General Wilkinson reached St. Louis: the first alluded to the old plan to form a separate Government west of the Allegany, and ascribed it to General Wilkinson and associates, and doubting whether that scheme had yet been abandoned; the next was an extract of a letter from Fort Massac, published in the papers, which stated that Colonel Burr had been several days there with General Wilkinson, probably giving the general lessons on government, or digesting a new code or constitution for the Government of Louisiana. These hints, with information received from Captain Stoddard immediately from Fort Massac, and who assured me that Colonel Burr had been there several days, closely engaged with General Wilkinson, and that he had or was about to furnish him with a barge and crew, in which he was to descend the Mississippi to New Orleans—

*Mr. Wirt.* You have not said when.

*Witness.* In June, 1805. These circumstances put me on my guard, and determined me to watch the motions of General Wilkinson and Burr.

As the general approached St. Louis, ascending the Mississippi from Fort Massac, he despatched a light barge ahead, with directions for me to meet him six or eight miles below, as he had something to communicate to me. I obeyed. We met, landed, and ascended the bank; the general took me into the woods. As we walked on, the general observed that he had been informed the Territory was divided by parties, (I mean Upper Louisiana,) which he attributed to the Americans, and said he would crush party, or perish in the attempt; I observed that there had been some party business about the time of the French convention and the memorials to Congress, but none since, except the aversion which the French appeared to have to the expense, delay, and uncertainty of our laws, and the introduction of lawyers. He then asked me how I stood with the French inhabitants, for he had heard there was some misunderstanding or coolness between us, occasioned by my observations about antedated concessions and fraudulent grants; I observed that some uneasiness had been excited by a report which I had made to the Secretary of War respecting private surveys which took in public property, but I believed they were then satisfied I had merely done my duty; he observed that he had witnessed their many attempts in the lower country to defraud the public, (the Orleans or Mississippi Territory, I do not know which;) that he knew them and mankind generally, and, if I would place my dependence on him, he would manage them for me.

*Mr. Hay.* He would manage them for you?

Answer. Yes; it alluded to a difference between me and the French. About this time, some Frenchmen from St. Louis had found us out, and were rushing through the bushes on us; he damned them for their intrusion—[*Mr. Hay.* To their faces? Answer. No, to me]—said he had something of importance to communicate, and hoped to have an opportunity there; but that he would take the first opportunity, after he had got settled, of making an important communication. A day or two after his arrival at St. Louis, his orderly came to me; I attended. I was taken into his parlor, and he locked the door.

*Mr. McRae.* What time? Answer. About the last of June, or the first or second day of July.

Question. Can you name the day? Answer. I cannot.

*General Wilkinson.* Can you come within five days?

Answer. No, I cannot. We commenced walking. The general appeared to be ruminating, and, after two or three turns, he asked me what sort of Government would suit Louisiana. Without hesitation, I replied a representative republic would meet both the wishes and expectations of the people. He answered that he was surprised

to hear me say so, for the French could not understand its principles, or be brought to attend elections; that the American inhabitants were a turbulent set, the mere emptyings of jails, or fugitives from justice, and did not deserve a free Government; that a military Government was best for these people, and no other was contemplated for them.

[Here Mr. Hay, observing that Major Bruff retired to a table on which several papers were laid, asked him when he had made the statement of his testimony which he was then giving. On being answered that it was recently done, and since his arrival here, Mr. Hay requested that he would not again look at it; Major Bruff said that his statement was drawn from a number of letters which he had written to his friends about the time of the transactions alluded to, and from an intended publication against the general.]

That the politics of the United States had undergone a great change; that the honest and wise had united to save the federal constitution, and prevent a division of property, which the democrats aimed at; that the democratic party in Congress had split and dwindled; and that John Randolph, Nicholson, and Leib had lost all their influence both in Congress and with the Executive. I observed that he attributed principles and motives to the republicans which they abhorred.

*Mr. Hay.* To which party do you belong? Answer. To the democratic.

*Mr. Martin.* Were you not then a democrat, and did not General Wilkinson know you to belong to that party?

Answer. Yes.

On this subject we had a good deal of conversation. I remarked on the folly to suppose John Randolph would consent to throw his property into the public stock, in order to have a scramble for a part of it. However, the general observed that the object of the democrats was to produce a state of anarchy and confusion; to seize on the property of the federalists, and divide it among themselves; and this, too, he told me with a very serious face. I will make one observation here: it is that these conversations, which I had with the general, were at different times, and it is possible that I may not have classed them precisely in point of time; but I am certain that they did happen, and nearly as I have stated; and, if the general will be candid, he will acknowledge it.

*General Wilkinson.* Indeed, I will not.

He said that Pennsylvania was convulsed by the democrats; yet they would not succeed in turning out McKean, or introducing their arbitration system. I think that this ended the conversation. We got warm; the general threw open the door, and I walked out.

After dinner his orderly came for me again. I attended; was taken into his room, and the door fastened. He assumed a milder manner; and assured me that the politics not only of the United States, but of the Executive, had changed; that the difference between the present and former administration was merely in name; that parties were kept alive by the cunning, in order to help them to office, or to keep them in; that the people mistook the character of Mr. Jefferson; that a want of energy was no part of it, but rather obstinacy. Here he observed that the French had not been enough attended to in the Territorial appointments; that they were the natives, and the Americans were ungrateful intruders, and now railed against a King and Government which had raised them from ashes.

*Mr. Wirt.* To whom did he allude?

Answer. I considered that he pointed his remarks to Mr. Austin particularly. It was the Spanish King and Government to which I alluded.

He then observed that Governor Claiborne (a miserable thing or tool) had distributed the appointments, in the lower country, among his American followers and dependants, and had neglected the French, for which he was execrated, despised, and forsaken by every person of talents and honor, except by a Dr. Watkins, who, no doubt, had some personal views. I observed that, in the lower country, the great body of the people were French; but that, in the upper country, there were more than two Americans for one Frenchman, and that the disproportion increased daily by emigration, and would soon entitle us to elections. He replied, God forbid that you should ever see an election in Louisiana; and then observed that it was the intention of the Government to depopulate that country, except the villages of St. Louis, St. Geneva, and St. Charles, and a small district of country around each, merely sufficient to support them; that land would be offered to the inhabitants on the east side of the Mississippi, which if they refused to move to, they would be pushed over at the point of the bayonet, and that I should be employed in that business. As I found that my replies only irritated the general, and kept back the important communications, I therefore determined, when I could not acquiesce in sentiment with the general, I would endeavor to be silent till I got the *important secret*; but I found I had already gone too far. The general appeared to be vexed and disappointed, threw open the door, and I walked out.

The next morning his orderly came for me again. I attended; and we had another parlor conversation with closed doors. He assumed a friendly manner, and begged me to recollect that it was some time since I had left the Atlantic States; and assured me that public opinion had undergone a great change in favor of energetic Governments and measures; that, if I persisted in exploded notions, they would injure me with my Government; that democratic notions produced licentiousness; and that the very existence of an army and democracy was incompatible; that republics were ungrateful; jealous of armies and military merit; and made no provision for the superannuated and worn out officers, but who were left to starve. In these latter opinions I agreed with him. The general seemed pleased that I should assent to any of his opinions. He was now silent. While we walked the floor one or two turns, with his eyes down on the floor, and seemed to be musing, he, observed that he was fertile in schemes, and had made fortunes for many who did not then thank him for it. I smiled. He said, perhaps you think I had better have made my own fortune; true, but I have now a *grand scheme* in contemplation, that will not only make my fortune, but the fortunes of all concerned. He paused, as if waiting for my answer. I was silent; had nothing to say; but wanted him to explain and go into the detail. After walking the floor several times, during which he appeared much agitated and vexed, he threw open the door and I walked out, with only this glimpse of the *secret* which he had so long been preparing for me.

As I attended daily for orders until the arrival of Colonel Cushing, the next morning I found the general rather distant and reserved. He observed that he had yet enemies in the army, and, among them, some from his own State; that he either hated or loved Marylanders more than others. Presuming this intended for me, I replied, I suppose you take me for a Marylander? Why, are you not? I answered, no. I was born in Jersey, but had the good luck to be brought young to Maryland, of which State my father, grandfather, and great-grandfather were natives. Born in Jersey! (replied the general,) a second cousin to a Yankee; a damned cunning fellow, I suspect. This was the first rude thing he had said to me; for before this I was treated with respect, and had received many friendly letters from him; I therefore attributed this to my declining to join him in his scheme to make fortunes. Some time after the troops removed to Cold Water, an officer informed me that they were encamped on a low, damp bottom, subject to be overflowed—

[*Mr. Hay* objected to the course of the testimony pursued by the witness.

*Colonel Burr* said that he did not know the whole extent of his testimony, but that he had been introduced to show palpable contradictions in the evidence of General Wilkinson.]—

The Missouri on the one side, and a marsh or bog on the other, and the whole cantonment commanded by a high second bank or hill in its rear. I observed the situation was not only unmilitary, but would become the grave of the troops if they were not removed. At that time I did not know that the general had contracted for the ground as private property, "a snug fixture where he might hang up his sword." The morning after this conversation I was sent for by the general, and severely and rudely reprimanded before two strangers, and forbidden to interfere with his *plans* and *measures*. I replied, it was my duty and inclination to obey his military arrangements; but should I discover any *plans* or *measures* which put to hazard the peace and safety of the United States, I would not keep silence, be the consequences what they might. He understood me; and from that moment I believe my ruin was determined on.

Colonel Burr arrived a little time after this at St. Louis. [*Mr. Wirt.* At what time? Answer. I believe in August, 1805.] A Judge Easton, who appeared to think very highly of Colonel Burr, and boasted of possessing a part of his confidence, informed me that Colonel Burr had inquired of him whether there was any officer of experience and enterprise who could be trusted with the command of an expedition to Santa Fé, and gave me a very inquisitive look. I demanded by what authority Colonel Burr made the inquiry, or in what light I was to view it. He replied that Colonel Burr at that time held no public office, but that he had powerful friends, and would probably be in a very exalted situation before long; that I had been well spoken of to Colonel Burr, (I suppose by himself,) and he advised me to make him my friend. I answered that the inquiry was a suspicious one; for if Government chose to employ me in that or any other way, it had a right to command my services; for I was in service at that time. We dropped the subject. [*Mr. Martin.* Was Easton at St. Louis? Answer. Yes. Question. Was he in habits of great intimacy with General Wilkinson? Answer. Yes, there appeared to be a good understanding between the three.] But as General Wilkinson, some time before had written me "that every information of the route to Santa Fé would be highly acceptable, and recently sounded my inclination towards energetic Governments and his grand scheme to make fortunes, I no longer doubted of their connexion.

*Mr. Martin.* How long was Colonel Burr at St. Louis? how was he treated by General Wilkinson? and how was he sent across the river?

Answer. When he arrived I was not in town, but understood that the general had rode out with him to the cantonment to view his troops; I saw the colonel on the evening he returned. The colonel strictured the situation, and laughed at the general's military notions.

*Mr. Wirt.* At Cold Water? Answer. Yes, at Cold Water, and christened afterwards Belle Fontaine.

Question. How far from St. Louis? Answer. Twelve or fourteen miles.

*Mr. Martin.* When Colonel Burr was there how was he treated?

Answer. The general made a dinner, it was understood, for Colonel Burr; I was invited; the colonel did not attend, but was said to be sick. When Colonel Burr was leaving St. Louis, I was about to cross the river to my plantation on the opposite side; his baggage was brought to the ferry-boat, when I saw the general's barge getting ready with colors and a complete crew in uniform. I afterwards saw the colonel pass my farm on his journey, in company with Doctor Browne only; Easton was not with him.

Some time after Colonel Burr left St. Louis, General Wilkinson and Mr. Easton fell out. Easton complained that the general persecuted him; and often talked in a dark, mysterious manner about a Western empire. Captain Stoddard also hinted to me, after his return from Fort Massac, that some great scheme was in agitation between Colonel Burr and General Wilkinson, but did not say what. Easton positively stated that there was a connexion between General Wilkinson and Colonel Burr. He complained that the general persecuted him. I observed that it was very strange that he should be the common friend of Colonel Burr and General Wilkinson, and yet they should misunderstand one another about him; that I rather suspected the general finding him unpopular with the French, and that he would not answer their purpose, had persuaded Colonel Burr to shake him off. Easton replied that Colonel Burr was in his power, and he dared not treat him in a deceitful manner. I replied, I did not know Colonel Burr; but that his enemies represented him as an artful intriguer. Some time afterwards, Mr. Easton came to me and observed that he believed my conjectures about Colonel Burr were true, and that he was to be made a sacrifice of; that he should go on to the seat of Government and try what he could do for himself. Easton was then a judge appointed by the President, but not confirmed by the Senate, and he was apprehensive he would not be; that General Wilkinson was using his influence to prevent the confirmation; but observed Colonel Burr was much in his power, for that he had made him proposals which made the hair rise upon his head, astonished and confounded him so that he was struck dumb. [*General Wilkinson.* Were these his very words? Answer. Yes.] That Colonel Burr observing this, would have retracted, but it was too late. I urged him to explain the nature of the proposals; he said he was under an obligation of secrecy; but no obligation should hold him if he found Colonel Burr false to him. I observed to him that he well knew that any obligation which led him to conceal or commit a crime, could not be binding. He observed, he was going on to the seat of Government and should see Colonel Burr, and then he should take his measures. I saw Easton after his return; I urged him to explain the business which he had mentioned before; but he pretended to have forgotten that such a conversation had ever passed between us. [*Mr. Hay.* Was his appointment confirmed? Answer. No; he lost his appointment, and had seen Colonel Burr.] About this time, a paper called the "Western World" made its appearance, one of which was, I believe, directed to the general weekly. [*Mr. Hay.* After the return of Easton? Answer. Yes.] It roundly accused General Wilkinson of the old plan, of being concerned with Miranda, and connected with Colonel Burr. I observed to Easton, that I believed I should get the whole story from the Western World, without being under any obligations to him; that if he had done his duty he might have served himself and his country, and perhaps prevented the effusion of blood. He observed, that he had once attempted to make a disclosure to Government, but instead of being countenanced he got a reprimand. I demanded the instance; he said that he had written to a Senator in Congress, either from Vermont or New York, that he could prove General Wilkinson to be the projector of Miranda's expedition. The gentleman acknowledged the receipt of his letter, but informed him he had burnt it, advised him to mind his own business, and take care how he meddled with men high in power and office.

*Mr. Martin.* Had General Wilkinson any conversation with you with respect to the appointment of a certain John Smith, of Louisiana?

Answer. I had a conversation with him about John Smith; I remember going into the general's office, when he handed me two letters, one from Major Hunt, the civil and military commandant; the other from Smith, who complained that the commandant had ordered him off the mineral lands. The general censured the order, and asked me if I knew who John Smith was. I replied no, but had been informed he was one of Cox's captains. So Major Hunt insidiously observes, replies the general; but that does not lessen him in my esteem. He added that Smith was brother-in-law to Mr. Early, a member of Congress, who had brought forward a resolution to reduce the army and dispense with his services as general; that there were many of his stamp in Congress; therefore, they must be attended and kept in good humor, or we shall be turned to the right about.



*Mr. Martin.* Did you appear before the Secretary of War in order to make a statement as to the conduct of General Wilkinson, which you considered endangered the United States, and what was his reply?

*Mr. Hay* objected to the question, as it had no relation to the subject.

*Mr. Wickham* said that General Wilkinson had been interrogated by them, and required to say whether his conduct was approved or disapproved by the Government; that the Government had taken the most active part in this prosecution, and it was right and proper that the sentiments of the Government should be known.

The *Chief Justice* said the difference was this: the evidence of General Wilkinson arose from communications officially made directly from the Government. This is a different case; the evidence here offered consists of conversations with the officers of the Government.

*Mr. Martin* said that the Secretary of War was applied to in his official character, and in his official character he had said that General Wilkinson must and would be supported; that he had stood low in the estimation of the Government before his energetic measures at New Orleans, but now he stood very high.

*Mr. Hay* was about to make some observations in opposition to the introduction of such evidence, when General Wilkinson consented that the witness should go on.

Witness. In March, 1807, a few days before the rising of Congress, I was in the city of Washington, and waited on the Secretary of War; and the subject which gave rise to this visit and conversation between the Secretary of War, the Attorney General, and myself, was an appeal from the sentence of a general court-martial, whose proceedings I contended had been arbitrary and oppressive, and sentence illegal and unjust.

*Mr. Wirt.* Against whom?

Answer. Myself; and that I was not arrested until after General Wilkinson had sounded and found I would not answer his purpose; and, I believe, for fear I might penetrate his plans and be a spy on his actions, he determined to put me aside. The Secretary of War replied, that there had been a time when General Wilkinson did not stand well with the Executive; but his energetic measures at New Orleans had regained him his confidence, and he would support him.

*Mr. Wirt.* Who?

Answer. I mean the President. I asked if an inquiry into the conduct of General Wilkinson, his oppressions and illegal acts, and his connexion with Colonel Burr, might be expected? He answered, there might be an inquiry after the present bustle was over; but at present he must and would be supported. I then observed that, if an inquiry might be expected in a reasonable time, I would ask a furlough and wait; but, if not, I should resign immediately. He observed that I must not calculate on a speedy inquiry; but, if I was determined not to serve under General Wilkinson, my only resort was to resign immediately.

*Mr. Martin.* Who said so—General Dearborn?

Answer. Yes; General Dearborn. He, however, recommended me to draw up a short statement of facts for the President respecting my trial and sentence. I replied that, if I did, I should certainly charge General Wilkinson with having been connected with Colonel Burr, and with having made attempts to bring me over to his grand scheme of making fortunes. He replied, if these are your impressions, you will be correct in stating them. This was the first conversation I had with the Secretary of War.

I had a second conversation with the Secretary of War, in which I insisted that General Wilkinson was acquainted with Burr's plans; that I would produce proof that he had been concerned, and did not secede till he found that Colonel Burr had commenced the enterprise with a handful of men, that the country was alarmed, and that the project was a desperate one. I then had a conversation with the Attorney General, on the legality of restoring my pay and emoluments, which had been suspended by the sentence of the court-martial. I informed him that a connexion between General Wilkinson and Colonel Burr could certainly be proved. He observed that the general had been low with the President, but at that time stood high, and would be supported. He observed, however, that there was a great deal of mystery in the allusions of Colonel Burr's letter to General Wilkinson, as well as their making use of a cipher. He advised me not to resign, but to wait events; for the Secretary of War had informed him that I was the only republican field officer in the service, and that public opinion was very fluctuating and whimsical.

After this I had a conversation with the Secretary of War and the Attorney General, together. I think that Captain Clark, the companion of Lewis, was also present. The Secretary of War shut the doors. We had some previous conversation; as, after the Attorney General came in, the Secretary of War introduced it again by observing that he had been informed that Colonel Burr had accompanied General Wilkinson to the Western country, spent several days with him at Massac, and then furnished the colonel with a barge and men to descend the Mississippi to New Orleans. I replied that this was one among many reasons to suspect a good understanding, connexion, and co-operation between the general and colonel; that I imagined both of them were well informed of the old plan attributable to the general and his associates, to form a separate Government west of the Allegany under the auspices of Spain or England; of his famous memorial, which it is said procured him exclusive privileges from the Spanish Government; and the extraordinary visit Colonel Connelly, from Canada, paid him in Kentucky; but that there were recent events which were not without suspicion, such as his having spent the last winter of Colonel Burr's Vice-Presidency at Washington; their great intimacy; the interest made to get General Wilkinson appointed and confirmed Governor of Upper Louisiana, with Burr's brother-in-law Secretary to the Territory, and many of his friends to places of trust and influence; General Wilkinson's drawing several hundred troops into a cantonment near the mouth of the Missouri; his connexions with Colonel Burr, General Adair, John Brown, of Kentucky, John Smith, of Ohio, and several others, since implicated or suspected of being concerned with Colonel Burr, to procure a charter for cutting a canal on the Indiana side of Ohio, on which charter a bank was ingrafted, and would have produced those funds, the want of which seems first to have made the general to hesitate, (alluding to a paragraph in the ciphered letter.) I then stated Colonel Burr's visit to New Orleans, in a barge furnished by General Wilkinson; and that, after visiting the lower country, he came to St. Louis. I then stated the conversation with Judge Easton, as before mentioned, and the intimacy of those three persons; and that, when Colonel Burr was about leaving St. Louis, the general had a barge got ready, with much parade, to put him over the Mississippi; that, some time after Col. Burr's return to the Atlantic States, Miranda's expedition got ready and sailed, which a gentleman promised, if called on, to come forward and prove General Wilkinson to be the projector of; (that gentleman is Judge Easton.) I then observed that it was not easy to suppose that Colonel Burr, who knew Wilkinson's character, his former attempts, and desperate fortune, should spend so much time with him at Washington, where the scheme seems to have been first projected; pass through the country where Colonel Burr must commence his enterprise, where Wilkinson was well acquainted, and where Burr wanted agents (alluding to the Ohio) and partisans; yet never found him to make proposals, but wait till all was ready, and then make his first overtures by a letter; and, before he knew of the success of that letter in converting a patriot general into a traitor, should throw himself and his best friends, his *choice spirits*, into the power of a general he had so much insulted; that the general's measures in Upper Louisiana certainly had a tendency to disgust the people with the change of Government,



and to prepare them for a revolt; that I did not know the general's attempts upon other officers, but he certainly had tried me; but if, on the contrary, Col. Burr did communicate his plans to the general, either at Washington, at Massac, or St. Louis, and the general did not immediately inform his Government, he has not only grossly imposed on them and the public at large, but has been guilty of misprision of treason and perjury. The Attorney General, after I had gone through my statement and information, in substance and order nearly as related, asked me what would be the result if *all* this should be proven? Why, just what the federalists and the enemies of the present administration wish—it would turn the indignation of the people from Burr on Wilkinson; Burr would escape, and Wilkinson take his place. I observed that it possibly might be the event; but justice and honor required that the whole truth should be known, let it operate as it might.

I then left the Attorney General and Secretary of War together, and, stepping down to the post office, found letters from St. Louis, detailing the operations of Colonel Burr, and of a party from St. Louis and St. Geneva, the common friends of General Wilkinson and Colonel Burr, who attempted to join him with twelve thousand weight of lead.

*Mr. Wirt.* From whom was the letter?

Answer. Samuel Hammond. That letter offered proof that the party sent by General Wilkinson to Santa Fé was connected with, and a part of Colonel Burr's plans. As that letter related to the subject which we had been talking on, I sent it to the Secretary of War and the Attorney General; and another letter, which came on with it, to the same point, from Judge Easton. They wrote that Major Wescot and Dr. Stell had left St. Louis and were joined by a Mr. Smith, Dodge, &c. from St. Geneva, who attempted to join Colonel Burr near the mouth of the Ohio: The Secretary of War returned the letters and thanked me; but I have been surprised after offering proof, and naming gentlemen who knew that a connexion existed between General Wilkinson and Colonel Burr, that none of them were summoned to the grand jury. Major Bruff was here asked who those gentlemen were; and he mentioned General Adair, Judge Easton, and Major Kibby, who would prove the object of the expedition to Santa Fé, also Mr. Provenchere. He then stated that he had seen a letter from General Wilkinson to General Adair, in which General Wilkinson urged him to come on; said that he could not go without him; and then asked if he was ashamed to serve under a Spanish conspirator.

*General Wilkinson:* When was that letter dated?

Answer. I do not recollect when. General Adair read it to me; he offered me a copy, which made me the less particular about its date.

Question. Where was the letter received? Was it at Washington in March last?

Answer. It was the letter which induced General Adair to go to New Orleans, as he said.

General Wilkinson pressed him to come on; said that thirty thousand troops would be sufficient to effect their purpose, as they would have little more to do than to take possession of the country; that they were to divide them into three columns, and General Adair was to have the command of one of them.

*Mr. McRae.* What country were they to take possession of?

Answer. I cannot say; but my impression was the Spanish country.

The general then chided him for the caution he used in writing; asked him if he was afraid to trust his friend, or ashamed to serve under a Spanish conspirator. At the bottom of the letter were these words: "We shall certainly have a Spanish war."

*Chief Justice.* Do you know the hand-writing of General Wilkinson?

Answer. I do very well; I sat by General Adair when he read the letter; and it appeared to be the hand-writing of General Wilkinson, but I did not take it up to compare it.

*Mr. Martin.* Do you remember the date?

Answer. I cannot tell the date or the place from which it was written.

*Mr. Hay.* Did it appear as if it was of ancient date, or modern?

Answer. Recent. General Adair complained bitterly; he said that this letter had induced him to go to New Orleans, where he was seized by General Wilkinson.

*Mr. Wirt.* Will you name all the witnesses who could give evidence of the connexion between Colonel Burr and General Wilkinson?

Answer. Judge Easton, to prove that General Wilkinson was the projector of Miranda's expedition; and to prove his connexion with Colonel Burr; Major Timothy Kibby, the person whose deposition has been circulated, and Pierre Provenchere, who could prove the connexion between General Wilkinson and Colonel Burr, and who was the common friend of both; Colonel Samuel Hammond, with whom General Wilkinson had a conversation nearly similar to the one he held with me and Samuel Hammond, Jun. I believe I did not mention Colonel Dupiester, to prove the designs of the party, as to the establishment of a Western empire. I think Colonel Dupiester was mentioned as the friend of Colonel Burr, and, as I am informed, came to St. Louis as his agent, and brought with him commissions and proclamations.

*Mr. McRae.* Did you see him at St. Louis?

Answer. Yes: a colonel's commission, it is said, was offered to Colonel Chotau, who attempted to throw it into the fire.

*Mr. Hay.* From whom did the proclamations and commissions come?

Answer. They were said to be from Colonel Burr.

*Mr. Hay.* Who was to have commanded the horse?

Answer. A Mr. Delony, who had been an officer of the horse in the French service, it was said, was offered a distinguished command in Colonel Burr's army. A Colonel Dupiester, it was said, brought on letters, one to Provenchere, and another to Timothy Kibby, a common friend of Colonel Burr and General Wilkinson.

*Chief Justice.* Did you see these letters?

Answer. We had a little democratic club intended to counteract those gentlemen. A Mr. Wherry, to whom Provenchere showed the letter, took a copy of it, and brought it down to us.

*Mr. Wirt.* What was in the letter?

Answer. Something to this purport: "He was ready; hoped they were ready; and that the expedition would begin to move about the 15th of November."

*Mr. Martin.* How long have you been in the American service?

Answer. I bore arms in 1775 against the tories; had a second lieutenant's place in 1776; and continued in service throughout the war.

Question. Have you been in the service ever since?

Answer. I entered the service again in 1794, under an expectation of bearing arms against the British; for I had been taken a prisoner during the war, and had not been well treated by them.

Question. What was your grade when you left the army?

Answer. Major of artillery.

*Mr. Wickham.* Did you see such a deposition as that of Timothy Kibby in the hands of the Attorney General or Secretary of War?

Answer. No; I gave them the letter already spoken of; I expected that all the gentlemen whose names I mentioned would have been summoned. It has been said that I came on here as a volunteer. I certainly should have come on in any event; but I was surprised that those gentlemen should not have been summoned, and that the inquiry should be on one side only.

*Mr. Wirt.* Is the Samuel Hammond you have mentioned the same person who had a commission in the time of Genet? Answer. The very same.

*Mr. Hay.* I think you said it was in June, 1805, that General Wilkinson disclosed to you this important secret? Answer. Not in June; some time in the summer; I think in July.

Question. What was the impression on your mind at the time; did you suppose it was some project hostile to the United States?

Answer. I did suspect that he had some grand project in view. I expected that he would have made the disclosure without my saying that I wished him to make my fortune. I did not intend to come under any obligation, or to commit myself.

Question. When was the first time that you made any communications to the Government, or any of its officers, with respect to these projects?

Answer. I have a letter here dated January 8, 1806, in which I say: "I have no confidence in the patriotism of General Wilkinson; and, as a man, I think of him with horror."

*Mr. Wirt.* To whom was that letter addressed? Answer. To the Secretary of War.

*General Wilkinson.* Were you under arrest at that time?

Answer. No; I was not; (looking at his papers.) It does not appear, from this letter, that I was under arrest at that time.

*Mr. Hay.* I want to know the *fact* whether you were under arrest or not? Answer. I was not.

Question. What was the interval between your arrest and the trial by the court-martial?

Answer. I believe eight or ten days, but I am not certain.

*Mr. McRae.* Had you not been in expectation of an arrest?

Answer. I had expected it for some time. In a conversation with the general, about my saying that he would not be in service six months, he got very warm, and said, "this is sedition." I replied, then "arrest me."

*Mr. Hay.* At what time did this conversation take place about Cold Water when you stated, in your evidence, your ruin was decided on?

Answer. I think in September, 1805. Then commenced a system of persecution which terminated in my arrest. I was charged, among other things, with contempt of the general; that I never denied. I was found not guilty of all the other charges, except that one. Major Bruff then said that the sentence of the court-martial had been disannulled by the President of the United States; and his pay and emoluments, which had been suspended by the sentence, restored. [*General Wilkinson.* I understood that was by stipulation. What is the date of the President's reversal? Answer. I believe it was on the 12th of March last; and my pay and emoluments being restored, is equivalent to a reversal.] *Major Bruff* proceeded: The Secretary of War observed that the President was disposed to do me justice; but it was a delicate point; and there was no precedent where a sentence had been confirmed by the commander-in-chief, and afterwards reversed by the President. I answered, that I thought it was not very delicate in General Wilkinson to approve a sentence when it was a mere personal thing between us. I understood that it was about the 15th of November, when the expedition was to have commenced, and the Mexican standard (an emblem of the sun) to have been raised. This delayed my departure from St. Louis. I expected to have seen Knights of the Sun and Lords of Mexico among the chiefs of those chosen spirits.

*Mr. Martin.* Whose property is the place called Cold Water?

Answer. I understand the greater part belongs to General Wilkinson; about four acres of which is deeded to the United States for a factory. He wrote on for me to purchase such a place. It was about this place that General Wilkinson made the rude attack upon me which I have before mentioned; but, I believe, the true source was, that I had said to an officer, in the confidence of General Wilkinson, that he would not be in office six months. I knew that Congress was about to meet, and that it was contrary to the genius of our Government that he should hold the two offices of general and Governor of Louisiana.

*Gen. Wilkinson.* When did you receive the first intimation of my intention to retire from service?

Answer. This is intimated in a letter from the general, dated April 5, 1805. [Here Major Bruff read a letter from General Wilkinson to him. See reference A.]

Question. Did I not reiterate this intention after I came to St. Louis? Answer. I believe you did.

Question. Do you recollect at what period after I got to St. Louis, whether late or early?

Answer. I cannot recollect. You often mentioned the subject.

Question. Were you subpoenaed to attend this place?

Answer. I was. I saw a subpoena in the hands of a gentleman for me; and Mr. Martin had told me in Baltimore that there was one ordered; and, therefore, I considered myself as subpoenaed from Queen Anne's county in Maryland.

Question. Then you had a conference with Mr. Martin. Answer. I had.

Question. Do you recollect to have said that you were very reluctant to come, but Mr. Martin had promised to lash me into tortures?

Answer. I have said that, from a conversation with Mr. Martin, I had reason to believe that your letter to Colonel Burr, "post marked 13th of May," would be produced; but that I should have come, in any event. [Here a certificate of Colonel Meigs was read; for which see note B.] The first intimation I had of this letter was from a letter written by a gentleman of the grand jury to a friend of mine, stricturing the testimony of General Wilkinson, given before that body; that part of the letter was confidentially read to me.

Major Bruff was about to state a conversation with Mr. Martin, when he was interrupted by Colonel Burr, who said that he could not consent to a narration of the conversations which might have been held with his counsel.

*General Wilkinson.* Did you not say that you believed Burr was guilty; but that I had done you a serious injury, and you thought this a good time to seek redress?

Answer. I have said that I believed Colonel Burr concerned in that expedition with you. I have said so, and I think so still.

*Mr. McRae.* Will you state the character of Judge Easton?

Answer. I have accused him of an endeavor to swindle me out of half the land we purchased, in common, on which an arbitration is now depending.

*General Wilkinson.* Had you no land speculations with Easton?

Answer. No. I had no *speculations*; but we made a purchase of a single tract of land together. Perhaps you call that land speculations.

Question. You said that when Colonel Burr arrived at St. Louis, Easton and myself were intimate?

Answer. I thought so.

Question. Did you not know, that about that time, I did not suffer him to come into my house?

Answer. I heard him say, after Colonel Burr had left St. Louis some little time, that you were persecuting him.

*Commodore Shaw was called by the prosecution.*

*Mr. Hay.* Did you travel in the stage with Major Bruff, as he was coming to this place? Answer. I did.

Question. Will you state the conversation which passed in the stage?

Answer. The conversation was lengthy, and not particularly addressed to me. I understood, as Major Bruff stated, that a conspiracy had been organized in the Western country; at the head of which was Burr; and that Gen. Wilkinson, and several others, were implicated; that he had kept a watchful eye on them; had been on the alert; and that he had a just right to know that such a conspiracy existed. He said that General Wilkinson had done him a serious injury; and that he had come on, from some information Mr. Martin had given him, to tell a long story.

Question. What was the drift of the conversation; that he intended to injure General Wilkinson?

Answer. The impression on my mind was, that General Wilkinson had done him a serious injury, and he was coming to retaliate; but I cannot recollect the very words.

The *Chief Justice* declared that *impressions* were not evidence. Witnesses must always depose to *facts*.

*Mr. McRae* (to Major Bruff.) I understand you to say that you were summoned from Queen Anne county, in Maryland. Did you ever see the subpoena there? Answer. No.

Question. What induced you, then, to think that you were summoned there?

Answer. I own property in Queen Anne county, where I had been making arrangements for my return from the Western country. I went to Baltimore to transact some business, where I met with Mr. Martin. He told me that if I had not come to Baltimore he should have gone to see me. I asked him if the letter "post marked 13th of May," would be produced. He said he believed it would; and informed me that I might consider myself summoned, for that he should order a subpoena for me."

*Captain Daniel Bissel, called by the prosecution.*

*General Wilkinson.* Were you a member of the court-martial which sat on the trial of Major Bruff?

Answer. I was.

Question. By whom was Major Bruff arrested?

Answer. By Captain Richmond. He preferred the charges, and solicited the arrest.

Question. How many members composed the court; their names and rank?

Answer. Colonel Thomas Hunt, president; Colonels Cushing and Kingsbury, Captains Lockwood, Bissel, Strong, and Many; Lieutenants Peters, Mulford, Carson, Whitlock, Richardson, and Kimball.

Question. Was the court unanimous in their sentence?

Some doubt arose about the propriety of answering this question, consistently with the articles of war. It was waived for the present.

*Mr. Martin.* Was it not some short time before the court-martial, that an address to the President was handed about, which was signed by most of the officers? Answer. I believe it was.

Question. Did Major Bruff sign it? Answer. I do not know that he did. I did not see his name to it.

Question. Did not the officers impugn the honor of any man who refused to sign it?

Answer. It has been more than two years since the address was circulated; and I cannot recollect what were the impressions of the moment. Major Bruff said he had seen a mutilated copy of the address published in the papers. The address was to the President; the object of which was, to continue General Wilkinson in the office of commander-in-chief while he was Governor of Louisiana. It says a great many handsome things about his services from Canada to Florida, and the sufferings he had undergone in the cause of his country. (Refer to note C.)

A.

(CONFIDENTIAL.)

APRIL 5, 1807.

I am desirous, like yourself, to make a snug fixture, and hang up my sword. Our soil, we may thank God, is not favorable to military pursuits, and the profession of arms has become disreputable in our free and peaceful country. Will you look out for a handsome spot for me, five or six miles from St. Louis, of one thousand acres, more or less, rich, well timbered, and lying well for cultivation, with excellent water, and a mill-seat. I shall want such a spot. Will you have the goodness to look for one without speaking; and if a bargain presents, you may make, in your own name, a provisional contract, to be off or on in six months. Pardon the freedom I take with and the trouble I offer you.

With esteem and respect, your obedient servant,

Major BRUFF.

JAMES WILKINSON.

B.

*Colonel Meigs's certificate.*

RICHMOND, September 23, 1807.

I certify that at Richmond, during the trial of Colonel Burr, for treason, Major James Bruff informed me that he was attending as a witness for Colonel Burr, for which he was sorry; that L. Martin had promised him, if he would attend as a witness, he, Martin, would expose the character of General Wilkinson, by introducing into court a certain letter written by General Wilkinson to Aaron Burr, which letter Colonel Burr had declined submitting to the grand jury; and that Mr. Martin declared that he would lash General Wilkinson into tortures; and upon these promises he came.

R. J. MEIGS, JUN.

SIR:

It does not comport with the pride of a soldier tacitly to behold his general assailed by unmerited slanders; or to suffer the veteran, with whom we have run a long course of hardships and perils, to fall a victim to unde-

served calumnies. The spirit of a soldier revolts against such apathy, and every man of sensibility would condemn such cold-heartedness.

We mean not to offend by this offering of a just tribute to merit; nor to derogate from the worth of the living or the dead, by those expressions of our sentiments.

We have seen with horror, and have felt with indignation, the various attempts which have been made to blast the character of General James Wilkinson. Some of us have served under his command twelve years, and have followed him from Canada to Florida; and all have been habituated to his command for many years, during which period we have seen him encountering almost every vicissitude to which active military life is incident. Generous, benevolent, and humane; his heart, his hand, and his purse are ever open, and ready to succor distress and relieve misfortune; hardy, enterprising, daring, and brave, he encounters obstacles with alacrity, and is most exalted when pressed by difficulties. The ice, snow, and wintry blasts of the north; the arid sands and burning sun of the south; wild mountains and morasses, present no impediments to his course, where duty calls. Ready to take the lead in every extremity, he never exacts from others what he is not willing himself to perform. Daring, yet vigilant and cautious, he is provident in warding dangers, and resourceful in mastering them.

Let him be judged by his orders and arrangements, and military men will honor his principles and practices; rigid in his discipline, exact in his police, and indefatigable in every branch of service. He delights to comfort and cherish the sick soldier, and pays a sacred respect to the laws of his country, and the rights of his fellow-citizens, of which numerous instances could be quoted.

With him for a leader, we shall neither fear danger nor foresee difficulties, but shall march to battle with the assurance of victory.

The subscribers, composing the whole of the officers present at the cantonment and St. Louis, would suffer martyrdom sooner than profess what they do not believe, or proffer homage where it is not due; and with these sentiments, they hesitate not to declare, that they have offered the opinions of every man of honor who carries the sword of the United States.

THOMAS HUNT, *Col. 1st U. S. regiment, infantry.*  
 TH. CUSHING, *Lieut. Col. Adj. and Inspector, army.*  
 JACOB KINGSBURY, *Lieut. Col. 1st regiment infantry.*  
 B. LOCKWOOD, *Captain 1st regiment of infantry.*  
 ELIJAH STRONG, *Captain 1st regiment of infantry.*  
 DANIEL BISSEL, *Captain 1st regiment of infantry.*  
 JAMES RICHMOND, *Captain 1st regiment of infantry.*  
 JAMES B. MANY, *Captain artillerists.*  
 GEO. PETERS, *1st Lieutenant regiment artillery.*  
 CLARENCE MULFORD, *Lieutenant artillery.*  
 WM. CARSON, *Lieutenant 1st regiment of infantry.*  
 A. WHITLOCK, *Lieutenant 1st regiment of infantry.*  
 WM. RICHARDSON, *2d Lieut. and Adj. 1st. reg. infantry.*  
 JOSEPH KIMBLE, *Lieutenant Adjutant.*  
 WM. KING, *Surgeon's mate.*  
 A. SANGRAIN, *Surgeon's mate.*  
 JOHN H. ROBINSON, *Acting Surgeon's mate.*

To His Excellency THOMAS JEFFERSON, *President of the United States.*

WEDNESDAY, October 7.

*Mr. McRae* requested that, on account of the extreme indisposition of one of *Mr. Wirt's* children, which prevented him from attending, the court might be adjourned till to-morrow. Independently of this circumstance, General Wilkinson, whose feelings had been severely wounded by the testimony of a witness yesterday, was in the course of preparation to remove those unjust imputations. He hoped that no objection would be made to the adjournment.

*Mr. Hay* said, that by an arrangement of the counsel of the United States, the principal part of the reply would devolve upon *Mr. Wirt*. It was, therefore, important that he should be present, to know what ground had been occupied by the counsel who preceded him. He did not expect any inconvenience would result from the proposed adjournment; and hoped it would not be opposed.

The adjournment was opposed by *Colonel Burr*, who stated that one of his counsel had been placed in the same situation as *Mr. Wirt*, and no indulgence was asked of the court on that account. He also mentioned that the court had, at its own request, proceeded with the examination when he was too much indisposed to attend.

The *Chief Justice*, after hearing an explanation from *Major Bruff*, about that part of his testimony respecting his daily attendance for orders, and going through the examination of *John Brockenbrough* and *Joseph C. Cabell*, Esquires, two of the members of the grand jury, adjourned till to-morrow.

*Major Bruff* begged leave to correct an error in part of his evidence given yesterday, in a point not material. This respected his attendance at the office of General Wilkinson every day. After his remark about Cold Water, and his saying that should he discover plans and measures which put to hazard the peace and safety of the United States, he would not keep silence, be the consequence what it might, General Wilkinson was not visible to him for several days. Other officers attended, said *Major Bruff*; but I was not admitted to his presence. I wrote to the general, and I received an answer, which I have not here. It, however, stated that I should receive such attention as my conduct and rank entitle me to.

*General Wilkinson, in explanation of Major Bruff's testimony.*

THURSDAY, October 8.

*Mr. Hay* said he was ready to go on with the argument of the cause, but would not do it unless directed by the court. An attack had been made on General Wilkinson by *Major Bruff*, which it was the right and the duty of General Wilkinson to explain. Not a word in the long and labored narrative of *Major Bruff* was testimony applicable to the case before the court. But, having made such serious charges against General Wilkinson, justice requires that the general should be heard in explanation.

*General Wilkinson*. I have several matters to submit to the court, which have been brought to my recollection by the occurrences of yesterday and the day before.

Grand jurors have been brought forward to contrast my evidence before that body with what I have said here. In the wide range of testimony which has been permitted, a witness may be readily misconceived by others, or misunderstand himself. In the case of Mr. Tazewell, your honors' sense of his testimony was in direct opposition to that of Mr. Burr's counsel; and in the case of Mr. Cabell, one of the most correct men in the world, he had misconceived or did not understand me respecting the mode in which Swartwout delivered Mr. Burr's letter to me. It is with deep regret I trespass on the time of the court; but when every art is employed, and witnesses are raked and scraped from every quarter to rip up the remotest transactions of my life, to affect my credibility, to wound my fame and rob me of my reputation,—

Here *Mr. Wickham* interrupted General Wilkinson, and said he must object to the course which he was about to pursue. General Wilkinson stands here on the same ground as any other witness. Let his explanations apply to his evidence, but not let him go into other subjects.

*Mr. McRae* hoped that the same indulgence which had been extended to others, would be granted to General Wilkinson. It will be recollected with what patience their witness, Major Bruff, had been heard for six hours, while he was merely indulging himself in the carnage of General Wilkinson's reputation. General Wilkinson, who had been listening with most exemplary patience, now comes forward to explain; and, in the midst of a very short and respectful exordium, he is interrupted by the counsel on the other side.

The *Chief Justice* said there could be no doubt of the disposition of the court to hear as full an explanation as General Wilkinson might please to make; but he being merely in the character of a witness, would confine himself to a narrative of facts, and resort to argument as little as possible.

*Mr. Hay* hoped that something of argument would be permitted. General Wilkinson had been assailed vitally, intentionally, and deliberately by Major Bruff; and his explanations could not be so well understood unless he should, in some instances, resort to argument.

The *general* resumed: When I was first brought before the court, it was my intention to have commenced with Mr. Burr at Washington and traced him step by step from his passage of the mountains until his return; but I was confined to such facts as were deemed immediately relevant to the question before the court; and, therefore, I commenced with the reception of his letter at Natchitoches.

I now, sir, find myself obliged to adopt this course in order to explain certain observations which have come from the grand jurors, and also the innuendoes and insinuations of the witness, Major Bruff; who, having charged me with a sinister connexion with Mr. Burr, has travelled from Washington to St. Louis to find matter for justification of the imputation. He has laid some stress on the interest which he says was made (by Mr. Burr and his friends) to procure me the government of Louisiana. I am under no obligation to explain how I procured that government; if I were, I could say it had been tendered to me by the President, two months before they had any idea of the circumstance.

I am charged with having invited Colonel Burr to the Western country. Herein I have been misunderstood, for the thing is not so. A few days after Colonel Burr descended from the vice presidential chair, an inquiry was made by me, as to the course he intended to pursue; he told me he intended to visit New Orleans, and I remember his very words were, "I have a few thousand dollars left, and I will not go to work until they are spent." I was solicitous to see him reinstated in the councils of his country; and speaking to the Hon. John Fowler, then a member of Congress, on the subject, he informed me that Mr. Lyon had suggested the idea of Burr's going to Tennessee, to procure his election to a seat in Congress, as residence was not a necessary qualification to election in that State, and requested me to speak to Burr on the subject; I did so, and I think he said it was a luminous idea, appeared to be delighted with the plan, and in concert with Mr. Fowler and Mr. Lyon, I then understood, and have since been assured by the former, who is now in town, the plan was digested without my presence or participation at any interview.

Mr. Burr soon after proceeded to Philadelphia; he wrote me on the 26th of March, requesting a letter of introduction to General Adair, and informing me he should set out for the Western country about the 10th of April. The next letter I received from him was at Pittsburg, dated the 30th of April, in which he tells me he should sail that day for the Lower country, and is sorry he could not see me. At Louisville I received a third letter from him, dated the 19th May, in which he deeply regrets he could not see me there, and begs me to forward the letters of introduction I had promised him for New Orleans, after him, to that city. He proceeded from Louisville to Frankfort; and, I am authorized to say, did there apply to John Brown, Esq., to aid him in his proposed election in Tennessee, and to that end requested letters from Mr. Brown to his friends there. He then proceeded to Nashville, where, it appears, he remained beyond his calculation. I fell down the river to Massac, where Colonel Burr arrived on the 8th of June; and instead of spending several days in giving me lessons on government, and preparing a new code or constitution for Louisiana, he the next day prosecuted his voyage for New Orleans, in company with several officers of the army, who had been ordered to that city on a general court-martial; and it will be proven that I furnished him neither barge nor crew.

I heard no more of Mr. Burr until the 30th July, when I received a letter from him at the crossings of the Tennessee river, in which he informed me he was on his way to Lexington, and hoped to be with me at St. Louis about the 1st of September. He arrived at St. Louis on the 11th of that month, in the evening; expressed a wish to visit St. Charles, and I accompanied him in his route to the cantonment of the troops, about eleven miles distance, from whence he proceeded without me, crossed the Missouri to St. Charles, from thence passed over Portage des Sioux to the Mississippi, and descended that river in a canoe to St. Louis. I think it was in our ride to the cantonment that Mr. Burr, speaking of the imbecility of the Government, said it would moulder to pieces, die a natural death, or words to that effect, adding that the people of the Western country were ready for revolt. To this I recollect replying, that, if he had not profited more by his journey in other respects, he had better have remained at Washington or Philadelphia; for surely, said I, my friend, no person was ever more mistaken! The Western people disaffected to the Government! They are bigoted to Jefferson and democracy. And the conversation dropped. Mr. Burr, I think, on the same ride, spoke to me of purchasing an estate in that country, observing he had received advice of a sum of money which he should receive on his return to the eastward, and asked me if I would resign my Government to him, in the course of the winter, if he should desire it. This I rejected on account of the emolument, which was \$2,000 per annum, (for I was disgusted with the Government,) and he offered to indemnify me.

Nothing particular passed between us, after this, until the afternoon before his departure, which was on the 19th of September in the morning. He informed me that he wished to have some conversation with me, and I invited him to my house for the purpose. In the course of this interview he asked me "whether I could be content to vegetate or moulder in that damned Government," meaning the Government of Louisiana. I expressed my satisfaction with the situation, observing that "I was making arrangements to retire to private life; that I was tired of the erratic life I had long led, and that the delicate situation of my wife, to whom I owed more than I could render, made it necessary." After some pause, he asked me if my energies and enterprise were lost or dead; to which I

replied, that my energies and enterprise had profited me through life little else than to expose me to perils and hardships. He then observed, but suppose some grand enterprise should present which would lead direct to fame and fortune. To this I replied, with indifference at first, remarking that I had been so long looking in vain for something of the kind, that I had given up the expectation; but added, after a short pause, that, if the Government should think proper to direct any thing of the kind, he would not find that my energies or enterprise were lost. Surely, replied he, under the authority of the Government, and naming a minister, asked me if an order from him would satisfy me; to which I answered, that an order from any minister was obligatory on me, as they were all organs of the Presidential will. Will! said he, such a measure has been thought of, but it is unnecessary to go into the details of a project which may never be carried into effect; and I replied, that I had no curiosity to hear; and here you have as much of his designs as I possessed.

It has been observed that I have said I had no idea of any project of Colonel Burr before the receipt of his letter by Swartwout. This I deny. I have said I had no idea of any illicit design, such as would subject him to legal penalty or legal obstruction. Between the period of Mr. Burr's leaving St. Louis, and May, 1806, I received six letters from him; I have said that those letters blended matters political with matters personal. I have considered those letters confidential; they were so received, and I will not expose them, but in the last extremity, without Colonel Burr's permission; but if I have that permission, I will do it now; I have asked it, and do again ask it. Those letters were of an ambiguous aspect, speaking of some enterprise without designating any, and were calculated to inculcate me, should they be exposed. I have said I made a communication to a public minister, the Secretary of the Navy, to the following effect: "Burr is about something, but whether internal or external I cannot discover." It has been made a question how I could, feeling the friendship I professed for Colonel Burr, make such a communication when unapprized of any criminal intention; and I reply, that I justify it from a sense of public duty, paramount to all other obligations; from the consciousness that, if Mr. Burr intended no harm, the communication could do him none, as it was confidential; and on the ground of self-security against events.

I had formed several opinions of Mr. Burr's views; sometimes I thought them chimerical; and the most definite idea I had ever attached to them was that he had formed some connexion with the British Government; that he was to operate with an expedition by the Gulf against the Mexican provinces; and that the United States were, in case of a war, which was every where expected, to co-operate by the Mississippi. I recollect well this impression, from the circumstance of my having mentioned to several persons, that if they would show me the embarkation of an army in England, equipped for a southern climate, I would tell them we would have a war with the Spanish provinces; and from this impression my idea respecting Miranda's taking the bread out of his mouth must have sprung. I beg it may be remembered at this time, that Colonel Burr descended from the vice presidential chair with great *eclat*, and I did believe he was not only reascending in the public confidence, but in the confidence of the Executive; and, for these reasons, his step-son, Judge Prevost, had been appointed district judge to the Territory of Orleans. The republican body of the Senate had addressed Governor Bloomfield to enter a *nolle prosequi* on his behalf, in a case of great hardship and delicacy. The Senate had addressed him in the most flattering terms; and Dr. Browne, the gentleman who had married his wife's sister, had been appointed (solely on the recommendation of Colonel Burr) Secretary to the Territory of which I had been appointed Governor.

Frequent reference has been made to the letter said to be post-marked 13th of May. I have said I do not recollect whether I wrote Colonel Burr such a letter or not, and, of course, I can have no recollection of the contents; but I have said I believed I had written him three letters after he had left St. Louis, and this was my idea; but I recollect no particulars except the expression relating to Miranda, though I recollect perfectly the motives with which I did write him. I now find, from his letter of the 16th of April, that he had received no letter from me after October or November, 1805; and, therefore, I conclude I wrote him but two letters from the period he left me at St. Louis to the present day. I again required that the letter imputed to me, "post-marked 13th of May," should be produced. I think it was in the letter I wrote in October or November, 1805, that I make mention of Miranda; and I now believe it was after the receipt of a letter from him, of the 24th of December, 1805, that I warned the Secretary of the Navy against him. It has been said by one of the grand jury, that I declared I had employed language in my notes or letters to draw from Colonel Burr his real objects, that I might, in case they were commendable, partake of them; and if otherwise, report him to the Government. I acknowledge the first motive, but I do not recollect the alternative. If his plans had been vicious, I should have done my duty; if they had been innocent, I should not have reported him. I find, by reference to my correspondence, that I received no orders to leave St. Louis until the 11th of June, 1806; the troops had sailed the 8th of May, and I was left to exercise the functions of civil Governor, God knows without an idea of leaving the country, until the order arrived; and the much talked-of letter bears "post-mark 13th May," a month before I received my orders.

*Mr. Hay.* Will you state what passed between yourself and Major Bruff, when he descended the river to meet you on your approach to St. Louis?

Answer. I will. But I can state before you, sir, (addressing the judge,) and before God, (turning up his eyes to Heaven, and placing his hands on his heart,) that his whole narrative is either a vile fabrication, or a distortion of facts; and I will show why this man, above all others in the world, should not be in my confidence. On my arrival at Fort Massac, I met a number of officers under orders to attend a general court-martial at New Orleans, among whom was Capt. Stoddart, who had taken possession of Louisiana on the part of the United States, and preceded Major Bruff in the command of St. Louis, and had acted as civil commandant of the country, until he had been superseded by the appointment of Governor Harrison, who had acted as Governor of Indiana, and also of Louisiana, until I was appointed to that Territory. In the course of my inquiries of Capt. Stoddart, relative to the state of the Territory, he informed me that Major Bruff had, by his conduct, made himself very unpopular with the inhabitants. In ascending the Mississippi, I halted at Kaskaskias, where I received a letter from Governor Harrison, by the hands of a Mr. Wallace, or a Captain Prince, who were in company; of which letter I hold an extract in my hand. [The reading of this extract was opposed by the counsel of Col. Burr. The *Chief Justice* declared that General Wilkinson might either read the extract, or state its contents. General Wilkinson read the extract.\*] The letter is dated the 7th of June, 1805, and was received the 29th or 30th of the same month, and I met Major Bruff on the 3d of July. At the same place I received by a despatch boat an invitation to dine on the day of my arrival at St. Louis, with Mr. Augustus Chouteau, who, I understood, was the senior magistrate of the district, and as good a man as there is in that or any other country. As I approached St. Louis, I sent a light barge ahead, and requested Major Bruff to meet me, for he also had invited me to dine with him on the day of my

\*Extract of a letter from Gov. William Harrison to Gen. James Wilkinson.

"VINCENNES, June 7, 1805.

"Receive, I pray you, no impressions relative to the people of St. Louis, from Major Bruff, for reasons that I will hereafter explain. The bare idea of his being in your confidence would frighten some of them out of their senses."

arrival. Knowing the jealousy of his disposition, and being desirous to conciliate and prevent exception, I wished to explain to him my motives for giving a preference to Mr. Chouteau's invitation; which I did when we met, by stating to him that, approaching the Territory in my capacity of Governor, the first respect was due to the civil magistrate; that I gave Mr. Chouteau the preference on this ground, and hoped he would excuse it. I met Major Bruff on the beach, under a steep bank. I did not take him into the woods, nor had I any conversation with him of the import he has stated. We ascended the river about a mile, and were hailed from the shore. The boats landed, and I was met, I think, by three gentlemen—Mr. Augustus Chouteau, Mr. Anthony Soulard, and Mr. Charles Gratiot, who were introduced to me on board my barge, and invited me to land and take horse to St. Louis, to which I consented; and, debarking, I was received by a troop consisting of fifty or sixty dragoons, commanded by Capt. P. Chouteau, the brother of Mr. A. Chouteau. These, I presume, were the Frenchmen who hunted us up in the woods. I mounted a horse which had been provided for me, and was escorted to St. Louis. These are the facts, so far as they relate to the interview with Major Bruff. I dined with Mr. Chouteau, but found that Major Bruff had anticipated Mr. Chouteau, and had engaged every officer to dine with him. I was left alone.

*Mr. Hay.* Had you those other conversations mentioned by Major Bruff, in which he states you to have been ruminating about a grand project, which was to make the fortunes of all concerned?

Answer. It is impossible for me to say what conversations I had with the officers of the garrison, especially the one whom I found in command; but from the circumstances already stated, it is impossible I could have had those conversations with Major Bruff, mentioned by him. The major, in order to substantiate his tale, has affected an air of mystery, and his imagination has furnished the scenery; for this purpose, he takes me into the woods, has us hunted up by Frenchmen, then locks a door where there was no lock, it being fastened by hooks and staples; nor was it necessary to shut it at all, as the ordinary guard at head-quarters gave two sentinels for its protection. This locking of the door betrayed some concert; for I well remember that, a few days ago, one of the counsel of Col. Burr, (Mr. Martin,) demanded of me, emphatically, whether I did not recollect being locked up in a room with a gentleman, and having a long conversation with him.

Question. Did you ever select Major Bruff for the purpose of making confidential communications, or state to him any thing about the prospect of making fortunes?

Answer. No, never.

*Col. Burr.* Are you acquainted with a Mr. Bon Ami, a magistrate of New Orleans?

Answer. I have no recollection of any person of that name.

*Mr. Wickham* called for the production of the original letter of Governor Harrison to General Wilkinson, from which an extract had been read. The counsel of Colonel Burr contended, that as an extract had been read from it, they had a right to the whole letter, as the best evidence. They were answered by the counsel for the United States, that there was not a word in the letter which had any relation to Major Bruff, except the paragraph which had been read; and that the letter was entirely private and confidential.

After some further debate, the *Chief Justice* declared, that he felt great repugnance at the idea of producing the letter, as it was entirely private and confidential, and he was certain that neither the letter nor the extract could be evidence in the cause; but it was a rule of law, that when an extract was read, the whole paper must be read if demanded. In the present case, the whole letter must be produced, or the extract be withdrawn.

*Mr. Hay* remarked that General Wilkinson had been drawn into the production of the extract by the opinion of the court.

*General Wilkinson* addressed the judge, and declared that he had produced the extract by his permission, and that without that permission he would not have produced it; that he held the letter sacredly confidential, and would go to jail rather than produce it.

The *Chief Justice* directed that the extract should be withdrawn, and requested all those who took notes of the proceedings would erase every thing which had been said about the letter or the extract.

*Mr. Martin* hoped they would erase the impression from the public mind.

*Mr. Wickham.* You have said something about dining; did you not write to Major Bruff, from Kaskaskias, excusing yourself for not dining with him?

Answer. I cannot recollect.

*Mr. Wickham.* Are you certain that the door had no lock?

Answer. I have my clerk here, who can prove that it had no lock; it was fastened with hooks and bolts, after the French manner.

*Mr. Wickham.* Do you recollect what gentlemen went down in the barge with Major Bruff?

Answer. I cannot.

*Mr. Wickham.* Do you recollect whether Mr. Gratiot came with him?

Answer. I have said that Mr. Gratiot, Mr. Chouteau, and Mr. Soulard, met me; but whether they came with Major Bruff, I cannot say.

*Mr. Wickham.* Will you say whether you first met Mr. Chouteau and Mr. Soulard in the woods?

Answer. I have already stated the circumstance of their going out of the boat with me, and accompanying me to St. Louis.

*Major Bruff was called in and cross-examined by the prosecution.*

*Mr. Hay.* I think you said that you had taken up some impressions of General Wilkinson's connexion with Colonel Burr, previous to his arrival at St. Louis?

Answer. I had.

Question. Do you recollect having any conversation with an officer, stating that your reasons for writing General Wilkinson to dine with you, were on account of the injuries which had been done to his character?

Answer. No, but I have argued that the cropping order was perfectly a military one, and that he had a right to issue it; but I said nothing of his moral character. Nor have I justified his prosecution of Colonel Butler. I have also said that he had some good military notions, though I do not know how, or in what service he acquired them.

Question. Do you recollect having any conversation with General Wilkinson in presence of Colonel Cushing?

Witness. What conversation do you allude to?

*Mr. Hay.* Had there been a coldness between you long anterior to the arrival of General Wilkinson?

Answer. Yes, I had long been persecuted by the general, but wished to bury the hatchet. I had been confined to a garrison without the liberty of going out of it, except by the permission of a superior officer, who was posted three hundred miles distant. Here is a postscript to a letter which proves an order to that effect from General Wilkinson. (See note D.)

*Mr. Martin.* Where did this superior officer live?



Answer. At Norfolk, and I was stationed about thirty miles from Wilmington, in North Carolina.

*Mr. McRae.* What was your construction of that order; is it possible that you could take it literally, and suppose that you were to be constantly confined within the walls of the garrison?

Answer. The order shows the intention; but the place had no walls; it was therefore nugatory; yet I considered the intention to confine me to the spot, nor did I leave it till I had permission. General Wilkinson ought to have known the situation, but it appeared he did not. I wrote to the Secretary of War, or Colonel Burbeck, from whom I received orders that admitted of my occasionally leaving the works and place.

*Mr. Hay.* Will you state whether General Wilkinson wrote to you to purchase some land?

Answer. I have a letter here, of the 5th April, 1805, which speaks of that subject. (See letter A. page 577.)

Question. When did General Wilkinson speak to you about his intention to quit the army and retire to private life?

Answer. I have had a number of conversations with General Wilkinson, and, in my evidence, I have endeavored to throw them into as much order as possible; but it is difficult to state any precise time when he mentioned to me that subject.

Question. Was it at St. Louis?

Answer. Yes, but the letter before mentioned gives a full explanation of his intention.

Question. Did he continue in this style of conversation after his arrival at St. Louis?

Answer. He did.

Question. But your suspicions still continued of his connexions with Colonel Burr?

Answer. I have stated that my suspicions arose from two paragraphs in two separate Kentucky papers.

*Mr. Hay.* You stated in your evidence the other day that you made a communication to the Secretary of War, and said to him that you could prove General Wilkinson's connexion with Colonel Burr. Will you state why you said so?

Answer. In one of my conversations I named witnesses who, I believed, could prove it, and insisted it was susceptible of proof. I not only thought so then, but think so still; and shall make it my duty to collect and exhibit proofs.

*Mr. McRae.* Did you say that General Wilkinson's having dined with Mr. Chouteau filled you with indignation?

Answer. I have said that I thought it an indignity offered me, and it was so thought by the officers. But let me here say, that General Wilkinson having denied our interviews in the woods and rooms are incorrect, and I can completely prove it on my return to St. Louis.

Question. Did you not recommend Cold Water as a suitable spot for a cantonment?

Answer. While General Wilkinson was at Washington I received several letters from him, in one of which he stated that a cantonment was wanting for five hundred men. He directed me to select a spot near Cahokia. He described the kind of position he wished. I reported several situations answering his instructions, but I do not recollect that I mentioned Cold Water among them; although I had viewed it, and thought it offered a good military position, (but not in the bottom;) which the general fixed on; nor did I conceive it was contemplated to have a cantonment in the midst of the settlements.

*Mr. McRae.* Were you not in treaty for it yourself?

Answer. I was. I wanted it for a farm and mill-seat, and not for a military post.

Question. Do you know whether that place is occupied as a military post, or used merely for the convenience of the soldiers while stationed there?

Answer. I think it a very unmilitary position. The troops were posted in a thick wood, which they had to cut down, dig up the roots, and grub up the bushes, for a parade. It may hereafter make a good meadow or field, when they are ordered on.

Question. Is there a factory there? Answer. Yes.

Question. Good water?

Answer. There is a good spring and a handsome marsh next to the second bank. There is also a commanding situation for a cantonment within the purchase, but not at that spot.

Question. Are you certain that there was a good understanding between General Wilkinson, Colonel Burr, and Judge Easton?

Answer. I believe there was. Easton often visited him, and endeavored to reconcile us after we fell out; and the general has sometimes read to me paragraphs from letters he had received from Colonel Burr, about the probability of a war with Spain, and a change of politics in the United States. He also read others from Dayton, and John Smith of Ohio, &c.

Question. Have you any reason to believe there was an intimacy between General Wilkinson and Judge Easton?

Answer. I have said I believed there was; Easton has told me so.

Question. Have you any other reason?

Answer. Easton was almost every day with the general.

Question. At what period?

Answer. On General Wilkinson's arrival, previous to the 4th of July, and for some time after, Easton was frequently in the general's office, and spoke of him in the highest terms.

Question. Was there any intimacy previous to the general's arrival?

Answer. I never saw them together previous to the general's arrival.

Question. Did Major Kibby reside on the frontiers previous to the arrival of General Wilkinson?

Answer. I believe he did. I have seen him, and understood he lived near St. Charles; I esteemed him as a man of honor, whose word and oath would be taken where, perhaps, General Wilkinson's would be shaken.

Question. When Major Kibby made the deposition which has been mentioned, was it not reported and believed that Lieutenant Pike and his party had been destroyed?

Answer. I cannot tell when he made the deposition.

Question. When you first heard of the deposition, was it not reported that Pike and his party were killed?

Answer. On recollection, I think I have seen an account in some newspapers of their having been destroyed; but the only report which I deemed correct was, that they were taken by the Spaniards, and conducted to Santa Fé.

Question. Did not Major Kibby quit our Government, and become a subject of the King of Spain?

Answer. That is my presumption. I found him in that Territory when I arrived there; but as I did not review the possession, it is mere conjecture.

Question. When Judge Easton mentioned to you that Colonel Burr had made him certain proposals, did he speak of any particular newspaper?

Answer. Not that I recollect.



Question. You have said there once seemed to be a good understanding between General Wilkinson and Burr; why would Burr apply through Easton for a man of enterprise, and not immediately to General Wilkinson himself?

Answer. The colonel can best answer this question; but if I may be allowed to conjecture, it was because the general had tried me before, and found I was too much of a democrat to be made a traitor of.

Question. But will you say how Burr came to apply to Easton?

Answer. You had better ask Colonel Burr that question; he may answer it.

Question. Were you and General Wilkinson about that time at variance?

Answer. Yes. He had before reprimanded me about the freedom with which I spoke of his military position at Cold Water, *measures* and *plans*.

Question. Did Easton know it?

Answer. I presume he did.

Question. You said that you had informed some of the heads of Departments that Judge Easton could prove General Wilkinson to be the projector of Miranda's expedition; will you state when you gave that information?

Answer. In March last.

Question. When did you first obtain it?

Answer. Just before I left St. Louis, in November last.

Mr. *McRae*. Then you received it in November, and communicated it in March?

Major *Bruff*. I left St. Louis in November for the seat of the General Government, but was detained on the way, so that I did not arrive till about the last of February.

Mr. *McRae*. Did I understand you that in August, 1805, you suspected an improper connexion between Burr and Wilkinson?

Answer. I have said that the first hint I had was from two paragraphs in two separate newspapers. This was afterwards strengthened by the information of Captain Stoddart, of Burr's being at Fort Massac, and the attempt of General Wilkinson to sound me.

Question. I speak of the time when the impressions were formed. Did that suspicion exist in August, 1805?

Answer. Yes, that they were connected in some plan.

Question. Believing as you did, why did you not communicate your suspicions to some of the officers of the Government?

Answer. I do not always communicate my suspicions; I was waiting for acts; my letters will show the nature of the communications I made. I have a copy of one with me.

Question. When is the first letter dated which communicates those hints?

Answer. The one I have with me is dated the 8th of January, 1806.

Mr. *McRae*. Did you state in that letter all the various circumstances you have mentioned; such as General Wilkinson's taking you into the bushes, your being surprised by a party of Frenchmen, and his having mentioned to you the plan of a grand project, by which all concerned were to make their fortunes?

Major *Bruff*. What will be the consequence if I read a part of that letter; will the letter itself be demanded?

Chief *Justice*. Certainly; but you may state from recollection.

Mr. *Hay*. You said that it was your intention to state *facts*; and I wish to know whether these facts were stated. Now here are important facts.

Major *Bruff*. Hints were thrown out in the letter of the 8th of January, 1806; but nothing communicated till March, 1807, that can be regarded as a statement of facts. I however think I had given hints before, but have not the letters with me to refresh my memory, nor can I read what I intended as hints, from the one I have with me.

Mr. *Hay*. I assure you that I shall not call for it if you say it is a confidential letter.

Major *Bruff*. Then I will say, generally, that I did give hints about which I expected the Secretary of War would have called for explanations, and demanded proofs. I also made a communication to Captain Lewis immediately after his return, and related to him the conversations which had passed between Judge Easton and myself.

Question. What Captain Lewis; the one who explored the waters of the Missouri and Columbia rivers, and the western part of the continent, as far as the Pacific Ocean? Answer. The same.

Mr. *Hay*. But did you tell him of the conversations which had passed between General Wilkinson and yourself? did you inform him that General Wilkinson had mentioned to you the grand expedition?

Answer. I believe that I hinted something of that nature.

Mr. *McRae*. Will you say whether you made a disclosure to the Secretary of War before the 8th of January, 1806?

Answer. I have said, over and over, that I believe I had hinted suspicions of Wilkinson's measures in previous letters, but have not those letters with me. I did think that Wilkinson and Burr were connected and acting in concert; and under this impression remained in that country till 15th November, 1806, in order to counteract and oppose their attempts, and pull down their standard.

Mr. *McRae*. Did you write prior to the 8th January, 1806?

Answer. I was in the habit of writing to Joseph H. Nicholson and other public characters.

Question. Had you written letters to them injuriously to General Wilkinson before the 8th of January, 1806?

Answer. My letters detailed Wilkinson's measures, which I considered suspicious and hostile to the interests of the United States and of Louisiana. I also stated that General Wilkinson appeared to consider me as a spy on his conduct, and had deprived me of all command and intercourse with the troops, and had prejudiced the officers against me.

Question. But had you written to any of the heads of Departments prior to the 8th January, 1806?

Answer. How often will you ask me this question? I have repeated, over and over, that I have not the correspondence with me; what do you wish me to say? I will repeat that my impressions are, that I gave the Government hints before that time that General Wilkinson's conduct was suspicious.

Mr. *Hay*. Did you think it was incumbent on you to state to the Secretary of War your suspicions of the patriotism of General Wilkinson, if they had been well founded, and your ideas of the views of Colonel Burr?

Answer. I was waiting for something unequivocal; I expected it to happen every day.

Mr. *McRae*. Did you say the other day that the Secretary of War had declared that General Wilkinson would be supported by the Government?

Answer. I did; the Secretary of War appeared angry, and frowned when I denounced Wilkinson, and said he must and would be supported.

Question. At what time did Judge Easton leave the Territory for the seat of Government?

Answer. I think in November, 1805.

Mr. *McRae*. Did you not give Easton special letters of introduction to your friends?

Answer. I believe I did; or, if I did not, I ought to have done so. He was then denouncing Burr and Wilkinson.

Question. Was that after you suspected him of treasonable designs?

Answer. It was after he mentioned the treasonable designs of Burr and Wilkinson.

Question. Did you not write to your friends particularly recommending Easton?

Answer. I wrote to Mr. Robert Wright and General Samuel Smith, as to the state of the Territory; and that Judge Easton was persecuted by Wilkinson, and was united with us to penetrate and defeat their designs.

Question. As far back as November, 1805, was there a public denunciation?

Answer. I gave the conversations with Judge Easton the day before yesterday.

Question. When did Judge Easton swindle you?

Answer. My information was long since that conversation.

Question. Are you on terms of intimacy with him now?

Answer. No; at variance. We have an arbitration depending.

#### *Evidence of Captain Edward Pendleton Gaines.*

*Mr. McRae.* We wish Captain Gaines to state the conversations of Major Bruff as he came on to this place in the stage.

*Captain Gaines.* Some time in the beginning of August, I passed in the mail stage from Alexandria to this place; and a little after daylight of the first morning after we had left Alexandria, I found Major Bruff and Lieutenant Swearingen were passengers. They got into conversation about Burr's trial. I paid very little attention to it; for, indeed, I did not calculate on its ever being noticed again; but my curiosity was at length excited by his saying that he was informed by Luther Martin, of Baltimore, that a subpoena was out for him; and, hearing of it, he had come on voluntarily for the purpose of giving evidence against General Wilkinson. I remarked to him that as he had volunteered his services, it was presumable he had something of importance to communicate, and inquired what it was. He mentioned several things which he has already stated to the court; and, among others, a communication from Judge Easton, in which he (Easton) observed that he had written a letter to a member of Congress, offering to prove General Wilkinson to be the projector of Miranda's expedition. This appearing to be the principal evidence which he had to offer against General Wilkinson, I expressed my surprise that he should come for that purpose, as it could not be considered legal evidence. It appeared to me, from the whole tenor of his conversation, that he considered himself injured by General Wilkinson, and spoke particularly of his arrest. He stated that General Wilkinson had done him a considerable injury; and that the communications which he had now to make would bear very heavily on the general, or would do him as great an injury.

*Mr. Hay.* Do you recollect any particular expressions?

Answer. The substance of the conversation was, as I have already detailed it, that General Wilkinson had done him a serious injury in the case before the court-martial, and now he would have it in his power to give evidence which would bear hard upon the general, or do him as serious an injury.

#### *Evidence of Captain Daniel Bissel.*

*Mr. McRae.* It will be recollected that Captain Bissel was a member of the court-martial which sat on the trial of Major Bruff, and has been partly examined. We wish now to ask some further information from him.

*Mr. McRae* (to Captain Bissel.) Was the court unanimous in the sentence passed upon Major Bruff?

Answer. There was a legal majority in favor of the sentence; some were for one more severe, but none for a milder one.

Question. What was the character of Major Bruff among his brother officers and the people at large?

Answer. I have been but little acquainted with Major Bruff. I had received letters from him and written in answer on public business, before I became personally acquainted with him. On my return to St. Louis in 1805, I found Major Bruff in great disrepute among his brother officers. He had been charged with being a partisan, and with having excited jealousies among the officers. He did not visit General Wilkinson; and a great many things were said of him, but I did not inquire into the particulars. I had never spoken to General Wilkinson about him, but made inquiries of Captain Richmond and many others, and found that they united in an opinion very unfavorable to the major.

Question. What is your opinion of the cantonment of Cold Water, as to the healthiness and the convenience of wood and water?

Answer. There is a great abundance of wood, and the best water in that part of the country. The cantonment is on the first bank, in a sandy and dry situation. It is not a commanding situation, because a hill runs parallel with the river, about half a mile distant from the cantonment. I was informed by my brother, Captain Russel Bissel, who was for some time stationed there, that the troops were very healthy. They were very healthy when I was there on the court-martial, and have been reputed to be very healthy ever since.

Question. Was that situation chosen for a place of rendezvous, or a permanent position?

Answer. I cannot say what was the object of the station; it is very convenient as a place of rendezvous, and also for the collection and transportation of provisions and military stores.

Question. What is the general character of Judge Easton?

Answer. I have generally understood he bore an infamous character.

Question. Did Major Bruff give Judge Easton a room in the quarters furnished by the public to Major Bruff?

Answer. That I know nothing of.

*Mr. Martin.* Is that the Judge Easton who was commissioned by Mr. Jefferson?

Answer. I suppose so.

*Mr. McRae.* Did General Wilkinson furnish a barge to Colonel Burr when he left St. Louis?

Answer. The barge and men which Colonel Burr had were furnished by myself; I received no orders from General Wilkinson on the subject. It was my own private barge, and the men belonged to my company, who were going down the river on public duty about the same time. It was an accommodation to Colonel Burr, and no injury to myself. General Wilkinson never gave me either verbal or written orders, to my recollection, to furnish a barge and men to Colonel Burr.

*Mr. Randolph.* I am requested to ask you, whether, on the court-martial for the trial of Major Bruff, General Wilkinson was not a witness against him? and whether Major Bruff did not put a question to him about the conversation in the woods below Carondelet?

Answer. I have no recollection of any such question; the affair lasted very long, and a number of questions were asked which I cannot possibly recollect.

Question. During the court-martial, did not the officers invite Major Bruff to dine with them?

Answer. I recollect having dined with him at two places; perhaps more.

Question. Do you recollect General Wilkinson saying, in answer to some question, that he did not keep a memorandum of small conversations?

Answer. I recollect such an answer of General Wilkinson, but I do not recollect the question.

*Major Bruff.* As my character has been brought in question, I beg leave to submit extracts of several letters from the general himself, who ought to know more of me than any other officer present. [Here Major Bruff read the extracts marked E, F, G, and H.] The proceedings of the court-martial have been furnished me, and, among the documents, is note of 3d of October, 1805, which he read.

*Mr. McRae.* Did you return an answer to that note?

Answer. I had an interview with the general. [Major Bruff here read an extract of a letter from General Wilkinson of the 4th of August, 1797, (G,) and another, shortly after the death of General Wayne, stricturing the character of that officer, dated June 18, 1797.

*Evidence of Lieutenant Clarence Mulford.*

*Mr. McRae.* Are you well acquainted with Major Bruff?

Answer. I served under him.

Question. What was his general character?

Answer. That is a very delicate question. Unfortunately for Major Bruff he had not many friends either among the citizens or officers.

*Chief Justice.* What was the character of Major Bruff as a man of truth?

Answer. I never heard it called in question.

*Mr. McRae.* What was his general character, before the arrival of General Wilkinson, as a man of integrity and truth? I say his *general* character, for I never will inquire as to every particular act of a man's life.

Answer. I cannot say. I do not know how he was esteemed as a man of integrity and truth; I never heard it impeached, but think the general had more friends than he. I know that he was not liked as the commandant of the post.

Question. What kind of a position is Cold Water? is it a desirable one?

Answer. I thought it the most desirable one I ever saw, as to healthiness, wood, water, and the convenience with which provisions and military stores might be collected.

Question. Were you placed there for the accommodation of the troops, as for any military operations?

Answer. That place was selected for a cantonment, and for that purpose it is the most eligible I ever saw.

Question. What is Judge Easton's general character?

Answer. It is not good.

Question. Did Major Bruff accommodate Judge Easton with quarters in the garrison, which had been furnished to the major by the public?

Answer. He did. When I speak of Major Bruff as not a good commandant of a post, I mean as to his not agreeing with the officers. As to his military skill, I say naught.

Colonel HENRY GAITHER was called in and interrogated as to the character and conduct of Major Bruff during the revolutionary war.

*Colonel Gaither.* As to Major Bruff's standing in the continental service, he was very young when he entered into it; he was a very active, brave, enterprising officer; he was sundry times badly wounded, and, as soon as he was able, always returned to duty; he stood very high among the officers.

*Mr. Martin.* Was his reputation high among the officers?

Answer. He stood high with the officers of the higher grades, particularly with General Otho H. Williams, Colonel Smith, and the rest of the field officers.

Question. As to his character in private life?

Answer. I frequently met with him in the Society of Cincinnati, and have long known him in private life, and never heard any thing illegal against him. His character, as far as I have ever known or heard, has always stood fair.

*Major Bruff.* I was never arrested nor even reprimanded during the whole course of the revolutionary war, and services since; but, on the contrary, have had many flattering things said to and of me throughout my military life, till General Wilkinson differed with me. Captain Richmond, the officer who signed the charges and solicited my arrest, I considered as my friend; he was at my house almost every day before the troops moved to Cold Water, and on terms of intimacy, until the moment of my arrest. As to any disagreement with the officers of the garrison at St. Louis, I had none, except about duty. When I arrived, the garrison was in the most wretched order; not an officer understood the manual of artillery exercise; they did not even know how to post the men to the pieces, or the priming and loading motions. I, therefore, kept the officers to close duty, and it was for that cause, if any, that they complained and were dissatisfied; the inhabitants noticed and applauded the difference in the police and appearance of the men. Respecting the French, I had no personal difference with any one of them, or did I even injure any in their person or property; if I was unpopular with them, it must have arisen from loose observations I may have made about antedated concessions and surveys that took in the public fraudulent grants works. The judges, military commandants, and lawyers, except Donaldson, were opposed to the general's measures, and friendly to me; and the bar volunteered their services in my court-martial, and the principal part of the Americans were on my side of the question; but I did not visit the cantonment, and, on being upbraided with my unsocial disposition on that account, I observed that they did not want democrats there, alluding to General Wilkinson's arrangements to keep me from it, and mixing with the officers.

*Lieutenant Mulford,* being asked whether the majority of the people were friends to Major Bruff or General Wilkinson, observed: I fully believe that by far the greater part of the people, both French and Americans, were the friends of General Wilkinson.

*Major Bruff* replied that the President of the United States was the best judge of that. The only instance in which we tried our strength was in a petition respecting the removal of General Wilkinson from that Government, and the appointment of his successor.

D.

*Extract of a letter from General Wilkinson, dated*

HEAD-QUARTERS, WASHINGTON CITY, October 15, 1806.

Your residence will necessarily be within the walls of the place, and you will not absent yourself from it, without permission from your superior officer, who, under such indulgence, must be responsible for consequences.

JAMES WILKINSON.

Captain BRUFF.

E.

*Extract of a letter from General James Wilkinson, dated*

DETROIT, August 4, 1797.

Your ideas touching the association of talents and duty are familiar to me, and will always have influence on my conduct; and, from the specimens of your intelligence which have fallen under my observation, it is but justice for me to declare that I take pride in such an officer, and that I shall feel pleasure in serving and obliging the man.

With much consideration, I am, respectfully, sir,  
Your most obedient servant,

JAMES WILKINSON.

Captain BRUFF.

F.

*Extract of a letter from General Wilkinson, dated*

HEAD-QUARTERS, FORT WAYNE, June 18, 1797.

The neglects of which you complain, and which I make no doubt are well-founded, are by no means partial. The condition of that part of the army, stationed in this quarter, is truly deplorable, and, at this moment, presents a frightful picture to the scientific soldier; ignorance and licentiousness have been fostered, while intelligence and virtue have been persecuted and exiled; the consequences were that factions have been generated to sanction enormity, and it followed that all ideas of system, economy, order, subordination, and discipline were banished, and that disorder, vice, absurdity, and abuse infected every member of the *corps militaire*. To clear this Augean stable of anarchy and confusion; to extract order from chaos; to incorporate the shattered parts of companies and of regiments, and to attach responsibility to its proper subjects, have employed my days and my nights for two months, and my work is not yet half finished; though, with the zealous co-operation of the intelligent and honorable part of my officers, I despair not of the final result.

I am, sir, your most obedient servant,

JAMES WILKINSON.

Captain BRUFF.

G.

Your request for personal accommodation, so far as it depends on me, shall be strictly respected; for I find no pleasure in life equal to that of serving an old meritorious soldier of the revolution.

H.

It is necessary that you should descend the river, and take the temporary command of Fort Adams, on special service, which has strong claims to your skill and experience.

SIR:

WAR DEPARTMENT, March 18, 1807.

Your letter of the 17th instant has been received. It is with regret that I find myself compelled, by the principles established in this Department, as well as by a sense of official duty, to accept your resignation; and it is hereby accordingly accepted, to take effect on the 30th of June next; in the mean time, you are at liberty to attend to your private affairs. That the remainder of your life, a great part of which you have spent in the service of your country, may be as happy as the lot of humanity admits, is my sincere wish.

I am, very respectfully, sir, your obedient servant,

H. DEARBORN.

Major JAMES BRUFF.

## EVIDENCE FURNISHED BY THE DISTRICT ATTORNEY.

*Witnesses on behalf of the accused.*

FRIDAY, October 2.

LITTLETON W. TAZEWELL was called to be sworn as a witness on the part of the accused.

I wish, before I am sworn, that the point should be determined by the court, whether, as a grand juror, I am bound to give evidence of what passed in the grand jury room. I do not wish that the community or the grand jury should lose any right they may have, by any acquiescence of mine, if by law a grand jurymen ought not to be called upon to state what happened before the grand jury. I submit myself to the court, and will act according to its judgment.

*Chief Justice.* There is no doubt but it would be improper for a grand juror to be examined to establish facts as founded on the evidence given before a grand jury, because the statements sworn to before them are only *ex parte*: but as to what a witness now called upon did say before the grand jury, evidence may be given by any grand jurymen to prove the consistency or inconsistency of the witness. As an individual, I cannot say but I approve of the original policy of the law, which prescribed in the oath of grand jurymen a clause of secrecy; but when the Legislature of my country have changed that law, and struck out of the oath what relates to secrecy, it proves to me that the Legislature think differently.

*Mr. Hay.* This circumstance has weight: I thought that we could not come to this question to-day, but it involves the most serious consequences. The grand jurymen is called to establish some change between the statement of General Wilkinson before the grand jury, and his statement made known in court. The court ought to hesitate before they admit such testimony. I have been told that the reason which induced the Legislature to make the alteration in the oath of grand jurymen was this: all presentments were to be made on the knowledge of two of their own body, (or on other legal evidence,) and as their oath required that they should keep secrecy, it was often impossible for the attorneys who prosecuted for the commonwealth to prosecute with effect, as they could not

know the names of the witnesses, and to remove this obstacle to public justice, the clause of secrecy was stricken out. If the opinion of the court be not decisively made up, I should wish to have an opportunity of reflecting on the subject, and showing that this evidence ought not to be admitted.

*Mr. Wickham* observed, that the Legislature had no doubt well weighed the policy of the clause requiring secrecy, and had determined against it; that there was no reason why they could and should not adhere to this legislative alteration; and that, as to a witness, any thing he had said any where might be given in evidence against him, to show his inconsistency.

*Mr. Martin.* A grand jurymen can, like any other man, prove facts known to himself, independently of what the witnesses proved before the grand jury.

*Mr. Hay* said that *Mr. Martin* did not understand him; and explained further that *Mr. Henning* had informed him that the Legislature were induced to make the alteration in the oath for the reasons already stated.

*Mr. Martin* observed, that the only reason that justified the grand jury's oath of secrecy was to prevent offenders against the laws from getting information of inquiries made against them and escaping; that this held no longer after the grand jury had been discharged; that while the grand jury were deliberating, it was proper to keep these proceedings secret; and that those against whom presentments were to be made should not have notice to make their escape; but that to prevent grand jurors from giving evidence after they are dispersed, was to lay the foundation for the most atrocious and most infamous perjuries; that any man might go before the grand jury and charge another who was innocent with the most intriguous and enormous crimes in the world, and have him arrested and confined, and yet remain perfectly safe and secure from any punishment for his perjury.

*Chief Justice.* The question as to the policy or motive of the Legislature in changing the oath is different from the question before the court, which is, what is the legal effect of the change? The original policy required the oath; but as the Legislature have changed it, I cannot see how the inference can be avoided, that their opinion of the policy is altered.

*Mr. Wirt.* If it should be discovered that in the original institution secrecy was necessary, independently of the oath, the court would not then receive the testimony without the consent of both parties.

After some few desultory remarks relative to reserving their objection to *Mr. Tazewell's* testimony,

*Mr. Burr* said that gentlemen might submit to his testimony with a *protestando*.

The *Chief Justice* again stated that the original policy of the institution which presented the oath of secrecy being changed, the testimony, he supposed, must be heard; and

*Mr. Tazewell was sworn.*

*Mr. Burr.* Can you state the questions you put to General Wilkinson in the grand jury, and his answers?

*Mr. Tazewell.* It would be perfectly impossible to state them all, from the length of time he was under examination; but I have notes of the facts stated by him, from which and my memory I may be able to answer any questions which gentlemen may be pleased to ask.

*Mr. Burr.* State what you recollect about the formation of the cipher.

*Mr. Tazewell.* There are three kinds of ciphers. The original cipher was produced before the grand jury, in order to enable them to decipher the letter received from yourself, (addressing himself to Colonel Burr.) It is the alphabetical cipher, formed from an edition of Entick's Pocket Dictionary, now before the court; but as proper names occurred, the dictionary would not answer the purpose, and arbitrary marks were invented to represent them. The hieroglyphics were stated by General Wilkinson himself, without any interrogatory put to him, to have been devised by Captain Campbell Smith, in the year 1794; the dictionary, and arbitrary alphabet, and arbitrary signs for units, were designed in 1799 or 1800.

*Colonel Burr.* Were there any objections made as to these dates?

Answer. There were objections as to these dates in my own mind. The cipher was formed in 1794. On the face of the cipher these words occur, "*Canada, Louisiana, and New Orleans.*" It seemed to me a circumstance somewhat singular, that as early as the year 1794 ciphers relative to those countries should have been adopted, when probably no individual in this country had the acquisition of Louisiana in contemplation, as it was not purchased till some years afterwards. I asked him why he thought of a cipher expressive of that country at that time? He said that he could not explain the reason then, but that he would examine his papers and would tell us. The next day General Wilkinson, of his own accord, told us that the treaty with Spain about the free navigation of the Mississippi was formed about the year 1794. But he had correspondence on that subject, which was of great moment to the Western country; that in the year 1794 he was an officer in the army which marched near Canada against the Indians; and thus, therefore, part of the cipher had relation to Canada. He said that the cipher might have been formed in the year 1794, 1795, or 1796; but he believed in the year 1794. He was asked whether he could be more explicit as to the time, and he gave the same answers as he gave to-day in court.

Question. Did he assign any other reason why the cipher had relation to this country?

Answer. I do not recollect that he did, or whether we asked any further questions on that subject.

*Mr. Burr.* Did General Wilkinson say any thing about this letter to me?

Answer. It was a subject of great interest with the grand jury to understand the cipher and the contents of the ciphered letter; after deciphering it, it excited a strong wish in them to see the letter post-marked the 13th of May, referred to in it, as having been received from General Wilkinson, by you, in the course of the correspondence between you. That wish was strengthened by the testimony of *Mr. Swartwout*, who said that he had seen a letter from General Wilkinson to yourself; that it was partly in common writing, and partly in writing in cipher; and that the letter contained these words: "I am ready."

Questions were then put to General Wilkinson, whether he had written such a letter. He answered that his impression was, that he had written one, perhaps two or three letters; that he was not sure, but that his impression was, that he had written some letters. He was then interrogated as to the contents of those letters. He said he could not recollect them, but there was one expression which he wrote on that occasion which he did recollect; and his object in writing it was, to discover *Mr. Burr's* real designs; that expression was, "I fancy *Miranda* has taken the bread out of your mouth; and I shall be ready for the grand expedition before you are."

*Mr. Burr.* What motive did he assign for saying that *Miranda* would take the bread out of my mouth, and that he would be ready for the grand expedition before I would?

Answer. He said he had had an interview with you at St. Louis; in which you stated, that you had some great project in contemplation; but whether it was authorized by the Government or not, he did not explain, nor did you then inquire. He said that this was all the information he was possessed of, at that time, of your designs; that he was satisfied you had some great project in view; but had not expressed what that project was; that he was therefore anxious to extract from you your real designs; that the object of the correspondence was to develop those designs.

*Mr. Burr.* Did he assign any reasons for wishing to develop my designs?

Answer. I do not recollect that he did, or did not; but the avowed object was to communicate them to the Government.

*Mr. Wickham*, (holding in his hand a key to one of the ciphers.) Has there been any addition or alteration in this paper, since you saw it before the grand jury?

Answer. I will state my impressions, sir. I well recollect that this endorsement suggested one doubt to the grand jury: "I solemnly swear, that the numbers and hieroglyphics within, excepting those which denote the alphabet and the units, 'Burr' and 'Wilkinson,' were written by the late Captain Campbell Smith, in the year 1804, '5, or '6, then acting as my aid-de-camp." Mr. Randolph and myself had been both acquainted with Captain C. Smith, and supposed there was some mistake in this date. I recollect putting this question to General Wilkinson: "Do you think that this cipher could have been formed in 1804, '5, or '6, as Captain C. Smith must have been dead before that time?" The general, after some consideration, suggested that there must be a mistake in the date, and that "1794" was intended instead of 1804. I think, also, that the figures 1801, on the face of this paper, have been added since it was laid before the grand jury; I suppose that General Wilkinson's memory has become refreshed and more correct since his examination.

*Mr. Hay*. General Wilkinson was not interrogated *here* about this alteration.

*Mr. Tazewell*. General Wilkinson was asked whether this was an affidavit which he intended to swear to? He answered that there was a mistake specified in the endorsement, and that it ought to have been 1794, '5, and '6, as it is *now* put, instead of 1804, '5 and '6, (as it was then written.)

*Mr. Hay*. This endorsement is not in General Wilkinson's hand-writing.

*General Wilkinson*. It is in the hand of my clerk, Mr. Naw, who is here.

*Mr. Hay*. If Mr. Tazewell is here introduced merely to show these variations, why was not General Wilkinson himself interrogated about them? He could have himself explained them.

*Mr. Burr*. We have not heard of these variations before.

Question. Was not the year 1793 first mentioned as the date of the cipher?

Answer. I do not recollect.

*Mr. Baker*. Do you recollect, when it was represented to him that it was impossible a certain date could be correct, that he immediately changed it?

Answer. I am not certain.

*Mr. Burr*. Did you not understand that the motive of his holding a correspondence with me was to draw from me my views?

Answer. I am not certain that this was his language.

Question. Did you understand him to say that his object was to communicate my views to the Government?

Answer. Such, sir, is my impression. Indeed, this inference from his answers was so palpable, that I did not think it necessary to ask the question.

*General Wilkinson*. Do you recollect sir, of any stipulation or acknowledgment, before the grand jury, that what passed *there* was in confidence?

Answer. I have lately conversed with another grand jurymen, and I have now reason to believe that something of the kind did pass. You had the letter of the 12th November<sup>3</sup> in your hand. You read a part, and paused; you observed, that perhaps it was not proper to read the whole. Mr. Barbour then said, that certainly it should be received in confidence.

*Mr. Martin*. You ought not to have entered into any such engagement.

*Mr. Tazewell*. I beg you to understand, Mr. Martin, that I did not; but when I heard the letter, I thought it improper to mention it, and as a gentlemen, sir, I will not. And although I have frequently spoken of General Wilkinson's testimony, I have never mentioned the contents of that letter.

*General Wilkinson*. Did you not understand me to say that my expressions, calculated to draw forth the views of Colonel Burr, particularly related to my letters in the spring of 1806?

Answer. The only letters which General Wilkinson spoke of were subsequent to Mr. Burr's visit to St. Louis. General Wilkinson thought, it probable that he had written the letter post-marked the 13th of May; but he did not positively recollect.

Several other questions were put to and answered by Mr. T., which the rapidity of his manner made it impossible for us to take down.

SATURDAY, October 3.

*Mr. Tazewell* was again called by Colonel Burr, and asked whether he had observed any inconsistency in the evidence of General Wilkinson?

*Mr. Tazewell* said it was not for him to state what his impressions were, arising from the whole tenor of General Wilkinson's evidence. Indeed, it was impossible for him to answer a question put in that way; if he were asked whether in any particular part of General Wilkinson's testimony he had observed a variance, he would answer the question. He was then asked, whether he had observed any inconsistency or contradiction in the evidence delivered by General Wilkinson before the judge, and that given to the grand jury? His answer was, *none at all*. But, said Mr. Tazewell, as I have gone so far in speaking of my impressions, it may be proper for me to state what opinion I had formed. I must say, that I saw no good reason for General Wilkinson to invite Colonel Burr to the Western country.

*Mr. Hay*. Do you recollect whether the testimony of Swartwout coincided with that of General Wilkinson?

Answer. They could not be said to oppose each other in their testimony. Mr. Swartwout was examined first, and many of the circumstances to which he deposed were unknown to General Wilkinson.

*Mr. Hay*. I speak as to the conversations between Mr. Swartwout and General Wilkinson.

*Mr. Tazewell*. Perhaps there was this difference: General Wilkinson stated, that in the absence of Colonel Cushing, which was spoken of by both of them, Mr. Swartwout slipped into his hands the ciphered letter from Colonel Burr. Mr. Swartwout, who discovered the utmost frankness and candor in his evidence, stated the transaction in a different manner. He declared that the letter was delivered openly, without any effort to conceal it.

*Mr. Hay*. But they both stated the fact to be the same, that it was delivered in the absence of Colonel Cushing?

Answer. Yes. They both stated that fact in the same way. I would not be willing to be understood that I doubted any thing Mr. Swartwout said. Although he appeared before the grand jury under very unfavorable circumstances, and my impressions were very strong against him; yet the very frank and candid manner in which he gave his testimony, I must confess, raised him very high in my estimation, and induced me to form a very different opinion of him from that which I had before entertained.

*Deposition of Matthew Ellis.*

SATURDAY, October 3.

**Mr. Burr.** What do you know of Dunbaugh? Did you see him at Baton Rouge?**Answer.** I did. He told me that he had just got out of prison for debt, by paying part of the debt, and giving bail for the rest.**Question.** But what passed between you?**Answer.** When I met him I was surprised to see him; he said he had been arrested in Natchez by Lieutenant Romney.**Question.** For what cause? **Answer.** As a deserter.**Mr. McRae.** At what time did you see him at Baton Rouge. **Answer.** On Sunday, the 28th of March.**Mr. Burr.** What further account did he give of himself?**Answer.** He said that he had been sent down the river, that he had made his escape, and had demanded protection of Governor Grandpré at Baton Rouge. He said that he intended to stay there till he got his pardon from Gen. Wilkinson, which he had written for.**Mr. Burr.** His pardon for what?**Answer.** For desertion. He told me he had descended the river with you at Captain Bissel's request; and that he had written to General Wilkinson, that if a pardon was sent to him he would come down and give information of all that he knew against you. He also put a letter into my hands for Captain Bissel.**Question.** What was the purport of that letter?**Answer.** To inform him that he repented leaving the garrison at Fort Massac in that manner, and to request him to support the statement he had made about leaving the fort. When he gave me that letter, he requested me to put it in the nearest post office, and not to let Lieutenant Romney have it.**Question.** What did he propose to Captain Bissel in that letter?**Answer.** I did not see that letter; and I know only what he told me. He told me that his letter to Captain Bissel corroborated that to General Wilkinson.*Cross-examined.***Mr. Hay.** What State do you belong to?**Answer.** I belong to Pennsylvania, but I came from Natchez to this place.**Question.** When did you descend the river? **Answer.** On the 20th of November.**Question.** In what boat? **Answer.** In my own.**Question.** Are you the person who sold your boat to Blannerhasset at the mouth of Cumberland?**Answer.** I sold it to Mr. Burr; but went down in her to Natchez.**Question.** You came with certain articles? **Answer.** Yes.**Question.** On a general trading voyage? **Answer.** Yes.**Mr. Wirt.** You went down in your own boat after you sold her to Burr?**Answer.** Yes; I was not to deliver her till I got to Natchez.**Mr. McRae.** What time did you pass Blannerhasset's island?**Answer.** I do not exactly recollect; but some time in the latter end of November.**Mr. Hay.** Where did Blannerhasset and his squadron fall in with you?**Answer.** Not before I arrived at the mouth of Cumberland.**Question.** Did you sell your merchandise to Col. Burr? **Answer.** The greater part.**Question.** What induced you to go down the river with them to Natchez, after your boat was sold?**Answer.** Because it was not paid for.**Mr. McRae.** What articles did you sell to Colonel Burr?**Answer.** A parcel of hoes, axes, iron, and ploughs. I was not to receive any pay till I got to Natchez.**Question.** Were there any boats at the mouth of Cumberland? Was Blannerhasset there?**Answer.** I believe he was.**Question.** Was Floyd? **Answer.** Yes.**Question.** Tyler? **Answer.** Yes.**Question.** Israel Smith? **Answer.** I expect he was.**Question.** You went down with Floyd ahead? **Answer.** Not altogether under Floyd.**Question.** Why did you go ahead? **Answer.** I did not know.**Question.** When did you leave Natchez? **Answer.** About the first of March.**Question.** You were not sent to New Orleans by any body? **Answer.** No.**Question.** What carried you to New Orleans? **Answer.** Business of my own.**Question.** Did you carry any thing for sale to New Orleans?**Answer.** May be I had a few deer skins and some racoon skins left.**Mr. Wirt.** How long did you remain in New Orleans? **Answer.** About eight or ten days.**Question.** Did you see Colonel Burr on your return? **Answer.** I did.**Question.** Where did you see him last?**Answer.** At Washington, in the Mississippi Territory, where I was at the trial of Colonel Burr.**Question.** Were you there when the trial closed?**Answer.** No; I went up several times to hear it, but the crowd was so great that I could not get in.**Question.** Why did you go to Washington? **Answer.** I went to see Col. Burr for a settlement.**Question.** What claims had you on Col. Burr? **Answer.** I do not exactly recollect the amount.**Question.** Any claims for your boat? **Answer.** Colonel Burr consented I might take back my boat.**Question.** What other claims had you? Any for iron?**Answer.** Yes, and for apples and other articles. Colonel Burr told me not to part with the axes, mattocks, and ploughs at all events.**Mr. Hay.** Had you any previous acquaintance with Dunbaugh? **Answer.** No, but I had seen him once before.**Mr. McRae.** Were you never requested by any one to converse with Dunbaugh? **Answer.** No.**Question.** Were you acquainted with none of the party before you saw them at the mouth of Cumberland?**Answer.** None, I believe.**Question.** How came it to pass that you had the conversation with Jacob Dunbaugh?**Answer.** It was accidentally. He came into the tavern where I was.**Question.** Where did you intend to go when you left Pittsburg? **Answer.** To no particular place.**Question.** Did you understand nothing at the mouth of Cumberland of the purpose for which those men were gathered together?**Answer.** I heard at the falls that they were going to settle lands.**Question.** Were any propositions made to you to join the party?

Answer. No; I never conversed with any but Colonel Burr, and then only to make a bargain.

Question. Were you to have waited at Natchez till the arrival of Colonel Burr?

Answer. Yes; I got to Natchez on the 5th of January. The trial of Col. Burr was in February.

Question. What did you wait so long for? Answer. I had business with Mr. Ponsonby.

Question. Did that business detain you so long?

Answer. No, I chose to remain. It was partly curiosity and partly business that detained me; I might have finished my business in a day or so.

Question. Did you get payment for the articles in the boat?

Answer. No; I never have for any of them.

Question. Did you deliver any of them? I did, some of them.

*Mr. McRae.* Were you summoned here? Answer. Yes; Mr. Ashley sent me word to be here.

Question. Had Mr. Ashley been down the river? Answer. No; Mr. Ashley was in the back part of the country.

Question. What reason had you to believe that Mr. Ashley had the power to summon you?

Answer. I was told that he was summoning others, and he sent me a verbal message to come, but I don't know by whom; I understood, too, from Captain Floyd that I should be wanted.

Question. When did you receive a subpoena? Answer. Not before I came here.

#### *Deposition of Captain Bissel.*

*Mr. Burr.* You have heard the testimony of Dunbaugh; I wish you to state every thing that came within your personal knowledge; how he came off; whether on my application, or by your direction. Did you receive any message from me by Mr. Hopkins?

Answer. None further than a billet you sent me on the morning of the 26th. It was delivered at my quarters at Fort Massac, by Mr. Hopkins. He was introduced to me by Mr. Fort, who had been previously introduced to me by a merchant of New Haven. Mr. Fort walked up with him, and took breakfast with me. I had then heard of Colonel Burr's acquittal in Kentucky, and I supposed he was peaceably descending the river.

*Mr. Wickham* read the billet in the following terms:

I.

DEAR SIR:

MOUTH OF CUMBERLAND, *December 25.*

I avail myself of the opportunity of Mr. Hopkins to offer you salutations and the compliments of the season. Having proposed to descend the river in a few days, I shall have the pleasure of paying my respects to you on my way, and of receiving your commands for the South.

I am, dear sir, very respectfully, your obedient servant,

A. BURR.

Capt. BISSEL, *Commanding at Massac.* (per Mr. Hopkins.)

*Mr. Burr.* Did you receive any other letter from me besides that?

Answer. None; I had a little conversation with Mr. Hopkins; none about Colonel Burr's passing the garrison. On the evening of the 29th was the next information I received. Mr. Tyler arrived with his barge; they took supper with me. After supper some one of the gentlemen said they must return to Colonel Burr, who would stay in the bend, above, all night. I invited some of the gentlemen to take a pallet with me, which they agreed to. Col. Burr's boats nevertheless came down in the night; I had retired to bed when my sentry hailed aloud; I arose, and, undressed, repaired to the fort. Some one said that Colonel Burr's boats were passing. I thought this a singular thing, after I had been told that Colonel Burr would stay in the bend, above; his boats went down to the bend or bayou, a mile below the fort. When I returned to the house, I found that Tyler had gone to the boats.

*Mr. Burr.* Is not the lower bend a good harbor? Answer. It is.

Question. Is not the river just opposite to the garrison a bad one?

Answer. It is. I have seen boats sometimes staved on the rocks in that part of the river.

I rose soon in the morning to pay my respects to Colonel Burr; I went down in my boat, and was introduced into his room; I invited him to breakfast, which he declined; I invited him to dinner, but he declined all my civilities. He asked me if I had received any news from below. I replied that I had not. He then informed me that General Wilkinson had made a compromise with the Spaniards. He said he was sorry for it, and that General Wilkinson ought to have fought them. I observed, that I supposed General Wilkinson had acted by orders.

*Mr. Burr.* How came Dunbaugh to go?

Answer. After breakfast, while I was at my ice house, Dunbaugh came and asked for a furlough for twenty days. He had previously asked me for a furlough to go down the river to do business. After a short time I agreed that he should go; this happened while on parade, and not at the back of the fort, as his testimony states. It is proper to mention that a boy had come up with two billets, one for Dunbaugh and the other for me. Here is mine. When I was in Colonel Burr's boat, he had asked me if I knew of any opportunity to send to St. Louis by the way of the lead mines, and whether he could procure an express. I told him that I had reviewed my garrison, and that I had thought of sending a messenger, and Dunbaugh to be that messenger, as he had a good horse; that if he would bear his expenses, Dunbaugh might go.

*Mr. Burr.* Is it not impossible to get an express in that part of the country?

Answer. It is. There is no population in the neighborhood of the garrison. The Indian title is just extinguished. They are just surveying the land, but it is at present a mere military post.

[Here Mr. Wickham read the letter in the following terms:]

2.

SIR:

JANUARY 30.

If you will give Sergeant Dunbaugh a furlough for twenty days, I engage that he shall conform to the terms of it. In this case, he will not go to the lead mines.

Very respectfully, your obedient servant,

A. BURR.

*Mr. Burr.* Was Dunbaugh inspected? Answer. He was, and mustered too.

Question. Did he show his clothes? Answer. He did.

Question. Did you tell him to borrow any clothes in which he was to appear on parade?

Answer. I did not. His own clothes were then there, and are now in his own box at Fort Massac. He wanted to carry his clothes, but I forbade him. I gave him this furlough, with a pointed order to return at the end of twenty days.



3.

FORT MASSAC, *December 31, 1806.*

Sergeant Jacob Dunbaugh, of my company, has leave of absence for twenty days from date, at which time he is to return to this garrison.

D. BISSEL, *Captain 1st Regt. U. S. infantry, comm'g.*

*Endorsement.*

BRUNSBURG, *January 23.*

Sergeant Jacob Dunbaugh having expressed a wish to return to his company at Fort Massac; and there being no regular officer at this place, I have, from a respect to the public service, on his application, to request that he may be permitted to join his company.

BENJAMIN BRUIN.

Endorsed: "on hour way to Pety Gulph directed to Joseph Calverts too miles from the gulph."

When I handed him this furlough, I also delivered him a small billet for Gen. Wilkinson, informing him of what I had done: here is a copy of that letter.

4.

SIR:

FORT MASSAC, *December 31, 1806.*

Sergeant Jacob Dunbaugh, of my company, having solicited the indulgence of a furlough for twenty days, and Col. Burr pledging himself that Dunbaugh should conform to the terms of it, I have thought proper to grant the indulgence, and hope it may meet your approbation.

Col. Burr will inform you how I am and how situated. Mrs. Bissel is still confined to the house, but I think recovering.

I am, respectfully, your obedient servant,

DANL. BISSEL, *Captain.*

Gen. WILKINSON. (per Col. BURR.)

*Mr. Burr.* Do you remember sending me any message by Dunbaugh, to the mouth of Cumberland?

Answer. I remember well that I sent him to buy a beef; and told him, if he saw Col. Burr, he was to present my compliments to him; but I did not tell him to proffer my services to Col. Burr, nor to any one else; I am an officer of the United States only; that part of his evidence is false.

*Mr. Burr.* Did you receive a letter from Dunbaugh while he was at Baton Rouge?

Answer. Yes. On the 11th of June I received a letter which he wrote me from Baton Rouge. There is no date to it; the post-mark is Washington, Miss. Ter. I received it with other letters from New Orleans.—Captain Bissel then read the following letter:

5.

HONORED SIR:

With sorrow I take Pen in hand to inform you that I had to tell the officers that you sent me as a Spy against Col. Burr and had to make out of what I new againg him I wrote that you sent me on that Purpes the thought My Capt. was interestred I told them that he did not know what Burr's mening was to take some men down the River with him. My Capt. thought as I had been down with him before that I cold find out what his intention was. Lieut. Roney took me up as a Diseerter and put me on board of the Schooner Revenge to send me to New Orleans but I did not go he tuck my furlow from me I told Him if He would give me my furlow that I would go to the General but he would not.

I should be thankful if my Capt. would send me some money if their is any for me and my Boots if my Detes air paid. I wishd more than A thousand times I had staid at Fort Massac I have nothing more But still remain your humble Serv't

J., DUNBAUGH *Sergt.*

(In the margin.) John Preehard is in due me 3 Dollars.

DAN'L BISSEL *Capt. Commanding.*

I am at Baton Rouge and will Remain untill I Get a pardon.

*Mr. Burr.* Had J. Dunbaugh been discharged from service the year before?

Answer. Dunbaugh had been a faithful sergeant, but I represented to General Wilkinson the propriety of permitting him to find a substitute, who could do more service, as he had lost the use of one of his fingers. This defect is mentioned in the advertisement of him as a deserter.

*Mr. Burr.* Has he been tried yet for desertion?

Answer. No: I have not yet preferred a charge against him.

Question. Is he liable to a prosecution? Answer. Yes, I suppose so.

Question. Did you ever make him a present of a breastplate?

Answer. I did, but not at the time he has stated. It was one day when I lost a son. Mr. Owens was about leaving the garrison at that time, and presented me with a very handsome breastplate. I gave my old one to my sergeant. This was about the last of October, or the beginning of November.

Question. Did you make a report to the Government, which has been published?

Answer. I think a letter of mine to the Secretary of War has been published, with a letter of General Jackson's.

*Cross-examined.*

*Mr. Hay.* Is this the furlough that you gave?

Answer. It is; but there is some endorsement on it, of which I know nothing.

*Mr. Hay.* Ay, that is some writing of Judge Bruin's.

*Mr. Burr.* Have magistrates a right to enlarge furloughs?

Answer. I know of no such thing in the articles of war.

*Mr. Hay.* Had you any previous acquaintance with Colonel Burr?

Answer. Yes. I had seen him at Fort Massac, in General Wilkinson's quarters.

Question. Did you know that Dunbaugh was going down the river?

Answer. Yes; I gave him permission; and such had been my confidence in Col. Burr, and such my ignorance of the movements in the Western country, that had he asked me for a sergeant and six men, I should have indulged him.

Question. When you gave him his furlough, how far down the river did you expect him to go?

Answer. I supposed not farther than Madrid. However, I do not recollect that I gave him any particular injunction as to that point, because he was to return any time within twenty days.

*Mr. Hay.* You say that he was your confidential sergeant?

Answer. He was. I had raised him from a first corporal. He was illiterate, and I had requested him to learn to write. Perhaps I had set copies for him myself.

Question. You had a good opinion of him, then, till lately? Answer. I had.

*Mr. Wirt.* You said that Col. Burr wanted a messenger to go to St. Louis? Answer. I did.

Question. Do the lead mines lie on a land route to St. Louis? Answer. They do.

*Mr. Wirt.* I see, in Burr's letter, that Dunbaugh was not to go by the lead mines. Did you understand that he was going by them?

Answer. Oh! no; I supposed that he was going down the river to New Madrid; perhaps to bring back letters. I knew nothing of Col. Burr's movements.

Question. Did you conceive that Col. Burr guaranteed his return?

Answer. I had but a short conversation with Col. Burr, for I was at that time busy. Dunbaugh applied to me for a furlough, but he had before applied to me for one to go to New Madrid.

Question. Then I understand you did not rely on Burr's guaranty?

Answer. I cannot say. When this billet was put into my hands, I was engaged on parade; and I believe I told Dunbaugh that I would see about it.

*Mr. McRae.* I think you said, that you knew nothing of this expedition?

Answer. I had heard that Col. Burr had been tried and acquitted in Kentucky, and I had heard it from traveling, ignorant people, who could not give me much information.

Question. Then you had received no such information as induced you to question the propriety of his movements?

Answer. None. I was acquainted with his standing, when he left the Senate of the United States. I respected him as a former Vice President of the United States, and I felt disposed to treat him with all the civility which was due to his rank.

Question. When you granted this furlough to Dunbaugh, did you not advert to his engaging in Burr's service, and exhort him to obey his orders?

Answer. I did not. I only granted him a furlough for twenty days.

Question. Did you speak at all with Dunbaugh when he applied for the furlough?

Answer. I recollect to have told him that Colonel B. had also applied for him to go. I always speak to my men when they go on furlough, to enjoin on them propriety of conduct. I did not call him to my room and give him any private instructions, as his testimony states. I might have called him before me, and told him to treat Col. B. with politeness. I so felt towards him both at that time and in 1805.

*Mr. Burr.* Have you the advertisement of desertion?

Answer. Yes; it is filed in court. It was read.

#### No. 6.

#### TEN DOLLARS REWARD.

Fort Massac, January 19, 1807.

Deserted, on the 19th of January, 1807, when on the indulgence of a furlough, Jacob Dunbaugh, sergeant in Captain D. Bissel's company, 1st United States' regiment of infantry. He is of a Dutch descent, and is about twenty-eight years of age, five feet one and a half inches high, brown hair, blue eyes, fair complexion. He is by trade a hatter. He has lost the use of one of his fingers on the left hand, which stands crooked inward. Whoever will take up said deserter, and deliver him up to any military officer in the United States, shall receive the above reward and reasonable expenses.

DANIEL BISSEL, *Capt. com.*

[Endorsement.]

I do hereby certify that the within advertisement, among several others of the same tenor and date, was handed to me by Captain Daniel Bissel on the morning of my departure from Fort Massac, 1st of February last; which advertisements I distributed in the Territories of Mississippi and Orleans. I do further certify, that Captain Bissel requested me to make use of every exertion in my power to have the within mentioned deserter apprehended.

Given under my hand, this twenty-eighth day of July, at Nashville, in the year 1807.

THOS. A. CLAIBORNE.

When Dunbaugh overstayed his time, I wrote to some of my friends, among the rest to Lieutenant Hughes, requesting him to report to General Wilkinson the desertion of Dunbaugh; I expressed the great confidence I had in him, my anxiety lest he should have been deluded away by the followers of Colonel Burr, or lest he should be sick. If he was sick, I requested Mr. Claiborne to furnish him with some money; if he was not, to advertise him as a deserter.

*Mr. Hay.* Have you any objection to produce that letter?

Answer. I will look at it, and then determine.

I presume it would be unnecessary to state the civilities which have passed to and from Colonel Burr. On Butler's trial I was frequently with him in the morning. He had been acquainted with Mrs. Bissel from a child. He had sent her a barrel of apples from the mouth of Cumberland; and she had returned some little thing or other, such as preserves.

#### Examination of Judge Todd.

SATURDAY, October 3.

*Colonel Burr.* Did Colonel Lynch submit to you, for your opinion, the title-papers of Bastrop's grant?

Answer. Colonel Lynch showed me the title-papers on which he said the grant was founded.

Question. Did you say any thing about my having acquired an interest in it? Answer. No.

Question. Did you give any opinion as to the title?

Answer. I was not sufficiently informed of the laws of the Territory to give any decided opinion. I discovered the grant was founded on a condition which it was said had not been complied with, and I was rather inclined to doubt its validity.

Question. Were you in Kentucky during the summer of the last year? Answer. I was.

Question. Was there a good deal of alarm among the people? Answer. There was.

Question. Was that owing to any acts which I had done?

Answer. I saw publications in the prints stating that preparations were making of boats and provisions in the State of Ohio; a publication also appeared in the "Western World," under the signature of "Observer," which excited a good deal of alarm.

Question. How many years have you been a resident of Kentucky?

Answer. Ever since 1786.

Question. Can you state what has been the general reputation of General Wilkinson for the last four or five years?

Answer. For the last four or five years I have not seen General Wilkinson.

Mr. Wirt. His reputation, as to what?

Colonel Burr. As to integrity and truth.

Answer. I never heard that questioned. For the last twelve months there has been an unfavorable opinion against him, owing to his official and public conduct; but I never heard of any thing further against him but what related to his official and public conduct. There have been publications and republications circulated injurious to him; but whether true or false, I cannot say.

Mr. Wirt. Do you recollect what kind of an instrument Bastrop's grant is?

Answer. Not of the kind I have usually seen. The instrument is from the Governor of New Orleans to Bastrop, granting him so much land on condition that he would settle so many families upon it: the Government of Spain to furnish them with provisions for such a length of time. I understood, from Colonel Lynch, that the Government had not complied with the condition on its part.

Mr. Hay. Do you recollect whether the time for the performance of the condition had elapsed?

Answer. Yes; it had elapsed.

Question. Did Lynch show you any thing deducing his title from Bastrop?

Answer. No, but he said his title was regularly deduced from Bastrop.

Question. Was it the original, or a copy of the grant you saw?

Answer. It was the original, in the Spanish language.

Mr. McRae. Was the only evidence of Lynch's title his own declarations? - Was there no other evidence of title to him?

Answer. No other evinced deducing a title from Bastrop.

#### *Evidence of Colonel McKee.*

Mr. Burr. Did you see any person seized in the Mississippi Territory?

Answer. At Natchez I saw upwards of twenty of your party seized.

Question. When was this? Answer. About the 18th of February.

Question. Was it before or after my trial? Answer. It was after the trial.

Question. Did you see Mr. Graham there?

Answer. I saw the Governor, Colonel Claiborne, and Mr. Graham.

Question. Had you any conversation with either of those gentlemen about seizing me by military authority?

Answer. I did converse with Mr. Graham on that subject. I expressed my regret at seeing you seized. He told me that I should soon perceive the cause of it.

Question. Did you know of any measures for seizing me by martial law?

Answer. I heard that some had been taken, and these reports were still further confirmed by a letter which I received from General Wilkinson.

Question. What was in the letter?

Answer. The postscript stated that if I wished to make myself acceptable to the Government, I must seize Burr, Blannerhasset, Smith, Tyler, Floyd, or Ralston.

Question. Who conveyed this letter to you? Answer. Commodore Shaw.

Question. "If you wished to make yourself acceptable to the Government?"

Answer. If you wished to tax the Government beyond denial, or some such expression.\*

Question. Was any proposition made to you by General Wilkinson relative to the Spanish colonies?

Answer. There was.

Question. Was there any invitation to you in relation to these colonies?

Answer. In 1805, about Christmas, I received a letter from General Wilkinson, asking me whether I could not raise a number of cavalry to follow his fortunes on a crusade to Mexico.

Question. Have you that letter?

Answer. I have it not here, but on the Mississippi. I do not particularly recollect its date.

Question. What number of cavalry was mentioned?

Answer. I know not.

Mr. Blannerhasset. At the time General Wilkinson wrote to desire you to seize me, was I in the hands of the civil authority?

Answer. So I understood.

#### *Cross-examined.*

Mr. McRae. You held an office under the General Government?

Answer. I have not been in one for four years.

Question. What office was it?

Answer. I was agent for Indian affairs to the Choctaw nation.

Question. And when did your office cease?

Answer. I was removed by the President in 1802.

Question. Did you not receive a letter from Colonel Burr through the hand of Lieutenant Jackson?

Answer. I did.

Question. Where is that letter? Answer. It is destroyed.

\* Copy of a postscript to a letter of General James Wilkinson to John McKee, dated

"NEW ORLEANS, February 8, 1807.

"If you want to distinguish yourself, and tax the Government beyond denial, go alone and seize Burr, or Blannerhasset, Tyler, or Ralston, or Floyd, or all of them, and deliver them to the flotilla."

*Mr. McRae.* State its principal contents.

Answer. It was written on the 6th of January, 1807, and invited me to meet him at Bayou Pierre on the 13th.

Question. Do you recollect whether there was nothing more in this letter, besides the invitation?

Answer. I recollect nothing more. The letter itself I burnt.

*Mr. Hay.* Was no particular object stated in this letter? Answer. No.

Question. And why, sir, did you burn that letter?

Answer. Because I saw men arrested for much less matter than carrying such a letter, and I put it out of my possession.

Question. You say there was a postscript to a letter which you received from General Wilkinson; what did you understand was the purport of that letter?

Answer. I did suppose that we should go to war with the Spaniards.

Question. Did he state that the expedition was unauthorized by Government?

Answer. He did not.

*Mr. Wirt.* He gave you, then, no impressions of an illicit object?

Answer. He did not at that time.

Question. You answered it? Answer. Yes.

Question. Where is your answer? Answer. This is my answer.

Here Mr. Hay read the following letter:

DEAR GENERAL:

CHICKASAWS, February 26, 1807.

Your kind remembrancer of the 3d of December I received, and had written to you immediately after at the Bluffs, but a French-Indian countryman, who promised to call on me for it, went off without doing so. I had written a great deal about recruiting in Tennessee, about cutting and slashing, and packing dollars, and enjoying *otium cum dignitate*. But "all our differences amicably settled with Spain" knocks all these Utopia to the devil, and I am again awake to the painful anxiety attendant on a state of suspense. I have requested my friend Moore to press the Secretary to decide, and I expect his answer in less than a month. Whatever my fate may be, I must always feel myself deeply your debtor for the solicitude you have manifested for me.

Has any news reached your capital from Captains Lewis and Clark? it is rumored here that they have been killed; I hope, sincerely, there is nothing in it.

I have the honor to be, with esteem and affection, your friend,

JOHN McKEE.

His Excellency GENERAL WILKINSON.

*Mr. Hay.* Is that also your writing, dated as late as February last? Answer. It is.

*Mr. Wirt.* At the time of this correspondence, and before, did you consider General Wilkinson as your friend, whose agency you were willing to employ with the Secretary of War?

Answer. I expected much less, sir, from his interest than his disposition to serve me.

Question. You considered him, then, as a friend, whom you would be willing to trust? Answer. I did.

Question. Is this your writing? Answer. It is.

Here Mr. Wirt read the following letter:

DEAR SIR:

CHICKASAWS, August 1, 1805.

Your friendly talk from Pittsburg, 13th May, I had the pleasure to receive, at this place, a few days ago. I thank you sincerely for your letter to the Secretary of War. I hope it will have the effect at least of relieving me from the most painful suspense I have ever experienced. I had addressed him myself from Tennessee just before I set out, and am now beginning to look for his answer. I would have written you sooner on the subject of my expectations, but I thought them so well founded as not to require even mentioning to the Secretary; they were founded on a direct and unsolicited promise from himself to me that I should be provided for in Louisiana as soon as the Government should be organized. This was confirmed to me afterwards through Colonel Moore and General Trigg, and last winter he repeated to several of my friends his continued disposition to serve me; but I remain as ignorant as I was two years ago in what way. I hope it may be in your quarter, and soon, for a state of suspense is a penance worse by far than fasting. I trust, like a good Catholic, that I am in a fair way for heaven, even if I should have to pass through a jail.

I think I understood from Mr. Dinsmore that he had written to you at large on the late successful negotiation with this nation; he has to-day started to Natchez, from thence to the Choctaws, where, about the beginning of October, the commissioners are to meet that nation at Mount Dexter, and make another attempt to treat for land. I have had some talk with both the White and Red Mingoës, about securing a tract of land to a Choctaw boy that has contrived to prattle himself into my affection; this is my business here; my prospects of success are not very flattering, as I find the business must be clogged with other negotiations.

On the 28th ultimo Colonel Burr passed this on his return from New Orleans to Nashville, and I understand he intended to visit your Government.

If I am disappointed in the hope of going up the Mississippi when I leave this, I will inform you of my course and prospects.

With sincere respect and esteem, I have the honor to be, your excellency's obedient servant,

JOHN McKEE.

His Excellency General WILKINSON.

Mr. McRae then also read the three following letters:

DEAR GENERAL:

CHICKASAWS, October 19, 1805.

Your friendly letter of the 8th ultimo I received by post on the 15th instant, and from some cause or other it was the most acceptable I ever received; it found me here alone, far gone in the blue devils, doubting whether I had not better expatriate myself, and try my fortune amidst the storm now gathering in Europe. You cannot think it strange that I feel extremely mortified when I tell you that I have, a year past since May last, been waiting in daily expectation of receiving orders to repair in a public capacity to some part of your Government; this expectation was excited by the unsolicited promises of the Secretary of War. It is true he has still held out to my friends the idea that he intended to provide for me, and it must be admitted he has taken time enough to do it well. In the mean time, however, I am suffering the most painful anxiety, and my cash is exhausted to a small sum.

I have always suspected Claiborne of injuring me with the Government, though he declared, with uplifted hands, to the contrary. I was informed that he had in 1801 made some representations to you and Colonel Hawkins, founded on a report made to him by Colonel Joslyn, that I had abused him and the President, in a conversation at Mr. McIntosh's, in this nation, in very severe and improper language. I have since seen Colonel Joslyn, who gave me a certificate, of which the enclosed is a copy; for what I said of Mr. Claiborne, a candidate for an office in the State of which I am a citizen, I certainly can be accountable only to him, not to the Government that has since clothed him with the mantle of its power. If I had learned *ornate et politè dicere* to a man whose head and heart were neither of them formed to my taste on the scale of great Mingo's, perhaps I might have been fitted with an office ere this; however, *nil desperandum, Teucro duce*. I'll remain here till X'mas. The Choctaw treaty, I fear, will fall through this season, and that will not be among my least disappointments, for I had some expectation of procuring at it a tract of land for my young Choctaw. It is reported here from Cumberland that the Secretary of War has written that, if the Choctaws wish to sell land, they must send deputies to Washington.

*Cressite*, &c. is very catholic; but when I proceeded farther to "bleach high" I blushed to the finger's ends; but why, I would not tell you for all my hopes in the Government—on paper, I mean.

With sincere respect and esteem, I have the honor to be, your excellency's obedient servant,

JOHN McKEE.

His Excellency General WILKINSON.

The irregularity of the mail-carriers occasioned this to be a mail later than I expected. I am now informed by a letter from Mr. Dinsmore, that the commissioners will meet the Choctaws about 1st November; and this morning I set out with your friend General W. Colbert to Mount Dexter, to attend the treaty.

J. McK.

DEAR GENERAL:

CHICKASAW BLUFFS, *December 26, 1806.*

So many opportunities present themselves here for conveying a letter towards Orleans, that I would be ungrateful to leave this without at least offering you the compliments of the season, and my hearty prayers for the success of your bark on this tempestuous sea of liberty; for, with all my confidence in her staunchness, I cannot help feeling some anxiety on account of sunken rocks and the cursed pirates that infest her track.

I set out to-morrow morning for the Chickasaws; and if you should have leisure to inform me of your health by post, I will remain there long enough to receive it, and I hope not much longer.

I have the honor to be, with very sincere respect and esteem, dear general, your obedient servant,

JOHN McKEE.

His Excellency General WILKINSON.

DEAR GENERAL:

NATCHEZ, *January 25, 1807.*

I wrote you a note from the Chickasaw Bluffs about X'mas. Soon after I set out for this place, where I have been for ten days, and will yet remain, perhaps, two weeks longer, just to laugh at the ridiculous scenes that are passing before us. Here is a wide field for conjecture, and every man takes his own direction. The Little Mingo here has assumed a military attitude to defend the altar and the throne, as well against Colonel Burr as the encroachments of the army.

I have little doubt that ere this you will have set me down as a Burrite, and as little that you will believe me when I assure you that as yet I am not; and I must know the object and the means better than I do before I can be. It is true that, having nothing to do, and hearing that some great enterprise was on foot, patronised by many great men, and winked at by the Government, I came here to profit of any opportunity that might offer of bettering my situation by honorable enterprise. As yet, I see no way open but in the face of my country's laws; and, desperate as my fortune is, I will never deliberately do an act that will prevent me from returning to the spot where I was born.

I have lately received a letter from Mr. Simpson, saying "your friend General W. wishes you were here, as he has it now in his power to serve you." This, to me, just now, is very interesting information; and by return of the mail will be glad to hear from you.

Need I tell you that considerable pains are taken and taking here to render your name unpopular; and by persons, too, I am informed, who speak much of the laws and constituted authorities of the country.

Your friends Dinsmore, Freeman, and McKee occupy a room here, and laugh at this puddle in a storm.

I have the honor to be, very respectfully, your excellency's obedient servant,

JOHN McKEE.

His Excellency General WILKINSON.

DEAR GENERAL:

HUNSTON, *February 16, 1807.*

I received a few days since at Natchez, your favor of the 5th instant, and nothing could have given me more pleasure; for the strange distant reserve of some of my friends in this quarter, and an observation from Doctor Carmichael that my note from the Bluffs had excited some suspicions of me in a bosom that shall never be justified in harboring any, had mortified me sorely; read that note again, and if it does not speak the language of a heart that loves you, I must have been very unfortunate in expressing myself.

I never was a *Burrite*, nor can I ever give myself up to schemes of lawless plunder; it is certain that in my present situation I might have engaged in any honorable enterprise, however hazardous, but the late one, such as it has been represented is such as I hope no friend of mine will ever suspect me of favoring.

I have not the means, and, if I had, I have not at this moment the time, to give you much information on the state of things in this country.

May your purse keep pace with your heart, and may you live a thousand years.

Your affectionate friend,

JOHN McKEE.

His Excellency General WILKINSON.

*Mr. Burr.* Did you make any reply to that postscript?

Answer. I did not. I answered the letter itself.

*Mr. Hay* complimented Colonel McKee's letters; declaring them to be excellent *models of the epistolary style*.

*Mr. Burr* here observed that a number of witnesses whom he had summoned had gone away during his indisposition; and that he had but one more witness to produce, except to establish certain circumstances against General Eaton.

*Mr. Blannerhasset* then requested that a Mr. Gates might be called in on his behalf.

*Testimony of Mr. Gates.*

*Mr. Blannerhasset.* Will you state what you know about the seizing of the boats and provisions near Marietta?

Answer. I was present at the time of seizing the boats. There were a few barrels of kiln-dried corn meal on board, and a few barrels of apples belonging to Mr. Putnam.

Question. Did you see any officers on duty?

Answer. I saw militia officers; General Buell and his aid-de-camp, Major Clark.

Question. Were you a militia man?

Answer. I told them they had no right to call upon me in that character, during my present capacity.

Question. You had been used only to carry a fife, and not a musket? Answer. Yes.

Question. Did they accept of your apology for not acting?

Answer. They said that if I would attend at 12 o'clock, with my musket, I should be immediately discharged.

Question. Did you see any authority under which General Buell acted?

Answer. Yes. He showed me a paper, which he said was his authority from Governor Tiffin.

Question. Did you see the boat that was built for my family? What has become of it?

Answer. The last time I saw it, it lay in a very uneasy posture near Marietta.

*Cross-examined.*

*Mr. Wirt.* As far as I understand you, you were called on to attack the boats? Answer. Yes.

Question. And you were called on to carry a musket? Answer. Yes.

Question. And you were unwilling to do it? Answer. I was.

Question. That is, you were willing to whistle, and not to fight? Answer. Yes.

The following deposition of Charles Fenton Mercer was then offered on the part of the accused, and read:

STATE OF VIRGINIA, *City of Richmond.*

Personally appeared before me, Edward Carrington, one of the magistrates of the city of Richmond aforesaid, Charles Fenton Mercer, of the county of Loudoun and State aforesaid, a witness summoned to attend the trial of Aaron Burr, who being duly sworn on the Holy Evangelists of Almighty God, deposed as followeth, viz: That having been called to the neighborhood of Point Pleasant, at the mouth of the Great Kenhawa, between the 20th of September and the 6th December, 1806, to transact some business relative to an estate which he has in the county of Mason, he became acquainted with Mr. Harman Blannerhasset, through the introduction of Mr. J. Alston, of South Carolina, once a fellow-student of the deponent's in the college of New Jersey. This acquaintance commenced about the first of November, near an open boat on the Ohio, in which Mr. Alston, attended by his family with a carriage and pair of horses, and accompanied by Mr. Blannerhasset, was descending the river as far as Kentucky, from whence he expected to prosecute his journey home by land. The reputation which Mr. Blannerhasset had acquired for talents, learning, and taste, and an eccentric, and somewhat a romantic mode of life, rendered this unexpected interview one of the most interesting events which occurred to this deponent during his residence on the Ohio; and he accepted with much pleasure an invitation from Mr. Blannerhasset to visit his then beautiful and once much-celebrated island. It is true, that about that period, and for several weeks before, reports were in circulation, that Mr. Blannerhasset was engaged with Colonel Burr in some common enterprise, to which many persons imputed a highly criminal design. But those reports, and especially the injurious suspicions often connected with them, seemed to have arisen from pre-existing prejudices against Colonel Burr, which it was not difficult to trace to an origin very remote from the designs now ascribed to him. As the reports were believed and propagated by those who spoke of them with a conviction and a zeal proportioned to their ignorance or malignity, and as they were in themselves most improbable, absurd, and ridiculous, the deponent considered them entitled to no serious consideration. About the middle of November the deponent again saw Mr. Blannerhasset, at the house of Col. Andrew Lewis, on the Ohio, three miles above Point Pleasant, where he alighted from his horse for an hour or two, in his journey from Kentucky. In a conversation which then occurred, he adverted with much sensibility to the reports above mentioned, which had then become more current, and to which every day was adding some new exaggeration, and declared them to be utterly false. He was the last man in the world, he said, who would be disposed to disturb the peace or impair the prosperity of the United States. Weary of political agitations in his native country, he had sought, he added, and found, an asylum in America, the tranquillity of which he could never violate. He had, indeed, he admitted, united with Colonel Burr (whom public rumor had injured as much as himself,) in the plan of colonizing and improving a large tract of country on the Red River, originally granted by the King of Spain to one Baron Bastrop, and lately purchased by Colonel Burr of a gentleman of Kentucky. The tract contains eight hundred thousand acres, and the consideration which Colonel Burr and himself were to pay for it was \$40,000; but by distributing a part of it in hundred acre farms among a number of emigrants whom such an inducement, they expected, would invite to join them, they had no doubt, on the most moderate estimate, of being able to raise the value of the remainder to more than \$1,000,000. Mr. Blannerhasset declined the pressing invitation of Colonel Lewis to make a longer suspension of his journey, alleging as his reason for prosecuting it with the greater rapidity, that the servant who accompanied him had been sent to him in Kentucky by Mrs. Blannerhasset, to urge his immediate return home for the protection of his house from the fury of a mob who had threatened to burn it down. He added, also, that he expected to leave the island in ten or twelve days after his return, as it was his intention to remove his family down the river before the severity of the approaching winter set in; and renewing his former invitation to the deponent, politely hoped that he would commence his journey to the interior of Virginia within that period.

Some time after this conversation, on Saturday evening, the sixth day of December, the deponent arrived in the course of his journey home, at the shore of Ohio opposite to the island of Mr. Blannerhasset; and having first learned with some surprise that Mr. Blannerhasset was yet on the island, crossed over to his house in a violent storm of wind and rain. That evening and the following day he spent at the most elegant seat in Virginia, and in the society of Mr. Blannerhasset and his lovely and accomplished lady. He saw no other persons on the island, except their two infant children, their servants, Mr. Neale, the clerk of the court of Wood county, a Mr. Putnam, who had come from the Ohio side of the river to rent the island of the proprietor who was soon to abandon it, some young ladies who visited Mrs. Blannerhasset on Sunday morning, and two or three of the inhabitants of the Virginia shore, who came to inquire of the deponent the price of some lands which he had advertised in the adjoining county of Mason. The deponent having expressed a desire, which he had felt on visiting this country

the year before, to become the purchaser of Mr. Blannerhasset's farm, he had the goodness to show him the plan and arrangement of his house. Every room within it was opened to his inspection. As he walked through its different apartments, the proprietor frequently apologized for the confusion into which its furniture was thrown by his preparation for his leaving it; and observed that the greater part of his furniture, his musical instruments, and his library, containing several thousand volumes of books, were packed up for his immediate removal. His children were also habited in their travelling dresses. Nothing, he added, delayed his departure, except the unfinished condition of the boats which were to take him down the river. Finding that Mr. Blannerhasset estimated his farm, containing one hundred and eighty acres of land, with its improvements, at \$50,000, which, he remarked, was ten thousand dollars less than they had cost him, the deponent abandoned all idea of becoming their purchaser; and the rest of the time which he spent at *this* beautiful seat was employed in conversation with its proprietor and his family. It turned upon his removal to the Washita, the name of his new purchase. He pressed the deponent to become a participant in it, suggesting how much it would augment his fortune, and enforcing the inducement which he offered to his interest, by an assurance that the society which he invited the deponent to join would soon become the most select and agreeable in America. He spoke of Colonel Burr as the moral head of it, and when the deponent expressed a doubt of the permanency and happiness of a union formed under such auspices, and dwelt on such traits of the general character of Colonel Burr as he deemed exceptionable, Mr. Blannerhasset vindicated him with the enthusiasm of an ardent admirer and friend, and furnished the deponent with facts of which he had never before heard, and which he treasured in his memory as the foundation of further inquiry into the character of that gentleman. They related entirely to occurrences of ancient date, and on this side of the Allegany.

Mr. Blannerhasset having intended, before the deponent reached his house, to visit Marietta on Sunday evening, the deponent availed himself of a double motive to quit this attractive spot. He did not leave it, however, without regretting that the engagements of its proprietor and his own dreary journey, but just begun in the commencement of winter, forbade him to prolong a visit which, although so transient, had afforded him so much pleasure. It is but a tribute of merited gratitude to add, that he left it in perfect good-will to all its inhabitants. All that he had seen, heard, or felt, corresponded so little with the criminal designs imputed to Mr. Blannerhasset, that if he could have visited him with unfavorable sentiments, they would have vanished before the light of a species of evidence which, if not reducible to the strict rules of legal testimony, hath, nevertheless, a potent influence over all sensitive hearts, and which, though it possess not the formal sanction, hath often more truth than oaths or affirmations. What! will a man who, weary of the agitations of the world, of its noise and vanity, has unambitiously retired to a solitary island in the heart of a desert, and created there a terrestrial paradise, the very flowers and shrubs and vines of which he has planted, nurtured, and reared with his own hands; a man whose soul is accustomed to toil in the depths of science, and to repose beneath the bowers of literature, whose ear is formed to the harmony of sound, and whose touch and breath daily awaken it from a variety of melodious instruments—will such a man start up in the decline of life from the pleasing dream of seven years' slumber, to carry fire and sword to the peaceful habitations of men who have never done him wrong? Are his musical instruments and his library to be the equipage of a camp? Will he expose a lovely and accomplished woman and two little children, to whom he seems so tenderly attached, to the guilt of treason and the horrors of war? A treason so desperate! A war so unequal! Were not all his preparations better adapted to the innocent and useful purpose which he avowed, rather than to the criminal and hazardous enterprise which was imputed to him? Whence arose those imputations? From his union with Colonel Burr. But it is evident that he has been led to this union from his admiration of the genius and his confidence in the virtue and honor of the person with whom it has connected him. That which with a harsh-judging world is the foundation of a belief of his guilt, when thoroughly and candidly examined, carries on its face, therefore, the stamp of his innocence. Such were the sentiments with which the deponent left the island of Mr. Blannerhasset. He has only to add, that he reached Marietta after a ride of fourteen miles, in company with that gentleman, at nine o'clock at night; that he slept at the same house with him, and parted from him with much regret on Monday morning at the house of Judge Woodbridge. Mr. Blannerhasset on that day went up the Muskingum to visit his boats, and the deponent prosecuted his journey home.

Given under my hand, this 21st September, 1807.

E. CARRINGTON.

SATURDAY, October 17.

Mr. LEMUEL HENRY, of the Mississippi Territory, (who heretofore gave in his testimony) was again called, at the instance of Colonel Burr, and examined.

*Mr. Burr.* Mr. Henry, were you at the town of Washington when I came there? Answer. Yes.

Question. Was there a guard established in the street and about the house in which I lodged? What message did I send to Cowles Mead concerning it? And what was his answer?

Answer. There was a guard stationed as you mentioned, but Mr. Mead said it was intended as much for the protection of your person as for the public safety.

Question. Did I desire you to remonstrate with Mr. Mead against the establishment of that guard as a violation of our treaty or agreement?

Answer. You desired me to remonstrate with him about it, and I understood you to complain of it as a violation of his agreement with you. I mentioned this to him, and he said that the guard was necessary for your protection as well as for the public safety.

*Mr. McRae.* Do you know any thing about that armistice? Answer. Only from report.

Question. Any thing from Cowles Mead? Answer. Not at all.

SATURDAY, October 3.

ELIJAH JONES was called on the part of Mr. Blannerhasset.

*Mr. Wickham.* Will you relate the conversations and transactions that passed between Mr. Blannerhasset and yourself?

The counsel for the prosecution objected to this question. Could the declarations of Mr. Blannerhasset be considered as evidence?

*Mr. Wickham* inquired whether the declarations previous to the act alleged as an offence might not be received as evidence.

*Mr. Blannerhasset* observed, that his declarations had been frequently quoted and urged *against* him, particularly in relation to the Mr. Hendersons. Had he not the same right to quote his own declarations when they were brought forward for his vindication?

*Chief Justice.* Any person who accompanied Mr. Blannerhasset may be considered as a competent witness.

*Mr. Hay.* Did you then go down the river? Answer. I did not.

Question. Did you agree to go with Mr. Blannerhasset?

Answer. There were no articles of agreement between us, though I agreed to go. There was, however, nothing binding, and I did not go.

*Mr. Hay.* How easy would it have been for Mr. Blannerhasset to have made certain propositions to this gentleman, for the express purpose of keeping his real objects out of view!

*Chief Justice.* What prevented your going?

Answer. Because Mr. Blannerhasset went off before the time that was appointed. If he had remained, if the boats had been finished and not stopped, I certainly should have gone.

*Chief Justice.* Proceed with your evidence.

*Witness.* In the fall of 1806, I called on Mr. Blannerhasset at Marietta, to know on what terms I could go down the river with him. I informed him that if we could agree on terms, I would go with him. He said that I should be furnished with liquors and provisions when going down the river, and that at the end of the journey I should receive one hundred acres of land: yet still the engagement was to be no ways binding upon me, and I might leave him whenever I was dissatisfied. I mentioned there was a rumor in circulation that there was something else in view besides the settlement of the Washita, and that his designs were hostile to the United States; if so, he had better inform me at once, for if he took me with him under such circumstances, he would take an enemy. He said they were not hostile to the United States. I asked him, if they were obstructed by a party in descending the river, whether they would defend themselves. He replied that he would not resist the constituted authority, or persons lawfully authorized to stop him; but if they were not lawfully authorized, the laws of the United States would bear him out in resisting. He observed, that those who went on the first to settle lands would have the most, as he would do the most to help them.

*Mr. Wickham.* Then your agreement was, to leave Mr. Blannerhasset whenever you pleased.

Answer. It was.

Question. Was the President's proclamation received before their departure?

Answer. I think it was not till afterwards, though I am not positive.

*Chief Justice.* Mr. Woodbridge said that it was not received till Friday afterwards.

#### *Cross-examined.*

Question. At what time did he say that he should leave the island?

Answer. Different times were stated. He intended to have started earlier than he did, but Colonel Barker did not finish the boats in time. He then said that he should start as soon as they were finished.

Question. Did he positively deny that he had any hostile designs against the United States?

Answer. He did deny it. I told him if he had any designs hostile to the United States, he had better tell me at once, and not to take me in; for if he did, he would take an enemy. He lifted up his hands to heaven, and said he had not.

*Mr. McRae.* Did he say that you should receive information of the object of the expedition at the mouth of Cumberland?

Answer. Yes; that I should get such satisfactory information at the mouth of Cumberland as would confirm me in my resolution to go on. I asked him if Colonel Burr was to meet him down the river. He said it was probable, but he did not say where; but he seemed to speak of the mouth of Cumberland as being the place where he was to meet him.

*Mr. Blannerhasset.* Did I not observe that information would also be given to you at Limestone or at the Falls, and at other places down the river?

Answer. Yes. You said that I should get better information than I had received at Marietta.

Question. Did you not understand that the further you went down the river, and the nearer you got to the Washita land, the better information you would receive about that land?

Answer. I understood from you that I would receive such satisfactory information down the river as would determine me to go on.

#### *Evidence of Thomas Bodley.*

*Mr. Burr.* Do you know of my purchases of land of Colonel Lynch?

Answer. I do. I think in the month of September, 1806, while Colonel Burr was in Kentucky, he and Colonel Lynch came to my office. I was clerk of the circuit court in Kentucky, and mine was an office of records. They stated to me that they were making a contract for land, and asked me to draught a deed for them. I was at that time much engaged myself; I made a memorandum of the terms which they explained to me, and directed one of the young men in the office to draught a deed. That deed did not please them, and another was draughted, which was recorded in the office of William Todd, notary public. After the deed was draughted, they showed me the plot of land, and Colonel Lynch told me that he had sold his interest or part of his interest in the Washita grant; that Colonel Burr had settled a part of the purchase money with Mr. E. Livingston, and had received the balance in Kentucky bank bills and drafts on New York. A part of the bills I myself received from Colonel Lynch in payment of a debt.

*Mr. Burr.* About that time was there not a great deal of conversation about a Spanish war?

Answer. There was a great deal.

Question. Were not expeditions against the Spanish Territories a very common topic?

Answer. The Spanish was frequently mentioned at musters. War was considered as inevitable; and it was said to be so stated in letters from the commander-in-chief on the Sabine.

Question. Was there not a general ardor on the subject, especially among the younger part of the community?

Answer. There was. There was a great zeal in some parts of the country. A great many expressed a willingness to join in the war. There are many young men in Kentucky at any time ready to engage in a war that is authorized by the Government, and particularly in one with Spain.

#### *Cross-examined.*

*Mr. Hay.* Is it customary in that country to have deeds recorded in a notarial office?

Answer. It is when the deed is to go to a different State.

*Mr. Hay* asked *Mr. Wickham* if there was any copy of that paper in court.

*Mr. Wickham* replied that there was not.

*Mr. Hay.* As the paper has been mentioned, it is better to produce it in court.

*Mr. Burr.* As gentlemen had said that my purchase of Washita land was all pretence, I wished to show that money had been paid on that transaction. I did not come here with my deed to establish a title.



*Mr. McRae* (to *Mr. Bodley*.) Did you see the deed?

Answer. I saw the original. It is now on record, and I recollect its contents.

Question. How much land was this deed for?

Answer. I am not certain about the number of acres; but the impression on my mind is, that it was for three hundred thousand acres.

*Mr. Hay*. Did you not understand from the parties that the period had expired for complying with the conditions of Bastrop's grant?

Answer. I understood that it had been so from a default of the Government, but that it had afterwards renewed the grant.

Question. Was this transaction with you before or after Judge Todd was consulted?

Answer. It was one or two years after the consultation.

*Mr. Wirt*. Did you see the original Spanish grant?

Answer. I am not certain. I saw many papers recorded in my office, but I am not certain whether that was among them. I saw a copy in the hands of Colonel Lynch.

*Mr. Hay*. Did Colonel Lynch ever show any grant transferring Bastrop's title to him?

Answer. I do not think he did.

*Mr. Wirt*. On whom were the drafts on New York drawn? Answer. On George M. Ogden.

*Mr. Burr*. Had we any conversations about a Mexican expedition?

Answer. Yes, frequently; and frequently he spoke about a Spanish war. He spoke several times on this subject to me and others. He thought, if there was any war with Spain, that it was the interest of the United States to carry an expedition into Mexico. He said that he himself would willingly engage, and asked me whether men could be got in Kentucky to embark in it. I told him I thought they could.

*Mr. Hay*. Did you make any contract with Colonel Burr for flour?

Answer. He said that he expected to settle the Washita land, and in the event of a war he would stipulate with his men to go against the Spaniards; and that he would take from me any quantity of flour, not exceeding two boat loads.

#### *Evidence of Colonel Charles Lynch.*

*Mr. Burr*. Will you relate whether I purchased any land of you, and how much?

Answer. Yes. You purchased my interest in Bastrop's grant, wherein were about three hundred and fifty thousand acres.

Question. Did I pay you any money? Answer. Yes; about four or five thousand dollars.

Question. Did you suppose the three hundred and fifty thousand acres was exclusive of Livingston's claim?

Answer. I will explain. I claimed under Morehouse, and also purchased a mortgage of Stephen Wartz. I found that Edward Livingston had also purchased the same mortgage. I commenced a writ against Morehouse, and was about to commence one against Livingston, but I purchased him out. Under that compromise I was entitled to about seven hundred thousand acres. The survey was made, and marked upon the grant. I was entitled to six-tenths, and he to four-tenths of the whole grant of twelve hundred thousand acres.

Question. Was it a separate or joint interest of mine? Answer. A joint interest.

Question. Was I to settle what you owed to Livingston? Answer. That was my object in selling.

*Mr. Hay*. Had you a suit with Livingston?

Answer. No. I was about to commence a suit, but we compromised. I agreed to give him thirty thousand dollars for his interest. Then I sued Morehouse. Colonel Burr was to pay Livingston the amount of my purchase of him; he also paid me four or five thousand dollars in money, and was to take up certain paper which I valued at thirty thousand dollars more.

*Mr. McRae*. Did you receive any drafts from Colonel Burr? Answer. Yes.

Question. On whom were they drawn? Answer. On Mr. Ogden, of New York.

Question. Had you any grant conveying an absolute title?

Answer. In 1796, the petition was presented by Bastrop; in 1797, Bastrop was to furnish five hundred families, the Government to find them in provisions for six months; but it being inconvenient to the Government to furnish the provisions, a letter of office was given to Bastrop, by the Baron de Carondelet, to dispense with the necessity of introducing the families.

Question. Will you state the various proceedings which have taken place on this grant?

Answer. First, there was the petition, then the survey upon that, the patent, and then the letter of office.

*Mr. Burr*. Did you get the opinion of James Brown as to the validity of Bastrop's grant?

Answer. Yes; and of Mr. Gurley too. They both said that the title was good.

*Mr. McRae*. Do you suppose there is no necessity to carry families there now for the purpose of saving the title? Answer. No; not now.

*Colonel Burr*. Have you an account of the nature of the soil and value of the land included in the grant?

Answer. I have been on the land, and spent several days in exploring it. I have a certificate with me signed by several respectable gentlemen, stating it to be very valuable. [Here Colonel Lynch produced the certificate.]

*Mr. Hay*. What is your own opinion of its value? Answer. I think it very valuable.

Question. How far is it situated up the Red river from its mouth?

Answer. About two hundred miles. It lies on the Washita river, and extends towards the Mississippi; from which, in a direct line, it is not more than twenty or thirty-five miles.

*Mr. Burr*. Was your contract with me in consideration of money only, or upon condition of settlements?

Answer. I considered the condition of settlement the principal consideration.

*Mr. McRae*. What is the date of your contract with Colonel Burr?

Answer. Last fall. The first thing I did was to contract with Colonel Burr, after his arrival in Kentucky.

*Colonel Burr*. Was there any thing said about corn which you were to furnish me with?

Answer. Yes. I was to furnish you with a quantity of corn. I received a letter from Colonel Burr about it, when he was at the mouth of Cumberland. He wrote from the mouth of Cumberland that he should want more corn than I had agreed to furnish him with. He stated that he was then going on with a few friends to the land on the Washita, and wished me to send him some more corn, and some utensils.

Question. What kind of utensils?

Answer. To clear two roads from the Mississippi. By cutting a road twenty-five miles, three hundred may be saved.

Question. What proportion of the land is prairie?

Answer. I do not know precisely; but I suppose about one hundred thousand acres.

Question. What is the character of that kind of land?

Answer. It is esteemed among the French and Spaniards the most valuable; because it is fit for immediate cultivation.

*Mr. Hay.* You spoke of a letter from Baron de Carondelet, dispensing with the settlement of the land; was that before the cession to the United States?

Answer. Yes; in 1797. All the transactions about it were in 1797. I have got letters stating that the commissioners appointed to adjust the claims to lands in that Territory thought it as good a title as any in Kentucky.

*Mr. Wirt.* Have you got a copy of your deed? Answer. No.

Question. Did it contain a general or a special warranty?

Answer. In every conveyance of the kind, there is always a clause providing in case of an interference by Congress.

*Evidence of Silas Dinsmore.*

MONDAY, October 5.

*Mr. Hay.* Were you in New Orleans when General Wilkinson arrived there in November last?

Answer. I was.

Question. Did he make any communications to you?

Answer. He made a very full and general statement of the situation of the country, and of his apprehensions of approaching danger.

Question. How soon after his arrival?

Answer. I think on the 26th or 27th of November. He arrived there on the evening of the 25th, and made his communications to me very shortly after his arrival.

Question. Were these communications made under any injunctions of secrecy? Answer. They were.

Question. Were you acquainted with the state of the public mind at New Orleans at the time of the arrival of General Wilkinson? Answer. I discovered nothing unusual about that time.

Question. What was the state of the public mind after the approach of Burr was announced? Did there appear to be a considerable party disposed to favor the views of Colonel Burr?

Answer. A considerable party appeared to be in favor of Colonel Burr, and were much opposed to the measures of General Wilkinson.

Question. What appeared to be the general impression on the minds of the citizens? And what was their conduct before and after General Wilkinson exposed the plans of Colonel Burr?

Answer. Before the disclosure of those plans, it was a general subject of inquiry as to the conduct of General Wilkinson in taking post at New Orleans; and many censured the measure. About that time several numbers of the *Western World* appeared, in which many severe strictures were cast on General Wilkinson and others; which, after the disclosure made by General Wilkinson, at the Government house, occasioned very considerable commotions among the citizens. It became a general topic of conversation in the coffee-house, the hotels, and even in the streets. I will repeat further, that there appeared to be a large proportion of the mercantile interest in favor of General Wilkinson's conduct; some censured and some doubted. General Wilkinson condescended to ask my opinion, having previously made a full disclosure of the dangers apprehended, and of the measures which he had adopted. I did give my advice in favor of seizing every man whom he found opposed to his measures. This was after a development of the state of affairs by General Wilkinson. [*Mr. Martin.* And that not to be depended upon. *Mr. Wirt.* That will be a subject of discussion hereafter. *Mr. Martin.* I know that. *Mr. Wirt.* (in a lower tone of voice, to Mr. Martin.) *You know a good deal of those things.*]

*Mr. Hay.* Did you see Colonel Burr at Washington, in the Mississippi Territory?

Answer. Yes. I received a verbal message from him, by an unknown person, and returned an apology for not waiting on him that day, but went to see him the next day. I met him in company, but he solicited no private interview, and I had none with him.

Question. Was there any circumstance which particularly attracted your notice?

Answer. No. I never saw him till he was in the hands of the civil authority.

Question. Do you recollect whether in New Orleans, and while General Wilkinson was there, intelligence frequently came down the river stating the approach of Colonel Burr and his party?

[*Mr. Wickham* objected to the witness speaking of mere reports, as being nothing better than hearsay evidence; *Mr. Wirt* contended it was admissible evidence; and that it was proper to show the state of the public mind, arising from those rumors which were generally circulated to justify the strong measures which were taken. The *Chief Justice* said that neither hearsay nor rumors could be regarded as legal evidence; but if there be the slightest shade of difference in the testimony, that of rumor, in such a case as the present, was the most tolerable.]

Answer. There were frequent reports to that effect. Among other rumors, Mr. John Clay, a respectable merchant of New Orleans, came to General Wilkinson's quarters, on the morning of the 8th or 9th of December, and asked to see the general; when shown to him, he observed, in my presence, I feel it my duty, general, to inform you that I have received a letter from Kentucky informing me that Colonel Burr has seized on the arsenal in Kentucky, (I think near the mouth of Kentucky river,) and has availed himself of all the arms and ordnance stores there deposited. A few minutes after, Governor Claiborne came in, and said, general, I have received correct information, on which I can depend, that a squadron of the British fleet is cruising off the Balize.

Question. Have you ever been on service with General Wilkinson?

Answer. Not in a military character.

Question. Have you ever in a civil? Answer. Yes.

Question. What was his general reputation as to integrity?

Answer. I never knew any thing as to his integrity, but what was purity itself. So far as his conduct came within my own knowledge, it always appeared to me to be perfectly correct.

Question. How long have you known General Wilkinson?

Answer. It is a little more than five years since I first knew him. I have been in some service with him for months together in the forest, while we were engaged in running the national boundary line.

Question. Have you ever discovered any thing which betrayed a want of patriotism in General Wilkinson?

Answer. No. His patriotism was of the most ardent kind; such as I wish to possess myself, and could wish every other citizen to possess.

Question. Did he ever write to you about raising a military corps?

Answer. Yes. But that was predicated on the idea of a rupture with Spain.

*Mr. Randolph.* Have you got the letter?

Answer. I do not know. I have several letters from General Wilkinson, which I have on file; but I have not examined whether this particular one is among them or not.

Question. What is the date of the letter? Answer. 1805.

Question. What induced you to suppose that there was a probability of a war with Spain at that time?

Answer. From interviews with the general, in the year 1803, and subsequent correspondence with him till 1805. The first was occasioned by the doubtful state of our negotiations with Spain; the second from the detention of a part of the ceded territory. From many circumstances, it was supposed a rupture was inevitable.

Question. What was the space of territory in dispute?

Answer. From the parallel of latitude of thirty-one degrees north, to the Gulf of Florida, and from the Mississippi to the river Perdido.

*Colonel Burr.* Did General Wilkinson offer you a reward for apprehending me?

Answer. I think four or five thousand dollars were offered in behalf of the Government.

Question. When was that offer made? Answer. Some time in December last.

Question. Did you undertake to effect it? Answer. I did, as far as was practicable and expedient.

Question. Was that offer predicated on an order of the Government, or was it the *fiat* of the general?

Answer. I do not know.

Question. Did he satisfy you that he had authority for making the offer? Answer. I think he did.

Question. When did you leave New Orleans?

Answer. On the morning of the 9th or 10th of December.

*Mr. Baker.* When was the offer made? Answer. Just about that time.

*Colonel Burr.* Did you send an order to the Choctaws to take me?

Answer. I carried myself the proclamation of Governor Williams to the Upper Choctaws, and employed runners to carry proclamations, with instructions to intersect the paths in every direction; and wrote to the agent in the Chickasaw nation to the same effect.

*Mr. Wirt.* What do you mean by saying that you undertook to arrest Colonel Burr, as far as was *expedient*?

Answer. I meant that if I should have found him at large, I should have taken him; but not out of the hands of the civil authority.

Question. Were there not officers sent up to take him?

Answer. Yes; and I was instructed to co-operate with them; but he being, exactly where General Wilkinson wished him, in the hands of the civil authority, I advised the officers to return, and they separated.

*Colonel Burr.* Were you to seize me privately? Answer. Yes; if practicable.

Question. Was I not reputed to be at the head of an army, by General Wilkinson?

Answer. Yes; and by others too.

Question. How, then, were these men to take me? When were those officers sent?

Answer. I can inform you when I first saw them, which was on the 1st of February.

Question. Of the orders of the officers you know nothing?

Answer. Only what I saw; an order from Commodore Shaw to Lieutenant Jones to receive you.

Question. You said the officers returned on your advice; did you see them retire; or do you know when they left that part of the country? Had they separated before I left the town of Washington?

Answer. I cannot tell when you left there; but the last time I saw them was on the 5th of February, at Natchez.

*Colonel Burr* to Commodore Shaw. I understood that you received orders from General Wilkinson; were these orders from the Government?

Answer. I think they were the result of an arrangement between Governor Claiborne and General Wilkinson. I did not know, at that time, that I was subject to the orders of General Wilkinson; but always understood that I was to co-operate with him. I considered that as Governor Claiborne took the responsibility, I was to co-operate, and that the orders were given conjointly with General Wilkinson.

*Colonel Burr* to Mr. Dinsmore. Did General Wilkinson express any doubt of the militia?

Answer. He expressed no doubts of the Creoles; but he doubted the incongruous group which constituted the citizens of New Orleans.

Question. Did he doubt the civil authorities? Answer. He did entertain doubts of the Judges.

*Mr. Martin.* Did he express any doubts of Governor Claiborne?

Answer. He had no doubt of the integrity of Governor Claiborne, and of his attachment to the Government. He said that they had, at one time, been on such terms as not to act together, but he was in hopes they would unite.

Question. Did he doubt Governor Mead?

Answer. Yes; because he did not co-operate with the general, and refused to furnish his quota of men.

*Mr. Hay.* Did General Wilkinson doubt the patriotism of Governor Claiborne?

Answer. He was far from doubting his patriotism, but said he wanted firmness.

*Mr. Martin.* Did he doubt James Brown? [*Mr. Wirt* objected to such a course of interrogation, as indelicate and improper. *Mr. Martin* defended it, on the ground that, from the conduct of General Wilkinson, it would seem that men, even high in authority, could not be trusted.]

The following affidavit contains the substance of the testimony delivered by the witness in court, on Monday, the 5th of October, except that he was not interrogated as to the paper found in the cape of the boy's coat, in the handwriting of Colonel Burr; that fact having been previously established, as far as Mr. Henry's knowledge extended, by the evidence of Mr. Poindexter.

*The evidence of Lemuel Henry, a resident of Washington county, in the Mississippi Territory.*

The said Henry being at the town of Washington, in the Mississippi Territory, attending his duty as a member of the Legislative Council, was introduced to Colonel Burr, by Colonel McKee, on the first evening of the arrival of Colonel Burr at that place, after his submission to the civil power.

Colonel Burr, Colonel McKee, James Callier, and the said Henry, were alone present, when, in the course of conversation, it was mentioned by the said Callier or Henry, that if he (Col. Burr) had gone over to Washington county, on the Mobile, and impressed upon the minds of the people there that his enterprise was a secret one against the Spaniards, and with the sanction of our Government, he might have procured men enough to have taken Mobile; at which place he would have got a sufficiency of arms and ammunition, and armed vessels to convey his troops to whatever place he pleased. Colonel Burr then began to inquire into the situation of the Mobile, and of Washington county. In the course of the conversation, the difficulties to which the people of Washington county were subjected from the exactions of the Spaniards, and their unfriendly disposition towards us, were mentioned. Col. Burr observed that he had seen with regret the memorials of those people treated with contempt or neglect in Congress; that, while they were reading, the members would be scraping their feet, and would pay no attention to them; and that they were no sooner read than the House passed on to some other subject. He was surprised, he said, that the people of that country had not made some exertion to release themselves from the diffi-

culties under which they labored; that the Government having neglected them, it was a natural right, and engrafted in the constitution, for a people, when the Government does not secure to them those rights to which, by their situation, they are entitled, either to erect a new Government for themselves, or to take protection under such other Government as would promise them a happier situation. The expression that the right was *engrafted in the constitution*, was used with a considerable degree of emphasis by Colonel Burr, and, I confess, excited in my mind no small share of astonishment, considering his situation; nor could I account for his addressing these observations to us, unless it was that both Mr. Callier and myself represented that part of the Territory which was particularly exposed to the exactions of the Spanish Government.

On the Sunday before Colonel Burr finally left the town of Washington, and after the boats which descended the river with him had been searched for arms, and a report made, as I understood, that there were none of any consequence found, a certain Robert A. New, who appeared to be in habits of the strictest intimacy with Colonel Burr, and lodged in the same room with him, offered to sell me a parcel of arms. The said New and myself were for several days in a treaty for a quantity of provisions, which was brought down in the boats called Colonel Burr's boats. He said that the provisions were not his private property, but that he was agent for the owners, between whom some matters were to adjust respecting them. On the day last mentioned, (viz: the Sunday before Colonel Burr left the town of Washington, and after the boats had been searched for arms,) the said New asked me how I would like to purchase a parcel of arms. I asked him how many there were. He answered, about forty or fifty, or between forty and fifty; do not recollect which, and as elegant muskets and bayonets as I ever saw. He offered them to me at a price which I considered only about one-third of their value; and assigned as a reason for selling them so low, that they were lost to them at that time, and it was better to get something for them than nothing. I observed to him jocularly, that they could not have been of much use in settling the Washita land. He said it was unnecessary to say to me, or to any man of understanding, that the men I saw engaged in this business had no other view than that of settling a new country; that they were generally too well fixed at home to embark on so dull an enterprise; but that this was a good idea to hold out to the world; and it seemed to go down pretty well. Knowing that there had been a search for the arms, and an official report that they could not be found, I inquired of Mr. New how they were to be got. He said that they would not be delivered to me, but would be placed where I could get them; and I think said at any place I should direct in the neighborhood. I declined making any purchase of him.

With respect to the last arrest of the partisans of Colonel Burr, when a considerable number were arrested, it arose from the following circumstance: In a few days after Colonel Burr had left the town of Washington, and was said to have escaped, and after the Governor's proclamation for his apprehension had issued, as I understood, a negro boy was discovered near the mouth of Cole's creek, (opposite to which Colonel Burr's boats were stationed,) riding on a horse which had belonged to Colonel Burr, and having on his surtout coat, as I heard. These circumstances created a suspicion; the boy was searched, and there was found sewed up in the cape of his coat a paper in these words: "If you are yet together, keep together, and I will join you to-morrow night; in the mean time put all your arms in perfect order; ask the bearer no questions; but tell him all you may think I wish to know. He does not know that this is from me, nor where I am. C. T. and D. F." This paper was proved to be in the handwriting of Colonel Burr by a Colonel Fitzpatrick, as I understood. In consequence of this discovery, a number, perhaps between twenty and thirty men, said to be the adherents of Colonel Burr, were arrested and put under guard. They were not in close confinement when I saw them, nor did I ever hear of their being in that situation. They were only guarded till the alarm was over. I saw several of them going to their lodgings to dinner, and, as I understood, they were usually put on their honor to return at a particular time and place.

LEMUEL HENRY.

HENRICO COUNTY, &c.

Sworn to before me in due form, agreeably to law, 14th October, 1807.

DANIEL L. HYLTON.

*Examination of evidence.*

MONDAY, October 5.

This day Mr. Burr proceeded to put into execution his threats against General Eaton.

*Mr. Burr* addressed the court. I have understood, sir, that there are certain proceedings of a court martial, of which General Eaton is the subject, and in which he was charged with offences that would disqualify him as a witness. After a satisfactory search, I find that the papers were burnt in the War Office. I have procured a deposition of the chief clerk in the War Office to show that such is the fact. This is to establish the loss of the papers, with a view to let in oral testimony.

*Mr. Hay* objected to this proceeding. Suppose that this deposition did actually establish the fact for which it was produced, yet why establish it in this court?

*Mr. Hay* said he would object to the production of the records of a court martial. He presumed that General Eaton's trial was of a military nature, for some neglect or violation of military duty, and not for any charge of a civil nature. Taking this fact for granted, he presumed that the court would not permit the introduction of the original records. The accused was at liberty to go into evidence as to the general character of a witness, but not as to any particular fact. Under such circumstances, it was unnecessary to occupy the time of the court, either with this affidavit or with oral evidence.

*Mr. Burr*. The affidavit proves that such papers were burnt in the War Office. We shall prove by a witness that such a court martial was held, and that General Eaton was found guilty of certain crimes, which would disqualify him as a witness in a court of justice. We shall prove that he has been convicted by a court martial of *crimen falsi*; and that the records of these proceedings were transmitted to the War Office, where they were burnt. We shall then produce a witness to prove these charges. Then will arise a novel question, how far a man convicted of a crime, not in a court of common law jurisdiction, is disqualified from serving as a witness in a court of common law, if it be such a crime as would amount to such a disqualification in a court of common law. When the court shall hear the proof, the question will then arise as to General Eaton's credibility and competency. We shall urge it as to both these points. We shall show that the crimes were great enough to affect his competency, and, if they were of an inferior dye, they would affect his credibility.

*Mr. Hay* presumed that evidence might be at any time brought up to affect the *competency* of a witness, but that if it was intended to impeach his credibility, it could only be done on the ground of general character; and that no witness's credibility could be attacked by any particular charge, unless he had received previous notice, and was permitted to prepare for his defence.

After some discussion, the Chief Justice overruled *Mr. Hay's* objection. *Mr. Burr* then read the following affidavit:

DISTRICT OF COLUMBIA, *Washington County, ss,*

Personally appeared before me, one of the justices of the peace of the United States in and for the county of Washington, in the district of Columbia, John Smith, chief clerk in the War Office, who, being duly sworn deposed and saith, that having searched the records and papers in the War Office, there are no records of proceedings of courts martial, or any papers or proceedings relative to the same, previous to the year one thousand eight hundred and one, and that he hath understood, and verily believes, that all records and proceedings of courts martial, which were deposited in said office previous to the —— day of November, in the year one thousand eight hundred and one, were burned with the office, and a number of other papers, on that day; that having come into the office since the above date, he never saw any record or proceedings of a court martial held on William Eaton, and that there is no record or proceeding of any such court martial now in the War Office, to the best of this deponent's knowledge and belief.

Sworn before me, this 24th day of September, A. D. 1807.

RICHARD PARROTT.

Annexed is the certificate of James Madison, Secretary of State, that the above R. Parrott is a justice of the peace, as above stated.

*Evidence of Colonel Henry Gaither.*

*Mr. Burr.* Are you acquainted with Gen. Eaton? *Answer.* I am; early in '96—

*General Eaton.* I presume I have a right to know what is to be proved by this witness.

*Mr. Wickham.* With respect to Gen. Eaton's right, that is out of the question; he forgets that this is a case between the United States and Mr. Burr.

*Mr. Burr.* I have stated twice that Col. Gaither is to prove certain proceedings of a court martial. We shall prove the conviction of Gen. Eaton for certain crimes; and we may perhaps go further, and say something as to his general character.

*General Eaton.* I am willing, sir, that the most minute acts of my life should be inquired into; but, sir, I have been taken by surprise; I did not suppose that the toms were to be ransacked, to establish things which happened beyond the flood; but the records of that court martial should be produced here; the law, in every case, requires the best evidence.

*Mr. Wickham.* It is unfortunate that Gen. Eaton did not know that the records were burnt.

*General Eaton.* You, sir, know that there are always three copies of the proceedings of a court martial. This man who arrested me, if he has done his duty, ought to have kept one copy; the judge advocate another; and a triplicate copy of them is filed in the Department of War; but, sir, if all these copies are lost, I will supply them; and though my copy may not be *verbatim* and minute, I will furnish the general contents. I waive my demand for the copy of the record; and if testimony be now introduced, I shall only claim the privilege of explaining after the witness has concluded. After a few remarks from the bench, Col. Gaither proceeded.

*Witness.* In the early part of 1796, my acquaintance with Capt. Eaton commenced on the river St. Mary's, at a fort then building called Fort Pickering, where he then commanded. I commanded the troops of the United States, on the Oconee. On the information of Capt. Dunscombe, I had Capt. Eaton arrested, and had a court martial; the trial was held—

*Mr. Burr.* What offences were charged?

*Answer.* I do not recollect; I was not present at the court martial.

*Mr. Burr.* State them as far as you do know.

*Witness.* There was something about dealing in the soldiers' rations, and something about selling the public corn to the inhabitants of that part of the country.

*Mr. Burr.* For his own profit?

*Answer.* So the report ran. The number of charges against him I do not recollect; but he was found guilty of some one, or perhaps the whole. I had the proceedings, signed by the President of the court, Captain Freeman, and Captain Eaton was suspended from command either for three or six months.

*Question.* What did you do with these proceedings?

*Answer.* They were sent to the Secretary of War; they were upwards of one hundred pages. I do not know whether I confirmed the sentence or not. There were some letters from Captain Eaton, requesting me not to send them on.

*General Eaton.* I wish those letters produced.

*Question.* And what did you do with Eaton? Did you send him on?

*Answer.* He was to be under arrest for some months after the confirmation of these proceedings. Many things were laid against him; Major Commandant Freeman complained of his quarters being stoned in the night, and supposed Captain Eaton was the cause of it. I thought it best, in consequence of these complaints, to send him on to the Secretary of War, he being of no use there so long as he was suspended.

*Mr. Wirt.* Was the sentence ever confirmed by the Secretary of War?

*Answer.* I do not know; I never heard.

*Mr. Hay.* Will you be pleased to say what charges you do recollect?

*Answer.* I cannot repeat the charges. There was something about selling public corn to the inhabitants, and clothing his soldiers with nankeens which he had brought from Philadelphia, and on which he made a profit. However, I never attended the court; I only arrested him.

*Question.* Can you form any conjecture as to the number of charges?

*Answer.* I cannot. The whole record was not filled up with the charges, but they also contained the proceedings and Captain Eaton's defence.

*Question.* Do you know whether you confirmed the sentence or not?

*Answer.* I do not recollect; but I believe I did not, from having received some letters from Captain Eaton insinuating that I would not do justice, at which I was much hurt.

*Question.* And you do not know whether the Secretary of War confirmed the sentence?

*Answer.* I do not. I never heard any thing more about it, until I heard of his being sent as consul to Tunis.

*Mr. Wirt.* Then he was appointed to Tunis after all these proceedings?

*Mr. McRae.* When an officer is convicted of a crime, is it not customary to cashier him?

*Answer.* It depends on the nature of the offence. I have seen them sometimes cashiered, and sometimes rebuked.

*Question.* Was it not regular for you first to have acted on this sentence?

*Answer.* By the rules and articles of War I might have done it; and, so far indeed, until it touched his commission.

*General Eaton.* Are you positive that the suspension of the court was for three or six months?

Answer. I do not say that the sentence ran for three or six months. There was a suspension for months or years.

*Mr. McRae.* For years. There is a very great difference between years and months.

*Chief Justice.* That is of no importance.

*Mr. McRae.* It certainly shows the incorrectness of the witness's memory.

Question. Did you say that General Eaton wrote you not to send the records to the Secretary of War?

Answer. So I understood from his letters. He wanted a conference with me.

*General Eaton.* Are you confident whether this request was made before or after the trial?

Answer. I am not confident. It has been a great while ago.

*Mr. Hay.* Is it customary for the Secretary of War to send an answer when a sentence is sent to him for confirmation?

Answer. Yes; but many letters from him to me never arrived, and some that arrived were broken open.

Question. And you sent General Eaton to the Secretary of War?

Answer. Yes; a vessel was going from St. Mary's to Philadelphia. I wrote to Captain Eaton to come down and sent him on to Philadelphia for further instructions.

*Mr. McRae.* Did you hear from General Eaton afterwards?

Answer. Just before he shipped himself off to Tunis, he wrote to me.

*Mr. Martin.* Did the complaints cease after he went to Philadelphia?

Answer. Yes, we were perfectly tranquil.

*Mr. Wickham.* Do you recollect any charge of putting an infant on the muster-roll, and drawing rations for him? Answer. No.

Question. A little boy?

Answer. Yes; a fifer. I thought it improper to have two fifers and a drummer on the roll.

Question. What was his name? Answer. Donaldson, or Danielson.

*Mr. Hay.* Was this one of the charges before the court martial? Answer. No.

*Mr. Hay.* Then you will answer no questions as to that.

*Mr. Wirt.* How long did you remain in the army after this? Answer. Till June, 1802.

Question. Did you resign then?

Answer. I got a letter from the Secretary of War, revoking my commission.

*Mr. Hay.* Were you not yourself under arrest?

Answer. Yes; by the civil authority, and then by the military.

Question. At what time? Answer. In 1802.

Question. Was nothing done in the military arrest?

Answer. I considered my dismissal as giving me liberty to withdraw, and I came off.

Question. By whom were you arrested? Answer. By General Wilkinson.

*Mr. Wirt.* What officers composed the court martial that tried General Eaton?

Answer. Major Constant Freeman, President, Captain S. Tinsley, Captain Nichol, and some other officers; I am not certain whether Captain Davidson and Ensign McCall were the other members.

*General Eaton.* They were Ensign McCall and Lieutenant Thompson.

Question. Did they remain in service?

Answer. Freeman is now a major; Thompson is dead; McCall, I think, is in service.

#### *Evidence of Captain Samuel Tinsley.*

*Mr. Burr.* You were a member of the court martial that was held over General Eaton at St. Mary's?

Answer. I was.

Question. What were the charges? Answer. I recollect but one.

Question. And what was that?

Answer. For speculation. When General Eaton went there, he had brought round with him some nankeens, which he had made up into summer coats, and furnished to his men on a profit, as was supposed.

Question. Was he found guilty on these charges? Answer. He was suspended from his command.

*Mr. Hay.* Do you recollect to which charge the sentence of the court applied? Answer. I do not.

*Mr. Wirt.* Do you know whether that sentence was ever confirmed? Answer. I never heard.

*Mr. Wickham.* What was the general character of General Eaton in the garrison? was he generally respected?

Answer. He was not generally liked by the officers.

Question. Do you recollect any charge about public corn?

Answer. I cannot distinctly; there was something said about it. I understood that there was some corn sold by General Eaton.

*General Eaton.* That is true.

*Mr. Wickham.* We are asking the witness.

*General Eaton.* I will save you that trouble, sir.

*Mr. Burr.* The question is, were the avails applied to his private profit? Answer. It was so said.

*Mr. McRae.* No, sir. Do you know any thing of it? Answer. I do not.

Question. How long was General Eaton suspended? Answer. For three or six months.

*Mr. Hay.* You stated that the corn was sold by General Eaton's order; was it publicly sold?

Answer. I do not recollect.

*General Eaton.* Was not the corn sold by the acting commissary of the garrison, Thompson? Was it not sold through the quartermaster's department? Answer. I cannot tell.

*Mr. McRae.* Was it sold secretly?

Answer. I will state what I heard; that a part of the corn was sold and applied to the use of part of General Eaton's family: so Thompson said.

#### *General Eaton, in explanation of Colonel Gaither's testimony.*

MONDAY, October 5.

[*Colonel Burr.* Before General Eaton goes on, I wish to know how he stands before the court, whether as giving testimony, or as a party. If he is to be considered as giving testimony, we may ask him some questions. If the court thinks proper to indulge him in any observations, I have no objection.]

*General Eaton.* I understood, by the opinion of the court expressed a few days ago, that explanations, in the situation in which I am placed, are admissible.

*Chief Justice.* But you will confine yourself to explanations only.

*General Eaton.* In the fall of the year 1795, I received an order from the Secretary of War to take a command on the St. Mary's, being then a captain on the military peace establishment. Colonel Gaither at that time commanded the regulars on that station, and James Seagroves was Indian agent for the Southern nations. Reports from these gentlemen represented to the Government of the United States the people of Georgia as disaffected, insurrectionary, and disorganizing; that they were in the back country, under the command of General Clarke, preparing an expedition against East Florida; they represented General James Jackson as the head or patron of this description of citizens; they described the Indians as hostilely disposed, and the Spaniards as balancing between dispositions of war and peace.

[Did I state that my orders from the Secretary of War were distinct and special? I accepted the command with distinct and special instructions from the Secretary of War.]

These same reports recommended the establishment of a trading factory on the waters of the St. Mary's; and also recommended that a military post be stationed there, with a view of overawing the Indians, or resisting them, if necessary; of keeping the Spaniards in check, and an eye of vigilance towards any disorderly citizens of Georgia, who might attempt to make aggressions on the territory of a friendly neighbor. Early in the month of January, 1796, I arrived at Coleraine, a post on the waters of the St. Mary's, with directions and special instructions from the Secretary of War, pointing directly towards these objects; and shortly after took my post at the head of three companies of infantry. I ought to mention, that in passing through Savannah, I waited on General Jackson, and communicated to him the two first objects of my command. He apprehended no danger; but said, that in case of need, he would order to my assistance any number of militia which circumstances should require. This, I confess, surprised me not a little, and gave me reason to suspect the accuracy of the information given by Seagroves and Gaither. But I still concealed from General Jackson one of the objects of my command, which was to keep a watchful eye on the citizens of Georgia.

I much disliked the position assigned to us by Seagroves, on the St. Mary's, as a military post. The trading house, in freshes, was below high-water mark. There were no military sites near it; and the circumjacent country was a low pitch-pine barren. The water was bad, being that of the river St. Mary's.

Though there had been some commotions on that frontier, yet I found the Indians friendly, the Spaniards peaceable, and the citizens of Georgia tranquil, except some internal discontents concerning the Yazoo grants.

The post at Coleraine was designated by Seagroves as the best military position on the waters of the St. Mary's. I reconnoitred the country up and down the river; and nine miles above the post by land, I found an elevated site, good encamping ground, and fair springs of running water. The reports which my duty required me to make contrasted these relative positions and relative facts, and were so diametrically opposite to what had before been represented, that I soon found myself in collision with Seagroves. I had discovered that the position recommended by Seagroves was his own private property, and that he owned thirty thousand acres of land adjoining; and I was told (but this I do not assert as a fact) that Colonel Gaither was in partnership with him.

Colonel Gaither visited me at my post in the month of February, I think; and, among other friendly things, offered me a partnership in a purchase which he had made in the Yazoo grants, on advantageous terms. This I declined, as I disliked that business in all its shapes. It occurs to me, also, that Seagroves, about the same time, proposed to me, as an inducement to remove my family and settle in Camden county, to accept, as a compliment, four or five thousand acres of land in the neighborhood of Coleraine. I told him jocosely, but supposed he understood me, that he did not bid high enough.

In the summer following, whether in July or August I cannot say, commissioners arrived, who were appointed by the Government of the United States to treat with the Indians, to settle certain boundaries and disputes about boundaries which had not before been adjusted. About that time the misunderstanding between Colonel Gaither and Mr. Seagroves and myself became very distinct and visible; there was not much intercourse between us; and I was not very desirous to become a partisan among the officers, as every body knows the advantage which *great men* have on such occasions. This commission was composed of General Perkins, Colonel Hawkins, and George Clymer. They requested me to act as secretary to the commission; and two of them, I think General Perkins and Colonel Hawkins, took lodgings in the block house which I occupied. After the termination of the negotiations with the Indians, those two gentlemen proposed to reconnoitre the country, expressing much dissatisfaction with the position at Coleraine. I rode with them in different directions and at different times, and at length showed them the position nine miles above Coleraine which I have before mentioned, called Trader's Hill. This they surveyed as far as they could by an ocular survey, and viewed it very attentively. They seemed much satisfied with it, and spent the greater part of the day there at the spring. On our return to our quarters, Colonel Hawkins asked me for a copy of my letter to the Secretary of War, describing the relative position of those two posts, and also what I had stated as to the situation of the other objects under my charge. I showed him that copy. He read it attentively, and, making an apostrophe to me, said, "I think, sir, I will now inform you that the commissioners have private instructions to ascertain the truth of certain controversies between you and certain gentlemen high in trust here; and I have the pleasure to inform you that we shall bear testimony to the truth of all your statements." I confess I considered this as a great gain, if not a triumph over those gentlemen, Seagroves and Gaither; and as such I spoke of it. I heard much of the observations of the two gentlemen of whom I have spoken. Seagroves said, that Eaton must be got off this place; Gaither replied, "Leave that to me." He could not remove me by his own order, and resorted to a court-martial as his dernier ressort. Unwilling to suffer the embarrassment of an arrest and trial I wrote to Colonel Gaither, and proposed an interview. Whether he condescended to answer my letter or not, I do not remember. But I was soon after arrested on five several charges; either of which, if supported, would be sufficient to cashier the best officer in the service. I cannot give those charges in their regular order, but I can give them with their specifications.

1st. General charge: **DISOBEDIENCE OF ORDERS.**—*Specification.* Disobedience of the orders of Colonel Gaither with respect to some police of the garrison, in which he had no right to interfere. But the specification was not reported, and on it, as well as the general charge, I was *acquitted*.

2d. General charge: **NEGLECT OF DUTY.** The specification, amount, and result of that general charge, the same as the first. I was *acquitted*.

Question. What was the specification of that charge?

Answer. Some little arrangement in the garrison as to the men.

3d. General charge: **SPECULATION.**—*Specification.* In paying the arrearages of bounty to some of the men of my company in goods taken from the factory, and in supplying them with certain articles of clothing. It appeared in evidence that these arrangements were with the unanimous vote of the company; and though much pains had been taken, but one solitary soldier could be found to say that he was dissatisfied, notwithstanding every one voted for the measure. My object was to give the men clothing suited to the climate, without any private views whatever. The same arrangement had been made by every commanding officer there, and with the approbation of Gaither. On this general charge I was *acquitted*.



4th. General charge: *PECULATION*.—*Specification*. Inselling public corn. I admitted the fact, and showed in evidence, by the testimony of two commissioned officers, that this corn, about twenty-five or thirty bushels, was perishing on my hands, and was sold by the verbal order of Colonel Gaither, given in their presence, and the avails placed in the quartermaster's hands, for the purpose of procuring hospital supplies. *Acquitted* on the general charge.

Lastly. *FRAUD*.—*Specification*. For having retained from the garrison certain rations of flour due as arrearages, and storing them in the magazine. The fact of retaining the rations and storing them in the general magazine, I also admitted; and showed in evidence, that I retained them to meet a claim of the contractor for an equal number of rations used or destroyed by the soldiers when he had laid in provisions unfit for use. The soldiers being without corn or flour, I sent to the contractor advising him of it. He wished me to use some damaged flour, which I refused; but the soldiers, from necessity, were compelled to open several barrels, and select such as could be used. This occasioned a considerable loss, which the contractor wished me to bear. I absolutely refused, and he instituted a suit against me. When the provisions arrived, I ordered the contractor to provide a number of rations for the soldiers, equal to those to which they were entitled when he had left them without wholesome provisions. On his refusal, I retained that number for the benefit of the soldiers, and had them stored in the general magazine. I was acquitted on that charge.

For what good reason I know not, or for what good purpose I see not, except like Felix, to show the Jews peculiar favor, I was sentenced to be suspended from command only for two months. The proceedings of the court-martial were sent to Colonel Gaither, whose duty it was to decide upon them. Finding that his object was not attained he did not decide upon the sentence, from what spirit of benevolence I know not; but he kept me in a burning sun, confined within the walls of my own fort, for more than a month, without letting me know the sentence of the court. At length he informed me by an order that I was to repair to the seat of Government, and receive further instructions. As I had suffered myself to be arrested by his order, I was compelled to obey, and went round to the seat of Government. I presented myself to the Secretary of War, and begged to know what standing I had as respected my rank. He said, we have been made acquainted with the unhappy misunderstandings which have existed in Georgia and we consider you as we have always done. [*Mr. Hay*. Who was the Secretary of War? Answer. *McHenry*.]—The sentence never was approved of; and President Washington pronounced on the whole proceedings, that they were a tissue of persecution and wickedness; as I was told by a gentleman who heard him use the expression.

To throw some little light on the declaration of Colonel Gaither, that I was appointed to a foreign command, I will observe that, at my own request, I was permitted to resume my command on the *St. Mary's*. After my orders to return to Georgia, I was detained for the purpose of attending a court-martial, which was to sit at Fort Mifflin, until the extraordinary session of Congress, and until Blount's conspiracy exploded. I was then employed by the Government to apprehend certain of his associates. During which session, or about that time, our treaty with Tunis arrived, and was not fully approved by the Senate. It was ratified with the exception of three articles. A proposal was made to me by the Secretary of State to take an embassy to Tunis to ratify that treaty, and to accept of a consular agency. As I never had any predilection for a military peace establishment, I engaged to go on that service. But before I left the seat of Government, I saw Seagroves removed, and the post at *St. Mary's* left with a sergeant's command, which may account for the subsequent tranquillity of the place. Since which, *Mr Gaither has been permitted to retire in arrest*.

*Col. Burr*. Can you assign any date to the court-martial which sat at Fort Mifflin? Answer. I cannot.

Question. Was it in 1796?

Answer. If I am correct, in the extraordinary session of Congress, which I think was in 1797; I am correct as to the court-martial. After I was ordered to Georgia, I remained for some time to sit as a member of the court-martial. But before I could make my arrangements to leave the seat of Government, the extraordinary session of Congress had commenced.

Question. Was it the same year, and pending the extraordinary session of Congress, that you were employed to seize Romaine and others? Was silence imposed upon you by the Secretary as to the seizing of Romaine?

Answer. I cannot say distinctly; though secrecy might have been enjoined, yet I have no objection to state the manner of the arrest of Romaine.

*Col. Burr* (to *Col. Gaither*.) Was speculation countenanced with the soldiers?

Answer. No; in no instance.

Question. Did you order the corn to be sold?

Answer. I know nothing about the corn, or any thing about it.

*Col. Burr* (to *Gen. Eaton*.) On which charge were you convicted?

Answer. On some specification of a general charge. On every general charge I was acquitted. You know the nature of a general charge. You know, too, that with the stern and just character of General Washington, he would keep no man in office who had been guilty of any of the charges exhibited against me.

*Col. Burr* (to *Col. Gaither*.) When was Seagroves removed?

Answer. The latter end of the same year, 1796. He was removed in consequence of a treaty with the Indians, making some variation in our boundaries.

*Col. Gaither*. General Eaton has said a great many things that I know nothing about, and never heard of before. As to land in partnership with Seagroves, and reports to the Government, I am a total stranger to either circumstance. I recommended strongly to the Secretary of War a removal of the military post from Coleraine, and recommended *Trader's Hill*. I found Captain Eaton and Captain Tinsley at Coleraine when I arrived there.

*Mr. McRae* (to *Col. Gaither*.) How long were you at Coleraine before the arrival of General Eaton?

Answer. He was there before me.

Question. Did General Eaton go there with orders from the Secretary of War?

Answer. Yes; I suppose so.

Question. You suppose General Eaton had no hand in choosing the place?

Answer. I suppose not.

*A more correct statement of the evidence of John Brokenbrough and Joseph C. Cabell delivered in court on Wednesday, the 7th of October.*

John Brokenbrough and Joseph C. Cabell, members of the grand jury, were called by Colonel Burr.

*Col. Burr*. I will ask you both, gentlemen, whether General Wilkinson, before the grand jury, acknowledged that, in any of his letters he had used the words, "he was ready?"

*Mr. Brokenbrough*. I recollect that General Wilkinson acknowledged that, in the winter 1805-6, he had written to you several letters, in one of which he used the expression "what has become of the grand expedition? I fear Miranda has taken the bread out of your mouth. I shall be ready before you." He also assigned as a reason for



writing such a letter, that he had done it with a view of drawing from you a full disclosure of your project; if it should be correct and patriotic, that he might unite in it; if improper, that he might reject it. I asked General Wilkinson whether he had written the letter post-marked "13th May;" he said he did not recollect.

*Col. Burr.* What period was assigned to that letter containing the expressions just quoted?

Answer. The winter of 1805-6.

Mr. Cabell being requested by Colonel Burr to state his recollection of the evidence of General Wilkinson as to the points above mentioned, proceeded in substance as follows:

General Wilkinson had stated, that he had had an interview with you at St. Louis, at which you mentioned a grand project; but that you did not enter into particulars. He remarked that he had made some inquiries as to the nature of the enterprise; but you observed it was unnecessary to enter into particulars, for it was possible it might never be carried into effect. After Colonel Burr left St. Louis, General Wilkinson remarked that he had revolved in his mind the conversation which had passed between him and Colonel Burr, when he spoke of a Western enterprise; and concluded that an attack on Mexico was contemplated, which was to be carried on by the aid of a British fleet through the Gulf of Mexico; that he had written several letters or notes to Colonel Burr with a view to ascertain his real design, between the time of their interview at St. Louis, and the commencement of the following summer; but did not appear to be positive as to the number or nature of those letters. But he remarked that his object was to draw from Colonel Burr a disclosure of the nature of the enterprise; if it were proper, that he might participate in it; but if not, that he might communicate the information to the Government. General Wilkinson, on being interrogated as to the contents of his letters, said that he could not recollect precisely their terms, and but only two expressions which he had used in one of them; "I fear Miranda has taken the bread out of your mouth; I shall be ready for the grand enterprise before you are." I must repeat that Gen. Wilkinson did not appear to be positive as to the dates, number, or contents of those letters; but only as to these two expressions.

With respect to the letter "post-marked 13th May," Gen. Wilkinson, on being interrogated, was not positive whether he had written it, but said he believed he had.

*Mr. Wickham.* Do you recollect whether General Wilkinson produced a copy, which he said was a true copy of the ciphered letter?

Answer. I do not recollect. I recollect General Wilkinson tendered a copy.

*Mr. Wickham* (to Mr. Brokenbrough.) Do you recollect whether General Wilkinson produced any fair copy of the ciphered letter to the grand jury?

Answer. I recollect we had a newspaper in which it was published; and as we deciphered the original, we often compared our translation with that copy, and found some variations.

*Mr. Hay.* Have you a copy of the ciphered letter, as translated by the grand jury? Answer. I have.

*Mr. Wickham* stated that there were material and essential variations between the translation made by the grand jury, and that published.

*Mr. Cabell* said, he begged leave to observe, that General Wilkinson was one out of fifty witnesses examined by the grand jury, that his examination took up four days, and that such circumstances only were treasured up as were deemed material.

*Mr. McRae.* Have you attended to the examination of General Wilkinson before the judge? will you state whether his testimony corresponded with that delivered before the grand jury?

Answer. That is a very extensive question, and one which it is impossible to answer. During the examination of General Wilkinson before the judge, my attention was often called off, and, therefore, I cannot pretend to say whether his testimony throughout corresponded with that delivered before the grand jury. If you will state any particular part of his testimony, I will endeavor to recollect whether it corresponded.

In general, as far as I have attended to the evidence of General Wilkinson given before the judge, the narrative is very much the same with that delivered before the grand jury, with some slight variations. For instance, I understood General Wilkinson said before the court, that but one letter passed between him and Colonel Burr, from the time of their interview at St. Louis till the commencement of the next summer; before the grand jury, I understood him to have said some letters or notes.

The circumstance of the packet being slipped from the side pocket of Mr. Swartwout, and thrust into the hands of General Wilkinson in the absence of Colonel Cushing, at the interview at Natchitoches, was mentioned by the general to the grand jury; if the same was not stated in court, as I have understood, that makes another variance.

*Mr. McRae.* It was mentioned to the court by General Wilkinson.

*Mr. Cabell.* Then, sir, I stand corrected. I have already said I could not pretend to an accurate recollection of all General Wilkinson's testimony before the court.

*Mr. Wickham* (to Mr. Brokenbrough.) Do you recollect any variance between the evidence of Mr. Swartwout and General Wilkinson?

Answer. As to the delivery of the letter from Colonel Burr, there was no difference; but in the details of their conversations there was a very important one.

Here some desultory conversation took place between the counsel on both sides and the court, on the subject of Mr. Tazewell's reply to the question propounded to Dr. Brokenbrough. The counsel for the prosecution and the Chief Justice disagreed in their notes.

*Mr. Wickham* asked Mr. Cabell the same general question.

*Mr. Cabell* answered, that the statement of Mr. Tazewell had appeared to him to be very plain and correct, and had been delivered with his usual ability. Being called on to state how far General Wilkinson and Mr. Swartwout agreed in their testimony before the grand jury, in relation to their conversations at Natchitoches, I must say that they coincided in some respects, and differed in others. The material variance is this: Swartwout most positively denied that he had made any criminal communications whatever; and denied his having said any thing about seizing. According to General Wilkinson, the communications of Swartwout were criminal; according to Mr. Swartwout, they were innocent and honorable.

As I have spoken in such high terms of Mr. Tazewell's statement, I must beg leave to except from that sentiment the inference which he drew from the manner in which Mr. Swartwout delivered his testimony before the grand jury. The manner of Mr. Swartwout was certainly that of conscious innocence; but there is other testimony in the case. I choose to suspend my opinion of characters till this investigation shall have terminated.

*Evidence of Thomas Power.*

SATURDAY, October 17.

*Colonel Burr.* This witness is to be examined for two purposes: first, to verify certain papers; secondly, to prove that General Wilkinson was at a certain period in the pay of the Spanish Government; and then, by other

witnesses, we shall prove that his pay has continued, and that he has frequently been in the habit of receiving large sums of Spanish silver. The object is to impeach his credibility, by proving the falsehood of his declaration that he had not corresponded with the Baron de Carondelet.

*Mr. McRae* said it was not regular to offer proof of any particular crime to impeach the credibility of a witness. No rule of evidence is more clear than that the general character of the witness is all that should be investigated for that purpose; since every man ought to have notice to enable him to defend himself against any specific charge. He observed, that General Wilkinson had heretofore been slanderously accused of being a pensioner of Spain; that, being desirous of giving his calumniators an opportunity of proving their charges against him, he had once requested General Washington, when he was President, and afterwards Mr. Adams, to direct a court-martial for his trial; but they (satisfied of his innocence) refused his request. General Hamilton also declared that he thought the charge a slander, and a trial unnecessary.

*Mr. Wickham.* Receiving money from the King of Spain is not an indictable offence. Our ground of defence is, that Colonel Burr's expedition was in concurrence with General Wilkinson against the dominions of the King of Spain, in case of a war. If we prove, that, at the time Wilkinson was pretending to favor Burr's expedition, and secretly determined to defeat it, he was receiving a Spanish pension, this will explain his conduct. He defeated the enterprise of Burr by hatching a charge of treason against the United States, on purpose to serve the King, whose money he was receiving.

*Mr. Martin.* I am not surprised that gentlemen should have so much feeling on this subject, especially the gentleman who made this objection. There can be no prosecution against a man for receiving Spanish money. Mr. Benjamin Sebastian, in Kentucky, was indeed accused of this as an offence, and it was proved upon him; but I have not heard, though he voluntarily resigned his office of judge, that any prosecution was instituted against him. For my part I wish there was a little more Spanish money among us; I should like to have some of it myself. We wish to show that General Wilkinson is interested in the destruction of Colonel Burr; that he has placed himself in such a situation that he must hang Colonel Burr, or be himself eternally detested. He offered to be tried by a court-martial, because he knew that the only witness against him was out of the power of the process of the United States, being in the dominions of the King of Spain.

*Mr. McRae.* The gentlemen have heretofore been arguing that the United States were, in fact, at war with Spain. If so, it would have been a great crime in Wilkinson, an officer of the United States, to receive a pension from the King of Spain.

*Mr. McRae* also read a part of the ninth section of Article 1 of the constitution of the United States, which declares, that "no person, holding any office of profit or trust under them, shall, without the consent of Congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State." Would it not, then, said Mr. McRae, be a crime in General Wilkinson, holding a commission under the Government of the United States, to violate the constitution, by receiving a present from the King of Spain? Being admitted to be a crime, it cannot, under the rule of law which I have mentioned, be offered in evidence. If, in fact, any money was received by him, it might have been in commercial intercourse with some Spanish officer; and, if he had been informed in time of the accusation against him, he might have explained the circumstance, and shown that such was the case.

*Mr. McRae* also remarked the inconsistency of the arguments of the counsel for Colonel Burr; their insisting that his intentions were perfectly innocent, (being merely the settlement of the Washita lands,) and yet attempting to brand General Wilkinson with guilt, for being a participator in those intentions. If they were both equally guilty, this would not render Aaron Burr less criminal.

*Mr. Wickham.* We never said that General Wilkinson and Colonel Burr were equally guilty. What I said was, that both were engaged in an honorable enterprise in the event of a war with Spain. What we charge General Wilkinson with is, having united with Colonel Burr, and then deserting him; turning traitor, and representing the case quite different from the truth.

*The Chief Justice.* It is absolutely necessary to hear the testimony to judge of the fact. The only difficulty is, that it does not appear, under the impressions I now have, what effect it can have. If it was proved that General Wilkinson had been a pensioner of the court of Spain, it could have no influence on the case.

*Mr. Wickham.* We say that General Wilkinson had an interest with the King of Spain, and, in order to preserve the dominions of that monarch which he knew were about to be attacked, he withdrew from Colonel Burr, and represented an enterprise, which was perfectly innocent and eventual, as one highly criminal.

*Mr. Martin.* General Wilkinson, by betraying Colonel Burr, had a double motive: the one was to acquire favor with his own Government; the other with the King of Spain.

*The Chief Justice.* I do not understand it to be your object to prove a continuing pension.

*Colonel Burr.* Our object is to prove the receipt of fourteen thousand and odd dollars at one time, and some knowledge of the payment of other sums of money to General Wilkinson.

*Colonel Burr* (to Mr. Power.) Are you acquainted with Alexis Bon Ami? Answer. Yes.

Question. Do you know his signature? Answer. I think I do.

Question. Is he a justice of the peace in New Orleans? Answer. Yes.

[Here Colonel Burr produced a certificate from the office of the Secretary of State, showing that Mr. Bon Ami was a justice of the peace for New Orleans.]

Question. Are you acquainted with the signatures of Messrs. Derbigny and Mercier?

Answer: With both, very well.

Question. Will you look at those papers? (showing him their depositions, signed by them respectively, and attested by Bon Ami, a justice of the peace for New Orleans.)

*Mr. Power* said he believed the signatures to those depositions were in the hand-writing of the persons whose names were annexed to them.

*Colonel Burr.* Do you know whether Mr. Mercier was subpoenaed to attend here?

Answer. I believe he was. I heard him say that he was subpoenaed, but the afflictions of his family were such, arising from the death of his father-in-law, that he could not possibly attend.

Question. Do you know why Mr. Derbigny is not here? do you know whether he was subpoenaed?

Answer: I heard him say he was.

Question. Why did he not attend?

Answer: I heard him say it would be the utter ruin of his family if he were to take such a long and expensive journey, and in the mean time neglect his business.

Question. Is he a man upon whose personal exertions his family depend for a subsistence?

Answer. I believe so.

*Col. Burr* (to Mr. Power.) Do you know of any correspondence in cipher by General Wilkinson with Baron Carondelet?

[*Mr. Hay* objected to the question on the grounds before stated; and because the answer, whether it be in the negative or affirmative, could have no influence on the cause.

*Mr. Wickham* said that General Wilkinson, in the course of his examination, had been asked whether he had been in the habit of corresponding with the Baron Carondelet in cipher, and had answered "No;" but immediately afterwards said "he did not recollect." He admitted that the answer of General Wilkinson was hastily given; but still, if we are able to prove that he had been in the habit of corresponding with the Baron Carondelet in cipher, his saying that he did not recollect such a correspondence will have a direct tendency to weaken his testimony. If a witness has sworn to a particular fact, although immaterial to the cause, the opposite party may falsify that part, for the purpose of impeaching the credibility of the witness.]

*Colonel Burr* repeated the last question to *Mr. Power*: Do you know of any correspondence in cipher by General Wilkinson with the Baron de Carondelet?

*Mr. Power* (addressing the judge.) I hope the court will indulge me with a few remarks, in order to show the delicacy and hardship of the situation in which I am placed. I had, for many years previous to the cession of Louisiana to the United States, been a Spanish officer and a Spanish subject; [Question. Are you a Spanish officer now? Answer. Yes.] my domicile is in New Orleans, but I reside there under a stipulation in the treaty, which allows that privilege. Under this safeguard and protection I was residing and little expected that I should be disturbed or molested for doings, of which I know nothing. On the 16th of August, an attorney or agent of Colonel Burr presented me with a subpoena. I objected to receiving the subpoena, saying that it was irregular and illegal, first, because no writ could be served on a Sunday; and secondly, because it ought to have come through the hands of the marshal of the district. I soon found that my objections were nugatory. I had heard that several others had been subpoenaed, and were excused from attending by giving their affidavits. I offered to do the same, and to declare that I was totally ignorant of Burr's plans.

Those objections of mine were not admitted; nor would my affidavit be received. On my expressing a reluctance to attend, I was given to understand, by the agent of Colonel Burr, that by the same authority which was exercised on Knox last winter, and by which he was put on board a ship and confined with malefactors, I should be treated in the same way. This, I confess, had more weight with me than all his logic. [*Colonel Burr*. Are you about to object to answering the question? Answer. I am, sir.] I believe it is a fact too generally known that for several years prior to running the boundary line between the United States and the Spanish provinces, I was employed as an agent for my Government.

*Mr. Hay*. Are you going to answer the question as to the correspondence?

Answer. I am about to show my situation to be so delicate, that I cannot, consistently with honor, answer it; nor can I answer any question which may operate against the King my master.

*Colonel Burr*. Had you any mercantile connexion with General Wilkinson?

Answer. I had not.

*Colonel Burr* said that he did not think that there had been any pretext offered which would justify an evasion of the question.

*Mr. Power*. What would be the amount of the deposition of a man, who, in the very act of deposing, was breaking his most sacred engagements, and pronouncing himself a perjured villain?

*Colonel Burr*. Are you under the obligation of an oath as to the transaction?

Answer. I am under the obligation of the *honor* of an officer; an obligation of the highest dignity, which was imposed upon me when I accepted the badge of my office. I never did repeat any set form of words; the mere formula of an oath was never proposed to me; and my superior officer knew my sentiments too well to offer me such an insult. Such a proposition I should have rejected with disdain and indignation.

*Mr. Wickham* said that, however unpleasant it might be to *Mr. Power* to answer the question, or whatever his ideas might be as to his ordinary engagements, still it was necessary, for the sake of justice, that the question should be answered. *Mr. Power's* being an officer of the King of Spain could not release him from the obligation to give evidence in a court of justice. He was now here, within the power of the court, and would be dealt with as any other citizen of the United States.

The *Chief Justice* said the question must be answered; though he was very sorry that the necessity existed. The objection to answer was not a valid one.

*Mr. Power*. I have already said that when the interest of the King, my master, is implicated, I will not answer. The court may take what measures it pleases. (Addressing *Colonel Burr*;) Place yourself in my situation, *Colonel Burr*; put your hand upon your own bosom, and say what you would do yourself.

*Mr. Martin* (in a plaintive tone of voice) begged *Mr. Power* to recollect that the life of a man was at stake; a man who was prosecuted with rigor by his own Government. He must recollect the importance and necessity of calling in the aid of all the evidence which can be procured to exempt him from unmerited punishment.

*Mr. Power*. I feel full well the situation of *Colonel Burr*; but I have more at stake than *Colonel Burr*. I have my honor, my reputation, which are more dear to me than life or property. What would my family, my children, do with property, if these were violated?

*Mr. Wickham* said he would not press the answer at that time, nor apply to the court to take the necessary measures to enforce it; but would give *Mr. Power* a few hours to reflect. He will be expected to attend here at three o'clock, at which time the same question will be repeated.

*Mr. Power* attended a little before three o'clock, and remained for several minutes after. But *Mr. Wirt* being then in the midst of his argument, he was not called until after he had left the court room. He was again introduced on Monday.

*Colonel Burr* offered to read the depositions of Messrs. Mercier and Derbigny.

*Mr. Hay* objected, both because it was improper to read depositions where the witnesses might be had; and because they contained matter improper to be given in evidence. He instanced the deposition of *Mr. Stoddart*, which the court would not suffer to be read, although, besides being subpoenaed, he (*Mr. Hay*) had written him several letters pressing his attendance. He said that the absence of the witnesses could not be justified on the grounds stated by them. The excuse offered by one was nothing but the death of his father-in-law; and by the other was, that the distance and expense attending the journey, and the losses of his personal exertions for a subsistence to his family, would produce utter ruin to them if he were to attend. Many other witnesses had attended under circumstances much more oppressive.

The counsel for *Colonel Burr* contended that there was a wide difference between the case of *Mr. Stoddart* and that of these witnesses. *Mr. Stoddart* was convenient to the court, and his attendance might be enforced. Besides, they did not understand the deposition of *Mr. Stoddart* to be absolutely, but only provisionally rejected; and that it might be read, if his attendance could not be procured.

The *Chief Justice* decided that the depositions might be read if they contained no matter which was improper to be given in evidence. [It was finally agreed that the judge should take the depositions, and select such parts as were legal evidence.]

MONDAY, October 19.

After Mr. Wirt had finished his excellent speech, the examination of several witnesses took place.

The question concerning Mr. Power's refusal to give evidence recurred. That gentleman was still determined not to reveal any political transactions in which he had been employed as an officer of the Spanish Government.

The counsel for Colonel Burr insisted that he should be compelled to state all that he knew concerning a correspondence between General Wilkinson and the Baron de Carondelet.

The *Chief Justice* observed that the existence of such a correspondence could be of importance in the present case no farther than that it might be considered as discrediting General Wilkinson's declaration, that he did not recollect his having carried on a correspondence with the Baron de Carondelet, in a cipher similar to that which was used by Colonel Burr. He said that the object of that correspondence would, if explained, have no effect on his decision, relative to the motion now before him. He, therefore, required Mr. Power to answer questions as to the existence of such a correspondence, but not as to its objects.

Mr. Power was then examined, and stated that a correspondence, in a complicated cipher, in which a small dictionary was used, was carried on for some time between General Wilkinson and the Baron de Carondelet; but whether it was the same as that used by Colonel Burr he did not know.

*Evidence of Lieutenant Jacob Jackson, delivered in court, on Monday the 19th of October, 1807, which evidence was revised, and again sworn to by him, on Tuesday the 20th of the same month, in the form of a deposition.*

I, Jacob Jackson, a second lieutenant in the regiment of artillerists, do certify and say, that, on the 3d or 4th day of January, 1807, Aaron Burr arrived at the Chickasaw Bluffs, in the night time, with one boat, and sent to the commanding officer of the garrison, wishing to know whether he could have quarters in the garrison during the night. Being the commanding and only officer there, I informed the messenger that the said Burr could be accommodated. Accordingly, he came to the garrison in company with several other gentlemen; and the next morning he asked me whether I had heard of the attempts made in Kentucky to prosecute him, under an apprehension that he was about to invade the Spanish dominions. I answered that I had not. He then went on to observe, that he had been prosecuted, but that nothing could be made out against him; that he was going on a project which many wished to know, but that from their inquisitiveness he was not disposed to gratify them. It was a "project, however," said he, "which was honorable to myself, and which would be the making of those who should follow me, provided they survived the undertaking." He continued to observe, that the subjects of Spain were in a very distressed situation, and that his project would tend to relieve them from the tyranny of their Government. I was then asked by him what I thought the opinion of my brother (a member of Congress,) was on the subject. I answered that I did not know. He then asked what I thought of such a project myself? I answered, that if the United States were going to war with Spain, I should be very glad to embark in the enterprise. On which he remarked, that the leading characters in the United States did not mean openly to carry on a war against the Spaniards, but that they secretly favored his views. I then told him that, if such was the case, I was willing to engage in the enterprise; and, after telling me again that the leading men in the United States (by which I supposed he meant to include the heads of departments,) approved his measures, he remarked that he wished to engage young men; that he wished me to go with him, for one; and, that in case I complied, he would give me a captain's commission. Fully believing, from the conversation and high standing of said Aaron Burr, that a war was secretly to be carried on by the United States, against some of the territories of Spain, I finally consented to engage under him. He then observed that I might probably want some money to raise a company. I replied, that I did not want more than was sufficient to take me home; and mentioned one hundred and fifty dollars. He inquired whether I could not let him have some arms and ammunition. I replied that I had a small supply of these articles, but that I did not think myself authorized to furnish him; on which he observed, that he had got some at another garrison, and that I should be justified in supplying him; to which I replied that I did not wish to implicate myself. He then requested me to let some of my men repair two or three muskets, and run him some balls, (the lead he procured at the public factory,) as he wanted, in descending the Mississippi, to kill game for the use of himself and the residue of his men who were behind; and I accordingly suffered the muskets to be repaired and the balls to be run. In the course of various conversations, he frequently requested me to let him have some soldiers to go with him; which I as often refused; at last he wished me to let him have a soldier to carry a letter to Colonel John McKee, in the Chickasaw nation; and, on my refusal, he requested me to give one of my soldiers a pass for twenty days; and observed, that, if he did not return, I could not be blameable; this I also refused. In the course of this conversation, he asked me whether I could not then go with him, or soon follow him, and take with me the soldiery under my command. In answer to which, I remarked (being somewhat alarmed at his propositions,) that I was about to send in my resignation; and that, as soon as I was discharged from the service, I had no objection to following him; but that I could not undertake to seduce the soldiery from their duty while I held a commission. I also observed, that my family was respectable, and that I would not do any thing to injure the feelings of my relations, or to wound my reputation as an officer; and that, whatever might be his projects, I did not wish to hear any thing more about them, unless they were honorable. To which he replied, that his views were honorable; and that, by my complying with his request, I should not incur any blame; that many of the officers of the army were actually engaged with him; and that he expected to derive great assistance from the present military force; that General Eaton was coming round with the navy; and that he expected soon to receive ten thousand stands of arms. He, moreover, observed that, as he was acquainted with my father, he should like to have me join him, and the sooner I did it the better. I replied, that it might be some time before I could receive an answer to my resignation; but that when I did, I would follow him, provided I found him patronised by the United States. He then observed, that it would not do to delay business, and would, therefore, furnish me with money to raise a company. He asked me the expense of a man to carry a letter to Colonel McKee in the Chickasaw nation. I replied, about fifteen dollars. He then asked me how many Indians I thought Colonel McKee could raise in the Choctaw nation? My reply was, that I did not know; but that Colonel McKee had resided there some time, and his influence was probably considerable.

On the morning of the 6th of the said January, just before he started down the Mississippi, on my entering the room where the said Burr was, he said to me, there is something for you on the mantel-tree piece, over the fire; on which, I took from thence one hundred and fifty dollars in bank notes; and a draft on John Smith for five hundred dollars, which he, at the same time, presented me, observing that a draft was easier carried than money; that as

to a receipt for the money, he should not take any; and that in case I disliked his plans, he relied on my honor to return it. This money and draft were given me by the said Burr for the express purpose of raising a company of men to join him, and for building a boat calculated to ascend currents, particular instructions about which he gave me. He further observed, that he *intended to fix himself in the Spanish dominions, and there proclaim his intentions*; that if I was not informed of them before I left the Bluffs, he wished me, on my way to Virginia, to call on General Tupper, at Marietta, to whom he should communicate his intentions, as soon as he had fixed himself in the Spanish dominions, and that he would communicate them to me; and, at the same time, he gave me a letter to said Tupper, which I burned as soon as I received the President's proclamation; and, on his leaving the Bluffs, he pressed me to leave the garrison in fifteen days, and not to wait for the acceptance of my resignation; and, on my way down the Mississippi, to endeavor to get as many of the soldiery at the Bluffs to accompany me as possible.

And further this deponent saith not.

JACOB JACKSON,  
*Lieutenant regiment of artillerists.*

HENRICO COUNTY, *scit*:

Sworn to before me, in due form, agreeable to law, this 20th October, 1807.

DANIEL L. HYLTON,  
*Justice of the Peace for the said county.*

CITY OF RICHMOND, *scit*:

This day, the 21st of October, 1807, Thomas Ritchie, editor of the *Enquirer*, published in this city, made oath before me, a magistrate of the said city, that the ten half sheets annexed hereto, containing opinions of the Circuit Court of the United States for the fifth circuit and district of Virginia, in the case of Aaron Burr, &c. &c., were printed in the *Enquirer*, from the original manuscript furnished by Chief Justice Marshall; and that the proof sheets were always submitted to his inspection and correction.

Given under my hand, the day and year above written.

WM. RICHARDSON, *Mayor.*

*Opinion of the court on the motion made by the counsel for the United States, Monday, May 25th, 1807, to commit Aaron Burr for treason, after the grand jury were sworn, and before the indictment was laid before them.*

TUESDAY, May 26.

The court delivered the following opinion, on Mr. Hay's motion for commitment:

In considering the question which was argued yesterday, it appears to be necessary to decide:

1st. Whether the court, sitting as a court, possesses the power to commit any person charged with an offence against the United States.

2d. If this power be possessed, whether circumstances exist in this case which ought to restrain its exercise.

The first point was not made in the argument, and would, if decided against the attorney for the United States, only change the mode of proceeding. If a doubt can exist respecting it, that doubt arises from the omission, in the laws of the United States, to invest their courts, sitting as courts, with the power in question. It is expressly given to every justice and judge, but not to a court.

This objection was not made on the part of Colonel Burr; and is now mentioned, not because it is believed to present any intrinsic difficulty, but to show that it has been considered.

This power is necessarily exercised by courts in discharge of their functions, and seems not to have been expressly given, because it is implied in the duties which a court must perform; and the judicial act contemplates it in this light. They have cognizance of all crimes against the United States; they are composed of the persons who can commit for those crimes; and it is obviously understood, by the Legislature, that the judges may exercise collectively the power which they possess individually, so far as is necessary to enable them to retain a person charged with an offence, in order to receive the judgment which may finally be rendered in his case. The court say this is obviously understood by the Legislature, because there is no clause expressly giving to the court the power to bail or to commit a person, who appears in the discharge of his recognizance, and against whom the attorney for the United States does not choose to proceed; and yet the 33d section of the judicial act evinces a clear understanding in the Legislature, that the power to take bail is in possession of the court.

If a person shall appear, in conformity with his recognizance, and the court passes away without taking any order respecting him, he is discharged. A new recognizance, therefore, or a commitment on the failure to enter into one, is in the nature of an original commitment; and this power has been uniformly exercised.

It is believed to be a correct position, that the power to commit, for offences of which it has cognizance, is exercised by every court of criminal jurisdiction, and that courts as well as individual magistrates are conservators of the peace.

Were it otherwise, the consequence would only be that it would become the duty of the judge to descend from the bench, and, in his character as an individual magistrate, to do that which the court is asked to do.

If the court possesses the power, it is certainly its duty to hear the motion which has been made on the part of the United States; for in cases of the character of that under consideration, its duty and its power are co-extensive with each other. It was observed, when the motion was made, and the observation may now be repeated, that the arguments urged, on the part of the accused, rather prove the motion on the part of the United States unnecessary, or that inconveniences may result from it, than the want of a legal right to make it.

The first is, that the grand jury being now in session, ready to receive an indictment, the attorney for the United States ought to proceed by bill, instead of applying to the court, since the only purpose of a commitment is to bring the accused before a grand jury. This statement contains an intrinsic error, which destroys its operation. The commitment is not made for the sole purpose of bringing the accused before a grand jury; it is made for the purpose of subjecting him, personally, to the judgment of the law, and the grand jury is only the first step towards that judgment.

If, as has been argued, the commitment was simply to detain the person until a grand jury could be obtained, then its operation would cease on the assembling of a grand jury; but such is not the fact. The order of commitment retains its force while the jury is in session; and if the prosecutor does not proceed, the court is accustomed to retain a prisoner in confinement, or to renew his recognizance to a subsequent term.

The arguments drawn from the general policy of our laws, from the attention which should be bestowed on prosecutions, instituted by special order of the Executive, from the peculiar inconveniences and hardships of this particular case, from the improper effects which inevitably result from this examination, are, some of them, subject

for the consideration of those who make the motion, rather than of the court, and others go to the circumspection with which the testimony in support of the motion ought to be weighed, rather than to the duty of hearing it.

It has been said that Col. Burr already stands charged with treason, and that, therefore, a motion to commit him for the same offence is improper; but the fact is not so understood by the court. The application to charge him with treason was rejected by the judge to whom it was made, because the testimony offered in support of the charge did not furnish probable cause for the opinion that the crime had been committed. After this rejection, Col. Burr stood, so far as respected his legal liability to have the charge repeated, in precisely the same situation as if it had never been made. He appears in court now as if the crime of treason had never before been alleged against him; that it has been alleged, that the Government had had time to collect testimony for the establishment of the fact, that an immense crowd of witnesses are attending for the purpose, that the prosecutor in his own judgment has testimony to support the indictment, are circumstances which may have their influence on the motion for a commitment, or on a continuance, but which cannot deprive the attorney for the United States of the right to make his motion. If he was about to send up a bill to the grand jury, he might move that the person he designed to accuse should be ordered into custody, and it would be in the discretion of the court to grant or to reject the motion.

The court perceives and regrets that the result of this motion may be publications unfavorable to the justice, and to the right decision of the case; but if this consequence is to be prevented, it must be by other means than by refusing to hear the motion. No man feeling a correct sense of the importance which ought to be attached by all to a fair and impartial administration of justice, especially in criminal prosecutions, can view, without extreme solicitude, any attempt which may be made to prejudice the public judgment, and to try any person, not by the laws of his country and the testimony exhibited against him, but by public feelings, which may be, and often are, artificially excited against the innocent as well as the guilty. But the remedy, for a practice not less dangerous than it is criminal, is not to be obtained by suppressing motions, which either party may have a legal right to make.

It is the choice of the prosecutor on the part of the United States to proceed with his motion; it is the opinion of the court that he may open his testimony.

#### OPINION OF THE COURT

*On the question whether Jacob Dunbaugh's affidavit, taken at New Orleans, and certified by B. Cenas, Justice of the Peace, was admissible as evidence on the motion for commitment—pronounced Thursday, May 28.*

The Chief Justice pronounced the opinion of the court in the following words.

On the part of the United States, a paper purporting to be an affidavit has been offered in evidence, to the reading of which two exceptions are taken:

1st. That an affidavit ought not to be admitted where the personal attendance of the witness could have been obtained;

2dly. That this paper is not so authenticated as to entitle itself to be considered as an affidavit.

That a magistrate may commit upon affidavits has been decided in the Supreme Court of the United States, though not without hesitation. The presence of the witness to be examined by the committing justice confronted with the accused is certainly to be desired, and ought to be obtained, unless considerable inconvenience and difficulty exist in procuring his attendance. An *ex parte* affidavit, shaped, perhaps, by the person pressing the prosecution, will always be viewed with some suspicion, and acted upon with some caution; but the court thought it would be going too far to reject it altogether. If it was obvious that the attendance of the witness was easily attainable, but that he was intentionally kept out of the way, the question might be otherwise decided.

But the particular case before the court does not appear to be of this description. The witness resides at a great distance; and there is no evidence that the materiality of his testimony was known to the prosecutors or to the Executive in time to have directed his attendance. It is true that general instructions, which would apply to any individual, might have been sent, and the attendance of this or any other material witness obtained under those instructions; but it would be requiring too much to say that the omission to do this ought to exclude an affidavit. This exception, therefore, will not prevail.

The second is, that the paper is not so authenticated as to be introduced as testimony on a question which concerns the liberty of a citizen.

This objection is founded on two omissions in the certificate.

The first is, that the place at which the affidavit was taken does not appear;

The second, that the certificate of the Governor does not state the person who administered the oath to be a magistrate, but goes no further than to say that a person of that name was a magistrate.

That, for aught appearing to the court, this oath may or may not, in point of fact, have been legally administered, must be conceded.

The place where the oath was administered not having been stated, it may have been administered where the magistrate had no jurisdiction, and yet the certificate be perfectly true. Of consequence, there is no evidence before the court that the magistrate had power to administer the oath, and was acting in his judicial capacity.

The effect of testimony may often be doubtful, and courts must exercise their best judgment in the case; but of the verity of the paper there ought never to be a doubt. No paper writing ought to gain admittance into a court of justice as testimony, unless it possesses those solemnities which the law requires. Its authentication must not rest upon probability, but must be as complete as the nature of the case admits of. This is believed to be a clear legal principle. In conformity with it is, as the court conceives, the practice of England and of this country, as is attested by the books of forms; and no case is recollected in which a contrary principle has been recognised. This principle is in some degree illustrated by the doctrine with respect to all courts of a limited jurisdiction. Their proceedings are erroneous, if their jurisdiction be not conclusively shown. They derive no validity from the strongest probability that they had jurisdiction in the case; none, certainly, from the presumption that, being a court, a usurpation of jurisdiction will not be presumed. The reasoning applies in full force to the actings of a magistrate whose jurisdiction is local. Thus, in the case of a warrant, it is expressly declared that the place where it was made ought to appear.

The attempt to remedy this defect, by comparing the date of the certificate given by the magistrate with that given by the Governor, cannot succeed. The answer given at bar to this argument is conclusive. The certificate wants those circumstances which would make it testimony, and without them no part of it can be regarded.

The second objection is equally fatal. The Governor has certified that a man of the same name with the person who has administered the oath is a magistrate, but not that the person who has administered it is a magistrate.

It is too obvious to be controverted that there may be two or more persons of the same name; and, consequently, to produce that certainty which the case readily admits of, the certificate of the Governor ought to have applied to the individual who administered the oath. The propriety of this certainty and precision in a certificate, which is to authenticate any affidavit to be introduced into a court of justice, is so generally admitted, that I do not recollect a single instance in which the principle has been departed from.

It has been said that it ought to appear that there are two persons of the same name, or the court will not presume such to be the fact. The court presumes nothing. It may or may not be the fact, and the court cannot presume that it is not. The argument proceeds upon the idea that an instrument is to be disproved by him who objects to it, not that it is to be proved by him who offers it. Nothing can be more repugnant to the established usage of courts.

How is it to be proved that there are two persons of the name of Cenas in the Territory of Orleans? If, with a knowledge of several weeks, perhaps months, that this prosecution was to be carried on, the Executive ought not to be required to produce this witness, ought the prisoner to be required, with the notice of a few hours, to prove that two persons of the same name reside in New Orleans?

It has been repeatedly urged that a difference exists between the strictness of laws which would be applicable to a trial in chief, and that which is applicable to a motion to commit for trial.

On the reality of this distinction the present controversy affords conclusive proof. At a trial in chief, the accused possesses the valuable privilege of being confronted with his accuser. But there must be some limit to this relaxation, and it appears not to have extended so far as to the admission of a paper not purporting to be an affidavit, and not shown to be one.

When it is asked whether every man does not believe that this affidavit was really taken before a magistrate, it is at once answered that this cannot affect the case. Should a man of probity declare a certain fact within his own knowledge, he would be credited by all who knew him, but his declaration could not be received as testimony by the judge, who firmly believed him. So a man might be believed to be guilty of a crime, but a jury could not convict him, unless the testimony proved him to be guilty of it. This judicial disbelief of a probable circumstance does not establish a wide interval between common law and common sense. It is believed, in this respect, to show their intimate union.

The argument goes to this; that the paper shall be received and acted upon as an affidavit, not because the oath appears to have been administered according to law, but because it is probable that it was so administered.

This point seems to have been decided by the constitution.

"The right of the people," says that instrument, "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause supported by oath or affirmation, and particularly describing the places to be searched, and the persons or things to be seized."

The cause of seizure is not to be supported by a probable oath, or an oath that was probably taken, but by oath absolutely taken. This oath must be a legal oath; and if it must be a legal oath, it must legally appear to the court to be so. This provision is not made for a final trial; it is made for the very case now under consideration. In the cool and temperate moments of reflection, undisturbed by that whirlwind of passion with which in those party conflicts which most generally produce acts or accusations of treason the human judgment is sometimes overthrown, the people of America have believed the power even of commitment to be capable of too much oppression in its execution, to be placed, without restriction, even in the hands of the National Legislature. Shall a judge disregard those barriers which the nation has deemed it proper to erect?

The interest which the people have in this prosecution has been stated; but it is firmly believed that the best and true interest of the people is to be found in a rigid adherence to those rules which preserve the fairness of criminal prosecutions in every stage.

If this was a case to be decided by principle alone, the court would certainly not receive this paper. But if the point is settled by decisions, they must be conformed to.

It has been said to be settled in the Supreme Court of the United States by admitting the affidavit of Wilkinson, to which an exception was taken, because it did not appear that the magistrate had taken the oaths prescribed by law. It was said that, as by law he could not act until he had taken the oaths and he was found acting, it must be presumed that this prerequisite was complied with; that is, that his acting as a magistrate under his commission was evidence that he was authorized so to act.

It will not be denied that there is much strength in the argument; but the cases do not appear to be precisely parallel.

The certificate that he is a magistrate and that full faith is due to his acts, implies that he has qualified, if his qualification is necessary to his being a complete magistrate, whose acts are entitled to full faith and credit.

It is not usual for a particular certificate that a magistrate has qualified to accompany his official acts.

There is no record of his qualification, and no particular testimonial of it could be obtained.

These observations do not apply to the objections which exist.

But it is said that the certificate is the same with that in General Wilkinson's affidavit.

If this objection had been taken and overruled, it would have ended the question. But it was not taken, so far as is now recollected, and does not appear to have been noticed by the court. It is not recollected by the judge who sat on that occasion to have been noticed. A defect, if it be one, which was not observed, cannot be cured by being passed over in silence.

The case in Washington was a civil case, and turned upon the point, that no form of the commission was prescribed, and, consequently, that it was not necessary to appear on the face of it that it was directed to magistrates.

That it was the duty of the clerk to direct it to magistrates, and he should not be presumed to have neglected his duty in a case in which his performance of it need not appear on the face of the instrument.

That the person intending to take this exception ought to have taken it sooner, and not surprise the opposite party when it was too late to correct it.

But the great difference is, that the privy examination was a mere ministerial act; the administering an oath is a judicial act.

The court is of opinion that the paper, purporting to be an affidavit made by Dunbaugh, cannot be read, because it does not appear to be on oath.

*Opinion on the motion for a writ of subpoena duces tecum, to be directed to the President of the United States, pronounced June 13, 1807.*

The discussion of this question was at length waived, when the Chief Justice delivered the following opinion on the motion to issue a *subpoena duces tecum*, directed to the President of the United States. The object of the



motion now to be decided is to obtain copies of certain orders understood to have been issued to the land and naval officers of the United States for the apprehension of the accused; and an original letter from General Wilkinson to the President, in relation to the accused, with the answer of the President to that letter, which papers are supposed to be material to the defence. As the legal mode of effecting this object, a motion is made for a *subpœna duces tecum* to be directed to the President of the United States.

In opposition to this motion, a preliminary point has been made by the counsel for the prosecution. It has been insisted by them that, until the grand jury shall have found a true bill, the party accused is not entitled to subpœnas or to the aid of the court to obtain his testimony.

It will not be said that this opinion is now, for the first time, advanced in the United States; but certainly it is now, for the first time, advanced in Virginia. So far back as any knowledge of our jurisprudence is possessed, the uniform practice of this country has been to permit any individual, who was charged with any crime, to prepare for his defence, and to obtain the process of the court for the purpose of enabling him so to do. This practice is as convenient, and is as consonant to justice as it is to humanity. It prevents, in a great measure, those delays which are never desirable, which frequently occasion the loss of testimony, and which are often oppressive, that would be the inevitable consequence of withholding from a prisoner the process of the court, until the indictment against him was found by a grand jury. The right of an accused person to the process of the court, to compel the attendance of witnesses, seems to follow necessarily from the right to examine those witnesses; and, wherever the right exists, it would be reasonable that it should be accompanied with the means of rendering it effectual. It is not doubted that a person, who appears before a court under a recognizance, must expect that a bill will be preferred against him, or that a question concerning the continuance of the recognizance will be brought before the court. In the first event, he has the right, and it is, perhaps, his duty, to prepare for his defence at the trial. In the second event, it will not be denied that he possesses the right to examine witnesses on the question of continuing his recognizance. In either case, it would seem reasonable that he should be entitled to the process of the court, to procure the attendance of his witnesses.

The genius and character of our laws and usages are friendly, not to condemnation at all events, but to a fair and impartial trial; and they, consequently, allow to the accused the right of preparing the means to secure such a trial. The objection that the attorney may refuse to proceed at this time, and that no day is fixed for the trial, if he should proceed, presents no real difficulty. It would be a very insufficient excuse to a prisoner who had failed to prepare for his trial, to say that he was not certain the attorney would proceed against him. Had the indictment been found at the last term, it would have been, in some measure, uncertain whether there would have been a trial at this, and still more uncertain on what day that trial would take place; yet subpœnas would have issued returnable to the first day of the term; and if, after its commencement, other subpœnas had been required, they would have issued returnable as the court might direct. In fact, all process, to which the law has affixed no certain return day, is made returnable at the discretion of the court.

General principles, then, and general practice, are in favor of the right of every accused person, so soon as his case is in court, to prepare for his defence, and to receive the aid of process of the court, to compel the attendance of his witnesses.

The constitution and laws of the United States will now be considered for the purpose of ascertaining how they bear upon the question.

The eighth amendment to the constitution gives to the accused, in all criminal prosecutions, a right to a speedy and public trial, and to compulsory process for obtaining witnesses in his favor. The right given by this article must be deemed sacred by the courts, and the article should be so construed as to be something more than a dead letter. What can more effectually elude the right to a speedy trial than the declaration that the accused shall be disabled from preparing for it, until an indictment shall be found against him? It is certainly much more in the true spirit of the provision which secures to the accused a speedy trial, that he should have the benefit of the provision which entitles him to compulsory process as soon as he is brought into court.

This observation derives additional force from the consideration of the manner in which this subject has been contemplated by Congress. It is obvious, by the intention of the National Legislature, that, in all capital cases, the accused shall be entitled to process before indictment found. The words of the law are: "and every *such* person or persons, accused or indicted of the crimes aforesaid, (that is, of treason, or any other capital offence,) shall be allowed and admitted, in his said defence, to make any proof that he or they can produce by lawful witness or witnesses, and shall have the like process of the court, where he or they shall be tried, to compel his or their witnesses to appear at his or their trial, as is usually granted to compel witnesses to appear on the prosecution against them."

This provision is made for persons accused *or* indicted. From the imperfection of human language, it frequently happens that sentences which ought to be the most explicit are of doubtful construction; and in this case, the words "accused *or* indicted" may be construed to be synonymous to describe a person in the same situation, or to apply to different stages of the prosecution. The word *or* may be taken in a conjunctive or a disjunctive sense. A reason for understanding them in the latter sense is furnished by the section itself. It commences with declaring that any person who shall be accused *and* indicted of treason, shall have a copy of the indictment, and at least three days before his trial. This right is obviously to be enjoyed after an indictment, and therefore the words are "accused *and* indicted." So, with respect to the subsequent clause, which authorizes a party to make his defence, and directs the court, on his application, to assign him counsel. The words relate to any one accused *and* indicted. But when the section proceeds to authorize the compulsory process for witnesses, the phraseology is changed. The words are, "and every such person or persons accused *or* indicted," &c.; thereby adapting the expression to the situation of an accused person both before and after indictment. It is to be remarked, too, that the person so accused *or* indicted, is to have "the like process to compel his or their witnesses to appear at his or their trial, as is usually granted to compel witnesses to appear on the prosecution against them." The fair construction of this clause would seem to be that, with respect to the means of compelling the attendance of witnesses to be furnished by the court, the prosecution and defence are placed by the law on equal ground. The right of the prosecutor to take out subpœnas or to avail himself of the aid of the court in any stage of the proceedings previous to the indictment is not controverted. This act of Congress, it is true, applies only to capital cases; but persons charged with offences not capital have a constitutional and a legal right to examine their testimony, and this act ought to be considered as declaratory of the common law in cases where this constitutional right exists.

Upon immemorial usage, then, and upon what is deemed a sound construction of the constitution and law of the land, the court is of opinion that any person charged with a crime in the courts of the United States has a right, before as well as after indictment, to the process of the court, to compel the attendance of his witnesses. Much delay and much inconvenience may be avoided by this construction; no mischief which is perceived can be produced by it. The process would only issue, when, according to the ordinary course of proceeding, the indictment



would be tried at the term to which the subpoena is made returnable, so that it becomes incumbent on the accused to be ready for his trial at that term.

This point being disposed of, it remains to inquire whether a *subpœna duces tecum* cannot be directed to the President of the United States, and whether it ought to be directed in this case.

This question originally consisted of two parts. It was at first doubted whether a subpoena could issue, in any case, to the Chief Magistrate of the nation; and, if it could, whether that subpoena could do more than direct his personal attendance; whether it could direct him to bring with him a paper which was to constitute the gist of his testimony.

While the argument was opening, the attorney for the United States avowed his opinion that a general subpoena might issue to the President, but not a *subpœna duces tecum*. This terminated the argument on that part of the question. The court, however, has thought it necessary to state briefly the foundation of its opinions that such a subpoena may issue.

In the provisions of the constitution and of the statute which give to the accused a right to the compulsory process of the court, there is no exception whatever. The obligation, therefore, of those provisions is general; and it would seem that no person could claim an exemption from them but one who would not be a witness. At any rate, if an exception to the general principle exists, it must be looked for in the law of evidence. The exceptions furnished by the law of evidence (with one only reservation) so far as they are personal, are of those only whose testimony could not be received.

The single reservation alluded to is the case of the King. Although he may perhaps give testimony, it is said to be incompatible with his dignity to appear under the process of the court. Of the many points of difference which exist between the First Magistrate in England and the First Magistrate of the United States, in respect of the personal dignity conferred on them by the constitution of their respective nations, the court will only select and mention two. It is a principle of the English constitution that the King can do no wrong; that no blame can be imputed to him; that he cannot be named in debate.

By the constitution of the United States, the President, as well as every other officer of the Government, may be impeached, and may be removed from office on conviction of high crimes and misdemeanors.

By the constitution of Great Britain, the crown is hereditary, and the monarch can never become a subject.

By that of the United States, the President is elected from the mass of the people, and, on the expiration of the time for which he was elected, returns to the mass of the people again.

How essentially this difference of circumstances must vary the policy of the laws of the two countries in reference to the personal dignity of the Executive chief will be perceived by every person. In this respect, the First Magistrate of the Union may more properly be likened to the First Magistrate of a State—at any rate under the former confederation; and it is not known ever to have been doubted that the Chief Magistrate of a State might be served with a *subpœna ad testificandum*.

If, in any court of the United States, it has ever been decided that a subpoena cannot issue to the President, that decision is unknown to this court.

If, upon any principle, the President could be construed to stand exempt from the general provisions of the constitution, it would be because his duties as Chief Magistrate demand his whole time for national objects. But it is apparent that this demand is not unremitting, and if it should exist at the time when his attendance on a court is required, it would be known on the return of the subpoena, and would rather constitute a reason for not obeying the process of the court, than a reason against its being issued. In point of fact, it cannot be doubted that the people of England have the same interest in the service of the Executive Government, that is, of the cabinet council, that the American people have in the service of the Executive of the United States, and that their duties are as arduous and as unremitting. Yet it has never been alleged that a subpoena might not be directed to them.

It cannot be denied, that, to issue a subpoena to a person filling the exalted station of the Chief Magistrate, is a duty which would be dispensed with much more cheerfully than it would be performed; but, if it be a duty, the court can have no choice in the case.

If, then, as it is admitted by the counsel for the United States, a subpoena may issue to the President, the accused is entitled to it of course; and whatever difference may exist with respect to the power to compel the same obedience to the process, as if it had been directed to a private citizen, there exists no difference with respect to the right to obtain it. The guard furnished to this high officer to protect him from being harassed by vexatious and unnecessary subpoenas, is to be looked for in the conduct of a court after those subpoenas have issued, not in any circumstance which is to precede their being issued.

If, in being summoned to give his personal attendance to testify, the law does not discriminate between the President and a private citizen, what foundation is there for the opinion, that this difference is created by the circumstance that his testimony depends on a paper in his possession, not on facts which have come to his knowledge otherwise than by writing? The court can perceive no foundation for such an opinion. The propriety of introducing any paper into a case as testimony, must depend on the character of the paper, not on the character of the person who holds it. A *subpœna duces tecum*, then, may issue to any person to whom an ordinary subpoena may issue, directing him to bring any paper of which the party praying it has a right to avail himself, as testimony, if, indeed, that be the necessary process for obtaining the view of such paper.

When this subject was suddenly introduced, the court felt some doubt concerning the propriety of directing a subpoena to the chief magistrate, and some doubt also concerning the propriety of directing any paper in his possession, not public in its nature, to be exhibited in court. The impression that the questions which might arise in consequence of such process were more proper for discussion on the return of the process than on its issuing, was then strong on the mind of the judges; but the circumspection with which they would take any step which would, in any manner, relate to that high personage, prevented their yielding readily to those impressions, and induced the request that those points, if not admitted, might be argued. The result of that argument is a confirmation of the impression originally entertained. The court can perceive no legal objection to issuing a *subpœna duces tecum* to any person whatever, provided the case be such as to justify the process.

This is said to be a motion to the discretion of the court. This is true; but a motion to its discretion, is a motion not to its inclination but to its judgment, and its judgment is to be guided by sound legal principles.

A *subpœna duces tecum* varies from an ordinary subpoena only in this, that a witness is summoned for the purpose of bringing with him a paper in his custody. In some of our sister States, whose system of jurisprudence is erected on the same foundation with our own, this process, we learn, issues of course. In this State it issues not absolutely of course, but with leave of the court. No case, however, exists, as is believed, in which the motion has been founded on an affidavit, in which it has been denied, or in which it has been opposed. It has been truly observed, that the opposite party can regularly take no more interest in the awarding a *subpœna duces tecum* than in the awarding an ordinary subpoena. In either case he may object to any delay, the grant of which may be implied in granting the subpoena; but he can no more object regularly to the legal means of obtaining testimony

which exists in the mind, than in the papers of the person who may be summoned. If no inconvenience can be sustained by the opposite party, he can only oppose the motion in the character of an *amicus curiæ*, to prevent the court from making an improper order, or from burdening some officer by compelling an unnecessary attendance. This court would certainly be very unwilling to say that, upon a fair construction, the constitutional and legal right to obtain its process to compel the attendance of witnesses does not extend to their bringing with them such papers as may be material in the defence. The literal distinction which exists between the cases is too much attenuated to be countenanced in the tribunals of a just and humane nation. If, then, the subpoena be used without inquiry into the manner of its application, it would seem to trench on the privileges which the constitution extends to the accused; it would seem to reduce his means of defence within narrower limits than is designed by the fundamental law of our country, if an overstrained rigor should be used with respect to his right to apply for papers deemed by himself to be material. In the one case, the accused is made the absolute judge of the testimony to be summoned; if, in the other, he is not to judge absolutely for himself, his judgment ought to be controlled only so far as it is apparent that he means to exercise his privileges, not really in his own defence, but for purposes which the court ought to discountenance. The court would not lend its aid to motions obviously designed to manifest disrespect to the Government, but the court has no right to refuse its aid to motions for papers to which the accused may be entitled, and which may be material in his defence.

These observations are made to show the nature of the discretion which may be exercised. If it is apparent that the papers are irrelative to the case, or that, for state reasons, they cannot be introduced into the defence, the *subpœna duces tecum* would be useless; but, if this is not apparent, if they may be important in the defence, if they may be safely read at the trial, would it not be a blot in the page which records the judicial proceedings of this country, if in a case of such serious import as this the accused should be denied the use of them?

The counsel for the United States take a very different view of this subject, and insist that a motion for process to obtain testimony should be supported by the same full and explicit proof of the nature and application of that testimony, which would be required on a motion which would delay public justice; which would arrest the ordinary course of proceeding, or which would in any other manner affect the rights of the opposite party. In favor of this position has been urged the opinion of one, whose loss as a friend and as a judge, I sincerely deplore; whose worth I feel, and whose authority I shall at all times greatly respect. If his opinion were really opposed to mine, I should certainly revise, deliberately revise, the judgment I had formed; but I perceive no such opposition.

In the trials of Smith and Ogden, the court in which Judge Patterson presided required a special affidavit in support of a motion made by the counsel for the accused for a continuance and for an attachment against witnesses who had been summoned and had failed to attend.

Had this requisition of a special affidavit been made as well as a foundation for an attachment, as for a continuance, the cases would not have been parallel; because the attachment was considered by the counsel for the prosecution merely as a mean of punishing the contempt; and a court might certainly require stronger testimony to induce them to punish a contempt than would be required to lend its aid to a party in order to procure evidence in a cause. But the proof furnished by the case is most conclusive, that the special statements of the affidavit were required solely on account of the continuance.

Although the counsel for the United States considered the motion for an attachment merely as a mode of punishing for contempt, the counsel for Smith and Ogden considered it as compulsory process to bring in a witness, and moved a continuance until they could have the benefit of this process. The continuance was to arrest the ordinary course of justice, and therefore the court required a special affidavit, showing the materiality of the testimony before this continuance could be granted. *Prima facie* evidence could not apply to the case, and there was an additional reason for a special affidavit. The object of this special statement was expressly said to be for a continuance.

Colden proceeded: "The present application is to put off the cause on account of the absence of witnesses, whose testimony the defendant alleges is material for his defence, and who have disobeyed the ordinary process of the court. In compliance with the intimation from the bench yesterday, the defendant has disclosed, by the affidavit which I have just read, the points to which he expects the witnesses who have been summoned will testify.

"If the court cannot, or will not issue compulsory process to bring in the witnesses, who are the objects of this application, then the cause will not be postponed.

"Or if it appears to the court that the matter disclosed by the affidavit might not be given in evidence if the witnesses were now here, then we cannot expect that our motion will be successful. For it would be absurd to suppose that the court will postpone the trial on account of the absence of witnesses whom they cannot compel to appear; and of whose voluntary attendance there is too much reason to despair; or on account of the absence of witnesses, who, if they were before the court, could not be heard on the trial." (Page 12.)

This argument states unequivocally the purpose for which a special affidavit was required.

The counsel for the United States considered the subject in the same light. After exhibiting an affidavit for the purpose of showing that the witnesses could not probably possess any material information, Mr. Sanford said "It was decided by the court yesterday that it was incumbent on the defendant, in order to entitle himself to a postponement of the trial, on account of the absence of these witnesses, to show in what respect they are material for his defence. It was the opinion of the court that the general affidavit in common form would not be sufficient for this purpose; but that the particular facts expected from the witnesses must be disclosed, in order that the court might, upon those facts, judge of the propriety of granting the postponement." (Page 27.)

The court frequently treated the subject so as to show the opinion that the special affidavit was required only on account of the continuance; but what is conclusive on this point is, that, after deciding the testimony of the witnesses to be such as could not be offered to the jury, Judge Patterson was of opinion that a rule to show cause why an attachment should not issue ought to be granted. He could not have required the materiality of the witness to be shown on a motion the success of which did not, in his opinion, in any degree, depend on that materiality; and which he granted, after deciding the testimony to be such as the jury ought not to hear. It is then most apparent that the opinion of Judge Patterson has been misunderstood, and that no inference can possibly be drawn from it opposed to the principle which has been laid down by the court. That principle will, therefore, be applied to the present motion.

The first paper required is the letter of General Wilkinson, which was referred to in the message of the President to Congress. The application of that letter to the case is shown by the terms in which the communication was made. It is a statement of the conduct of the accused, made by the person who is declared to be the essential witness against him. The order for producing this letter is opposed—

1st. Because it is not material to the defence.

It is a principle universally acknowledged, that a party has a right to oppose to the testimony of any witness against him the declarations which that witness has made at other times on the same subject. If he possesses this right, he must bring forward proof of those declarations. This proof must be obtained before he knows positively

what the witness will say; for if he waits until the witness has been heard at the trial, it is too late to meet him with his former declarations. Those former declarations, therefore, constitute a mass of testimony which a party has a right to obtain, by way of precaution, and the positive necessity of which can only be decided at the trial.

It is with some surprise an argument was heard from the bar, insinuating that the award of a subpoena on this ground gave the countenance of the court to suspicions, affecting the veracity of a witness who is to appear on the part of the United States. This observation could not have been considered. In contests of this description the court takes no part; the court has no right to take a part. Every person may give in evidence testimony such as is stated in this case. What would be the feelings of the prosecutor, if in this case the accused should produce a witness completely exculpating himself, and the attorney for the United States should be arrested in his attempt to prove what the same witness had said upon a former occasion, by a declaration from the bench that such an attempt could not be permitted, because it would imply a suspicion on the court that the witness had not spoken the truth? Respecting so unjustifiable an interposition but one opinion would be formed.

The second objection is, that the letter contains matter which ought not to be disclosed.

That there may be matter, the production of which the court would not require, is certain; but that in a capital case, the accused ought not in some form to have the benefit of it, if it was really essential to his defence, is a position which the court would very reluctantly deny. It ought not to be believed that the department which superintends prosecutions in criminal cases would be inclined to withhold it. What ought to be done under such circumstances presents a delicate question, the discussion of which, it is hoped, will never be rendered necessary in this country. At present it need only be said that the question does not occur at this time. There is certainly nothing before the court which shows that the letter in question contains any matter the disclosure of which would endanger the public safety. If it does contain such matter, the fact may appear before the disclosure is made. If it does contain any matter which it would be imprudent to disclose, which it is not the wish of the Executive to disclose, such matter, if it be not immediately and essentially applicable to the point, will, of course, be suppressed. It is not easy to conceive that so much of the letter as relates to the conduct of the accused can be a subject of delicacy with the President. Every thing of this kind, however, will have its due consideration on the return of the subpoena.

3dly. It has been alleged that a copy may be received instead of the original; and the act of Congress has been cited in support of this proposition.

This argument presupposes that the letter required is a document filed in the Department of State, the reverse of which may be, and most probably is, the fact. Letters addressed to the President are most usually retained by himself. They do not belong to any of the Departments. But were the fact otherwise, a copy might not answer the purpose. The copy would not be superior to the original, and the original itself would not be admitted, if denied, without proof that it was in the hand-writing of the witness. Suppose the case put at the bar, of an indictment on this letter for a libel, and on its production it should appear not to be in the hand-writing of the person indicted. Would its being deposited in the Department of State make it his writing, or subject him to the consequence of having written it? Certainly not. For the purpose, then, of showing the letter to have been written by a particular person, the original must be produced, and a copy could not be admitted.

On the confidential nature of this letter, much has been said at the bar, and authorities have been produced, which appear to be conclusive. Had its contents been orally communicated, the person to whom the communications were made could not have excused himself from detailing them, so far as they might be deemed essential in the defence. Their being in writing gives no additional sanctity; the only difference produced by that circumstance is, that the contents of the paper must be proved by the paper itself, not by the recollection of the witness.

Much has been said about the disrespect to the Chief Magistrate, which is implied by this motion, and by such a decision of it as the law is believed to require.

These observations will be very truly answered by the declaration that this court feels many, perhaps peculiar motives, for manifesting as guarded a respect for the Chief Magistrate of the Union as is compatible with its official duties. To go beyond these would exhibit a conduct which would deserve some other appellation than the term respect.

It is not for the court to anticipate the event of the present prosecution. Should it terminate as is expected on the part of the United States, all those who are concerned in it should certainly regret that a paper which the accused believed to be essential to his defence, which may, for aught that now appears, be essential, had been withheld from him. I will not say that this circumstance would in any degree tarnish the reputation of the Government, but I will say that it would justly tarnish the reputation of the court which had given its sanction to its being withheld. Might I be permitted to utter one sentiment with respect to myself, it would be to deplore most earnestly the occasion which should compel me to look back on any part of my official conduct with so much self-reproach as I should feel, could I declare, on the information now possessed, that the accused is not entitled to the letter in question, if it should be really important to him.

The propriety of requiring the answer to this letter is more questionable. It is alleged that it most probably communicates orders showing the situation of this country with Spain, which will be important on the misdemeanor. If it contains matter not essential to the defence, and the disclosure is unpleasant to the Executive, it certainly ought not to be disclosed. This is a point which will appear on the return.

The demand of the orders which have been issued, and which have been, as is alleged, published in the Natchez Gazette, is by no means unusual. Such documents have often been produced in the courts of the United States and the courts of England. If they contain matter interesting to the nation, the concealment of which is required by the public safety, that matter will appear upon the return. If they do not, and are material they may be exhibited.

It is said they cannot be material, because they cannot justify any unlawful resistance which may have been employed or meditated by the accused.

Were this admitted, and were it also admitted that such resistance would amount to treason, the orders might still be material, because they might tend to weaken the endeavor to connect such overt act with any overt act of which this court may take cognizance.

The court, however, is rather inclined to the opinion that the subpoena, in such case, ought to be directed to the head of the department in whose custody the orders are, and the court must suppose that the letter of the Secretary of the Navy, which has been stated by the attorney for the United States to refer the counsel for the prisoner to his legal remedy for the copies he desired, alluded to such a motion as is now made.

The affidavit on which the motion is grounded has not been noticed. It is believed that such a subpoena as is asked ought, to issue if there exist any reason for supposing that the testimony may be material and ought to be admitted. It is only because the subpoena is addressed to those who administer the Government of this country, that such an affidavit was required as would furnish probable cause to believe that the testimony was desired for the real purposes of defence, and not for such as this court will forever discountenance.

*Opinion delivered June 18, 1807, on the question whether Charles Willie should be compelled to answer certain questions.*

As soon as the court assembled, the Chief Justice delivered the following opinion in the case of Willie:

In point of law the question now before the court relates to the witness himself. The attorney for the United States offers a paper in cipher which he supposes to have proceeded from a person against whom he has preferred an indictment for high treason and another for misdemeanor, both of which are now before the grand jury, and produces a person said to be the secretary or clerk of the accused, who is supposed either to have copied this paper by his directions, or to be able to prove in some other manner that it has proceeded from his authority. To a question demanding whether he understands this paper, the witness has declined giving an answer, saying that the answer might criminate himself; and it is referred to the court to decide whether the excuse he has offered be sufficient to prevent his answering the question which has been propounded to him.

It is a settled maxim of law that no man is bound to criminate himself. This maxim forms one exception to the general rule which declares that every person is compellable to bear testimony in a court of justice. For the witness, who considers himself as being within this exception, it is alleged that he is, and from the nature of things must be, the sole judge of the effect of his answer: that he is, consequently, at liberty to refuse to answer any question, if he will say upon his oath that his answer to that question might criminate himself.

When this opinion was first suggested, the court conceived the principle laid down at the bar to be too broad, and, therefore, required that authorities in support of it might be adduced. Authorities have been adduced, and have been considered. In all of them the court could perceive that an answer to the question propounded might criminate the witness, and he was informed that he was at liberty to refuse an answer. These cases do not appear to the court to support the principle laid down by the counsel for the witness, in the full latitude in which they have stated it. There is no dictum which takes from the court the right to consider and decide whether any direct answer to the particular question propounded could be reasonably supposed to affect the witness. There may be questions, no direct answer to which could in any degree affect him, and there is no case which goes so far as to say that he is not bound to answer such question. The case of Goosly, in this court, is perhaps the strongest that has been adduced. But the general doctrine of the judge in that case must have referred to the circumstances which showed that the answer might criminate him.

When two principles come in conflict with each other, the court must give them both a reasonable construction, so as to preserve them both to a reasonable extent. The principle which entitles the United States to the testimony of every citizen, and the principles by which every witness is privileged not to accuse himself, can neither of them be entirely disregarded. They are believed both to be preserved to a reasonable extent, and according to the true intention of the rule, and of the exception to that rule, by observing that course which it is conceived courts have generally observed. It is this: When a question is propounded, it belongs to the court to consider and to decide whether any direct answer to it can implicate the witness. If this be decided in the negative, then he may answer it without violating the privilege which is secured to him by law. If a direct answer to it may criminate himself, then he must be the sole judge what his answer would be. The court cannot participate with him in this judgment, because they cannot decide on the effect of his answer, without knowing what it would be, and a disclosure of that fact to the judges would strip him of the privilege which the law allows, and which he claims. It follows, necessarily, then, from this state of things, that if the question be of such a description that an answer to it may or may not criminate the witness, according to the purport of that answer, it must rest with himself, who alone can tell what it would be, to answer the question or not. If, in such a case, he says upon his oath that his answer would criminate himself, the court can demand no other testimony of the fact. If the declaration be untrue, it is in conscience and in law as much a perjury as if he had declared any other untruth upon his oath; as it is one of those cases in which the rule of law must be abandoned, or the oath of the witness be received.

The counsel for the United States have also laid down this rule according to their understanding of it; but they appear to the court to have made it as much too narrow, as the counsel for the witness have made it too broad. According to their statement, a witness can never refuse to answer any question unless that answer, unconnected with any other testimony, would be sufficient to convict him of a crime. This would be rendering the rule almost perfectly worthless. Many links frequently compose that chain of testimony which is necessary to convict any individual of a crime. It appears to the court to be the true sense of the rule, that no witness is compellable to furnish any one of them against himself.

It is certainly not only a possible but a probable case, that a witness, by disclosing a single fact, may complete the testimony against himself, and to every effectual purpose accuse himself as entirely as he would do by stating every circumstance which would be required for his conviction. That fact of itself might be unavailing, but all other facts without it would be insufficient. While that remains concealed within his own bosom, he is safe; but draw it from thence, and he is exposed to a prosecution. The rule which declares that no man is compellable to accuse himself, would most obviously be infringed by compelling a witness to disclose a fact of this description.

What testimony may be possessed, or is attainable against any individual, the court can never know. It would seem, then, that the court ought never to compel a witness to give an answer which discloses a fact that would form a necessary and essential part of a crime which is punishable by the laws.

To apply this reasoning to the particular case under consideration. To know and conceal the treason of another is misprision of treason, and is punishable by law. No witness, therefore, is compellable by law to disclose a fact which would form a necessary and essential part of this crime. If the letter in question contain evidence of treason, which is a fact not dependent on the testimony of the witness before the court, and, therefore, may be proved without the aid of his testimony, and if the witness was acquainted with that treason when the letter was written, he may probably be guilty of misprision of treason, and, therefore, the court ought not to compel him to answer any question, the answer to which might disclose his former knowledge of the contents of that letter.

But if the letter should relate to the misdemeanor and not to the treason, the court is not apprised that a knowledge and concealment of the misdemeanor would expose the witness to any prosecution whatever. On this account, the court was at first disposed to inquire whether the letter should be deciphered, in order to determine, from its contents, how far the witness could be examined respecting it. The court was inclined to this course, from considering the question as one which might require a disclosure of the knowledge which the witness might have had of the contents of this letter when it was put in cipher, or when it was copied by himself, if, indeed, such was the fact. But on hearing the question more particularly and precisely stated, and finding that it refers only to the present knowledge of the cipher, it appears to the court that the question may be answered without implicating the witness, because his present knowledge would not, it is believed, in a criminal prosecution, justify the inference that his knowledge was acquired previous to this trial, or afford the means of proving that fact.

The court is, therefore, of opinion that the witness may answer the question now propounded.

The gentlemen of the bar will understand the rule laid down by the court to be this:

It is the province of the court to judge whether any direct answer to the question which may be proposed will furnish evidence against the witness.

If such answer may disclose a fact, which forms a necessary and essential link in the chain of testimony, which would be sufficient to convict him of any crime, he is not bound to answer it so as to furnish matter for that conviction.

In such a case the witness must himself judge what his answer will be; and if he says on oath that he cannot answer without accusing himself, he cannot be compelled to answer.

*Opinion on the motion for an attachment against General Wilkinson, pronounced Saturday, June 27.*

The Chief Justice delivered the following opinion on the motion for an attachment against General Wilkinson: The motion now under consideration was heard at this time because it was alleged to be founded on a fact which might affect the justice of the case in which the court is about to be engaged, and because, while the bills were depending before the grand jury, the court might, without impeding the progress of the business, examine into the complaint which has been made.

The motion is to attach General Wilkinson for a contempt of this court, by obstructing the fair course of justice, with regard to a prosecution depending before it. In support of this charge has been offered the testimony of Mr. Knox, who states a conversation between General Wilkinson and himself, previous to his being served with a subpoena, the object of which was to extract from him whatever information he might possess, respecting the expedition which was the subject of inquiry in this court; and who states, also, that he was afterwards summoned before Judge Hall, who examined him upon interrogatories, and committed him to jail, whence he was taken by order of the deputy marshal, who was a military as well as civil officer, and put on board the *Revenge*, in which General Wilkinson sailed, for the purpose of being brought from New Orleans to Richmond.

That unfair practices towards a witness, who was to give testimony in this court, or oppression under color of its process, although those practices and that oppression were acted in another district, would be punishable in the mode now suggested, provided the person who had acted therein came within the jurisdiction of the court, is a position which the court is not disposed to controvert; but it is also believed that this mode of punishment ought not to be adopted unless the deviation from law could be clearly attached to the person against whom the motion was made; and unless the deviation was intentional, or unless the course of judicial proceeding was, or might be, so affected by it, as to make a punishment in this mode obviously conducive to a fair and correct administration of justice.

The conversation which took place between General Wilkinson and the witness, on the arrival of the latter in New Orleans, was manifestly held with the intention of drawing from him any information which he might possess, relative to the expedition which was then the subject of inquiry. In this intention, there was nothing unlawful. Government, and those who represent it, may justifiably and laudably use means to obtain voluntary communications, provided those means be not such as might tempt the person making them to give an improper coloring to his representations, which might afterwards adhere to them when repeated in court. The address stated to have been employed, the condescension and regard with which the witness was treated, are not said by himself to have been accompanied with any indications of a desire to draw from him more than the truth. The offer of money, if with a view to corrupt, could not be too severely reprehended. It is certainly a dangerous species of communication between those who are searching for testimony, and the person from whom it is expected. But in this case, the court cannot contemplate the offer as being made with immoral views. The witness had a right to demand from those he was expected to accuse a small sum of money, sufficient to subsist him on his return to his home. He was asked whether, on receiving this sum, his objections to giving testimony would be removed. This was certainly a delicate question, but it might be asked without improper motives, and it was pressed no further. This is not shown to be an attempt to contaminate the source of justice, and a consequent contempt of the court, in which it is administered.

The imprisonment of Mr. Knox, and the order for conveying him from New Orleans to Richmond, were the acts of Judge Hall. Whether his proceedings were legal or illegal, they are not shown to have been influenced by General Wilkinson, and this court cannot presume such to have been the fact. General Wilkinson, therefore, is not responsible for them. They were founded, it is true, on an affidavit made by him; but there was no impropriety in making this affidavit, and it remained with the judge to decide what the law would authorize in the case.

All the subsequent proceedings were directed by the civil authority. The agents who executed the orders of the judge were, indeed, military men, who, most probably, would not have disobeyed the commander-in-chief; but that officer is not responsible in this way for having failed to interpose his authority, in order to prevent the execution of the orders of the judge, even if those orders ought not to have been given.

Upon a full view of the subject, the case appears to have been this. General Wilkinson was desirous that the testimony of the witness should be obtained; and, aware of the accusations which had before been brought against him for the use he had made of the military power, he was desirous of obtaining the testimony by lawful means, and therefore referred the subject to a judge of the Territory, under whose orders all subsequent proceedings were taken. Whether the judge did or did not transcend the limits prescribed by law, those ministerial officers who obeyed his orders cannot be supposed to have acted with a knowledge that he had mistaken his power. Should it be admitted that this would be no defence for them in an action to obtain compensation for the injury, yet it furnishes sufficient evidence that no contempt was intended to this court by General Wilkinson; that he has not been guilty of any intentional abuse of its process, or of any oppression in the manner of executing it.

It is said that Captain Gaines, the gentleman whom the marshal appointed as his deputy for this particular purpose, had not taken the oath of office, and was, therefore, not legally qualified to act in that character. However correct this observation may be in itself, it does not appear to the court to justify an attachment against General Wilkinson. The person who sees in the possession of another, a commission as deputy marshal, and sees that others, acting under the commission, ought not to be subjected to a process of contempt for having made no inquiries respecting the oath which the law requires to be taken.

The attachment will not be awarded, because General Wilkinson cannot be considered as having controlled or influenced the conduct of the civil magistrate, and because in this transaction his intention appears to have been not to violate the laws. In such a case, where an attachment does not seem to be absolutely required by the justice due to the particular individual against whom the prosecution is depending, the court is more inclined to leave the parties to the ordinary course of law, than to employ the extraordinary powers which are given for the purpose of preserving the administration of justice in that purity which ought to be so universally desired.

*Opinion on the question concerning the order in which the evidence to the jury on the trial of Aaron Burr for treason was to be introduced, pronounced on Tuesday, August 18, 1807.*

Although this is precisely the same question relative to the order of evidence which was decided by this court on the motion to commit, yet it is now presented under somewhat different circumstances, and may, therefore, not be considered as determined by the former decision. At that time no indictment was found, no pleadings existed, and there was no standard by which the court could determine the relevancy of the testimony offered, until the fact to which it was to apply should be disclosed. There is now an indictment specifying the charge which is to be proved on the part of the prosecution; there is an issue made up, which presents a point to which all the testimony must apply, and, consequently, it is in the power of the court to determine, with some accuracy, on the relevancy of the testimony which may be offered.

It is contended in support of the motion which has been made, that, according to the regular order of evidence, and the usage of courts, the existence of the fact on which the charge depends, ought to be shown, before any testimony explanatory or confirmatory of that fact can be received. Against the motion, it is contended that the crime alleged in the indictment consists of two parts—the fact and the intention; and that it is in the discretion of the attorney for the United States, first to adduce the one or the other; that no instance has ever occurred of the interference of a court with that arrangement which he has thought proper to make.

As is not infrequent, the argument on both sides appears to be in many respects correct. It is the most usual, and appears to be the natural order of testimony to show, first the existence of the fact respecting which the inquiry is to be made. It is unquestionably attended with this advantage; there is a fixed and certain object to which the mind applies with precision all the testimony which may be received, and the court can decide with less difficulty on the relevancy of all the testimony which may be offered. But this arrangement is not clearly shown to be established by any fixed rule of evidence, and no case has been adduced in which it has been forced by the court on the counsel for the prosecution.

On one side, it has been contended that, by requiring the exhibition of the fact in the first instance, a great deal of time may be saved, since there may be a total failure of proof with respect to the fact; and this argument has been answered by observing, that, should there even be such failure, they could not interpose and arrest the progress of the cause; but must permit the counsel for the prosecution to proceed with that testimony which is now offered.

Levying of war is a fact which must be decided by the jury. The court may give general instructions on this as on every other question brought before them, but the jury must decide upon it as compounded of fact and law. Two assemblages of men, not unlike in appearance, possibly may be the one treasonable and the other innocent. If, therefore, the fact exhibited to the court and jury should, in the opinion of the court, not amount to the act of levying war, the court could not stop the prosecution, but must permit the counsel for the United States to proceed to show the intention of the act, in order to enable the jury to decide upon the fact coupled with the intention.

The consumption of time would probably be nearly the same, whether the counsel for the prosecution commenced with the fact or the intention, provided those discussions which respect the admissibility of evidence would be as much avoided in the one mode as in the other. The principal importance which, viewing the question in this light, would seem to attach to its decision, is the different impressions which the fact itself might make, if exhibited at the commencement or close of the prosecution.

Although human laws punish actions, the human mind spontaneously attaches guilt to intentions. The same fact, therefore, may be viewed very differently, where the mind is prepared, by a course of testimony, calculated to impress it with a conviction of the criminal designs of the accused, and where the fact is stated without such preparation. The overt act may be such as to influence the opinion, on the testimony afterwards given, respecting the intention; and the testimony respecting the intention may be such as to influence the opinion on the testimony which may be afterwards given respecting the overt act.

On the question of consuming time, the argument was placed in one point of view, by the counsel for the defence, which excited some doubt. The case was supposed of only one witness to the overt act, and a declaration that it could be proved by no other. The court was asked whether the counsel would be permitted then to proceed to examine the intentions of the accused, and to do worse than waste the time of the court and jury, by exposing, without a possible object, the private views and intentions of any person whatever.

Perhaps, in such a case, the cause might be arrested, but this does not appear to warrant the inference that it might be arrested, because the fact proved by the two witnesses did not appear to the court to amount to the act of levying war. In the case supposed, the declaration of the law is positive, and a point proper to be referred to the court occurs, which suspends the right of the jury to consider the subject, and compels them to bring in a verdict of not guilty. In such a case no testimony could be relevant, and all testimony ought to be excluded. Suppose the counsel for the prosecution should say that he had no testimony to prove the treasonable intention; that he believed confidently the object of the assemblage of men on Blannerhasset's island to be innocent; that it did not amount to the crime of levying war—surely it would be a wanton and useless waste of time to proceed with the examination of the overt act. When such a case occurs, it cannot be doubted that a *nolle prosequi* will be entered, or the jury be directed, with the consent of the attorney, to find a verdict of not guilty.

It has been truly stated that the crime alleged in the indictment consists of the fact, and of the intention with which that fact was committed. The testimony disclosing both the fact and the intention must be relevant. The court finds no express rule stating the order in which the attorney is to adduce relevant testimony, nor any case in which a court has interfered with the arrangement he has made. No alteration of that arrangement, therefore, will now be directed.

But it is proper to add that the intention, which is considered as relevant in this stage of the inquiry, is the intention which composes a part of the crime—the intention with which the overt act itself was committed; not a general evil disposition, or an intention to commit a distinct fact. This species of testimony, if admissible at all, is received as corroborative or confirmatory testimony. It does not itself prove the intention with which the act was performed, but it renders other testimony probable which goes to that intention. It is explanatory of or assistant to that other testimony. Now it is essentially repugnant to the usages of courts, to the declarations of the books by whose authority such testimony is received, that corroborative or confirmatory testimony should precede that which it is to corroborate or confirm. Until the introductory testimony be given, that which is merely corroborative is not relevant, and, of consequence, if objected to, cannot be admitted without violating the best settled rules of evidence.

This position may be illustrated by a direct application to the testimony of General Eaton. So far as his testimony relates to the fact charged in the indictment, so far as relates to levying war on Blannerhasset's island, so far as it relates to a design to seize on New Orleans, or to separate by force the Western from the Atlantic States, it is deemed relevant, and is now admissible. So far as it respects other plans, to be executed in the city of Wash-



ington or elsewhere, if it indicates a treasonable design, it is a design to commit a distinct act of treason, and is, therefore, not relevant to the present indictment. It can only, by showing a general evil intention, render it more probable that the intention in the particular case was evil; it is merely additional or corroborative testimony, and, therefore, if admissible at any time, is only admissible according to rules and principles which the court must respect, after hearing that which it is to confirm.

The counsel will perceive how many questions respecting the relevancy of testimony the arrangement proposed on the part of the prosecution will most probably produce. He is, however, at liberty to proceed according to his own judgment, and the court feels itself bound to exclude such testimony only as, at the time of its being offered, does not appear to be relevant.

*Opinion on the motion to stop the introduction of evidence in the trial of Aaron Burr for treason; pronounced Monday, August 31.*

The question now to be decided has been argued in a manner worthy of its importance, and with an earnestness evincing the strong conviction felt by the counsel on each side that the law is with them.

A degree of eloquence, seldom displayed on any occasion, has embellished a solidity of argument and a depth of research, by which the court has been greatly aided in forming the opinion it is about to deliver.

The testimony adduced on the part of the United States, to prove the overt act laid in the indictment, having shown, and the attorney for the United States having admitted, that the prisoner was not present when the act, whatever may be its character, was committed, and there being no reason to doubt but that he was at a great distance and in a different State, it is objected to the testimony offered on the part of the United States to connect him with those who committed the overt act, that such testimony is totally irrelevant, and must, therefore, be rejected.

The arguments in support of this motion respect in part the merits of the case as it may be supposed to stand independent of the pleadings, and in part as exhibited by the pleadings.

On the first division of the subject two points are made:

1st. That, conformably to the constitution of the United States, no man can be convicted of treason who was not present when the war was levied.

2d. That, if this construction be erroneous, no testimony can be received to charge one man with the overt acts of others, until those overt acts, as laid in the indictment, be proved to the satisfaction of the court.

The question which arises on the construction of the constitution, in every point of view in which it can be contemplated, is of infinite moment to the people of this country and to their Government, and requires the most temperate and the most deliberate consideration.

“Treason against the United States shall consist only in levying war against them.”

What is the natural import of the words “levying of war? And who may be said to levy it?” Had their first application to treason been made by our constitution, they would certainly have admitted of some latitude of construction. Taken most literally, they are perhaps of the same import with the words raising or creating war; but as those who join after the commencement are equally the objects of punishment, there would, probably, be a general admission that the term also comprehended making war, or carrying on war. In the construction which courts would be required to give these words, it is not improbable that those who should raise, create, make, or carry on war, might be comprehended. The various acts which would be considered as coming within the term would be settled by a course of decisions; and it would be affirming boldly to say, that those only who actually constituted a portion of the military force appearing in arms could be considered as levying war. There is no difficulty in affirming that there must be a war, or the crime of levying it cannot exist; but there would often be considerable difficulty in affirming that a particular act did or did not involve the person committing it in the guilt, and in the fact of levying war. If, for example, an army should be actually raised, for the avowed purpose of carrying on open war against the United States, and subverting their Government, the point must be weighed, very deliberately, before a judge would venture to decide that an overt act of levying war had not been committed by a commissary of purchases, who never saw the army, but who, knowing its object and leaguely himself with the rebels, supplied that army with provisions; or by a recruiting officer, holding a commission in the rebel service, who, though never in camp, executed the particular duty assigned to him.

But the term is not for the first time applied to treason by the constitution of the United States. It is a technical term. It is used in a very old statute of that country whose language is our language, and whose laws form the substratum of our laws. It is scarcely conceivable that the term was not employed by the framers of our constitution in the sense which had been affixed to it by those from whom we borrowed it. So far as the meaning of any terms, particularly terms of art, is completely ascertained, those by whom they are employed must be considered as employing them in that ascertained meaning, unless the contrary be proved by the context. It is therefore reasonable to suppose, unless it be incompatible with other expressions of the constitution, that the term “levying war” is used in that instrument in the same sense in which it was understood in England and in this country to have been used in the statute of the 25th of Edward III., from which it was borrowed.

It is said that this meaning is to be collected only from adjudged cases. But this position cannot be conceded to the extent in which it is laid down. The superior authority of adjudged cases will never be controverted. But those celebrated elementary writers, who have stated the principles of the law, whose statements have received the common approbation of legal men, are not to be disregarded. Principles laid down by such writers as Coke, Hale, Foster, and Blackstone, are not lightly to be rejected. These books are in the hands of every student. Legal opinions are formed upon them, and those opinions are afterwards carried to the bar, the bench, and the Legislature. In the exposition of terms, therefore, used in instruments of the present day, the definitions and the dicta of those authors, if not contradicted by adjudications, and if compatible with the words of the statute, are entitled to respect. It is to be regretted that they do not shed as much light on this part of the subject as is to be wished.

Coke does not give a complete definition of the term, but puts cases which amount to levying war. “An actual rebellion or insurrection, he says, is a levying of war.” In whom? Coke does not say whether in those only who appear in arms, or in all those who take part in the rebellion or insurrection by real open deed.

Hale, in treating on the same subject, puts many cases which shall constitute a levying of war, without which no act can amount to treason, but he does not particularize the parts to be performed by the different persons concerned in that war, which shall be sufficient to fix on each the guilt of levying it.

Foster says, “the joining with rebels in an act of rebellion, or with enemies in acts of hostility, will make a man a traitor.” “Furnishing rebels or enemies with money, arms, ammunition, or other necessaries, will *prima facie* make a man a traitor.”

Foster does not say that he would be a traitor under the words of the statute, independent of the legal rule which attaches the guilt of the principal to an accessory, nor that his treason is occasioned by that rule. In England this

discrimination need not be made except for the purpose of framing the indictment; and, therefore, in the English books we do not perceive any effort to make it. Thus, surrendering a castle to rebels, being in confederacy with them, is said by Hale and Foster to be treason under the clause of levying war; but whether it be levying war in fact, or aiding those who levy it, it is not said. Upon this point Blackstone is not more satisfactory. Although we may find, among the commentators upon treason, enough to satisfy the inquiry, what is a state of internal war, yet no precise information can be acquired from them which would enable us to decide, with clearness, whether persons not in arms, but taking part in a rebellion, could be said to levy war independent of that doctrine which attaches to the accessory the guilt of his principal.

If, in adjudged cases, this question has been taken up and directly decided, the court has not seen those cases. The arguments which may be drawn from the form of the indictment, though strong, is not conclusive. In the precedent found in Tremaine, Mary Speake, who was indicted for furnishing provisions to the party of the Duke of Monmouth, is indicted for furnishing provisions to those who were levying war, not for levying war herself. It may correctly be argued, that, had this act amounted to levying war, she would have been indicted for levying war, and the furnishing of provisions would have been laid as the overt act. The court felt this when the precedent was produced. But the argument, though strong, is not conclusive; because, in England, the inquiry whether she had become a traitor by levying war, or by giving aid and comfort to those who were levying war, was unimportant; and because, too, it does not appear, from the indictment, that she was actually concerned in the rebellion; that she belonged to the rebel party; or was guilty of any thing further than a criminal speculation, in selling them provisions.

It is not deemed necessary to trace the doctrine that, in treason, all are principals, to its source. Its origin is, most probably, stated correctly by Judge Tucker, in a work, the merit of which is with pleasure acknowledged. But if a spurious doctrine has been introduced into the common law, and has, for centuries, been admitted as genuine, it would require great hardihood in a judge to reject it. Accordingly, we find those of the English jurists who seem to disapprove the principle, declaring that it is now too firmly settled to be shaken.

It is unnecessary to trace this doctrine to its source for another reason. The terms of the constitution comprise no question respecting principal and accessory, so far as either may be truly and in fact said to levy war. Whether in England a person would be indicted in express terms for levying war, or for assisting others in levying war; yet if, in correct and legal language, he can be said to have levied war; and if it has never been decided that the act would not amount to levying war, his case may, without violent construction, be brought within the letter and the plain meaning of the constitution.

In examining these words, the argument which may be drawn from felonies, as, for example, from murder, is not more conclusive. Murder is the single act of killing with malice aforethought. But war is a complex operation, composed of many parts, co-operating with each other. No one man, or body of men, can perform them all if the war be of any continuance. Although, then, in correct and in law language, he alone is said to have murdered another who has perpetrated the fact of killing, or has been present aiding that fact, it does not follow that he alone can have levied war who has borne arms. All those who perform the various and essential military parts of prosecuting the war, which must be assigned to different persons, may, with correctness and accuracy, be said to levy war.

Taking this view of the subject, it appears to the court, that those who perform a part in the prosecution of the war may correctly be said to levy war and to commit treason under the constitution. It will be observed, that this opinion does not extend to the case of a person who performs no act in the prosecution of the war, who counsels and advises it, or who, being engaged in the conspiracy, fails to perform his part. Whether such persons may be implicated by the doctrine, that, whatever would make a man an accessory in felony, makes him a principal in treason; or are excluded, because that doctrine is inapplicable to the United States, the constitution having declared that treason shall consist only in levying war, and having made the proof of *overt acts* necessary to conviction, is a question of vast importance, which it would be proper for the Supreme Court to take a fit occasion to decide, but which an inferior tribunal would not willingly determine, unless the case before them should require it.

It may now be proper to notice the opinion of the Supreme Court, in the case of the United States against Bollman and Swartwout. It is said that this opinion, in declaring that those who do not bear arms may yet be guilty of treason, is contrary to law, and is not obligatory, because it is extrajudicial, and was delivered on a point not argued. This court is, therefore, required to depart from the principle there laid down.

It is true that, in that case, after forming the opinion that no treason could be committed, because no treasonable assemblage had taken place, the court might have dispensed with proceeding further in the doctrines of treason. But it is to be remembered, that the judges might act separately, and perhaps, at the same time, on the various prosecutions which might be instituted, and that no appeal lay from their decisions. Opposite judgments on the point would have presented a state of things infinitely to be deplored by all. It was not surprising, then, that they should have made some attempt to settle principles which would probably occur, and which were in some degree connected with the point before them.

The court had employed some reasoning to show that without the actual embodying of men war could not be levied. It might have been inferred from this, that those only who were so embodied could be guilty of treason. Not only to exclude this inference, but also to affirm the contrary, the court proceeded to observe: "It is not the intention of the court to say that no individual can be guilty of this crime who has not appeared in arms against his country. On the contrary, if war be actually levied, that is, if a body of men be actually assembled for the purpose of effecting, by force, a treasonable object, all those who perform any part, however minute, or however remote from the scene of action, and who are actually leagued in the general conspiracy, are to be considered as traitors."

This court is told that if this opinion be incorrect, it ought not to be obeyed, because it was extrajudicial. For myself, I can say that I could not lightly be prevailed on to disobey it, were I even convinced that it was erroneous; but I would certainly use any means which the law placed in my power to carry the question again before the Supreme Court for reconsideration, in a case in which it would directly occur and be fully argued.

The court which gave this opinion was composed of four judges. At the time I thought them unanimous, but I have since had reason to suspect that one of them, whose opinion is entitled to great respect, and whose indisposition prevented his entering into the discussions on some of those points which were not essential to the decision of the very case under consideration, did not concur in this particular point with his brethren. Had the opinion been unanimous, it would have been given by a majority of the judges. But should the three who were absent concur with that judge who was present, and who perhaps dissents from what was then the opinion of the court, a majority of the judges may overrule this decision. I should, therefore, feel no objection, although I then thought, and still think, the opinion perfectly correct, to carry the point, if possible, again before the Supreme Court, if the case should depend upon it.



In saying that I still think the opinion perfectly correct, I do not consider myself as going further than the preceding reasoning goes. Some gentlemen have argued as if the Supreme Court had adopted the whole doctrine of the English books on the subject of accessories to treason. But certainly such is not the fact. Those only who perform a part, and who are leagued in the conspiracy, are declared to be traitors. To complete the definition both circumstances must concur. They must "perform a part," which will furnish the overt act, and they must be "leagued in the conspiracy." The person who comes within this description, in the opinion of the court, levies war. The present motion, however, does not rest upon this point; for if under this indictment the United States might be let in to prove the part performed by the prisoner, if he did perform any part, the court could not stop the testimony in its present stage.

2d. The second point involves the character of the overt act which has been given in evidence, and calls upon the court to declare whether that act can amount to levying war. Although the court ought now to avoid any analysis of the testimony which has been offered in this case, provided the decision of the motion should not rest upon it, yet many reasons concur in giving peculiar propriety to a delivery, in the course of these trials, of a detailed opinion on the question, what is levying war? As this question has been argued at great length, it may probably save much trouble to the counsel now to give that opinion.

In opening the case it was contended by the attorney for the United States, and has since been maintained on the part of the prosecution, that neither arms nor the application of force or violence are indispensably necessary to constitute the fact of levying war. To illustrate these positions several cases have been stated, many of which would clearly amount to treason. In all of them, except that which was probably intended to be this case, and on which no observation will be made, the object of the assemblage was clearly treasonable; its character was unequivocal, and was demonstrated by evidence furnished by the assemblage itself; there was no necessity to rely upon information drawn from extrinsic sources, or, in order to understand the fact, to pursue a course of intricate reasoning and to conjecture motives. A force is supposed to be collected for an avowed treasonable object, in a condition to attempt that object, and to have commenced the attempt by moving towards it. I state these particulars because although the cases put may establish the doctrine they are intended to support, may prove that the absence of arms or the failure to apply force to sensible objects, by the actual commission of violence on those objects, may be supplied by other circumstances; yet they also serve to show that the mind requires those circumstances to be satisfied that war is levied.

Their construction of the opinion of the Supreme Court is I think thus far correct. It is certainly the opinion which was at the time entertained by myself, and which is still entertained. If a rebel army, avowing its hostility to the sovereign power, should front that of the Government, should march and countermarch before it, should manoeuvre in its face, and should then disperse from any cause whatever without firing a gun, I confess I could not, without some surprise, hear gentlemen seriously contend that this could not amount to an act of levying war. A case equally strong may be put with respect to the absence of military weapons. If the party be in a condition to execute the purposed treason without the usual implements of war, I can perceive no reason for requiring those implements in order to constitute the crime.

It is argued that no adjudged case can be produced from the English books where actual violence has not been committed. Suppose this were true. No adjudged case has, or, it is believed, can be produced from those books in which it has been laid down that war cannot be levied without the actual application of violence to external objects. The silence of the reporters on this point may be readily accounted for. In cases of actual rebellion against the Government, the most active and influential leaders are generally most actively engaged in the war, and as the object can never be to extend punishment to extermination, a sufficient number are found among those who have committed actual hostilities to satisfy the avenging arm of justice. In cases of constructive treason, such as pulling down meeting houses, where the direct and avowed object is not the destruction of the sovereign power, some act of violence might be generally required to give the crime a sufficient degree of malignity to convert it into treason, to render the guilt of any individual unequivocal.

But Vaughan's case is a case where there was no real application of violence, and where the act was adjudged to be treason. Gentlemen argue that Vaughan was only guilty of adhering to the King's enemies; but they have not the authority of the court for so saying. The judges unquestionably treat the cruising of Vaughan as an overt act of levying war.

The opinions of the best elementary writers concur in declaring, that, where a body of men are assembled for the purpose of making war against the Government, and are in a condition to make that war, the assemblage is an act of levying war. These opinions are contradicted by no adjudged case, and are supported by Vaughan's case. This court is not inclined to controvert them.

But although, in this respect, the opinion of the Supreme Court has not been misunderstood on the part of the prosecution, that opinion seems not to have been fully adverted to in a very essential point, in which it is said to have been misconceived by others.

The opinion, I am informed, has been construed to mean that any assemblage whatever, for a treasonable purpose, whether in force, or not in force, whether in a condition to use violence, or not in that condition, is a levying of war. It is this construction which has not indeed been expressly advanced at the bar, but which is said to have been adopted elsewhere, that the court deems it necessary to examine.

Independent of authority, trusting only to the dictates of reason, and expounding terms according to their ordinary signification, we should probably all concur in the declaration that war could not be levied without the employment and exhibition of force. War is an appeal from reason to the sword, and he who makes the appeal evidences the fact by the use of the means. His intention to go to war may be proved by words, but the actual going to war is a fact which is to be proved by open deed. The end is to be effected by force, and it would seem that in cases where no declaration is to be made, the state of actual war could only be created by the employment of force or being in a condition to employ it.

But the term having been adopted by our constitution, must be understood in that sense in which it was universally received in this country when the constitution was framed. The sense in which it was received is to be collected from the most approved authorities of that nation from which we have borrowed the term.

Lord Coke says, that levying war against the King was treason at the common law. "A compassing or conspiracy to levy war, he adds, is no treason; for there must be a levying of war in fact." He proceeds to state cases of constructive levying war, where the direct design is not to overturn the Government, but to effect some general object by force. The terms he employs in stating these cases are such as indicate an impression on his mind, that actual violence is a necessary ingredient in constituting the fact of levying war. He then proceeds to say, "an actual rebellion or insurrection is a levying of war within this act." "If any with strength and weapons invasive and defensive doth hold and defend a castle or fort against the King and his power, this is levying of war against the King." These cases are put to illustrate what he denominates "a war in fact." It is not easy to conceive "an actual invasion or insurrection" unconnected with force, nor can "a castle or fort be defended with strength and weapons inva-

sive and defensive" without the employment of actual force. It would seem, then, to have been the opinion of Lord Coke, that to levy war there must be an assemblage of men in a condition, and with an intention, to employ force. He certainly puts no case of a different description.

Lord Hale says, (149. 6.) "what shall be said to be a levying of war is partly a question of fact; for it is not every unlawful or riotous assembly of many persons to do an unlawful act, though *de facto* they commit the act they intend, that makes a levying of war; for then every riot would be treason, &c., but it must be such an assembly as carries with it *speciem belli*, the appearance of war, as if they ride or march *vexillis explicatis*, with colors flying, or if they be formed into companies or furnished with military officers, or if they are armed with military weapons, as swords, guns, bills, halberds, pikes, and are so circumstanced that it may be reasonably concluded they are in a posture of war, which circumstances are so various that it is hard to describe them all particularly."

"Only the general expressions in all the indictments of this nature that I have seen are *more guerrine arraiati*, arrayed in warlike manner."

He afterwards adds, "If there be a war levied as is above declared, viz: an assembly arrayed in warlike manner, and so in the posture of war for any treasonable attempt, it is *bellum livatum*, but not *percussum*."

It is obvious that Lord Hale supposed an assemblage of men in force, in a military posture, to be necessary to constitute the fact of levying war. The idea he appears to suggest, that the apparatus of war is necessary, has been very justly combated by an able judge who has written a valuable treatise on the subject of treason; but it is not recollected that his position, that the assembly should be in a posture of war for any treasonable attempt, has ever been denied. Hawk. ch. 17, sec. 23, says, "That not only those who rebel against the King, and take up arms to dethrone him, but also, in many other cases, those who, in a violent and forcible manner, withstand his lawful authority are said to levy war against him; and therefore those that hold a fort or castle against the King's forces, or keep together armed numbers of men against the King's express command, have been adjudged to levy war against him."

The cases put by Hawkins are all cases of actual force and violence. "Those who rebel against the King, and take up arms to dethrone him." In many other cases those "who, in a violent and forcible manner, withstand his lawful authority." "Those that hold a fort or castle against his forces, or keep together armed numbers of men against his express command."

These cases are obviously cases of force and violence.

Hawkins next proceeds to describe cases in which war is understood to be levied under the statute, although it was not directly made against the Government: This Lord Hale terms an *interpretatio*, or constructive levying of war, and it will be perceived that he puts no case in which actual force is dispensed with.

"Those also, he says, who make an insurrection in order to redress a public grievance, whether it be a real or pretended one, and, of their own authority, attempt with force to redress it, are said to levy war against the King, although they have no direct design against his person, inasmuch as they insolently invade his prerogative, by attempting to do that by private authority which he by public justice ought to do, which manifestly tends to a downright rebellion; as where great numbers *by force* attempt to remove certain persons from the King," &c. The cases here put by Hawkins of a constructive levying of war do, in terms, require force as a constituent part of the description of the offence.

Judge Foster, in his valuable treatise on treason, states the opinion which he has quoted from Lord Hale, and differs from that written so far as the latter might seem to require swords, drums, colors, &c., what he terms the pomp and pageantry of war, as essential circumstances to constitute the fact of levying war. In the cases of Damaree and Purchase, he says, "the want of those circumstances weighed nothing with the court, although the prisoners' counsel insisted much on that matter." But, he adds, "the number of the insurgents supplied the want of military weapons; and they were provided with axes, crowns, and other tools of the like nature proper for the mischief they intended to effect. *Furor arma ministrat*."

It is apparent that Judge Foster here alludes to an assemblage in force, or, as Lord Hale terms it, "in a warlike posture;" that is, in a condition to attempt or proceed upon the treason which had been contemplated. The same author afterwards states at large the cases of Damaree and Purchase, from 8th State Trials, and they are cases where the insurgents not only assembled in force, in the posture of war, or in a condition to execute the treasonable design, but they did actually carry it into execution, and did resist the guards who were sent to disperse them:

Judge Foster states, section 4, all insurrections to effect certain innovations of a public and general concern, by an armed force, to be, in construction of law, high treason within the clause of levying war.

The cases put by Foster of constructive levying of war, all contain, as a material ingredient, the actual employment of force. After going through this branch of his subject, he proceeds to state the law in the case of an actual levying of war, that is, where the war is intended directly against the Government.

He says, section 9, "An assembly armed and arrayed in a warlike manner, for a treasonable purpose, is *bellum livatum* though not *bellum percussum*. Listing and marching are sufficient overt acts without coming to a battle or action. So cruising on the King's subjects under a French commission, France being then at war with us, was held to be adhering to the King's enemies though no other act of hostility be proved."

"An assembly armed and arrayed in a warlike manner for any treasonable purpose" is certainly in a state of force; in a condition to execute the treason for which they assembled. The words "enlisting and marching," which are overt acts of levying war, do, in the arrangement of the sentence, also imply a state of force, though that state is not expressed in terms; for the succeeding words, which state a particular event as not having happened, prove that event to have been the next circumstance to those which had happened; they are "without coming to a battle or action." "If men be enlisted and march," that is, if they march prepared for battle or in a condition for action, (for marching is a technical term applied to the movement of a military corps,) it is an overt act of levying war, though they do not come to a battle or action. This exposition is rendered the stronger by what seems to be put in the same sentence as a parallel case with respect to adhering to an enemy. It is cruising under a commission from an enemy without committing any other act of hostility. Cruising is the act of sailing in warlike form and in a condition to assail those of whom the cruiser is in quest.

This exposition, which seems to be that intended by Judge Foster, is rendered the more certain by a reference to the case in the State Trials from which the extracts are taken. The words used by the Chief Justice are, "when men form themselves into a body, and march, rank and file, with weapons offensive and defensive, this is levying of war with open force, if the design be public." Mr Phipps, the counsel for the prisoner, afterwards observed, "intending to levy war is not treason unless a war be actually levied." To this the Chief Justice answered, "Is it not actually levying of war, if they actually provide arms and levy men, and, in a warlike manner, set out and cruise, and come with a design to destroy our ships?" Mr Phipps still insisted "it would not be an actual levying of war unless they committed some act of hostility." "Yes, indeed," said the Chief Justice, "the going on board and being in a posture to attack the King's ships." Mr Baron Powis added, "but for you to say that,

because they did not actually fight, it is not a levying of war, is it not plain what they did intend? That they came with that intention, that they came in that posture, that they came armed, and had guns and blunderbusses, and surrounded the ship twice; they came with an armed force, that is a strong evidence of the design."

The point insisted on by counsel in the case of Vaughan, as in this case, was, that war could not be levied without actually fighting. In this case the counsel was very properly overruled; but it is apparent that the judges proceeded entirely on the idea that a warlike posture was indispensable to the fact of levying war.

Judge Foster proceeds to give other instances of levying war. "Attacking the King's forces in opposition to his authority, upon a march or in quarters, is levying war." "Holding a castle or fort against the King or his forces, if actual force be used in order to keep possession, is levying war. But a bare detainer, as suppose by shutting the gates against the King or his forces, without any other force from within, Lord Hale conceiveth, will not amount to treason."

The whole doctrine of Judge Foster, on this subject, seems to demonstrate a clear opinion that a state of force and violence, a posture of war, must exist to constitute, technically as well as really, the fact of levying war.

Judge Blackstone seems to concur with his predecessors. Speaking of levying war, he says, "This may be done by taking arms not only to dethrone the King, but under pretence to reform religion or the laws, or to remove evil counsellors, or other grievances, whether real or pretended; for the law does not, neither can it, permit any private man, or set of men, to interfere forcibly in matters of such high importance."

He proceeds to give examples of levying war, which show that he contemplated actual force as a necessary ingredient in the composition of this crime.

It would seem, then, from the English authorities, that the words "levying war" have not received a technical different from their natural meaning, so far as respects the character of the assemblage of men which may constitute the fact. It must be a warlike assemblage, carrying the appearance of force, and in a situation to practise hostility.

Several judges of the United States have given opinions at their circuits on this subject, all of which deserve and will receive the particular attention of this court.

In his charge to the grand jury, when John Fries was indicted, in consequence of a forcible opposition to the direct tax, Judge Iredell is understood to have said, "I think I am warranted in saying, that, if in the case of the insurgents who may come under your consideration, the intention was to prevent, by force of arms, the execution of any act of the Congress of the United States altogether, any forcible opposition, calculated to carry that intention into effect, was a levying war against the United States, and, of course, an act of treason." To levy war, then, according to this opinion of Judge Iredell, required the actual exertion of force.

Judge Patterson, in his opinions delivered in two different cases, seems not to differ from Judge Iredell. He does not, indeed, precisely state the employment of force as necessary to constitute a levying of war, but in giving his opinion in cases in which force was actually employed, he considers the crime in one case as dependent on the intention; and in the other case he says, "combining these facts and this design," (that is, combining actual force with a treasonable design,) "the crime is high treason."

Judge Peters has also indicated the opinion that force was necessary to constitute the crime of levying war.

Judge Chase has been particularly clear and explicit. In an opinion, which he appears to have prepared on great consideration, he says, "the court are of opinion, that if a body of people conspire and meditate an insurrection to resist or oppose the execution of a statute of the United States by force, that they are only guilty of a high misdemeanor; but if they proceed to carry such intention into execution by force, that they are guilty of the treason of levying war; and the quantum of the force employed neither increases nor diminishes the crime, whether by one hundred or one thousand persons is wholly immaterial.

"The court are of opinion, that a combination or conspiracy to levy war against the United States is not treason, unless, combined with an attempt to carry such combination or conspiracy into execution, some actual force or violence must be used in pursuance of such design to levy war; but that it is altogether immaterial whether the force used be sufficient to effectuate the object. Any force connected with the intention will constitute the crime of levying war."

In various parts of the opinion delivered by Judge Chase in the case of Fries, the same sentiments are to be found. It is to be observed that these judges are not content that troops should be assembled in a condition to employ force. According to them some degree of force must have been actually employed.

The judges of the United States, then, so far as their opinions have been quoted, seem to have required still more to constitute the fact of levying war than has been required by the English books. Our judges seem to have required the actual exercise of force, the actual employment of some degree of violence. This, however, may be, and probably is, because in the cases in which their opinions were given, the design not having been to overturn the Government, but to resist the execution of a law, such an assemblage would be sufficient for the purpose as to require the actual employment of force to render the object unequivocal.

But it is said all these authorities have been overruled by the decision of the Supreme Court in the case of the United States against Swartwout and Bollman.

If the Supreme Court have, indeed, extended the doctrine of treason further than it has heretofore been carried by the judges of England or of this country, their decision would be submitted to. At least this court could go no further than to endeavor again to bring the point directly before them. It would, however, be expected that an opinion which is to overrule all former precedents, and to establish a principle never before recognized, should be expressed in plain and explicit terms. A mere implication ought not to prostrate a principle which seems to have been so well established. Had the intention been entertained to make so material a change in this respect, the court ought to have expressly declared, that any assemblage of men whatever, who had formed a treasonable design, whether in force or not, whether in a condition to attempt the design or not, whether attended with warlike appearances or not, constitutes the fact of levying war. Yet no declaration to this amount is made. Not an expression of the kind is to be found in the opinion of the Supreme Court. The foundation on which this argument rests is the omission of the court to state that the assemblage, which constitutes the fact of levying war, ought to be in force, and some passages which show that the question respecting the nature of the assemblage was not in the mind of the court when the opinion was drawn, which passages are mingled with others, which at least show that there was no intention to depart from the course of the precedents in cases of treason by levying war.

Every opinion, to be correctly understood, ought to be considered with a view to the case in which it was delivered. In the case of the United States against Bollman and Swartwout, there was no evidence that even two men had ever met for the purpose of executing the plan in which those persons were charged with having participated. It was, therefore, sufficient for the court to say, that, unless men were assembled, war could not be levied. That case was decided by this declaration. The court might, indeed, have defined the species of assemblage which would amount to levying of war, but, as this opinion was not a treatise on treason, but a decision of a particular case, expressions of doubtful import should be construed in reference to the case itself; and the mere omission to state

that a particular circumstance was necessary to the consummation of the crime, ought not to be construed into a declaration that the circumstance was unimportant. General expressions ought not to be considered as overruling settled principles, without a direct declaration to that effect. After these preliminary observations the court will proceed to examine the opinion which has occasioned them.

The first expression in it, bearing on the present question is, "to constitute that specific crime for which the prisoner, now before the court, has been committed, war must be actually levied against the United States. However flagitious may be the crime of conspiracy to subvert, by force, the Government of our country, such conspiracy is not treason. To conspire to levy war, and actually to levy war, are distinct offences. The first must be brought into operation by the assemblage of men for a purpose treasonable in itself, or the fact of levying war cannot have been committed."

Although it is not expressly stated that the assemblage of men for the purpose of carrying into operation the treasonable intent, which will amount to levying war, must be an assemblage in force, yet it is fairly to be inferred from the context; and nothing like dispensing with force appears in this paragraph. The expressions are, "to constitute the crime, war must be actually levied." "A conspiracy to levy war is spoken of as "a conspiracy to subvert, by force, the Government of our country." Speaking in general terms of an assemblage of men for this or for any other purpose, a person would naturally be understood as speaking of an assemblage in some degree adapted to the purpose. An assemblage to subvert, by force, the Government of our country, and amounting to a levying of war, should be an assemblage in force.

In a subsequent paragraph the court says, "it is not the intention of the court to say, that no individual can be guilty of this crime who has not appeared in arms against his country. On the contrary, if war be actually levied, that is, if a body of men be actually assembled in order to effect, by force, a treasonable purpose, all those who perform any part, however minute, &c. and who are actually leagued in the general conspiracy, are traitors. But there must be an actual assembling of men for the treasonable purpose to constitute a levying of war."

The observations made on the preceding paragraph, apply to this. "A body of men actually assembled, in order to effect, by force, a treasonable purpose," must be a body assembled with such appearance of force as would warrant the opinion that they were assembled for the particular purpose; an assemblage to constitute an actual levying of war should be an assemblage with such appearance of force as would justify the opinion that they met for that purpose.

This explanation, which is believed to be natural, certainly not a strained explanation of the words, derives some additional aid from the terms in which the paragraph last quoted commences. "It is not the intention of the court to say that no individual can be guilty of treason who has not appeared in arms against his country." These words seem to obviate an inference which might otherwise have been drawn from the preceding paragraph. They indicate that, in the mind of the court, the assemblage stated in that paragraph was an assemblage in arms; that the individuals who composed it had appeared in arms against their country; that is, in other words, that the assemblage was a military, a warlike assemblage.

The succeeding paragraph in the opinion, relates to a conspiracy, and serves to show that force and violence were in the mind of the court, and that there was no idea of extending the crime of treason, by construction, beyond the constitutional definition which had been given of it.

Returning to the case actually before the court, it is said "a design to overturn the Government of the United States in New Orleans, *by force*, would have been unquestionably a design which, if carried into execution, would have been treason, and the assemblage of a body of men for the purpose of carrying it into execution, would amount to levying of war against the United States."

Now what could reasonably be said to be an assemblage of a body of men for the purpose of overturning the Government of the United States in New Orleans by force? Certainly an assemblage in force, an assemblage prepared and intending to act with force, a military assemblage. The decisions, heretofore made by the judges of the United States, are then declared to be in conformity with the principles laid down by the Supreme Court. Is this declaration compatible with the idea of departing from those opinions on a point within the contemplation of the court? The opinions of Judge Patterson and Judge Iredell are said "to imply an actual assembling of men, though they rather designed to remark on the purpose to which the force was to be applied than on the nature of the force itself." This observation certainly indicates that the necessity of an assemblage of men was the particular point the court meant to establish, and that the idea of force was never separated from this assemblage.

The opinion of Judge Chase is next quoted with approbation. This opinion, in terms, requires the employment of force.

After stating the verbal communications said to have been made by Mr. Swartwout to General Wilkinson, the court says "if these words import that the Government of New Orleans was to be revolutionized by force, although merely as a step to, or a mean of, exciting some greater projects, the design was unquestionably treasonable, and any assemblage of men for that purpose would amount to a levying of war."

The words "any assemblage of men," if construed to affirm that any two or three of the conspirators who might be found together after this plan had been formed, would be the act of levying war, would certainly be misconstrued. The sense of the expressions "any assemblage of men" is restricted by the words "for this purpose." Now could it be in the contemplation of the court that a body of men would assemble for the purpose of revolutionizing New Orleans by force, who should not themselves be in force?

After noticing some difference of opinion among the judges respecting the import of the words said to have been used by Mr. Swartwout, the court proceeds to observe: "But whether this treasonable intention be really imputable to the plan or not, it is admitted that it must have been carried into execution by an open assemblage for that purpose, previous to the arrest of the prisoner, in order to consummate the crime as to him?"

Could the court have conceived "an open assemblage" "for the purpose of overturning the Government of New Orleans by force" "to be only equivalent to a secret furtive assemblage without the appearance of force?"

After quoting the words of Mr. Swartwout, from the affidavit, in which it was stated that Mr. Burr was levying an army of seven thousand men, and observing that the treason to be inferred from these words would depend on the intention with which it was levied, and on the progress which had been made in levying it, the court say, "the question then is, whether this evidence proves Colonel Burr to have advanced so far in levying an army as actually to have assembled them."

Actually to assemble an army of seven thousand men is unquestionably to place those who are so assembled in a state of open force.

But as the mode of expression used in this passage might be misconstrued so far as to countenance the opinion that it would be necessary to assemble the whole army in order to constitute the fact of levying war, the court proceeds to say, "It is argued that since it cannot be necessary that the whole seven thousand men should be assembled, their commencing their march by detachments to the place of rendezvous must be sufficient to constitute the crime."

"This position is correct, with some qualification. It cannot be necessary that the whole army should assemble, and that the various parts which are to compose it should have combined. But it is necessary there should be an actual assemblage; and therefore this evidence should make the fact unequivocal.

"The travelling of individuals to the place of rendezvous, would, perhaps, not be sufficient. This would be an equivocal act, and has no warlike appearance. The meeting of particular bodies of men, and their marching from places of partial to a place of general rendezvous, would be such an assemblage."

The position here stated by the counsel for the prosecution is, that the army "commencing its march by detachments to the place of rendezvous, (that is, of the army,) must be sufficient to constitute the crime."

This position is not admitted by the court to be universally correct. It is said to be "correct with some qualification." What is that qualification?

"The travelling of individuals to the place of rendezvous," and by this term is not to be understood one individual by himself, but several individuals either separately or together but not in military form, "would, perhaps, not be sufficient." Why not sufficient? Because, says the court, "this would be an equivocal act, and has no warlike appearance." The act, then, should be unequivocal, and should have a warlike appearance. It must exhibit, in the words of Sir Matthew Hale, *speciem belli*, the appearance of war. This construction is rendered in some measure necessary when we observe that the court is qualifying the position. "That the army, commencing their march by detachments to the place of rendezvous, must be sufficient to constitute the crime." In qualifying this position they say, "the travelling of individuals would, perhaps, not be sufficient." Now, a solitary individual travelling to any point, with any intent, could not, without a total disregard of language, be termed a marching detachment. The court, therefore, must have contemplated several individuals travelling together; and the words being used in reference to the position they were intended to qualify, would seem to indicate the distinction between the appearances attending the usual movement of a company of men for civil purposes, and that military movement which might, in correct language, be denominated "marching by detachments."

The court then proceeded to say, "the meeting of particular bodies of men, and the marching from places of partial to a place of general rendezvous, would be such an assemblage."

It is obvious from the context that the court must have intended to state a case which would in itself be unequivocal, because it would have a warlike appearance. The case stated, is that of distinct bodies of men assembling at different places and marching from these places of partial to a place of general rendezvous. When this has been done, an assemblage is produced which would in itself be unequivocal. But when is it done? what is the assemblage here described? The assemblage formed of the different bodies of partial at a place of general rendezvous. In describing the mode of coming to this assemblage the civil term "travelling" is dropped, and the military term "marching" is employed. If this was intended as a definition of an assemblage which would amount to levying war, the definition requires an assemblage at a place of general rendezvous, composed of bodies of men who had previously assembled at places of partial rendezvous. But this is not intended as a definition; for, clearly, if there should be no places of partial rendezvous, if troops should embody in the first instance, in great force for the purpose of subverting the Government by violence, the act would be unequivocal; it would have a warlike appearance, and it would, according to the opinion of the Supreme Court, properly construed, and according to the English authorities, amount to levying war. But this, though not a definition, is put as an example; and surely it may be safely taken as an example. If different bodies of men, in pursuance of a treasonable design plainly proved, should assemble in warlike appearances at places of partial rendezvous, and should march from those places to a place of general rendezvous, it is difficult to conceive how such a transaction could take place without exhibiting the appearance of war, without an obvious display of force. At any rate, a court in stating generally such a military assemblage as would amount to levying war, and having a case before them in which there was no assemblage whatever, cannot reasonably be understood in putting such an example, to dispense with those appearances of war which seem to be required by the general current of authorities. Certainly they ought not to be so understood when they say in express terms, that "it is more safe as well as more consonant to the principles of our constitution, that the crime of treason should not be extended by construction to doubtful cases; and that crimes not already within the constitutional definition, should receive such punishment as the Legislature, in its wisdom, may provide."

After this analysis of the opinion of the Supreme Court, it will be observed, that the direct question whether an assemblage of men which might be construed to amount to a levying of war, must appear in force or in military form, was not in argument or in fact before the court, and does not appear to have been in terms decided. The opinion seems to have been drawn without particularly adverting to this question; and, therefore, upon a transient view of particular expressions, might inspire the idea that a display of force, that appearances of war were not necessary ingredients to constitute the fact of levying war. But upon a more intent and more accurate investigation of this opinion, although the terms *force* and *violence* are not employed as descriptive of the assemblage, such requisites are declared to be indispensable as can scarcely exist without the appearance of war and the existence of real force. It is said that war must be levied in fact; that the object must be one which is to be effected by force; that the assemblage must be such as to prove that this is its object; that it must not be an equivocal act, without a warlike appearance; that it must be an open assemblage for the purpose of force. In the course of this opinion, decisions are quoted and approved, which require the employment of force to constitute the crime. It seems extremely difficult, if not impossible, to reconcile these various declarations with the idea that the Supreme Court considered a secret, unarmed meeting, although that meeting be of conspirators, and although it met with a treasonable intent, as an actual levying of war. Without saying that the assemblage must be in force or in warlike form, they express themselves so as to show that this idea was never discarded, and they use terms which cannot be otherwise satisfied.

The opinion of a single judge certainly weighs as nothing if opposed to that of the Supreme Court; but if he was one of the judges who assisted in framing that opinion, if while the impressions under which it was framed were yet fresh upon his mind, he delivered an opinion on the same testimony, not contradictory to that which had been given by all the judges together, but showing the sense in which he understood terms that might be differently expounded, it may fairly be said to be in some measure explanatory of the opinion itself.

To the judge before whom the charge against the prisoner at the bar was first brought, the same testimony was offered with that which had been exhibited before the Supreme Court, and he was required to give an opinion in almost the same case. Upon this occasion he said, "war can only be levied by the employment of actual force. Troops must be embodied; men must be assembled in order to levy war." Again he observed, "the fact to be proved in this case is an act of public notoriety. It must exist in the view of the world, or it cannot exist at all. The assembling of forces to levy war is a visible transaction, and numbers must witness it."

It is not easy to doubt what kind of assemblage was in the mind of the judge who used these expressions, and it is to be recollected that he had just returned from the Supreme Court, and was speaking on the very facts on which the opinion of that court was delivered.

The same judge, in his charge to the grand jury who found this bill, observed, "to constitute the fact of levying war, it is not necessary that hostilities shall have actually commenced by engaging the military force of the United States, or that measures of violence against the Government shall have been carried into execution. But levying war is a fact in the constitution of which force is an indispensable ingredient. Any combination to subvert by force the Government of the United States, violently to dismember the Union, to compel a change in the administration, to coerce the repeal or adoption of a general law, is a conspiracy to levy war, and if the conspiracy be carried into effect by the actual employment of force, by the embodying and assembling men for the purpose of executing the treasonable design which was previously conceived, it amounts to levying of war. It has been held that arms are not essential to levying war, provided the force assembled be sufficient to attain or perhaps to justify attempting the object without them." This paragraph is immediately followed by a reference to the opinion of the Supreme Court.

It requires no commentary upon these words to show that, in the opinion of the judge who uttered them, an assemblage of men which should constitute the fact of levying war must be an assemblage in force, and that he so understood the opinion of the Supreme Court. If, in that opinion, there may be found in some passages a want of precision, an indefiniteness of expression, which has occasioned it to be differently understood by different persons, that may well be accounted for when it is recollected that in the particular case there was no assemblage whatever. In expounding that opinion the whole should be taken together, and in reference to the particular case in which it was delivered. It is, however, not improbable that the misunderstanding has arisen from this circumstance. The court unquestionably did not consider arms as an indispensable requisite to levying war; an assemblage adapted to the object might be in a condition to effect or to attempt it without them. Nor did the court consider the actual application of the force to the object at all times an indispensable requisite; for an assemblage might be in a condition to apply force, might be in a state adapted to real war, without having made the actual application of that force. From these positions, which are to be found in the opinion, it may have been inferred, it is thought too hastily, that the nature of the assemblage was unimportant, and that war might be considered as actually levied by any meeting of men, if a criminal intention can be imputed to them by testimony of any kind whatever.

It has been thought proper to discuss this question at large, and to review the opinion of the Supreme Court, although this court would be more disposed to leave the question of fact, whether an overt act of levying war was committed on Blannerhasset's island to the jury under this explanation of the law, and to instruct them that, unless the assemblage of Blannerhasset's island was an assemblage in force, was a military assemblage in a condition to make war, it was not a levying of war, and that they could not construe it into an act of war, than to arrest the further testimony which might be offered to connect the prisoner with that assemblage, or to prove the intention of those who assembled together at that place. This point, however, is not to be understood as decided. It will, perhaps, constitute an essential inquiry in another case.

Before leaving the opinion of the Supreme Court entirely on the question of the nature of the assemblage which will constitute an act of levying war, this court cannot forbear to ask why is an assemblage absolutely required? Is it not to judge in some measure of the end by the proportion which the means bear to the end? Why is it that a single armed individual, entering a boat and sailing down the Ohio for the avowed purpose of attacking New Orleans, could not be said to levy war? Is it not that he is apparently not in a condition to levy war? If this be so, ought not the assemblage to furnish some evidence of its intention and capacity to levy war before it can amount to levying war? And ought not the Supreme Court, when speaking of an assemblage for the purpose of effecting a treasonable object by force, be understood to indicate an assemblage exhibiting the appearance of force?

The definition of the attorney for the United States deserves notice in this respect. It is, "when there is an assemblage of men convened for the purpose of effecting by force a treasonable object, which force is meant to be employed before the assemblage disperses, this is treason."

To read this definition without adverting to the argument, we should infer that the assemblage was itself to effect by force the treasonable object, not to join itself to some other bodies of men, and then to effect the object by their combined force. Under this construction, it would be expected the appearance of the assemblage would bear some proportion to the object, and would indicate the intention. At any rate, that it would be an assemblage in force. This construction is most certainly not that which was intended, but it serves to show that general phrases must always be understood in reference to the subject matter, and to the general principles of law.

On that division of the subject which respects the merits of the case connected with the pleadings, two points are also made:

1st. That this indictment having charged the prisoner with levying war on Blannerhasset's island, and containing no other overt act, cannot be supported by proof that war was levied at that place by other persons in the absence of the prisoner, even admitting those persons to be connected with him in one common treasonable conspiracy.

2dly. That admitting such an indictment could be supported by such evidence, the previous conviction of some person who committed the act which is said to amount to levying war, is indispensable to the conviction of a person who advised or procured that act.

As to the first point, the indictment contains two counts, one of which charges that the prisoner, with a number of persons unknown, levied war on Blannerhasset's island, in the county of Wood, in the district of Virginia, and the other adds the circumstance of their proceeding from that island down the river for the purpose of seizing New Orleans by force.

In point of fact, the prisoner was not on Blannerhasset's island, nor in the county of Wood, nor in the district of Virginia.

In considering this point, the court is led first to inquire whether an indictment for levying war must specify an overt act, or would be sufficient if it merely charged the prisoner in general terms with having levied war, omitting the expression of place or circumstance.

The place in which a crime was committed is essential to an indictment, were it only to show the jurisdiction of the court. It is also essential for the purpose of enabling the prisoner to make his defence. That at common law an indictment would have been defective which did not mention the place in which the crime was committed, can scarcely be doubted. For this it is sufficient to refer to Hawkins, b. 2, ch. 25, sect. 84, and ch. 23, sect. 91. This necessity is rendered the stronger by the constitutional provision, that the offender "shall be tried in the State and district wherein the crime shall have been committed," and by the act of Congress, which requires that twelve petty jurors at least shall be summoned from the county where the offence was committed.

A description of the particular manner in which the war was levied seems also essential to enable the accused to make his defence. The law does not expect a man to be prepared to defend every act of his life which may be suddenly and without notice alleged against him. In common justice, the particular fact with which he is charged ought to be stated, and stated in such a manner as to afford a reasonable certainty of the nature of the



accusation, and the circumstances which will be adduced against him. The general doctrine on the subject of indictments is full to this point. Foster, (p. 149,) speaking of the treason of compassing the King's death, says "from what has been said, it followeth that in every indictment for this species of treason, and indeed for levying war and adhering to the King's enemies, an overt act must be alleged and proved. For the overt act is the charge to which the prisoner must apply his defence."

In page 220 Foster repeats this declaration. It is also laid down in Hawk. b. 8, ch. 17, sect. 29; 1st Hale, 121; 1st East, 116; and by the other authorities cited, especially Vaughan's case. In corroboration of this opinion, it may be observed, that treason can only be established by the proof of overt acts, and that by the common law, as well as by the statute of 7th of William III., those overt acts only which are charged in the indictment can be given in evidence, unless, perhaps, as corroborative testimony after the overt acts are proved. That clause in the constitution, too, which says that in all criminal prosecutions the accused shall enjoy the right "to be informed of the nature and cause of the accusation," is considered as having a direct bearing on this point. It secures to him such information as will enable him to prepare for his defence.

It seems, then, to be perfectly clear that it would not be sufficient for an indictment to allege generally that the accused had levied war against the United States. The charge must be more particularly specified, by laying what is termed an overt act of levying war. The law relative to an appeal, as cited from Stamford, is strongly corroborative of this opinion.

If it be necessary to specify the charge in the indictment, it would seem to follow, irresistibly, that the charge must be proved as laid.

All the authorities which require an overt act require also that this overt act should be proved. The decision in Vaughan's case is particularly in point. Might it be otherwise, the charge of an overt act would be a mischief instead of an advantage to the accused. It would lead him from the true cause and nature of the accusation, instead of informing him respecting it.

But it is contended, on the part of the prosecution, that, although the accused had been never with the party which assembled at Blannerhasset's island, and was at the time at a great distance and in a different State, he was yet legally present, and therefore may properly be charged in the indictment as being present in fact.

It is, therefore, necessary to inquire whether, in this case, the doctrine of constructive presence can apply.

It is conceived by the court to be possible, that a person may be concerned in a treasonable conspiracy, and yet be legally, as well as actually, absent while some one act of treason is perpetrated. If a rebellion should be so extensive as to spread through every State in the Union, it will scarcely be contended that every individual concerned in it is legally present at every overt act committed in the course of that rebellion. It would be a very violent presumption (indeed, too violent to be made without clear authority,) to presume that, even the chief of the rebel army was legally present at every such overt act. If the main rebel army, with the chief at its head, should be prosecuting war at one extremity of our territory, say in New Hampshire, if this chief should be there captured and sent to the other extremity for the purpose of trial; if his indictment, instead of alleging an overt act which was true, in point of fact, should allege that he had assembled some small party, which, in truth, he had not seen; and had levied war, by engaging in a skirmish in Georgia, at a time when, in reality, he was fighting a battle in New Hampshire—if such evidence would support such an indictment by the fiction that he was legally present, though really absent, all would ask to what purpose are those provisions in the constitution which direct the place of trial, and ordain that the accused shall be informed of the nature and cause of the accusation?

But, that a man may be legally absent, who has counselled or procured a treasonable act, is proved by all those books which treat upon the subject, and which concur in declaring that such a person is a principal traitor, not because he was legally present, but because, in treason, all are principals. Yet the indictment, I say, upon general principles, would charge him according to the truth of the case. Lord Coke says, "if many conspire to levy war, and some of them do levy the same, according to the conspiracy, this is high treason in all." Why? Because all were legally present when the war was levied? No. "For in treason," continues Lord Coke, "all be principals, and war is levied." In this case the indictment, reasoning from analogy, would not charge that the absent conspirators were present, but would state the truth of the case. If the conspirator had done nothing which amounted to levying of war, and if, by our constitution, the doctrine that an accessory becomes a principal be not adopted, in consequence of which the conspirator could not be condemned under an indictment, stating the truth of the case, it would be going very far to say that this defect, if it be termed one, may be cured by an indictment stating the case untruly.

This doctrine of Lord Coke has been adopted by all subsequent writers; and it is generally laid down, in the English books, that whatever will make a man an accessory in felony will make him a principal in treason; but it is no where suggested that he is, by construction, to be considered as present, when in point of fact he was absent.

Foster, 3d, has been particularly quoted, and certainly he is precisely in point. "It is well known," says Foster, "that in the language of the case there are no accessories in high treason; all are principals. Every instance of incitement, aid, or protection, which, in the case of felony, will render a man an accessory before or after the fact, in the case of high treason, whether it be treason at common law or by statute, will make him a principal in treason." The cases of incitement and aid are cases put as examples of a man's becoming a principal in treason, not because he was legally present, but by force of that maxim in the common law, that whatever will render a man an accessory at common law, will render him a principal in treason. In other passages, the words "command" or "procure" are used to indicate the same state of things, that is, a treasonable assemblage produced by a man who is not himself in that assemblage.

In point of law, then, the man who incites, aids, or procures a treasonable act, is not merely, in consequence of that incitement, aid, or procurement, legally present when that act is committed.

If it does not result from the nature of the crime, that all who are concerned in it are legally present at every overt act, then each case depends upon its own circumstances; and, to judge how far the circumstances of any case can make him legally present who is in fact absent, the doctrine of constructive presence must be examined.

Hale, in his 1 vol. p. 615, says, "regularly, no man can be a principal in felony unless he be present." In the same page he says, "an accessory *before* is he that, being absent at the time of the felony committed, doth yet procure, counsel, or command another to commit a felony." The books are full of passages which state this to be the law. Foster, in showing what acts of concurrence will make a man a principal, says, "he must be present at the perpetration, otherwise he can be no more than an accessory before the fact."

These strong distinctions would be idle to treason; at any rate, they would be inapplicable, if they were to be entirely lost in the doctrine of constructive presence.

Foster adds, p. 349, "when the law requireth the presence of the accomplice at the perpetration of the fact in order to render him a principal, it doth not require a strict actual immediate presence, such a presence as would make him an eye or ear witness of what passeth." The terms used by Foster are such as would be employed by a man intending to show the necessity that the absent person should be near at hand, although, from the nature of

the thing, no precise distance could be marked out. An inspection of the cases, from which Foster drew this general principle, will serve to illustrate it. (Hale, 439.) In all these cases, put by Hale, the whole party set out together to commit the very fact charged in the indictment, or to commit some other unlawful act, in which they are all to be personally concerned at the same time and place, and are, at the very time when the criminal fact is committed, near enough to give actual personal aid and assistance to the man who perpetrated it. Hale, in p. 449, giving the reason for the decision in the case of the word *deceit*, says, "they all came with an intent to steal the deer, and consequently the law supposes that they came all with the intent to oppose all that should hinder them in that design." The original case says this was their resolution. This opposition would be a personal opposition. This case, even as stated by Hale, would clearly not comprehend any man who entered into the combination, but who, instead of going to the park where the murder was committed, should not set out with the others, should go to a different park, or should even lose his way.—Hale, 534.

In both the cases here stated, the persons actually set out together, and were near enough to assist in the commission of the fact. That in the case of Pudsy, the felony was, as stated by Hale, a different felony from that originally intended, is unimportant in regard to the particular principle now under consideration, so far as respected distance; as respected capacity to assist in case of resistance, it is the same as if the robbery had been that which was originally designed. The case, in the original report, shows that the felony committed was in fact in pursuance of that originally designed. Foster (350) plainly supposes the same particular design, not a general design composed of many particular distinct facts. He supposes them to be co-operating with respect to that particular design. This may be illustrated by a case which is perhaps common. Suppose a band of robbers confederated for the general purpose of robbing. They set out together, or in parties, to rob a particular individual, and each performs the part assigned to him. Some ride up to the individual and demand his purse; others watch out of sight to intercept those who might be coming to assist the man on whom the robbery is to be committed. If murder or robbery actually take place, all are principals, and all, in construction of law, are present. But suppose they set out at the same time or at different times, by different roads, to attack and rob different individuals or different companies, to commit distinct acts of robbery. It has never been contended that those who committed one act of robbery, or who failed altogether, were constructively present at the act of those who were associated with them in the common object of robbery, who were to share the plunder, but who did not assist at the particular fact. They do, indeed, belong to the general party, but they are not of the particular party which committed this fact. Foster concludes this subject by observing that, "in order to render a person an accomplice and a principal in felony, he must be aiding and abetting at the fact, or ready to afford assistance if necessary." That is, at the particular fact which is charged, he must be ready to render assistance to those who are committing that particular fact; he must, as is stated by Hawkins, be ready to give immediate and direct assistance.

All the cases to be found in the books go to the same point. Let them be applied to that under consideration.

The whole treason laid in this indictment is the levying of war in Blannerhasset's island; and the whole question, to which the inquiry of the court is now directed, is, whether the prisoner was legally present at that fact.

I say this is the whole question, because the prisoner can only be convicted on the overt act laid in the indictment. With respect to this prosecution, it is as if no other overt act existed. If other overt acts can be inquired into, it is for the sole purpose of proving the particular fact charged; it is as evidence of the crime consisting of this particular fact, not as establishing the general crime by a distinct fact.

The counsel for the prosecution have charged those engaged in the defence with considering the overt act as the treason, whereas it ought to be considered solely as the evidence of the treason; but the counsel for the prosecution seem themselves not to have sufficiently adverted to this clear principle, that though the overt act may not be itself the treason, it is the sole act of that treason which can produce conviction; it is the sole point in issue between the parties. And the only division of that point, if the expression be allowed, which the court is now examining, is the constructive presence of the prisoner at the fact charged.

To return, then, to the application of the cases.

Had the prisoner set out with the party from Beaver for Blannerhasset's island, or perhaps had he set out for that place, though not from Beaver, and had arrived in the island, he would have been present at the fact; had he not arrived in the island, but had taken a position near enough to co-operate with those on the island, to assist them in any act of hostility, or to aid them if attacked, the question whether he was constructively present would be a question compounded of law and fact, which would be decided by the jury, with the aid of the court, so far as respected the law. In this case the accused would have been of the particular party assembled on the island, and would have been associated with them in the particular act of levying war said to have been committed on the island.

But if he was not with the party at any time before they reached the island; if he did not join them there, or intend to join them there; if his personal co-operation in the general plan was to be afforded elsewhere, at a great distance, in a different State; if the overt acts of treason to be performed by him were to be distinct overt acts; then he was not of the particular party assembled at Blannerhasset's island, and was not constructively present, aiding and assisting in the particular act which was there committed.

The testimony on this point, so far as it has been delivered, is not equivocal. There is not only no evidence that the accused was of the particular party which assembled on Blannerhasset's island, but the whole evidence shows he was not of that party.

In felony, then, admitting the crime to have been completed on the island, and to have been advised, procured, or commanded by the accused, he would have been incontestably an accessory, and not a principal.

But in treason, it is said, the law is otherwise, because the theatre of action is more extensive.

The reasoning applies in England as strongly as in the United States. While in '15 and '45 the family of Stuart sought to regain the crown they had forfeited, the struggle was for the whole kingdom; yet no man was ever considered as legally present at one place when actually at another, or as aiding in one transaction while actually employed in another.

With a perfect knowledge that the whole nation may be a theatre of action, the English books unite in declaring, that he who counsels, procures, or aids treason, is guilty accessarily and solely in virtue of the common law principle, that what will make a man an accessory in felony makes him a principal in treason. So far from considering a man as constructively present at every overt act of the general treason in which he may have been concerned, the whole doctrine of the books limits the proof against him to those particular overt acts of levying war with which he is charged.

What would be the effect of a different doctrine? Clearly that which has been stated. If a person levying war in Kentucky may be said to be constructively present and assembled with a party carrying on war in Virginia, at a great distance from him, then he is present at every overt act performed any where; he may be tried



in any State on the continent, where any overt act has been committed; he may be proved to be guilty of an overt act laid in the indictment in which he had no personal participation, by proving that he advised it, or that he committed other acts.

This is, perhaps, too extravagant to be in terms maintained. Certainly, it cannot be supported by the doctrines of the English law.

The opinion of Judge Patterson in Mitchell's case has been cited on this point. (2 Dal. 348.)

The indictment is not specially stated; but from the case as reported, it must have been either general for levying war in the county of Allegany, and the overt act laid must have been the assemblage of men and the levying of war in that county; or it must have given a particular detail of the treasonable transactions in that county. The first supposition is the most probable; but let the indictment be in the one form or the other, the result is the same. The facts of the case are, that a large body of men, of whom Mitchell was one, assembled at Braddock's Field, in the county of Allegany, for the purpose of committing acts of violence at Pittsburg; that there was also an assemblage at a different time at Couches Fort, at which the prisoner also attended. The general and avowed object of that meeting was to concert measures for resisting the execution of a public law. At Couches Fort, the resolution was taken to attack the house of the inspector, and the body there assembled marched to that house and attacked it. It was proved by the competent number of witnesses, that he was at Couches Fort armed; that he offered to reconnoitre the house to be attacked; that he marched with the insurgents towards the house; that he was with them after the action, attending the body of one of his comrades who was killed in it. One witness swore positively that he was present at the burning of the house, and a second witness said that "it ran in his head that he had seen him there." That a doubt should exist in such case as this, is a strong evidence of the necessity that the overt act should be unequivocally proved by two witnesses.

But what was the opinion of the judge in this case? Couches Fort and Neville's house being in the same county, the assemblage having been at Couches Fort, and the resolution to attack the house having been there taken, the body having for the avowed purposes moved in execution of that resolution towards the house to be attacked, he inclined to think that the act of marching was in itself levying war. If it was, then the overt act laid in the indictment was consummated by the assemblage at Couches and the marching from thence, and Mitchell was proved to be guilty by more than two positive witnesses. But, without deciding this to be the law, he proceeded to consider the meeting at Couches, the immediate marching to Neville's house, and the attack and burning of the house, as one transaction. Mitchell was proved by more than two positive witnesses to have been in that transaction, to have taken an active part in it; and the judge declared it to be unnecessary that all should have seen him at the same time and place.

But suppose not a single witness had proved Mitchell to have been at Couches, or on the march, or at Neville's. Suppose he had been at the time notoriously absent in a different State. Can it be believed by any person who observes the caution with which Judge Patterson required the constitutional proofs of two witnesses to the same overt act, that he would have said Mitchell was constructively present, and might, on that straining of a legal fiction, be found guilty of treason? Had he delivered such an opinion, what would have been the language of this country respecting it? Had he given this opinion, it would have required all the correctness of his life to strike his name from that bloody list in which the name of Jefferies is enrolled.

But to estimate the opinion in Mitchell's case, let its circumstances be transferred to Burr's case. Suppose the body of men assembled in Blannerhasset's island had previously met at some other place in the same county, and that Burr had been proved to be with them by four witnesses; that the resolution to march to Blannerhasset's island for a treasonable purpose had been there taken; that he had been seen on the march with them; that one witness had seen him on the island, that another thought he had seen him there; that he had been seen with the party directly after leaving the island; that this indictment had charged the levying of war in Wood county generally; the cases would then have been perfectly parallel, and the decisions would have been the same.

In conformity with principle and with authority, then, the prisoner at the bar was neither legally nor actually present at Blannerhasset's island; and the court is strongly inclined to the opinion that, without proving an actual or legal presence by two witnesses, the overt act laid in this indictment cannot be proved.

But this opinion is controverted on two grounds.

The first is, that the indictment does not charge the prisoner to have been present;

The second, that, although he was absent, yet, if he caused the assemblage, he may be indicted as being present, and convicted on evidence that he caused the treasonable act.

The first position is to be decided by the indictment itself. The court understands the allegation differently from the attorney for the United States. The court understands it to be directly charged, that the prisoner did assemble with the multitude, and did march with them. Nothing will more clearly test this construction than putting the case into a shape which it may possibly take. Suppose the law to be, that the indictment would be defective unless it alleged the presence of the person indicted at the act of treason. If, upon a special verdict, facts should be found which amounted to a levying of war by the accused, and his counsel should insist that he could not be condemned because the indictment was defective in not charging that he was himself one of the assemblage which constituted the treason, or because it alleged the procurement defectively, would the attorney admit this construction of his indictment to be correct? I am persuaded that he would not, and that he ought not to make such a concession. If, after a verdict, the indictment ought to be construed to allege that the prisoner was one of the assemblage at Blannerhasset's island, it ought to be so construed now. But this is unimportant, for if the indictment alleges that the prisoner procured the assemblage, that procurement becomes part of the overt act, and must be proved, as will be shown hereafter.

The second position is founded on 1 Hale, 214, 288, and 1 East, 127.

While I declare that this doctrine contradicts every idea I had ever entertained on the subject of indictments, since it admits that one case may be stated and a very different case may be proved, I will acknowledge that it is countenanced by the authorities adduced in its support. To counsel or advise a treasonable assemblage, and to be one of that assemblage, are certainly distinct acts, and therefore ought not to be charged as the same act. The great objection to this mode of proceeding is, that the proof essentially varies from the charge [in the character and essence of the offence, and in the testimony by which the accused is to defend himself. These dicta of Lord Hale, therefore, taken in the extent in which they are understood by the counsel for the United States, seem to be repugnant to the declarations we find every where, that an overt act must be laid and must be proved. No case is cited by Hale in support of them; and I am strongly inclined to the opinion, that, had the public received his corrected, instead of his original manuscript, they would, if not expunged, have been restrained in their application to cases of a particular description. Laid down generally, and applied universally to all cases of treason, they are repugnant to the principles for which Hale contends, for which all the elementary writers contend, and from which courts have in no case, either directly reported or referred to in the books, ever departed. These principles are, that the indictment must give notice of the offence; that the accused is only bound to answer the particular charge which the

indictment contains, and that the overt laid is that particular charge. Under such circumstances, it is only doing justice to Hale to examine his dicta; and if they will admit of being understood in a limited sense, not repugnant to his own doctrines, nor to the general principles of law, to understand them in that sense.

"If many conspire to counterfeit, or counsel or abet in it, and one of them doth the fact upon that counselling or conspiracy, it is treason in all, and they may be all indicted for counterfeiting generally within the statute, for in such case, in treason, all are principals."

This is laid down as applicable singly to the treason of counterfeiting the coin, and is not applied by Hale to other treasons. Had he designed to apply the principle universally, he would have stated it as a general proposition; he would have laid it down in treating on other branches of the statute, as well as in the chapter respecting the coin; he would have laid it down when treating on indictments generally. But he has done neither. Every sentiment bearing in any manner on this point, which is to be found in Lord Hale while on the doctrine of levying war, or on the general doctrine of indictments, militates against the opinion that he considered the proposition as more extensive than he has declared it to be. No court could be justified in extending the dictum of a judge beyond its terms, to cases in which he has expressly treated, to which he has not himself applied it, and on which he as well as others has delivered opinions which that dictum would overrule. This would be the less justifiable if there should be a clear legal distinction indicated by the very terms in which the judge has expressed himself between the particular case to which alone he has applied the dictum, and other cases to which the court is required to extend it.

There is this clear legal distinction: "They may," says Judge Hale, "be indicted for counterfeiting generally." But if many conspire to levy war, and some actually levy it, they may not be indicted for levying war generally. The books concur in declaring that they cannot be so indicted. A special overt act of levying war must be laid. This distinction between counterfeiting the coins, and that class of treasons among which levying war is placed, is taken in the statute of Edward III. That statute requires an overt act of levying war to be laid in the indictment, and does not require an overt act of counterfeiting the coin to be laid. If in a particular case, where a general indictment is sufficient, it be stated that the crime may be charged generally according to the legal effect of the act, it does not follow, that in other cases, where a general indictment would be insufficient, where an overt act must be laid, that this overt act need not be laid according to the real fact. Hale, then, is to be reconciled with himself, and with the general principles of law, only by permitting the limits which he has himself given to his own dictum, to remain where he has placed them.

In page 238, Hale is speaking generally of the receiver of a traitor, and is stating in what such receiver partakes of an accessory. 1st. "His indictment must be special of the receipt, and not generally that he did the thing; which may be otherwise in case of one that is procurer, counsellor, or consenter."

The words "may be otherwise" do not clearly convey the idea that it is universally otherwise. In all cases of a receiver, the indictment *must* be special on the receipt, and not general. The words "it may be otherwise in case of a procurer," &c. signify that it may be otherwise in all treasons, or that it may be otherwise in some treasons. If it may be otherwise in some treasons, without contradicting the doctrines of Hale himself, as well as of other writers, but cannot be otherwise in all treasons without such contradiction, the fair construction is, that Hale used these words in their restricted sense; that he used them in reference to treasons in which a general indictment would lie; not to treasons where a general indictment would not lie, but an overt act of the treason must be charged. The two passages of Hale, thus construed, may perhaps be law, and may leave him consistent with himself. It appears to the court to be the fair way of construing them.

These observations relative to the passages quoted from Hale apply to that quoted from East, who obviously copies from Hale, and relies upon his authority.

Upon this point, Keeling, 26, and 1st Hale, 626, have also been relied upon. It is stated in both, that, if a man be indicted as a principal and acquitted, he cannot afterwards be indicted as accessory before the fact; whence it is inferred, not without reason, that evidence of accessorial guilt may be received on such an indictment. Yet no case is found in which the question has been made and decided. The objection has never been taken at a trial and overruled, nor do the books say it would be overruled. Were such a case produced, its application would be questionable. Keeling says, an accessory before the fact is, *quodammodo*, in some manner, guilty of the fact. The law may not require that the manner should be stated; for in felony it does not require that an overt act should be laid. The indictment, therefore, may be general; but an overt act of levying war must be laid. These cases, then, prove, in their utmost extent, no more than the cases previously cited from Hale and East. This distinction between indictments which may state the fact generally, and those which must lay it specially, bears some analogy to a general and a special action on the case. In a general action, the declaration may lay the *assumpsit* according to the legal effect of the transaction; but, in a special action on the case, the declaration must state the material circumstances truly, and they must be proved as stated. This distinction also derives some aid from a passage in Hale, 625, immediately preceding that which has been cited at the bar. He says: "If A be indicted as principal, and B as accessory *before* or *after*, and both be acquitted, yet B may be indicted as principal, and the former acquittal as accessory is no bar."

The crimes, then, are not the same, and may not indifferently be tried under the same indictment. But why is it that an acquittal as principal may be pleaded in bar to an indictment as accessory, while an acquittal as accessory may not be pleaded in bar to an indictment as principal? If it be answered that the accessorial crime may be given in evidence on an indictment as principal, but that the principal crime may not be given in evidence on an indictment as accessory, the question recurs, on what legal ground does this distinction stand? I can imagine only this: An accessory being *quodammodo* a principal in indictments where the law does not require the manner to be stated, which need not be special, evidence of accessorial guilt, if the punishment be the same, may possibly be received; but every indictment as an accessory must be special. The very allegation that he is an accessory must be a special allegation, and must show how he became an accessory. The charges of this special indictment, therefore, must be proved as laid; and no evidence which proves the crime in a form substantially different can be received. If this be the legal reason for the distinction, it supports the exposition of these dicta which has been given. If it be not the legal reason, I can conceive no other.

But suppose the law to be as is contended by the counsel for the United States. Suppose an indictment charging an individual with personally assembling among others, and thus levying war, may be satisfied with the proof that he caused the assemblage; what effect will this law have upon this case?

The guilt of the accused, if there be any guilt, does not consist in the assemblage, for he was not a member of it. The simple fact of assemblage no more affects one absent man than another. His guilt, then, consists in procuring the assemblage; and upon this fact depends his criminality. The proof relative to the character of an assemblage must be the same whether a man be present or absent. In the general, to charge any individual with the guilt of an assemblage, the fact of his presence must be proved. It constitutes an essential part of the overt act. If, then, the procurement be substituted in the place of presence, does it not also constitute an essential part

of the overt act? Must it not also be proved? Must it not be proved in the same manner that presence must be proved? If, in one case, the presence of the individual makes the guilt of the assemblage his guilt, and, in the other case, the procurement by the individual makes the guilt of the assemblage his guilt, then presence and procurement are equally component parts of the overt act, and equally require two witnesses.

Collateral points may, say the books, be proved according to the course of common law; but is this a collateral point? Is the fact without which the accused does not participate in the guilt of the assemblage, if it was guilty, a collateral point? This cannot be. The presence of the party, where presence is necessary, being a part of the overt act, must be positively proved by two witnesses. No presumptive evidence, no facts from which presence may be conjectured or inferred, will satisfy the constitution and the law. If procurement take the place of presence, and become part of the overt act, then no presumptive evidence, no facts from which the procurement may be conjectured or inferred, can satisfy the constitution and the law. The mind is not to be led to the conclusion that the individual was present by a train of conjectures or inferences, or of reasoning; the fact must be proved by two witnesses. Neither, where procurement supplies the want of presence, is the mind to be conducted to the conclusion that the accused procured the assembly, by a train of conjectures, of inferences, or of reasoning; the fact itself must be proved by two witnesses, and must have been committed within the district.

If it be said that the advising or procurement of treason is a secret transaction, which can scarcely ever be proved in the manner required by this opinion, the answer which will readily suggest itself is, that the difficulty of proving a fact will not justify conviction without proof. Certainly, it will not justify conviction without a direct and positive witness in a case where the constitution requires two. The more correct inference from this circumstance would seem to be, that the advising of the fact is not within the constitutional definition of the crime. To advise or procure a treason is in the nature of conspiring or plotting treason, which is not treason in itself.

If, then, the doctrines of Keeling, Hale, and East are to be understood in the sense in which they are pressed by the counsel for the prosecution, and are applicable in the United States, the fact that the accused procured the assemblage on Blannerhasset's island must be proved, not circumstantially, but positively, by two witnesses, to charge him with that assemblage. But there are still other most important considerations which must be well weighed before this doctrine can be applied to the United States.

The 8th amendment to the constitution has been pressed with great force, and it is impossible not to feel its application to this point. The accused cannot be truly said to be "informed of the nature and cause of the accusation," unless the indictment shall give him that notice which may reasonably suggest to him the point on which the accusation turns, so that he may know the course to be pursued in his defence.

It is also well worthy of consideration, that this doctrine, so far as it respects treason, is entirely supported by the operation of the common law, which is said to convert the accessory before the fact into the principal, and to make the act of the principal his act. The accessory before the fact is not said to have levied war. He is not said to be guilty under the statute. But the common law attaches to him the guilt of that fact which he has advised or procured, and, as contended, makes it his act. This is the operation of the common law, not the operation of the statute. It is an operation, then, which can only be performed where the common law exists to perform it. It is the creature of the common law, and the creature presupposes its creator. To decide, then, that this doctrine is applicable to the United States, would seem to imply the decision that the United States, as a nation, have a common law which creates and defines the punishment of crimes accessorial in their nature. It would imply the further decision, that these accessorial crimes are not, in the case of treason, excluded by the definition of treason given in the constitution. I will not pretend that I have not individually an opinion on these points, but it is one which I should give only in a case absolutely requiring it, unless I could confer respecting it with the judges of the Supreme Court.

I have said that this doctrine cannot apply to the United States without implying those decisions respecting the common law which I have stated, because, should it be true, as is contended, that the constitutional definition of treason comprehends him who advises or procures an assemblage that levies war, it would not follow that such adviser or procurer might be charged as having been present at the assemblage. If the adviser or procurer is within the definition of levying war, and, independent of the agency of the common law, does actually levy war, then the advisement or procurement is an overt act of levying war. If it be the overt act on which he is to be convicted, then it must be charged in the indictment; for he can only be convicted on proof of the overt acts which are charged.

To render this distinction more intelligible, let it be recollected, that although it should be conceded that since the statute of William and Mary, he who advises or procures a treason, may, in England, be charged as having committed that treason, by virtue of the common law operation, which is said, so far as respects the indictment, to unite the accessorial to the principal offence, and permit them to be charged as one, yet it can never be conceded that he who commits one overt act under the statute of Edward, can be charged and convicted on proof of another overt act. If, then, procurement be an overt act of treason under the constitution, no man can be convicted for the procurement under an indictment charging him with actually assembling, whatever may be the doctrine of the common law in the case of an accessorial offender.

It may not be improper in this place again to advert to the opinion of the Supreme Court, and to show that it contains nothing contrary to the doctrine now laid down. That opinion is, that an individual may be guilty of treason "who has not appeared in arms against his country; that if war be actually levied, that is, if a body of men be actually assembled for the purpose of effecting by force a treasonable object, all those who perform any part, however minute, or however remote from the scene of action, and who are actually leagued in the general conspiracy, are to be considered as traitors."

This opinion does not touch the case of a person who advises or procures an assemblage, and does nothing further. The advising, certainly, and perhaps the procuring, is more in the nature of a conspiracy to levy war, than of the actual levying of war. According to the opinion, it is not enough to be leagued in the conspiracy, and that war be levied, but it is also necessary to perform a part; that part is the act of levying war. This part, it is true, may be minute; it may not be the actual appearance in arms; and it may be remote from the scene of action, that is, from the place where the army is assembled; but it must be a part, and that part must be performed by a person who is leagued in the conspiracy. This part, however minute or remote, constitutes the overt act on which alone the person who performs it can be convicted.

The opinion does not declare that the person who has performed this remote and minute part, may be indicted for a part which was, in truth, performed by others, and convicted on their overt acts. It amounts to this, and nothing more: that when war is actually levied, not only those who bear arms, but those also who are leagued in the conspiracy, and who perform the various distinct parts which are necessary for the prosecution of war, do, in the sense of the constitution, levy war. It may, possibly, be the opinion of the Supreme Court, that those who procure a treason and do nothing further, are guilty under the constitution; I only say that opinion has not yet been given; still less has it been indicated that he who advises shall be indicted as having performed the fact.

It is, then, the opinion of the court, that this indictment can be supported only by testimony which proves the accused to have been actually or constructively present when the assemblage took place on Blannerhasset's island, or by the admission of the doctrine that he who procures an act may be indicted as having performed that act.

It is further the opinion of the court, that there is no testimony whatever which tends to prove that the accused was actually or constructively present when that assemblage did take place. Indeed, the contrary is most apparent. With respect to admitting proof of procurement to establish a charge of actual presence, the court is of opinion, that, if this be admissible in England on an indictment for levying war, which is far from being conceded, it is admissible only by virtue of the operation of the common law, upon the statute, and, therefore, is not admissible in this country, unless by virtue of a similar operation; a point far from being established, but on which, for the present, no opinion is given. If, however, this point be established, still the procurement must be proved in the same manner and by the same kind of testimony which would be required to prove actual presence.

The second point in this division of the subject is, the necessity of adducing the record of the previous conviction of some one person who committed the fact alleged to be treasonable.

This point presupposes the treason of the accused, if any has been committed, to be accessorial in its nature. Its being of this description, according to the British authorities, depends on the presence or absence of the accused at the time the fact was committed. The doctrine on this subject is well understood, has been most copiously explained, and need not be repeated. That there is no evidence of his actual or legal presence, is a point already discussed and decided. It is then apparent that, but for the exception to the general principle which is made in cases of treason, those who assembled at Blannerhasset's island, if that assemblage was such as to constitute the crime, would be principals; and those who might really have caused that assemblage, although, in truth, the chief traitors, would, in law, be accessaries.

It is a settled principle in the law, that the accessory cannot be guilty of a greater offence than his principal. The maxim is *accessorius sequitur naturam sui principalis*; the accessory follows the nature of his principal. Hence results the necessity of establishing the guilt of the principal before the accessory can be tried. For the degree of guilt which is incurred by counselling or commanding the commission of a crime depends upon the actual commission of that crime. No man is an accessory to murder unless the fact has been committed.

The fact can only be established in a prosecution against the person by whom a crime has been perpetrated. The law supposes a man more capable of defending his own conduct than any other person, and will not tolerate that the guilt of A shall be established in a prosecution against B. Consequently, if the guilt of B depends on the guilt of A, A must be convicted before B can be tried. It would exhibit a monstrous deformity, indeed, in our system, if B might be executed for being accessory to a murder committed by A, and A should afterwards, upon a full trial, be acquitted of the fact. For this obvious reason, although the punishment of a principal and accessory was originally the same, and although in many instances it is still the same, the accessory could in no case be tried before the conviction of his principal; nor can he yet be tried previous to such conviction, unless he require it, or unless a special provision to that effect be made by statute.

If, then, this was a felony, the prisoner at the bar could not be tried until the crime was established by the conviction of the person by whom it was actually perpetrated.

Is the law otherwise in this case, because in treason all are principals?

Let this question be answered by reason and by authority.

Why is it that in felonies, however atrocious, the trial of the accessory can never precede the conviction of the principal? Not because the one is denominated the principal and the other the accessory; for that would be ground on which a great law principle could never stand. Not because there was in fact a difference in the degree of moral guilt; for in the case of murder committed by a hardy villain for a bribe, the person plotting the murder and giving the bribe is, perhaps, of the two, the blacker criminal; and, were it otherwise, this would furnish no argument for precedence in trial.

What, then, is the reason?

It has been already given. The legal guilt of the accessory depends on the guilt of the principal; and the guilt of the principal can only be established in a prosecution against himself.

Does not this reason apply in full force to a case of treason?

The legal guilt of the person who planned the assemblage on Blannerhasset's island depends, not simply on the criminality of the previous conspiracy, but on the criminality of that assemblage. If those who perpetrated the fact be not traitors, he who advised the fact cannot be a traitor. His guilt then, in contemplation of law, depends on theirs; and their guilt can only be established in a prosecution against themselves. Whether the adviser of this assemblage be punishable with death, as a principal or as an accessory, his liability to punishment depends on the degree of guilt attached to an act which has been perpetrated by others, and which, if it be a criminal act, renders them guilty also. His guilt, therefore, depends on theirs; and their guilt cannot be legally established in a prosecution against him.

The whole reason of the law, then, relative to the principal and accessory, so far as respects the order of trial, seems to apply in full force to a case of treason committed by one body of men in conspiracy with others who are absent.

If from reason we pass to authority, we find it laid down by Hale, Foster and East, in the most explicit terms, that the conviction of some one who has committed the treason must precede the trial of him who has advised or procured it. This position is also maintained by Leach in his notes on Hawkins; and is not, so far as the court has discovered, any where contradicted.

These authorities have been read and commented on at such length, that it cannot be necessary for the court to bring them again into view. It is the less necessary, because it is not understood that the law is controverted by the counsel for the United States.

It is, however, contended, that the prisoner has waived his right to demand the conviction of some one person who was present at the fact, by pleading to his indictment.

Had this indictment even charged the prisoner according to the truth of the case, the court would feel some difficulty in deciding that he had, by implication, waived his right to demand a species of testimony essential to his conviction. The court is not prepared to say that the act which is to operate against his rights did not require that it should be performed with a full knowledge of its operation. It would seem consonant to the usual course of proceeding in other respects in criminal cases, that the prisoner should be informed that he had a right to refuse to be tried until some person who committed the act should be convicted, and that he ought not to be considered as waiving the right to demand the record of conviction, unless, with the full knowledge of that right, he consented to be tried. The court, however, does not decide what the law would be in such a case; it is unnecessary to decide it; because pleading to an indictment in which a man is charged as having committed an act, cannot be construed to waive a right which he would have possessed, had he been charged with having advised the act. No person indicted as a principal can be expected to say I am not a principal, I am an accessory; I did not commit, I only advised the act.

The authority of the English cases on this subject depends, in a great measure, on the adoption of the common law doctrine of accessorial treasons. If that doctrine be excluded, this branch of it may not be directly applicable to treasons committed within the United States. If the crime of advising or procuring a levying of war be within the constitutional definition of treason, then he who advises or procures it, must be indicted on the very fact, and the question whether the treasonableness of the act may be decided in the first instance in the trial of him who procured it, or must be decided in the trial of one who committed it, will depend upon the reason, as it respects the law of evidence, which produced the British decisions with regard to the trial of principal and accessory, rather than on the positive authority of those decisions.

This question is not essential in the present case; because, if the crime be within the constitutional definition, it is an overt act of levying war, and, to produce a conviction, ought to have been charged in the indictment.

The law of the case being thus far settled, what ought to be the decision of the court on the present motion? Ought the court to sit and hear testimony which cannot affect the prisoner, or ought the court to arrest that testimony? On this question much has been said—much that may, perhaps, be ascribed to a misconception of the point really under consideration. The motion has been treated as a motion confessedly made to stop relevant testimony, and, in the course of the argument, it has been repeatedly stated, by those who oppose the motion, that irrelevant testimony may and ought to be stopped. That this statement is perfectly correct, is one of those fundamental principles in judicial proceedings which is acknowledged by all, and is founded in the absolute necessity of the thing. No person will contend that in a civil or criminal case, either party is at liberty to introduce what testimony he pleases, legal or illegal, and to consume the whole term in details of facts unconnected with the particular case. Some tribunal, then, must decide on the admissibility of testimony. The parties cannot constitute this tribunal, for they do not agree. The jury cannot constitute it, for the question is whether they shall hear the testimony or not. Who, then, but the court can constitute it? It is, of necessity, the peculiar province of the court to judge of the admissibility of testimony. If the court admit improper or reject proper testimony, it is an error of judgment, but it is an error committed in the direct exercise of their judicial functions.

The present indictment charges the prisoner with levying war against the United States, and alleges an overt act of levying war. That overt act must be proved according to the mandates of the constitution and of the act of Congress, by two witnesses. It is not proved by a single witness. The presence of the accused has been stated to be an essential component part of the overt act in this indictment, unless the common law principle respecting accessaries should render it unnecessary; and there is not only no witness who has proved his actual or legal presence, but the fact of his absence is not controverted. The counsel for the prosecution offer to give in evidence subsequent transactions at a different place and in a different State, in order to prove—what? The overt act laid in the indictment? That the prisoner was one of those who assembled at Blannerhasset's island? No: that is not alleged. It is well known that such testimony is not competent to establish such a fact. The constitution and law require that the fact should be established by two witnesses; not by the establishment of other facts, from which the jury might reason to this fact. The testimony, then, is not relevant. If it can be introduced, it is only in the character of corroborative or confirmatory testimony, after the overt act has been proved by two witnesses in such manner that the question of fact ought to be left with the jury. The conclusion that in this state of things no testimony can be admissible is so inevitable that the counsel for the United States could not resist it. I do not understand them to deny that, if the overt act be not proved by two witnesses, so as to be submitted to the jury, all other testimony must be irrelevant, because no other testimony can prove the act. Now, an assemblage on Blannerhasset's island is proved by the requisite number of witnesses, and the court might submit it to the jury whether that assemblage amounted to a levying of war; but the presence of the accused at that assemblage being no where alleged, except in the indictment, the overtact is not proved by a single witness, and, of consequence, all other testimony must be irrelevant.

The only difference between this motion as made, and the motion in the form which the counsel for the United States would admit to be regular, is this: It is now general for the rejection of all testimony. It might be particular with respect to each witness as adduced; but can this be wished, or can it be deemed necessary? If enough is proved to show that the indictment cannot be supported, and that no testimony, unless it be of that description which the attorney for the United States declares himself not to possess, can be relevant, why should a question be taken on each witness?

The opinion of this court on the order of testimony has frequently been adverted to as deciding this question against the motion.

If a contradiction between the two opinions does exist, the court cannot perceive it. It was said that levying war is an act compounded of law and fact, of which the jury, aided by the court, must judge. To that declaration the court still adheres.

It was said that if the overt act was not proved by two witnesses, no testimony, in its nature corroborative or confirmatory, was admissible, or could be relevant.

From that declaration there is certainly no departure. It has been asked, in allusion to the present case, if a general, commanding an army, should detach troops for a distant service, would the men composing that detachment be traitors, and would the commander-in-chief escape punishment?

Let the opinion which has been given answer this question. Appearing at the head of an army would, according to this opinion, be an overt act of levying war; detaching a military corps from it for military purposes might also be an overt act of levying war. It is not pretended that he would not be punishable for these acts; it is only said that he may be tried and convicted on his own acts, in the State where those acts were committed, not on the acts of others in the State where those others acted.

Much has been said, in the course of the argument, on points on which the court feels no inclination to comment particularly, but which may, perhaps, not improperly, receive some notice.

That this court dares not usurp power is most true.

That this court dares not shrink from its duty is not less true.

No man is desirous of placing himself in a disagreeable situation. No man is desirous of becoming the peculiar subject of calumny. No man, might he let the bitter cup pass from him without self-reproach, would drain it to the bottom. But if he has no choice in the case, if there is no alternative presented to him but a dereliction of duty, or the opprobrium of those who are denominated the world; he merits the contempt as well as the indignation of his country who can hesitate which to embrace.

That gentlemen, in a case the utmost interesting, in the zeal with which they advocate particular opinions, and under the conviction, in some measure, produced by that zeal, should on each side press their arguments too far, should be impatient at any deliberation in the court, and should suspect or fear the operation of motives to which alone they can ascribe that deliberation, is perhaps a frailty incident to human nature; but if any conduct on the part of the court could warrant a sentiment that they would deviate to the one side or the other from the line prescribed

by duty and by law, that conduct would be viewed by the judges themselves with an eye of extreme severity, and would long be recollected with deep and serious regret.

The arguments on both sides have been intently and deliberately considered. Those which could not be noticed, (since to notice every argument and authority would swell this opinion to a volume,) have not been disregarded. The result of the whole is a conviction as complete as the mind of the court is capable of receiving on a complex subject, that the motion must prevail.

No testimony relative to the conduct or declarations of the prisoner elsewhere and subsequent to the transaction on Blannerhasset's island can be admitted, because such testimony, being in its nature merely corroborative, and incompetent to prove the overt act in itself, is irrelevant until there be proof of the overt act by two witnesses.

This opinion does not comprehend the proof by two witnesses that the meeting on Blannerhasset's island was procured by the prisoner. On that point the court, for the present, withholds its opinion, for reasons which have been already assigned; and as it is understood from the statements made on the part of the prosecution that no such testimony exists. If there be such, let it be offered, and the court will decide upon it.

The jury have now heard the opinion of the court on the law of the case. They will apply that law to the facts, and will find a verdict of guilty or not guilty, as their own consciences may direct.

#### TRIAL OF AARON BURR ON THE INDICTMENT FOR A MISDEMEANOR.

*Opinion of the court on the proper process to be employed for bringing Aaron Burr before the court to answer the indictment for the misdemeanor. Delivered by the Chief Justice on Thursday, September 3.*

The question now before the court is, whether bail be demandable from a person actually in custody, against whom an indictment for a misdemeanor has been found by a grand jury. As conducting directly to a decision of this point, the question has been discussed, whether a summons or a *capias* would be the proper process to bring the accused in to answer the indictment, if, in a point of fact, he was not before the court.

It seems to be the established practice of Virginia in such cases, to issue a summons in the first instance; and, if by any act of Congress the laws of the several States are adopted as the rules by which the courts of the United States are to be governed in criminal prosecutions, the question is at an end; for I should admit the settled practice of the State courts as the sound construction of the State law under which that practice has prevailed.

The thirty-fourth section of the judicial act, it is contended, has made this adoption.

The words of that section are, "That the laws of the several States, except where the constitution, treaties, or statutes of the United States shall otherwise require or provide, shall be regarded as rules of decision in trials at common law, in the courts of the United States, in cases where they apply."

It might certainly be well doubted, whether this section, if it should be construed to extend to all the proceedings in a case where a reference can be made to the State laws for a rule of decision at the trial, can comprehend a case where, at the trial in chief, no such reference can be made. Now, in criminal cases, the laws of the United States constitute the sole rule of decision; and no man can be condemned or prosecuted in the federal courts on a State law. The laws of the several States, therefore, cannot be regarded as rules of decision in trials for offences against the United States. It would seem to me, too, that the technical term "trials at common law," used in the section, is not correctly applicable to prosecutions for crimes. I have always conceived them to be, in this section, applied to civil suits, as contradistinguished from criminal prosecutions, as well as to suits at common law as contradistinguished from those which come before the court sitting as a court of equity or admiralty.

The provision of this section would seem to be inapplicable to original process for another reason. The case is otherwise provided for by an act of Congress. The fourteenth section of the judicial act empowers the courts of the United States "to issue all writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the principles and usages of law."

This section seems to me to give this court power to devise the process for bringing any person before it, who has committed an offence of which it has cognizance, and not to refer it to the State law for that process. The limitation on this power is, that the process shall be agreeable to the principles and usages of law. By which I understand those general principles and those general usages which are to be found not in the legislative acts of any particular State but in that generally recognised and long established law, which forms the substratum of the laws of every State.

Upon general principles of law, it would seem to me that in all cases where the judgment is to affect the person, the person ought to be held subject to that judgment. Thus, in civil actions, where the body may be taken in execution to satisfy the judgment, bail may be demanded. If the right of the plaintiff is supported by very strong probability, as in debt upon a speciality, bail is demandable without the intervention of a judge. If there be no such clear evidence of the debt, bail is often required upon the affidavit of the party. Now, reasoning by analogy from civil suits to criminal prosecutions, it would seem not unreasonable where there is such evidence as an indictment found by a grand jury, to use such process as will hold the person of the accused within the power of the court, or furnish security that the person will be brought forward to satisfy the judgment of the court.

Yet the course of the common law appears originally to have been otherwise. It appears from Hawkins, that the practice of the English courts was to issue a *venire facias* in the first instance, on an indictment for a misdemeanor. This practice, however, is stated by Blackstone to have been changed. He says, (vol. 4, p. 319) "And so in the case of misdemeanors, it is now the usual practice for any judge of the court of King's Bench, upon certificate of an indictment found, to award a writ of *capias* immediately, in order to bring in the defendant."

It is, then, the English construction of the common law, that although in the inferior courts the *venire facias* might be the usual course, and although it had prevailed, yet that a judge of the King's Bench might issue a *capias* in the first instance.

This subject has always appeared to me to be in a great measure governed by the the thirty-third section of the judicial act. That section provides that, for any crime or offence against the United States, the offender may, agreeably to the usual mode of process against offenders in that State where he is found, be arrested, and imprisoned or bailed, as the case may be.

This act contemplates an arrest, not a summons; and this arrest is to be not solely for offences for which the State laws authorize an arrest, but "for any crime or offence against the United States." I do not understand the reference to the State law respecting the mode of process as overruling the preceding general words, and limiting the power of arrest to cases in which, according to the State laws, a person might be arrested, but simply as prescribing the mode to be pursued. Wherever, by the laws of the United States, an offender is to be arrested, the process of arrest employed in the State shall be pursued; but an arrest is positively enjoined for any offence against the United States. This construction is confirmed by the succeeding words: "The offender shall be imprisoned or bailed, as the case may be." There exists no power to direct the offender, or to bind him, without bail, to appear



before the court, which would certainly have been allowed, had the act contemplated a proceeding in such a case which should leave the person at large without security. But he is absolutely to be imprisoned, or bailed, as the case may be.

In a subsequent part of the same section, it is enacted "that, upon all arrests in criminal cases, bail shall be admitted, except where the punishment may be death."

There is no provision for leaving the person at large without bail, and I have ever construed this section to impose it as a duty on the magistrate, who proceeds against any offender against the United States, to commit or bail him. I perceive in the law no other course to be pursued.

This section, it is true, does not respect the process upon an indictment. But the law would be inconsistent with itself if it required a magistrate to arrest for any offence against the United States; if it commanded him on every arrest to commit or to bail, and yet refused a *capias*, and permitted the same offender to go at large so soon as an indictment was found against him. This section, therefore, appears to me to be entitled to great influence in determining the court on the mode of exercising the power given by the fourteenth section in relation to process.

On the impeachment which has been mentioned, this point was particularly committed to Mr. Lee, and the law upon it was fully demonstrated by him.

The only difficulty I ever felt on this question was produced by the former decisions of Judge Iredell. If the State practice on this subject had been adopted, I should have held myself bound by that adoption. But I do not consider the State practice as adopted; *Mundell's* case was a civil suit, and the decision was that the State rule respecting bail in civil actions must prevail. *Sinclair's* case was indeed a case similar to this, and in *Sinclair's* case a *venire facias* was issued. But I am informed by the clerk that this was his act, at the instance of the attorney, not the act of the court. The point was not brought before the court.

In *Callender's* case, a *capias*, or, what is the same thing, a bench warrant, was issued. This was the act of the court; but, not having been an act on argument, or with a view of the whole law of the case, and of former decisions, I should not have considered it as overruling those decisions, if such existed. But there has been no decision expressly adopting the State practice, and the decision in *Callender's* case appears to me to be correct.

I think the *capias* the more proper process. It is conformable to the practice of England at the time of our revolution, and is, I think, in conformity with the spirit of the 33d section of the judicial act. I shall, therefore, adopt it.

To issue the *capias* to take into custody a person actually in custody would be an idle ceremony. In such a case the order of the court very properly supplies the place of a *capias*. The only difference between proceeding by *capias*, and by order, which I can perceive, would be produced by making the writ returnable to the next term.

*Opinion delivered on Monday, September 14, 1807, on the motion for exclusion of evidence on the trial of Aaron Burr for a misdemeanor.*

The present motion is particularly directed against the admission of the testimony of Neale, who is offered for the purpose of proving certain conversations between himself and Herman Blannerhasset. It is objected that the declarations of Herman Blannerhasset are, at this time, inadmissible on this indictment.

The rule of evidence which rejects mere hearsay testimony, which excludes from trials of a criminal or civil nature the declarations of any other individual than of him against whom the proceedings are instituted, has been generally deemed all essential to the correct administration of justice. I know not why a declaration in court should be unavailing, unless made upon oath, if a declaration out of court was to criminate others than him who made it; nor why a man should have a constitutional claim to be confronted with the witnesses against him, if mere verbal declarations, made in his absence, may be evidence against him. I know of no principle, in the preservation of which all are more concerned; I know none, by undermining which, life, liberty, and property might be more endangered. It is, therefore, incumbent on courts to be watchful of every inroad on a principle so truly important.

This rule, as a general rule, is permitted to stand; but some exceptions to it have been introduced concerning the extent of which a difference of opinion prevails, and that difference produces the present question.

The first exception is that in cases of conspiracy; the acts, and it is said by some the declarations, of all the conspirators may be given in evidence on the trial of any one of them, for the purpose of proving the conspiracy; and this case, it is alleged, comes within the exception.

With regard to this exception a distinction is taken in the books between the admissibility and operation of testimony which is clear in point of law, but not at all times easy to practise in fact. It is, that although this testimony be admitted, it is not to operate against the accused unless brought home to him by testimony drawn from his own declarations or his own conduct.

But the question to be considered is, does the exception comprehend this case? Is this a case of conspiracy, according to the well established law meaning of the term?

Cases of conspiracy may be of two descriptions:

1st. Where the conspiracy is the crime, in which case the crime is complete although the act should never be formed; and in such cases, if several be indicted, and all except one be acquitted, that one cannot, say the books, be convicted, because he cannot conspire alone.

2d. Where the crime consists in the intention, and is proved by a conspiracy, so that the conviction of the accused may take place upon evidence that he has conspired to do any act which manifests the wicked intention.

In both these cases an act is not essential to the completion of the crime, and a conspiracy is charged in the indictment as the ground of accusation. If the conspiracy be the sole charge, as it may be, the question to be decided is not whether the accused has committed any particular fact, but whether he has conspired to commit it. Evidence of conspiracy, in such a case, goes directly to support the issue. It has, therefore, been determined that the nature of the conspiracy may be proven by the transactions of any one of the conspirators in furtherance of the common design; the degree of guilt, however, of the particular conspirator upon trial must still depend on his own particular conduct.

In the case at bar the crime consists not in intention, but in acts: The act of Congress does not extend to the secret design, if not carried into open deed, nor to any conspiracy, however extensive, if it do not amount to a beginning or setting on foot a military expedition. The indictment contains no allusion to a conspiracy, and, of consequence, the issue to be tried by the jury is not whether any conspiracy has taken place, but whether the particular facts charged in the indictment have been committed.

I do not mean to admit that, by any course which might have been given to the prosecution, this could have been converted into a case of conspiracy; but most assuredly if it was intended to prove a conspiracy, and to let in that kind of testimony which is admissible only in such a case, the indictment ought to have charged it.

I have not been able to find in the books a single decision or a solitary dictum which would countenance the attempt that is now made to introduce as testimony the declarations of third persons, made in the absence of the person on trial, under the idea of a conspiracy, where no conspiracy is alleged in the indictment. The researches of the counsel for the prosecution have not been more successful; but they suppose this case, though not within the letter, to come clearly within the reasoning of those cases where this testimony has been allowed.

It has been said that, wherever the crime may be committed by a single individual, although in point of fact more than one should be concerned in it, as in all cases of felony, the prosecution must be conducted in the usual mode, and the declarations of third persons cannot be introduced at a trial; but whenever the crime requires more than one person, where, from its nature, it cannot be committed by a single individual, although it shall consist not in conspiracy, but in open deed, yet it is in the nature of a conspiracy, and evidence of the declarations and acts of third persons, connected with the accused, may be received, whether the indictment cover such testimony or not.

I must confess that I do not feel the force of this distinction. I cannot conceive why, when numbers do in truth conspire to commit an act, as murder or robbery, the rule should be that the declaration of one of them is no evidence against another; and yet, if the act should require more than one for its commission, that the declarations of one person engaged in the plot would immediately become evidence against another. I cannot perceive the reason of this distinction; but, admitting its solidity, I know not on what ground to dispense with charging in the indictment the combination intended to be proved. If this combination may be proved by the acts or declarations of third persons, made in the absence of the accused, because he is connected with those persons; if, in consequence of this connexion, the ordinary rules of evidence are to be prostrated, it would seem to me that the indictment ought to give some notice of this connexion.

When the terms used in the indictment necessarily imply a combination, it will be admitted that a combination is charged, and may be proved. And when A, B, and C are indicted for murdering D, yet, in such a case, the declarations of one of the parties, made in the absence of the others, have never been admitted as evidence against the others. If, then, this indictment should even imply that the fact charged was committed by more than one person, I cannot conceive that the declaration of a *particeps criminis* would become admissible on the trial of a person not present when they were made, unless those declarations form a part of the very transaction charged in the indictment.

If in all this I should be mistaken, yet it remains to be proved that the offence charged may not be committed by a single individual. This may, in some measure, depend on the exposition of the terms of the act; and it is to be observed that this exposition must be fixed. It cannot vary with the varying aspect of the prosecution at its different stages. If, as has been said, a military expedition is begun or set on foot, when a single soldier is enlisted for the purpose, then, unless it be begun as well by the soldier who enlists as by the officer who enlists him, a military expedition may be begun by a single individual. So, if those who engage in the enterprise follow their leader from their confidence in him, without any knowledge of the real object, there is no conspiracy, and the criminal act is the act of an individual. So, too, if *the* means are *any* means, the crime may unquestionably be committed by an individual. Should the term be even so construed as to imply that all the means must be provided before the offence can be committed, still all the means may, in many cases, be provided by a single individual. The rule, then, laid down by the counsel for the prosecution, if correct in itself, would not comprehend this case.

2dly. There are also cases in the books where acts are in their nature joint, and where the law attaches the guilt to all concerned in their commission, so that the act of one is in truth the act of others; where the conduct of one person in the commission of the fact constitutes the crime of another person; but this is distinct from conspiracy.

If many persons combine to commit a murder, and all assist in it, and are actually or constructively present, the act of one is the act of all, and is sufficient for the conviction of all.

So in acts of levying war, as in the cases of *Damane* and *Purchase*, the acts of the mob were the acts of all in the mob whose conduct showed a concurrence in those acts, and in the general design which the mob were carrying into execution. But these decisions turn on a distinct principle from conspiracy. The crime is a joint crime, and all those who are present, aiding in the commission of it, participate in each other's actions, and in the guilt attached to those actions. The conduct of each contributes to show the nature of this joint crime; and declarations made during the transaction are explanatory of that transaction; but I cannot conceive that, in either case, declarations, unconnected with the transaction, would have been evidence against any other than the person who made them, or persons in whose presence they were made. If, for example, one of several men who had united in committing a murder, should have said that he, with others, contemplated the fact which was afterwards committed, I know of no case which would warrant the admission of this testimony upon the trial of a person who was not present when the words were spoken. So if *Damane* had previously declared that he had entered into a confederacy for the purpose of pulling down all meeting-houses, I cannot believe that this testimony would have been admissible against a person having no knowledge of the declaration, and giving no assent to it.

In felony, the guilt of the principal attaches to the accessory, and, therefore, the guilt of the principal is proven on the trial of the accessory. In treason, all are principals, and the guilt of him who has actually committed the treason does, in England, attach to him who has advised, aided, or assisted that treason; consequently, the conduct of the person who has perpetrated the fact must be examined on the trial of him who has advised or procured it. But, in misdemeanors by statute, where the commission of a particular fact constitutes the only crime punished by the law, I believe there is no case where the declaration of a *particeps criminis* can affect any but himself.

3dly. The admission of the declarations of Mr. *Blannerhasset* may be insisted upon under the idea that he was the agent of Colonel *Burr*. How far the acts of one man may affect another criminally, is a subject for distinct consideration; but I believe there is no case where the words of an agent can be evidence against his principal on a criminal prosecution. Could such testimony be admissible, the agency must be first clearly established, not by the words of the agent alone, but by the acts of the principal, and the word must be within the power previously shown to have been given.

The opinions of the Circuit Court of New York in trials of *Smith* and *Ogden* have been frequently mentioned. Although I have not the honor to know the judge who gave those decisions, I consider them as the determination of a court of the United States, and I shall not be lightly induced to disregard them, or unnecessarily to treat them with disrespect. I do not, however, perceive in the opinions of Judge *Talmadge* any expression indicating that the declarations of third persons could be received as testimony against any individual who was prosecuted under this act. If he has given that opinion, it has certainly escaped my notice, and has not been suggested to me by counsel. He unquestionably says, in page 113 of the trial, "that the reference which was made to the doctrine of conspiracy did not apply in that case." The reference alluded to was the observation of Mr. *Emmet*, who had said "that if the object was to charge Col. *Smith* with the acts of Captain *Lewis*, they ought to have laid the indictment for a conspiracy." The opinion of the judge, that the doctrine of conspiracy had no application to the case, appears to me to be perfectly correct.



I feel, therefore, no difficulty in deciding that the testimony of Mr. Neale, unless he can go further than merely stating the declarations made to him by Blannerhasset, is at present inadmissible.

But the argument has taken a much wider range. The points made comprehend the exclusion of other testimony suggested by the attorney for the United States, and the opinion of the court upon the operation of testimony. As these subjects are entirely distinct, and as the object of the motion is the exclusion of testimony supposed to be illegal, I shall confine my observations to that part of the argument which respects the admissibility of evidence of the description of that proposed by the attorney for the United States.

The indictment charges the accused in separate counts with beginning, with setting on foot, with preparing, and with providing the means for a military expedition to be carried on against a nation at peace with the United States. Any legal testimony which applies to any one of these counts is relevant. That which applies to none of them must be irrelevant.

The expedition, the character and object of that expedition, that the defendant began it, that he set it on foot, that he provided and prepared the means for carrying it on, are all charged in the indictment, and, consequently, these charges may be all supported by any legal testimony. But that a military expedition was begun or set on foot by others, or that the means were prepared or provided by others, is not charged in this indictment, is not a crime which is or can be alleged against the defendant, and testimony to that effect is therefore not relevant.

All testimony which serves to show the expedition to have been military in its character, as, for instance, testimony respecting their arms and provisions, no matter by whom purchased, their conduct, no matter by whom directed, or who was present, all legal testimony which serves to show the object of the expedition, as would be their actually marching against Mexico, any public declarations made among themselves stating Mexico as their object, any manifesto to this effect, any agreement entered into by them for such an expedition—these, or similar acts, would be received to show the object of the expedition.

In the trials of Smith and Ogden they were received. Whether the particular acts of the accused, on which his guilt or innocence depends, must precede this species of testimony, or may be preceded by it, is a question which merely respects the order of evidence. There can be no doubt but that at some stage of the prosecution either before or after the particular part performed by the accused has been shown, the character and object of the expedition may be shown, and that by any legal testimony calculated to develop that character and object. Whether this testimony is admissible before the proof which particularly applies to the part performed by the accused, or ought to be introduced by first proving that part, is a question which is not made in this case, and which was not made in the case of Smith and Ogden. In that case it was certainly entirely unimportant, and it is probably not less so in this.

It has been also contended that the acts no more than the declarations of third persons can be given in evidence on this indictment.

It has been already said that those acts of equipment which go to show the character of the expedition may be given in evidence. If, for example, Blannerhasset, Tyler, Smith, or any other persons, provided arms, ammunition, or provisions which were applied to the armament, this would be evidence because it would show the character of the expedition. This was done in the case of Smith and Ogden without inquiring who provided the arms, for they belonged to the expedition. Captain Lewis, for instance, purchased several military equipments. It was not deemed necessary to show that Smith was connected with Lewis, for these purchases were made for the expedition, and Smith was not charged with providing them. He was charged with providing other means; and the means provided by Lewis served to show the character of the expedition.

But although the acts of all persons providing means applied to the expedition may be given in evidence upon the same principle that the state of the expedition may be shown, it does not follow that other acts of third persons may be given in evidence.

It has also been contended that no transactions out of the district are testimony.

This position is correct to a considerable extent, but not to that extent in which it is laid down. A declaration of Mr. Burr, for example, made in Kentucky, or elsewhere, that he did set on foot a military expedition on Blannerhasset's island to be carried on against the dominions of the King of Spain, while the United States were at peace with that Power, would, I think, be evidence; so would the actual marching of the troops proved to be raised by him against the province of Mexico. Testimony which goes directly to prove the indictment may, I think, be drawn from any place.

But I do not understand this to be the point really in contest. I understand the counsel of the United States to insist, that providing means in Kentucky, that enlisting men in Kentucky, that joining the expedition in Kentucky, may be given in evidence to show that the accused did begin and set on foot the expedition in Blannerhasset's island, or did provide the means at that place, as charged in the indictment. This I understand to be the great question which divides the prosecution and defence.

It is, I believe, a general rule, that in criminal prosecutions, a distinct crime for which a prosecution may be instituted cannot be given in evidence in order to render it more probable that the particular crime charged in the indictment was committed; if gentlemen think me wrong in this, I will certainly hear them upon the point, but I believe the position to be correct. Now providing the means for a military expedition in Kentucky to be carried on against the dominions of a prince with whom the United States are at peace, is certainly in itself a distinct offence upon which an indictment may be as well supported as it can be for providing means for the same or a similar expedition in Virginia. According to the rule laid down, then, this testimony cannot be received unless it goes to prove directly the charges contained in the indictment. But how can it go directly to prove those charges? Does it follow that the man who has provided the means in Kentucky has also provided the means in Virginia? Certainly it does not follow; and, consequently, the acts alleged in Kentucky do not prove the charges contained in the indictment. They would prove the defendant to have been connected in the enterprise, and gentlemen argue as if they thought this sufficient for their purpose. I shall be excused if I employ a few moments in stating my reasons for thinking it not sufficient.

I have already said, and surely no man will deny it, that two distinct persons may at different places furnish different means for the same enterprise. It will, I presume, not be contended that one of them may be indicted for the means provided by the other. So, too, if the same man shall provide means for the same enterprise at different places, as in Virginia and Kentucky, I do not imagine that an indictment for providing arms in Virginia could be supported by proving that he provided ammunition in Kentucky. They are distinct offences, for either of which he may be punished; and the commission of the one may render more probable, but does not prove the commission of the other.

How, then, do gentlemen mean to make this testimony relevant? It is by making the acts of Blannerhasset, Tyler, and Smith, the acts of Burr; by insisting that their acts show an unlawful expedition to have been begun by him in Virginia, or that the means for that expedition were provided by him in Virginia. This being accomplished, his acts in Kentucky may be adduced to corroborate or confirm the testimony which discloses his conduct in Virginia.

As preliminary, then, to this testimony, such proof of the specific charges contained in the indictment may be given, as may be left to the consideration of the jury.

This proof relates to place as well as to fact. "Of whatsoever nature an offence indicted may be," (says Hawkins, b. 2, ch. 25, sec. 35.) "whether local or transitory, as seditious words or battery, &c. it seems to be agreed that if upon not guilty pleaded, it shall appear that it was committed in a county different from that in which the indictment was found, the defendant shall be acquitted."

This rule is the stronger in the United States, where it is affirmed by the constitution itself, and where the jurisdiction of the court is limited to offences within the district. Its obligation, therefore, is complete.

If there be any direct testimony that an expedition was begun, or set on foot, or that the means were provided or prepared in Virginia, that testimony has not yet been heard, so far as I recollect. If there be such testimony, it must also be shown that the expedition was begun, or that the means were prepared by the accused. No single act of his in Virginia has been offered in evidence. He made a contract in the State of Ohio for boats and provisions, which may have been intended as a part of the expedition, but no contract appears to have been made in Virginia, nor were the boats constructed or provisions procured in Virginia. How, then, is it to appear that he begun or set on foot a military expedition in Virginia, or that he provided or prepared the means for such an expedition?

It is said that if he gave orders from Kentucky or elsewhere, and in consequence of those orders the means were provided in Virginia, the accused is within the letter of the act as well as its spirit, and has himself provided the means in Virginia.

If these orders were in proof, the court as well as the counsel would be enabled to view the subject with more accuracy, and to treat it with more precision. Since those orders are not adduced nor accurately stated, and the question has been argued without them, the court must decline giving any opinion, or consider the orders as offered, and say what orders would be admissible and what inadmissible. The latter course may save the bar the trouble of another argument.

To whom are orders supposed to have been given, and who are supposed to have executed them?

They must have been given to accomplices, or to those who had no share in the expedition.

If accomplices, under the direction of Col. Burr, have provided the means, can their liability to the penalties of the law be doubted? I presume not. If persons engaged in the expedition have provided the means for carrying it on, it will, I presume, be admitted that they are within the letter and the spirit of the act. Each man has himself provided and prepared those particular means which he has furnished. If Col. Burr, as was the case with Col. Smith, has supplied money for the expedition, then money may be charged as the means provided by him; but if that money was advanced to an accomplice, its investment in means for the expedition is the act of the accomplice, for which, being a free agent, he is himself responsible. The accomplice has committed the very act which the law furnishes. Has the accused, by suggesting or procuring that act, also committed it?

I will not say how far the rule that penal laws must be construed strictly, may be carried without incurring the censure of disregarding the sense of the Legislature. It may, however, be safely affirmed that the offence must come clearly within the description of the law, according to the common understanding of the terms employed, or it is not punishable under the law. Now, to do an act, or to advise or procure an act, or to be connected or leagued with one who does that act, is not the same, in either law, language, or in common parlance; and if they are not the same, a penalty affixed to the one is not necessarily affixed to the other. The penalty affixed to the act of providing the means for a military expedition is not affixed to the act of advising or procuring those means to be provided, or of being associated with the man who has provided them. The distinction made by the law between these persons is well settled, and has been too frequently urged to require further explanation. The one is a principal, the other an accessory. In all misdemeanors, punishable only by a statute which describes as the sole offender the person who commits the prohibited act, the one is within and the other not within the statute. In passing the act under consideration, Congress obviously contemplated this distinction. I presume that in a prosecution under the 3d section, for fitting out a privateer, it would not be alleged that a person who was concerned with the men who actually fitted out the privateer, but who performed no act himself, could be convicted on an indictment not for being concerned in fitting out the privateer, but for actually fitting her out. These are stated in that section as separate offences.

This distinction taken in the law is well understood, and cannot be considered as overlooked by those who frame penal acts. They cannot be considered as intending to describe one offender, when they describe another; and if experience suggests defects in the penal code, the Legislature exclusively judges how far those defects are to be remedied.

While expounding the terms of the act, it may not be improper to notice an argument advanced by the attorney for the United States, which was stopped by my observing that he had not correctly understood the opinion delivered in the case of treason. He understood that opinion as approving the doctrine laid down by Keeling and Hale, that an accessory before the fact might plead, in bar of an indictment as accessory, that he had been acquitted as principal; whence it was inferred, that on an indictment for doing an act, evidence of advising or producing that act might be received. I was certainly very far from approving this doctrine. On the contrary, I declared it to contradict every idea I had ever formed on the subject. But if it were correct, I endeavored to show that it could not affect that case. My disapprobation of the doctrine induced me to look further into it, and my persuasion that it is not law is confirmed. Hale, v. 2, p. 292, says, "if A and B be indicted of the murder of C, and upon their evidence it appears that A committed the fact, and B was not present, but was accessory before the fact, by commanding it, B shall be discharged."

In Hale, 2, ch. 85, sec. 11, Hawkins discusses this subject, shows in a note the contradiction in those authorities which maintain the doctrine, cites the opposing authorities, and obviously approves the opinion which is here given. It is apparent, then, that the law never considers the commission and the procurement of an act, even where both are criminal, as the same act.

I cannot, therefore, consider means provided by those who are his accomplices in the expedition, as means provided by Colonel Burr.

If the means were provided by order of the accused, by persons not accomplices, and not guilty under the act, the law may be otherwise. I shall not exclude such testimony. There is, however, some doubt whether the place of trial should be where the orders were given, or where they were executed.

At common law, if an act was procured or advised at one place, and executed at another, it was doubted whether the procurer could be tried at either place, because the offence was not complete at either. This difficulty was removed by a statute made in the reign of Edward VI. If there be testimony showing, by orders from the accused, that means were provided in Virginia by a person not an accomplice, it may be received, and the question respecting the scene of trial put in a way for final decision.

The question whether all the means must be provided before the offence described in the statute has been committed, relates to the effect rather than to the exclusion of the testimony. I shall certainly not reject any evidence which shows that any means were provided by the accused in the place charged in the indictment.

Upon the subject of beginning and setting on foot a military expedition or enterprise, it would be unnecessary, at this time, to say any thing, were it not on account of the question respecting the introduction of testimony out of the district.

What is an expedition? What is an enterprise?

An expedition, if we consult Johnson, is "a march or a voyage with martial intentions." In this sense it does not mean the body which marches, but the march itself. The term is, however, sometimes employed to designate the armament itself, as well as the movement of that armament.

An enterprise is "an undertaking of hazard, an arduous attempt." The proper meaning, then, of this word also describes the general undertaking, and not the armament with which that undertaking is to be accomplished.

The 1st count in the indictment charges that Burr began the expedition in Blannerhasset's island; the 2d and 3d that he set on foot the enterprise in Blannerhasset's island.

If the term *expedition* is to be taken in its common and direct sense, that is, to mean a march or a voyage with martial intentions, it began where that march or voyage began; and it must have been begun by the accused to bring him within the act.

If the term be taken in its figurative sense, to designate the armament itself, instead of the movements of that armament, then I cannot readily conceive an act which begins an expedition, unless the same act may also be said to provide the means of an expedition. The formation of the plan in the mind is not the commencement of the expedition within the act. Our laws punish no mental crimes not brought into open deed. The disclosure of that plan does not begin it. If it did, the first disclosure would be the beginning. I find a difficulty in conceiving any act which amounts to beginning an expedition, which does not also amount to providing the means for an expedition. However, if there can be such an act, and if it has been committed in Virginia, it may certainly be given in evidence.

The same observations apply to setting on foot an enterprise.

These remarks are made to show what it will be necessary to prove, in order to let in corroborative proof.

It is, then, the opinion of the court, that the declarations of third persons, not forming a part of the transaction, and not made in the presence of the accused, cannot be received in evidence in this case.

That the acts of accomplices, except so far as they prove the character or object of the expedition, cannot be given in evidence.

That the acts of the accused in a different district, which constitute in themselves substantive cause for a prosecution, cannot be given in evidence, unless they go directly to prove the charges laid in the indictment.

That any legal testimony which shows the expedition to be military, or to have been designed against the dominions of Spain, may be received.

That any testimony showing that the accused performed within the district any one of the acts charged in the indictment may be received.

Gentlemen will know how to apply these principles. Should any difficulty occur in applying them, the particular case will be brought before the court and decided.

#### CITY OF RICHMOND, *scilicet*.

This day, the 28th of October, 1807, Thomas Ritchie, editor of the *Enquirer*, published in this city, made oath before me, a magistrate of the said city, that the annexed sheet, containing the opinion of the circuit court of the United States for the fifth circuit and Virginia district, in the case of Aaron Burr, &c. &c., was printed in the *Enquirer* from the original manuscript furnished by Chief Justice Marshall.

Given under my hand, the day and year above written.

WM. RICHARDSON, *Mayor*.

#### *Conclusive opinion of the Chief Justice Marshall, on the motion for commitment, delivered on Tuesday, October 20, 1807.*

Much of the difficulty of the present case arises from its being attended by circumstances entirely opposite to those which are usually found in motions of a similar description.

An examining magistrate commits, and ought to commit, on probable cause. In defining his duty, after stating that he may arrest either upon his own suspicion or that of others, Blackstone adds, "but in both cases it is fitting to examine upon oath the party requiring a warrant, as well to ascertain that there is a felony or other crime actually committed, without which no warrant should be granted, as also to prove the cause and probability of suspecting the party against whom the warrant is prayed."

But although the existence of a fact as the foundation of the charge must be proved before a magistrate can legally imprison a citizen, it is not believed to be true that the same necessity exists for ascertaining with equal clearness the full legal character of that fact, or the degree of guilt which the law attaches to it. On a charge of murder, for example, the homicide must be proved; but the inquiry whether it be justifiable or otherwise is seldom made by an examining magistrate. He could not refuse to commit, unless it was perfectly clear that the act was innocent. - An opinion that a jury ought to acquit would not warrant a refusal on his part to take the steps which might bring the accused before a jury.

In cases where the legal effect of the act alleged to be criminal is in any degree doubtful, it would greatly derange the regular course of justice, and enable many offenders to escape, should a magistrate refuse to arrest until he had received full proof of guilt. If the fact be of such a character as perhaps to be construed into a high and dangerous crime, with the aid of other testimony, which the nature of the case admits, it would seem to be a duty to secure the person, in order to abide the judgment of the law.

Among the many reasons which may be enumerated for committing in a doubtful case, are:

1st. That, upon a considerable portion of a criminal charge, it is the peculiar province of a jury to decide;

2d. That additional testimony is to be expected; and,

3d. That the person most commonly making the commitment is a justice of the peace, not authorized finally to try the offender, and who, consequently, whatever may be the fact, is not presumed to be so competent a judge of the law of the case as he is to whom the power of deciding it is confided.

Had these proceedings commenced with the present motion, founded on testimony such as is now adduced, I certainly should have felt no difficulty in deciding on it. But the proceedings are not now commencing. The persons against whom this motion is made have been seized, one in the Mississippi Territory, one in Kentucky, and one in the western parts of Pennsylvania, or New York, and brought to this place for trial. An immense number of witnesses have been assembled, and a very extensive investigation of the transactions alleged to be criminal has taken place. The result has been the acquittal of one of the accused, upon the principle, that the offence,

if committed any where, was committed out of the jurisdiction of this court; and a *nolle prosequi* has been entered with respect to the others. The witnesses intended to establish the charge before a jury have been examined, and the probability of obtaining testimony which can materially vary the case is admitted to be very remote. The great personal and pecuniary sufferings already sustained must be allowed also to furnish some motives for requiring rather stronger testimony to transmit the accused to a distant State for trial, than would be required in the first instance. It may, likewise, be added, as a consideration of some weight, that the judge who hears the motion, though sitting as an examining magistrate, is one of those who is by law intrusted with the power of deciding finally on the case; and there seems to be, on that account, the less reason for referring the party to a distinct tribunal, on a point on which a slight doubt may exist.

I do not believe that in England, whence our legal system is derived, a justice of *assise* and *nisi prius*, after hearing the whole testimony, would commit for trial in another county a man who had been tried in an improper county, unless the probable cause was much stronger than would be required on ordinary occasions.

These conflicting considerations certainly render the questions to be decided more intricate than they would be in a different state of things. After weighing them, I have conceived it to be my duty not to commit on slight ground; but at the same time I cannot permit myself to be governed by the same rules which would regulate my conduct on a trial in chief.

There are certain principles attached to the different characters of a judge sitting as an examining magistrate, and on a trial in chief, which must essentially influence his conduct even under circumstances like those which attend the present case. It is a maxim, universal in theory, though sometimes neglected in practice, that if, in criminal prosecutions, there be doubts either as to fact or law, the decision ought to be in favor of the accused. This principle must be reversed on a question of commitment. In a case like the present, if the judge has formed a clear opinion on the law or fact, which there is not much reason to suppose additional testimony might be obtained to change, it would be injustice to the public, to the accused, and to that host of witnesses who must be drawn from their private avocations to the trial, should he take a step which, in his judgment, could produce only vexation and expense; but if he entertains serious doubts as to the law or fact, it is, I think, his duty, even in a case like this, not to discharge, but to commit.

The charges against the accused are:

- 1st. That they have levied war against the United States at the mouth of Cumberland river, in Kentucky; and
- 2d. That they have begun and provided the means for a military expedition against a nation with which the United States were at peace.

With respect to one of the accused, a preliminary defence is made in the nature of a plea of *autrefois acquit*.

If the question raised by this defence was one on which my judgment was completely formed in favor of the person by whom it is made, it would certainly be improper for me to commit him; but if my judgment is not absolutely and decidedly formed upon it, there would be a manifest impropriety in undertaking now to determine it. This does not arise from my fear to meet a great question whenever my situation shall require me to meet it, but from a belief that I ought as well to avoid the intrusion of my opinions on my brethren in cases where duty does not enjoin it on me to give them, as the withholding of those opinions where my situation may demand them. The question whether *autrefois acquit* will be a good plea in this case is of great magnitude, and ought to be settled by the united wisdom of all the judges. Were it brought before me on a trial in chief, I would, if in my power, carry it before the Supreme Court; when brought before me, merely as an examining magistrate, I should deem myself inexcusable were I to decide, while a single doubt remained respecting the correctness of that decision.

To settle new and important questions in our criminal code, especially where those questions are constitutional, is a task upon which a single judge will at any time enter with reluctance; certainly, he would not willingly engage in it while acting as an examining magistrate. There is a decent fitness which all must feel in bringing such questions, if practicable, before all the judges. In England, trials which are expected to involve questions of great magnitude, are seldom assigned to one or two judges. At that interesting crisis, when Hardy, Tooke, Thelwall, and others, were indicted for treason, Chief Justice Eyre was aided and supported by four associate judges, of high talents and character. It would, I have no doubt, in that country be a matter of surprise if any person, whatever might be his station in the judiciary, should undertake to settle a great and novel point on a question of commitment. Although, in the United States, our system does not admit of a commission authorizing a majority of the judges to constitute a court for the trial of special criminal cases, yet it does admit of carrying a doubtful and important point before the Supreme Court, and I should not feel myself justified were I now to give an opinion, anticipating such a measure.

I shall, therefore, consider this motion as if no verdict had been rendered for either of the parties.

Both charges are supported by the same transaction and the same testimony. The assemblage at the mouth of Cumberland is considered as an act of levying war against the United States, and as a military armament collected for the invasion of a neighboring Power with whom the United States were at peace.

From the evidence which details that transaction, it appears that from sixty to one hundred men, who were collected from the upper parts of the Ohio, under the direction of Tyler and Floyd, had descended the river, and reached the mouth of Cumberland about the 25th of December, 1806. The next day they went on shore, and formed a line, represented by some as somewhat circular, to receive Colonel Burr, who was introduced to them, and who said that he had intended to impart something to them, or that he had intended to communicate to them his views, but that reasons of his own had induced him to postpone this communication; or, as others say, that there were then too many bystanders to admit of a communication of his objects.

The men assembled at the mouth of Cumberland appear to have considered Colonel Burr as their chief. Whatever might be the point towards which they were moving, they seemed to have looked upon him as their conductor.

They demeaned themselves in a peaceable and orderly manner. No act of violence was committed, nor was any outrage on the laws practised. There was no act of disobedience to the civil authority, nor were there any military appearances. There were some arms, and some boxes, which might or might not contain arms. There were also some implements of husbandry, but they were purchased at the place. These men assembled under contracts to settle a tract of country on the Red River. No hostile objects were avowed; and, after continuing a day or two on an island in the mouth of the river, the party proceeded down the Ohio.

There are some circumstances in this transaction which are calculated to excite attention and awaken suspicion. If the exclusive object of those who composed this meeting was to settle lands, it would naturally form the subject of public conversation, and there would most probably have been no impediment to a free communication respecting it. The course of the human mind would naturally lead to such communications. The silence observed by the leaders on this subject, connected with hints of ulterior views, seems calculated to impress on the minds of the people themselves that some other project was contemplated, and was probably designed to make that impression.

That the men should have been armed with rifles was to be expected, had their single object been to plant themselves in the Washita; but the musket and bayonet are, perhaps, not the species of arms which are most usually found in our frontier settlements; nor were the individuals who were assembled of that description of persons who would most naturally be employed for such a purpose. The engagement for six months, too, is a stipulation for which it is difficult to account, upon the principle that a settlement of lands was the sole or principal object in contemplation.

These are circumstances which excite suspicion. How far they may be accounted for by saying that ulterior eventual objects were entertained, and that the event on which those objects depended was believed to be certain, or nearly certain, I need not determine; but I can scarcely suppose it possible that it would be contended by any person that the transactions at the mouth of Cumberland do in themselves amount to an act of levying war. There was neither an act of hostility committed, nor any intention to commit such act avowed.

Very early in the proceedings which preceded this motion, I declared the opinion that war might be levied without a battle, or the actual application of force to the object on which it was designed to act; that a body of men assembled for the purpose of war, and being in a posture of war, do levy war; and from that opinion I have certainly felt no disposition to recede. But the intention is an indispensable ingredient in the composition of the fact; and, if war may be levied without striking a blow, the intention to strike must be plainly proved.

To prove this intention, the prosecutor for the United States offers evidence of conversations held by the accused, or some of them, with various individuals, at different times, relative to the views which were entertained, and the plans which had been formed, and of certain facts which took place after leaving the mouth of Cumberland; for, although it was decided not to be within the power of this court to commit for trial in a Territory of the United States, yet every transaction within a Territory has been given in evidence, in the expectation that such testimony might serve to explain the meeting at the mouth of Cumberland, and because it was believed to be proper for an examining magistrate to receive it.

That conversations or actions at a different time and place might be given in evidence as corroborative of the overt act of levying war, after that had been proved in such a manner as to be left to a jury, I never doubted for an instant; but that, in a case where the intent could not be inferred from the fact, and was not proved by declarations connected with the fact, among which I should include the terms under which those who composed the assemblage were convened together, this defect could be entirely supplied by extrinsic testimony, not applying the intent conclusively to the particular fact, is a point on which I have entertained doubts which are not yet entirely removed. The opinion of Judge Iredell, in the case of Fries, according to my understanding of it when read at the bar, appears to bear strongly on this point; and that opinion would be conclusive with me, at least while acting as an examining magistrate. I have not reviewed it particularly, because my decision will not depend on the propriety of admitting this mode of proving the intent.

It has also been made a question whether, after proving a connexion between the accused for some general object, the conversations of one of them may be given in evidence against any other than himself for the purpose of proving what that object was. On the part of the United States it is insisted that such conversations may be given in evidence on an indictment for treason in levying of war. By the defence it is contended that such evidence is only admissible on indictments for a conspiracy, or on indictments where a conspiracy may be laid as an overt act.

The principle that one man shall not be criminated by the declarations of another, not assented to by him, not made in due course of law, constitutes a rule of evidence which ought not unreflectingly to be invaded.

It is one of those principles which I do not think myself required to decide, because I am not sure that its decision, however interesting it might be on a trial in chief, would essentially affect the question of commitment; nor am I confident that its decision, as argued on the part of the United States, would introduce the testimony it was designed to introduce. In the English books, generally, the position that the declarations of a person not on trial may be given in evidence against a man proved to have been connected with him, is laid down only in cases of conspiracy, where the crime is completed without any other open deed. The position is certainly not laid down with respect to such cases in terms which exclude its application to others; but it is not laid down in general terms, and is affirmed to apply to those particular cases, without being affirmed to apply to others. From this general observation relative to the English books, East is to be excepted. He states the proposition generally; yet it may well be doubted whether this general statement was not with a view to the law in that treason which, in England, almost swallows up every other.

But admitting the law to be the same in treason by levying war as in cases of conspiracy, how far does it extend?

The doctrine on this subject was reviewed in the cases of Hardy and Tooke. On the part of the crown, a letter of Thelwall containing seditious songs, composed by himself and sung in the society, was offered as evidence against Hardy, who was connected with Thelwall. This testimony was rejected, because it was not a part of the transaction itself, but an account of that transaction given by Thelwall to a person not engaged in the conspiracy. The court was divided; three for rejecting, and two for admitting the evidence.

A letter addressed by one conspirator to another, but not proved to have been received, was then offered and admitted against the opinion of the chief justice, who thought that such a letter did not amount to an act done, which might be evidence, but only to a relation of that act, which could not be evidence. He was overruled, because a letter from one conspirator to another on the conspiracy, was a complete act in that conspiracy.

The next paper offered was a letter from a society in the conspiracy, which was found in the possession of one of the conspirators, and this was unanimously admitted.

The principle which appears to be established by these decisions is, that a letter from one conspirator to another on the subject of the conspiracy is evidence against all, but that a letter from a conspirator to a person not connected with him, stating facts relative to the conspiracy, is only evidence against himself. How far a conversation held with a stranger, for the purpose of bringing him into the plot, may be considered as a transaction, and, therefore, testimony to show the general conspiracy, does not appear from these decisions.

This species of evidence is received to show the general object of the conspiracy, but can affect no individual further than his assent to that object can be proved by such testimony as is admissible in ordinary cases.

I notice this point for the purpose of observing that I do not decide it on the present motion.

The first question which arises on the evidence is—

With what objects did those men convene who assembled at the mouth of Cumberland?

Was it to separate the Western from the Eastern States, by seizing and holding New Orleans?

Was it to carry on an expedition against Mexico, making the embarkation at New Orleans?

Was this expedition to depend on a war with Spain?

The conversation held by Col. Burr with Commodore Decatur stated his object to be an expedition against Mexico, which would be undertaken, as the commodore understood, with the approbation of Government, in the event of war.

To General Eaton he unfolded, in various conversations, plans for invading Mexico, and also for severing the Western from the Atlantic States.

To Commodore Truxton he spoke of the invasion and conquest of Mexico in the event of a war, as a plan which he had digested in concert with General Wilkinson, and into which he was extremely desirous to draw the commodore. A circumstance is narrated by this witness, which has been noticed by the counsel for the United States, and deserves consideration. It is the declaration of Colonel Burr that he was about to despatch two couriers with letters to General Wilkinson relative to the expedition. It was at this time that Messrs. Bollman and Swartwout are said to have left Philadelphia, carrying each a copy of the ciphered letter which has constituted so important a document in the various motions that have been made on this occasion. This letter, though expressed in terms of some ambiguity, has been understood by the Supreme Court, and is understood by me, to relate to a military expedition against the territories of a foreign Prince: In this sense the testimony offered on the part of the United States shows it to have been also understood by Bollman, by Swartwout, and by General Wilkinson. The inference is very strong, that this letter is the same to which Colonel Burr alluded in his conversation with Commodore Truxton, and strengthens the idea that the accused gave to that gentleman a true statement of the real object, so far, at least, as relates to the point against which his preparations were to be directed. All the conversations relative to an expedition by sea would be equally inapplicable to any attempt on the territories of the United States, and to the settlement of lands.

His conversations with the Messrs. Morgan certainly indicate that his mind was strongly directed to military objects, that he was not friendly to the present administration, and that he contemplated a separation of the Union as an event which would take place at no very distant day.

His conversation with Lieutenant Jackson points in express terms to hostility against Spain.

The conversations of Mr. Blannerhasset evince dispositions unfriendly to the Union, and his writings are obviously intended to disaffect the Western people, and to excite in their bosoms strong prejudices against their Atlantic brethren. That the object of these writings was to prepare the Western States for a dismemberment, is apparent on the face of them, and was frequently avowed by himself. In a conversation with the Messrs. Henderson, which derives additional importance from the solemnity with which his communications were made, he laid open a plan for dismembering the Union under the auspices of Mr. Burr. To others, at subsequent times, he spoke of the invasion of Mexico, as the particular object to which the preparations then making were directed. In all, those whom he sought to engage in the expedition, the idea was excited that, though the Washita was its avowed object, it covered something more splendid; and the allusions to Mexico, when not directed, were scarcely to be misunderstood.

The language of Comfort Tyler also tends to prove that the enterprise was destined against Mexico.

The communications made to General Wilkinson deserve much consideration in marking the real intention of the parties, because it is obvious that Colonel Burr, whether with or without reason, calculated on his co-operation, with the army which he commanded, and that on this co-operation the execution of his plan greatly, if not absolutely, depended. To General Wilkinson, both the ciphered letter and the explanations made by Bollman and Swartwout, declared the expedition to be military, and to be intended against Mexico.

I do not think the authenticity of this letter can now be questioned. When to the circumstances enumerated by the counsel on the part of the United States are added the testimony of Mr. Swartwout, and its being written in a cipher previously established between General Wilkinson and Colonel Burr, I think it sufficiently proved, at least for the present, although not in the hand-writing of the person to whom it is ascribed.

The conversation stated by General Wilkinson as passing between Mr. Swartwout and himself, so far as it is contradicted by that gentleman, cannot affect Mr. Burr; for this plain reason: the person alleged to have made those declarations avers not only that he never made them, but that he was never authorized to make them; that he never heard from Mr. Burr any sentiment indicating designs against any part of the United States, and never even suspected him of such designs. If, then, General Wilkinson be correct, I must consider the observations he narrates as the conjectures of Mr. Swartwout, not authorized by Mr. Burr.

It is also a circumstance of some weight, that Mr. Burr's declarations at the mouth of Cumberland furnish strong reasons for the opinion that he did not wish those to whom he addressed himself to consider the Washita as his real ultimate object; and the reference to further information from their particular leaders would naturally induce the expectation, that without any open avowal their minds would be gradually conducted to the point to which their assent was to be obtained. We find there were rumors among them of attacking Baton Rouge, of attacking other parts of the Spanish dominions, but not a suggestion was heard of hostility against the United States.

On comparing the testimony adduced by the United States with itself, this is observable. That which relates to treason indicates the general design, while that which relates to the misdemeanor points to the particular expedition which was actually commenced. Weighing the whole of this testimony, it appears to me to preponderate in favor of the opinion that the enterprise was really designed against Mexico.

But there is strong reason to suppose that the embarkation was to be made at New Orleans, and this, it is said, could not take place without subverting for a time the Government of the Territory, which it is alleged would be treason. The Supreme Court has said, that to revolutionize a Territory by force, although merely as a step to or a means of executing some greater projects, is treason. But an embarkation of troops against a foreign country may be made without revolutionizing the Government of the place, and without subverting the legitimate authority. It is true that violence might probably result from such an attempt, and treason might be the consequence of its execution; but this treason would arise incidentally, and would not be the direct object for which the men originally assembled. This treason would attach to those who committed it, but would not, I am inclined to think, infect a previous assemblage, convened for a distinct purpose. If the object of the assemblage at the mouth of Cumberland was to embark at New Orleans for the purpose of invading Mexico, the law relative to that assemblage would be essentially different from what it might be if their direct object was to subvert the Government of New Orleans by force. If in prosecuting their purpose at New Orleans war should be levied, this would be treason at New Orleans where the fact was committed, but it could not, I think, be said to be treason by levying war at the mouth of Cumberland where the fact was neither committed nor intended: It might be otherwise, if at the mouth of Cumberland, the determination to subvert the Government of a Territory by force had been formed.

This opinion may be in some degree illustrated by the doctrine of the English books. Levying war is an overt act of compassing the King's death. So is a conspiracy to levy war, provided the conspiracy be direct against the King or his Government. But if it be a conspiracy to do an act of constructive treason, which act, if done, would support an indictment for compassing the King's death, the conspiracy without the act will not support the indictment. So in this case, if the object be the embarkation of a body of men against a foreign country, in the execution of which war may or may not be levied, the fact becomes necessary to constitute the treason.

It is also a circumstance of considerable weight with me, that the proof exhibited by the United States to establish a general design to dismember the Union, applies only to Colonel Burr and Mr. Blannerhasset. It is not



proved to have been ever communicated even to Tyler or Floyd. There is not only a failure to prove that such a design was communicated to or entertained by the men who were assembled at the mouth of Cumberland, but the contrary is in full evidence. The United States have adduced several witnesses belonging to that assemblage, who concur in declaring that they heard nothing, that they suspected nothing, and that they would have executed nothing, hostile to the United States. This testimony cannot be disregarded, for it is uncontradicted and is offered by the prosecution. How can this assemblage be said to have levied war against the United States?

Had Burr and Blannerhasset constituted this meeting, no man could have construed it into an act of levying war, whatever might have been their purpose. Their being joined by others having no hostile intentions against the United States, who were attached to them with other views, and who would not permit themselves to be employed in the execution of such intentions, does not seem to me to alter the case. The reason why men in a posture of war may be said to levy war before a blow is struck, is, that they are ready to strike, and war consists in the various movements of a military force, as well as in actual fighting. But these men were not ready nor willing to strike, nor could their chief be ready to strike without them. He had yet to prevail upon them to come into his measures. This is not a meeting for the purpose of executing a formed design, but a meeting for the purpose of forming a design. It is, therefore, more in the nature of conspiracy than of actual war.

Suppose Mr. Burr had, at the mouth of Cumberland, declared his object to be to seize upon New Orleans and dismember the Union; and that, upon this declaration, his men had universally abandoned him; could this have been denominated an act of levying war? If we forget the constitution and laws of our country, if we suppose treason, like moral guilt, to consist in the intention, and that it may be legally evidenced by words declaring that intention, the answer to this question may be in the affirmative; but if it can consist only in an open deed of levying war, I confess myself unable to perceive how such a proposition can be construed into such a deed.

The case does not appear to me to be essentially varied by the circumstance that this design was not avowed, and that the men followed Colonel Burr with other views. Upon general principles, it appears to me, that unless some act be committed from which a treasonable intent may be inferred, that the treasonable intent must be proved in the assemblage, where that assemblage is composed of free agents, as well as in the person who convenes them, before the law considers war as being actually levied.

This opinion is supposed to be contrary to the decision in the case of the Earls of Essex and Southampton. I have examined that case as reported in the State Trials, and do not think it in any respect contradictory to the ideas I have delivered.

The design of the Earl of Essex was to force his way into the palace and to remove certain counsellors from the Queen, who were his enemies; but he intended no hurt to the person of the Queen. For the purpose of executing this design, he assembled a large body of armed men at his own house, who continued to be embodied after being ordered by the proper authority to disperse; and he also entered the city of London for the purpose of raising the citizens in order further to aid him in the execution of his plan. Several consultations had been previously held, at which the Earl of Southampton assisted, and it is not alleged in the case that he was not fully informed of these projects. He believed that no design was entertained against the person of the Queen; and, therefore, that his acts were not treasonable; but in the law he was mistaken. In fact, no particular design against her person was entertained, and Essex as little suspected as Southampton that they were committing treason: They were ignorant that the law pronounced those facts to be treason, but they were neither ignorant of the facts themselves nor of the real intention with which those facts were committed.

In this case the judges delivered their opinion of the law on two points. The one "that in case where a subject attempted to put himself into such strength as the King shall not be able to resist him, and to force and compel the King to govern otherwise than according to his own royal authority and direction, it is manifest rebellion." The other, "that in every rebellion the law intendeth as a consequent the compassing the death and deprivation of the King, as foreseeing that the rebel will never suffer that King to live or reign who might punish or take revenge of his treason or rebellion."

Under this law opinion of the judges, Essex and Southampton were condemned and executed. The only difference between them was that the quarrel was the quarrel of Essex, and Southampton only adhered to him; but he adhered to him knowing what he did, and the intention with which he acted.

Believing, then, the weight of testimony to be in favor of the opinion that the real and direct object of the expedition was Mexico, and inclining also to the opinion that in law either acts of hostility and resistance to the Government, or a hostile intention in the body assembled, is necessary to convert a meeting of men with ordinary appearances into an act of levying war, it would, in my judgment, be improper in me to commit the accused on the charge of treason.

It is contended that they are not guilty of a misdemeanor, on one of these grounds: Either the United States were actually at war with Spain, or the expedition was dependent on war; and, in the event of peace, was to be converted into a settlement on the Washita.

It is alleged that we were at war with Spain, because a Spanish army had crossed the Sabine, and entered the territory of the United States.

That a nation may be put in a state of war by the unequivocal aggressions of others without any act of its own, is a proposition which I am not disposed to controvert; but I cannot concede this to be such an act. The boundaries claimed by the United States to their recent purchase of Louisiana are contested by Spain. Now if either nation takes possession of the contested territory as its own, it is an act which the opposite Government may elect to consider either as an act of war or otherwise; and only the Government can make that election. No citizen is at liberty to make it, or to anticipate his Government.

But it is alleged that war, if not absolutely made, appeared to be inevitable; and that the prosecution of the expedition depended on its taking place. That the probability of war was great may be admitted; and this may extenuate the offence, but it still remains an offence which is punishable by law. If the expedition was really eventual, and was not to take place in time of peace, then, certainly, preparations might be made for it without infracting any law; but this is a fact proper for the exclusive consideration of a jury, and I shall make no comment upon it which might, the one way or the other, influence their judgment.

I shall commit Aaron Burr and Herman Blannerhasset, for preparing and providing the means for a military expedition against the territories of a foreign Prince, with whom the United States were at peace. If those whose province and duty it is to prosecute offenders against the laws of the United States shall be of opinion that a crime of a deeper dye has been committed, it is at their choice to act in conformity with that opinion.

Israel Smith is not proved to have provided or prepared any means whatever, and therefore I shall not commit him. If he has really offended against the laws, he may be prosecuted for the treason in Kentucky, or for the misdemeanor in his own State, where, if any where, his offence has been committed.

10th CONGRESS.]

No. 231.

[1st Session.]

## EXTENSION OF PATENT RIGHTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 7, 1807.

Mr. CROWNINSHIELD, from the committee to whom was referred the petition of Oliver Evans, of Philadelphia, in the State of Pennsylvania, reported:

Oliver Evans, the petitioner, has invented a very useful improvement in the art of manufacturing flour and meal, for which he received a patent under the act of Congress, passed the 10th of April, 1790, entitled "An act to promote the progress of useful arts." This patent was granted the 18th of December of the same year, and expired in 1804. It was drawn up in the usual form of patents issued under that act.

The petitioner states, that many persons, without his license, and contrary to the true intent and meaning of the said act, having constructed and used his improvement, he was induced to appeal to the laws of his country for redress; and, accordingly, in April, 1804, did bring an action against one of the invaders of his rights, in the circuit court of the United States for the Pennsylvania district, where "the court expressed their unanimous opinion that the description of the machines, stated in the patent to have been invented by him, was imperfect and insufficient; and that by reason thereof the said patent, or so much as came in controversy on the trial, was void." This decision was made at their October term of the present year, and the sum in dispute not amounting to two thousand dollars, he is precluded from entering an appeal to the Supreme Court of the United States.

Thus circumstanced, the petitioner has applied to Congress for relief, and he prays that the Secretary of State may be authorized to grant a good patent, or that such other assistance may be afforded to him, as the utility of his improvement merits, and the public good shall require.

Understanding that the patent was merely deficient in point of form, the committee applied to the Secretary of State for his opinion on the subject. The Secretary's letter, subjoined to this report, will show that he does not think himself justified in introducing a principle which would admit the invalidity of all the patents issued in the same form since the commencement of the Government; on the decision of the circuit court alone. The alteration in the form of patents took place on the 28th of February, 1793.

No other material facts have come to the knowledge of the committee in this case.

The petitioner alleges that considerable sums of money are still due to him, by those who continue to use his improvement without his permission, and which he is prevented from recovering by the decision of the court.

If the petitioner had not complied with the patent law; if he had not alleged, in his petition, that he had made a new and useful discovery; if his petition had not described his invention to the Secretary of State; or, if he had not truly and fully specified his discovery; if, indeed, in any respect, he had failed to perform what had been enjoined by our laws, the committee would consider his claim as an improper one; but viewing it in a different manner; considering, too, that the defect in his patent was caused by those appointed to issue it, from a misapprehension of the provisions of the law merely, the committee are of opinion that relief ought to be afforded to the petitioner, in some way or other; and no better mode suggesting itself than that of granting him a good patent for a limited time, they have been induced to ask leave to report a bill for that purpose.

DECEMBER 7, 1807.

SIR: COMMITTEE ROOM, HOUSE OF REPRESENTATIVES, *November 19, 1807.*

Oliver Evans, of Philadelphia, having applied to Congress to grant him a new patent for his improvements in the art of manufacturing flour, for the reasons stated in his petition, herewith enclosed for your information, I am directed by the committee, to whom this subject has been referred, to ask whether the relief prayed for can be granted by you, as the Secretary of State?

I have the honor to be, with the highest respect, your obedient servant,

JACOB CROWNINSHIELD.

The Hon. JAMES MADISON, *Secretary of State.*

SIR: DEPARTMENT OF STATE, *November 20, 1807.*

I have duly received your letter of yesterday, on the subject of Mr. O. Evans's application for a patent. As this application is founded on a decision of the circuit court at Philadelphia, against the validity of a former patent for the same invention, a compliance with it would admit the invalidity of all the patents issued in the same form since the commencement of the Government. Such a principle I did not think myself justified in introducing, on that authority alone.

I have the honor to be, sir, very respectfully, your most obedient, humble servant,

JAMES MADISON.

The Hon. JACOB CROWNINSHIELD.

GENTLEMEN: DEPARTMENT OF STATE, PATENT OFFICE, *November 21, 1807.*

Mr. Oliver Evans waited on me this morning with a request that, at your desire, I would furnish you "with the period at which the alteration in the form of patents took place, and the number of patents issued under the old form prior to Mr. Evans's, as well as those issued afterwards." In answer to your queries, I have the honor to state, that the alteration in the form of patents took place on the 28th of February, 1793, in conformity to the law of the 21st of the same month, (see Laws of the United States, vol. 2, page 200,) prior to which 57 patents had been issued, and subsequently to this, above 740; Mr. Evans's was the third patent under the old form.

I have the honor to be, gentlemen, very respectfully, yours, &c.,

WILLIAM THORNTON.

The Hon. the COMMITTEE, &c.



10th CONGRESS.]

No. 232.

[1st SESSION.]

## CONTESTED ELECTION OF WILLIAM McCREERY, A REPRESENTATIVE FROM MARYLAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 7, 1807.

Mr. FINDLEY, from the Committee of Elections, to whom was committed the petition of Joshua Barney, of the city of Baltimore, praying to be admitted to a seat in the House, he having, in his opinion, the highest number of votes given to a candidate legally qualified to represent the said city of Baltimore, having examined the facts and allegations on both sides, and the constitution of the United States and the law of Maryland, reported:

That, by an act of the General Assembly of Maryland, passed 1805-'6, it is enacted that Baltimore city and county shall be the fifth district, which district shall be entitled to send two Representatives to Congress, one of whom shall be a resident of Baltimore city and the other of Baltimore county.

That Joshua Barney is a citizen of Maryland, and has been a resident of Baltimore city for many years.

That William McCreery has been, for many years, a citizen of Maryland, and a resident of the city of Baltimore; but, in the year 1803, he removed himself and family to his seat in Baltimore county; that, from that time, though he himself has occasionally resided in Baltimore city, yet he, with his wife and family, have not made the city of Baltimore their settled residence.

That William McCreery states that his intention was, and still is, to reside with his family on his country estate in summer, and in the city of Baltimore in winter; but that, ever since he has removed his family to his farm, he has been obliged every winter, in the public service, to reside, and frequently with his family, in the city of Washington, which prevented him from removing his family, agreeably to his intention, to the city of Baltimore; but he resided himself five or six days in the city of Baltimore before the election; that he and his family were residing in the same situation when he was elected to serve in the ninth Congress; that, however, not wishing to have been taken up as a candidate at the last election, he expressed to some of his friends an apprehension that exceptions might be made on account of his constant family residence not being in the city of Baltimore.

At the election in the aforesaid district, for the tenth Congress, now in session, Nicholas R. Moore had 6,164 votes; he is a resident in Baltimore county; and William McCreery had 8,559 votes; and Joshua Barney, who claims a seat in this House, and it is admitted is a resident in Baltimore city, had 2,063 votes; and John Seat, also a resident in Baltimore city, had 353 votes. The above statement of facts being admitted by the parties, further evidence was not required. No question was taken on the legal residence of William McCreery in the city of Baltimore. Thus far of the former report is again submitted by the committee.

When the report was recommitted, Joshua Barney alleged that William McCreery had declared himself not qualified to be elected, in terms that William McCreery refused to admit, and proposed to bring stronger proof against William McCreery's legal residence in the city of Baltimore; the parties went to that place to take testimony, which they have submitted to the committee, which is substantially as follows:

Joseph H. Nicholson, in answer to interrogatories propounded by Mr. Barney, viz: Did any, and what conversation pass between you and Mr. McCreery as to his illegibility as a Representative to Congress, or between William McCreery, in your hearing, and what did he say?

Second. Did William McCreery at any time, and when, to you or in your presence and hearing, acknowledge or say that he had not a residence in the city of Baltimore, and did not consider himself eligible as a Representative to Congress, &c.?

To the first, Mr. Nicholson answers, that, in the autumn of 1806, about six or eight days before the election for members of Congress, and he, Mr. Nicholson, hearing that doubts were entertained whether Mr. McCreery would consent to be a candidate, and inquiring on that point, induced a conversation relative to the election. Mr. McCreery said he had very reluctantly consented to serve if elected, and regretted that some other person had not been fixed on, as he understood that some objections were made to him on the account of his residence in the country, and was apprehensive this would induce many persons not to vote for him, whose support he would otherwise have had.

On being asked by this deponent, whether at this period his residence was not the same as at the antecedent election, and expressed some surprise that the circumstance of his residence now more than then should be an objection, as it had been overlooked before. Mr. McCreery, among other things, replied that he had always taken care to hold a legal residence in the city of Baltimore, and went on to state how he had done so.

In answer to the second interrogatory, Mr. Nicholson saith, that William McCreery did not, at any time, say to him, or, in his hearing, acknowledge that he had not a residence in Baltimore city, or consider himself as not eligible.

Edward Johnston, in answer to the same interrogatories, answers substantially as Mr. Nicholson had done, with this difference: that the conversation with him took place previous to Mr. McCreery's election to a former Congress; and further, Mr. Johnston says that it took place when himself, Mr. McElderry, and Mr. Dickson waited upon Mr. McCreery for the purpose of prevailing on him to become a candidate when General Smith accepted a seat in the Senate, when he appeared anxious to decline, and observed to them that, as he intended to remove to the country with his family, he was apprehensive that he would not be considered as a suitable representative, and informed them, at the same time, that he intended to keep a counting house for transacting business, furnished with a bed and other conveniences for his accommodation. This deponent and others assured Mr. McCreery that his contemplated residence would be no objection, and urged and prevailed on him to become a candidate; and that no other conversation ever passed between Mr. McCreery and himself, or in his hearing, on that subject.

Samuel Walker testifies, that in 1803, Mr. McCreery having contemplated residing a considerable part of his time in the country, and intended to rent his dwelling house, he, the deponent, agreed to accommodate Mr. McCreery at his dwelling house; and that Mr. McCreery's family has resided regularly twice a year since that period, either at the house of the deponent, or at the house of Hugh Neilson, and that the deponent still does reserve a chamber for his use.

Being cross-examined, he cannot say at what time or how long Mr. McCreery and family resided in his house, &c.; they resided as friends.

Hugh Neilson testifies that Mr. McCreery, with his wife and niece, made his house their place of residence when they came to Baltimore, where Mr. McCreery and niece frequently stayed two or three months before and during the session of Congress; that Mr. McCreery frequently visited during that time, and that Mrs. McCreery and niece commonly went to Washington in December or January; that Mr. McCreery made his house his residence, when he came to Baltimore on business, but kept a bed, desk, &c., at the store occupied by James C. Neilson; and that he, the deponent, is brother-in-law to Mr. McCreery.

Alexander Nisbet testifies, that, during the election, and some days before and after it, Mr. McCreery boarded at Mrs. Dysart's boarding house, and slept there one night, and the other nights in the counting room.

James C. Neilson testified, that Mr. McCreery rented the store to him, but reserved to himself the right of putting up a bed in the counting room, and keeping a desk in it; that he put up a bed and slept in it about a week preceding the election, and two or three days after it; and that Mr. McCreery's desk and a few other things remained in it the whole time; but that, when Mr. McCreery left Baltimore, the deponent took down the bedstead and put it in a room in that part of the house which was rented to Mrs. Dysart, and the mattress under the desk; that no other person slept there but Mr. McCreery; that he knows of no permanent residence that Mr. McCreery had in Baltimore city.

On the foregoing testimony the committee make no observations, but will lay the record of the testimony on the Speaker's table, and submit the following resolution:

*Resolved*, That William McCreery, having the greatest number of votes, and being duly qualified agreeably to the constitution of the United States, is entitled to his seat in this House.

*Interrogatories to be propounded to Edward Johnson and Joseph H. Nicholson, Esquires, on the part and behalf of Joshua Barney.*

First. Did any, and what, conversation pass between you and William McCreery, as to his eligibility as a Representative to Congress, or between William McCreery and any other person in your hearing, and what did he say?

Second. Did William McCreery at any time, and when, to you, or in your presence and hearing, acknowledge or say that he had not a residence in the city of Baltimore, and did not consider himself eligible as a Representative to Congress, or words to that effect; and what did he say?

JOSEPH H. NICHOLSON; a witness called and examined on the part of Joshua Barney, being first duly sworn:

In answer to the first interrogatory above propounded, deposes and saith: that, in the autumn of 1806, six or eight days previous to the election for members of Congress, William McCreery came to the house of this deponent, who then resided about two miles from the city of Baltimore; this deponent having understood that some doubts were entertained whether Mr. McCreery would consent to be a candidate for the House of Representatives, an inquiry on that point, by this deponent, induced a conversation relative to the election. Mr. McCreery said he had very reluctantly consented to serve, if elected; but regretted that some other person had not been fixed on, as he understood some objections were made to him because of his residence in the country, and was apprehensive that these objections would induce many persons not to vote for him, whose support he should otherwise have. This deponent asked whether his residence was not, at that period, the same as at the antecedent election; and expressed some surprise that the circumstance of his residence should have an influence then, inasmuch as it had been overlooked before. Mr. McCreery said his residence was the same, and that some of his political opponents had, he believed, at one time, contemplated making the objection before the House of Representatives, with a view of bringing in another gentleman, to whom a few votes had been given, but, upon further reflection, had declined it. He added, that his apprehensions were that he should lose a great number of votes, and not that the subject should be canvassed in the House of Representatives, because he had taken care always to hold a legal residence in the city of Baltimore. This deponent then asked what he meant by holding a legal residence in the city of Baltimore? He answered, that, when he had originally removed his family into the country, it was his intention to pass his winters in the city; but that when he was afterwards elected to Congress, he found his winters must be spent at the seat of Government, and as his family was small, they would generally be with him; he had, therefore, rented his house in the city, reserving the free use of his counting house to himself, which he had always used when occasion required; and that he had always had a room and bed reserved in the city, to be occupied by himself and his family whenever they thought proper. He added, also, that it was his intention to sleep that night in his counting house, or dwelling house, but which this deponent will not at this time undertake to determine. He is satisfied it was one of them, because he perfectly recollects seeing a notification, a day or two afterwards, in one of the public prints in the city, stating that Mr. McCreery was then residing at his own house in the city.

The conversation alluded to was much more in detail than that which is given above; but this deponent believes he has stated the substance of it, except as to certain opinions expressed, at that time, by this deponent, relative to the nature of the residence alleged by Mr. McCreery, and to the act of Maryland, requiring that members of the House of Representatives should reside in particular districts; neither of which opinions, this deponent thinks, he could, with propriety, express on the present occasion.

In answer to the second interrogatory above propounded, this deponent answereth and saith: that William McCreery did not, at any time, to this deponent, or in his presence or hearing, acknowledge or say that he had not a residence in the city of Baltimore, and did not consider himself eligible as a Representative to Congress, or use words to that effect.

JOSEPH H. NICHOLSON.

Sworn and subscribed to before me, 26th November, 1807.

OWEN DORSEY.

EDWARD JOHNSON, a witness called and examined on the part and behalf of Joshua Barney, being first duly sworn, in answer to the above interrogatory, first propounded, saith: that upon the vacancy occasioned by General Smith's acceptance of a seat in the Senate of the United States, great difficulty occurred in selecting a character as his successor, that would be generally acceptable to the republican citizens of Baltimore; and believing that Mr. McCreery would be very generally approved, Mr. Thomas McElderry, Mr. Thomas Dickson, and this deponent waited upon him for the purpose of prevailing upon him to become a candidate for the appointment. Mr. McCreery appeared anxious to decline, and observed to them that as he intended to remove to the country with his family, he was apprehensive that he would not be considered by his fellow-citizens of the city of Baltimore as a suitable representative, informing them, at the same time, that it was his intention to keep a counting house in the city for the transacting of his business, which would be furnished with bed and other conveniences for his accommodation. This deponent and the others urged and prevailed upon McCreery to become a candidate, and assured him that his contemplated residence would not be objected to by his constituents; and that this deponent and the others were convinced it would be gratifying to the republicans generally, (who constituted a large majority of the citizens) that he should offer himself as their representative. No other conversation ever passed between Mr. McCreery and this deponent, or between Mr. McCreery and any other person in this deponent's presence or hearing, on that subject.

EDWARD JOHNSON.

Sworn and subscribed to before me, 26th November, 1807.

OWEN DORSEY.

SAMUEL WALKER, a witness produced on the part of William McCreery, of the city of Baltimore, deposeseth and saith: that, some time in the year 1803, Mr. William McCreery having contemplated residing a considerable part of his time in the country, and would require a room to occupy occasionally in town, (as he had or intended to rent his own dwelling-house in Baltimore,) he applied to this deponent to know if he could accommodate said McCreery occasionally at his house, and that this deponent did agree to accommodate said McCreery accordingly; that said McCreery has, in consequence, occupied part of deponent's house occasionally; and has, also, at times stayed at the house of Mr. Hugh Neilson, the brother of Mr. McCreery. That said McCreery's family has, to the best of his knowledge, resided regularly, twice a year, since the period above mentioned, either at the house of this deponent or at the house of said Hugh Neilson; and that this deponent does still reserve a chamber in his house for the use of Mr. McCreery.

This deponent, on being cross-examined, on the part and behalf of Joshua Barney, to the following interrogatories deposeseth and saith as follows, to wit:

Interrogatory 1st. During what time, and in what year or years, did Mr. McCreery stay in your house with his family? and with what part of his family?

To this interrogatory the deponent answereth: that he cannot say.

2d. How often were they there; and how long were they there at any time before October, 1806?

To this interrogatory the deponent answereth: that he cannot say.

3d. Were they in your family otherwise than as visitors and friends before October, 1806?

To this interrogatory he answereth: that they were as friends.

4th. When did Mr. McCreery first become a resident at Mr. Hugh Neilson's? before October, 1806?

To this interrogatory he answereth: that he cannot say.

5th. How often do you know of his being at Mr. Neilson's? and how long was he there at any time before October, 1806?

To this interrogatory the deponent answereth: that he was there three or four times a year; sometimes he stayed one day, and sometimes two or three days, and sometimes a week.

6th. Do you know that Mr. McCreery resided at Mr. Hugh Neilson's, except as a visitor before October, 1806?

To this interrogatory this deponent answereth: that he cannot say.

7th. Have Mr. McCreery and his family lodged at your house since the marriage of Mr. Hugh Neilson?

To this interrogatory this deponent saith: that he did once for two or three weeks.

SAMUEL WALKER.

Sworn and subscribed to before me this 26th November, 1807.

OWEN DORSEY.

*Interrogatories propounded to Hugh Neilson, on the part and behalf of Joshua Barney.*

1st. Do you know where Mr. McCreery usually lodged with his family when he came to the city of Baltimore, prior to 1806? where, and how long?

2d. Did you understand that the place Mr. McCreery lodged at was his settled residence in the city, or that he made those places his temporary residence whilst on a visit to his friends, or on business?

3d. Do you know of any house or apartment furnished by Mr. McCreery in the city of Baltimore? If you do, where, and of what nature?

4th. Do you know what time Mr. McCreery left the city of Baltimore to live on his farm in Baltimore county?

5th. Are you related to Mr. McCreery by marriage or otherwise?

HUGH NEILSON, a witness called and examined on the part of Joshua Barney, being first duly sworn,

In answer to the first interrogatory above propounded, he answereth and saith: that Mr. McCreery, wife, and niece, made this deponent's house their place of residence when they came to Baltimore, where Mrs. McCreery and niece frequently stayed two or three months before and during the session of Congress; and Mr. McCreery occasionally visited at his house during that time; that Mrs. McCreery and her niece commonly went to Washington in December or January to join her husband, and sometimes Mr. McCreery came to Baltimore to accompany her down.

In answer to the 2d interrogatory, he answereth and saith: that Mr. McCreery made this deponent's house his residence when he came to Baltimore on business.

In answer to the 3d interrogatory, he saith: that Mr. McCreery kept a bed and desk at the store occupied by James C. Neilson, No. 9, Calvert street.

In answer to the 4th interrogatory: some time in the year 1803.

In answer to the 5th interrogatory: that he is the brother-in-law of Mr. McCreery.

HUGH NEILSON.

Sworn to and subscribed before me this 26th November, 1807.

OWEN DORSEY.

*Interrogatories propounded to Alexander Nisbet, on the part and behalf of Joshua Barney.*

1st. Where did you reside during the election for members of Congress in October, 1806?

2d. Did you see Mr. McCreery at that time? where did he lodge and board; how long before the election; and how long afterwards? was the house he boarded in a public boarding house or a private family?

3d. Did you understand that the store, No. 9, was rented, and to whom; and whether that was the place of Mr. McCreery's settled residence in Baltimore; and from whom were you informed?

4th. Did you hear Mr. McCreery say it was absolutely necessary for him to sleep in that store during his stay in Baltimore, or words to that effect; and what did he say?

ALEXANDER NISBET, a witness called and examined on the part of Joshua Barney, being first duly sworn,

In answer to the 1st interrogatory above propounded, saith: that he resided and boarded at Mrs. Dysart's boarding house, No. 9, Calvert street, in the city of Baltimore.

In answer to the 2d interrogatory, he answereth and saith: that William McCreery came to board at Mrs. Dysart's a few days before the election, and continued there until after the election, the whole time being about ten days; and afterwards left Baltimore; that Mrs. Dysart kept a public boarding house.

In answer to the 3d interrogatory, he answereth and saith: that the store was in the occupation of James C. Neilson; that he understood, that, previous to Mr. McCreery's coming to Mrs. Dysart's, he and family resided in the country; that the first night he came he slept in a room of that part of the house occupied by Mrs. Dysart, and afterwards in the counting-room of the store.

In answer to the 4th interrogatory, he answereth and saith: that he never heard him say so; nor does the deponent recollect to have heard him say any thing on the subject.

ALEXANDER NISBET.

Sworn to and subscribed to before me, this 26th day of November, 1807.

OWEN DORSEY.

*Interrogatories propounded to James C. Neilson, on the part and behalf of Joshua Barney.*

1st. Did you occupy a store at No. 9, in Calvert street, belonging to Mr. McCreery? when, and how long?

2d. Did Mr. McCreery ever inhabit that store as a dwelling during the time you had it? in what manner, and how long?

3d. What furniture was there in the store belonging to Mr. McCreery? when brought there, and when taken away?

4th. Did any part of Mr. McCreery's family ever occupy or sleep in the store during the time you were in possession of it?

5th. Do you know of any other place where Mr. McCreery or his family resided, when in Baltimore, prior to October, 1806; whether those places were understood to be his settled residence, or were merely for the purpose of visiting his friends in Baltimore, and when he came to Baltimore on business?

6th. Do you know of any other house than the store in No. 9, where Mr. McCreery had any furniture for himself and family?

JAMES C. NEILSON, a witness called and examined on the part and behalf of Joshua Barney, being duly sworn,

In answer to the 1st interrogatory above propounded, deposeseth and saith: that he rented the store from the 9th or 10th of September, 1806, till the 1st of January, 1807; and then was to rent it to any person he could get to take it; but not renting it, he continued to occupy it till the 14th of February following.

To the 2d interrogatory, he saith: that Mr. McCreery, at the time of renting the store to this deponent, reserved to himself the right of putting up a bed in the counting-room of the store, and keeping a desk there; that he put up the bed and slept there about a week preceding the election, and continued so to do two or three days thereafter.

To the 3d interrogatory, he saith: that when he rented the store, there was in it the desk aforesaid, an iron safe, and a pair of andirons, which remained there the whole time; that when Mr. McCreery left Baltimore, this deponent took down the bedstead, which was put in a room in the other part of the house that was rented to Mrs. Dysart; and the mattress, which was in the same, he put under the desk.

To the 4th interrogatory, he saith: that no other person slept there but Mr. McCreery.

To the 5th interrogatory, he saith: that he knows of no permanent residence in the city of Baltimore; Mr. McCreery sometimes staid at Samuel Walker's and at Hugh Neilson's, when on a visit or business to Baltimore.

To the 6th interrogatory, he answereth in the negative.

JAMES C. NEILSON.

Sworn and subscribed to before me, this 26th November, 1807.

OWEN DORSEY.

The foregoing depositions were taken to be read as evidence before the Committee of Elections of the House of Representatives of the United States, and with the consent of Joshua Barney and William McCreery, the contending parties. Taken before

OWEN DORSEY,

One of the Justices of the Peace and one of the Judges of the Orphans' Court of Baltimore county.

*Facts alleged on the part of Joshua Barney to the Committee of Elections.*

1st. By an act of the Maryland Assembly, passed in November, 1790, (ch. xvi, sec. 8,) the further qualifications are required, that the member shall be an inhabitant of his district at the time of election, and shall have resided *therein* twelve calendar months immediately before.

2d. By an act of the Legislature of Maryland, directing the mode of choosing delegates for the said State, (at November session, 1802,) to serve in the Congress of the United States, it is provided, "that Baltimore town and Baltimore county shall be the fifth district, which district shall be entitled to two representatives, one of which shall reside in Baltimore county, and the other a *resident* of Baltimore city."

3d. That Joshua Barney is a citizen of Maryland, and many years last past a *resident* of the city of Baltimore.

4th. That William McCreery has been for many years a citizen of Maryland and a resident of the city of Baltimore; but, in the year 1803, he moved himself and his family to his farm, twenty-one miles from the city, into Baltimore county.

5th. That, from the year 1803, himself, his wife, his family, and domestics have lived in the said county; and that since the said year the said McCreery has not kept or inhabited with his wife, family, or domestics, any house or apartments within the limits of the said city.

6th. That the said McCreery did, in year 1803, retire and withdraw himself from all trade and commerce; and that the house and store he formerly inhabited in the city of Baltimore have been for several years past rented, and still are occupied by his tenants; he reserving to himself at all times free access to a desk of books and papers, which stood in the counting-room.

JOSHUA BARNEY.

DECEMBER 2, 1807.

[NOTE.—See No. 228.]

10th CONGRESS.]

No. 233.

[1st SESSION.]

CONTESTED ELECTION OF PHILIP BARTON KEY, A REPRESENTATIVE FROM  
MARYLAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 11, 1807.

Mr. FINDLEY, from the Committee of Elections, to whom was committed the petitions of thirty qualified electors of the third Congressional district of the State of Maryland, referred the 4th of November, and of four hundred and fourteen petitioners from the county of Montgomery, referred the 7th of December—the first praying that the seat of Philip B. Key may be vacated and annulled, because, in their opinions, he is not qualified agreeably to a law of Maryland, passed in November, 1790, which, in addition to the qualifications required by the constitution of the United States, requires the residence of twelve calendar months in the district immediately before the election; the memorialists last presented state what they suppose to be sufficient reasons to decide, that Philip B. Key was a *bona fide* inhabitant of the State of Maryland, and of the district, before, at, and after the election, submitted the following report:

The following statement, agreed upon by the counsel of the petitioners, who pray that the seat of Philip B. Key may be vacated, and by Mr. Key himself, was amicably submitted to the Committee of Elections, and the committee submit the same to the House as part of their report.

The committee observe that, by an act of the State of Maryland, passed 25th of January, 1806, residence is not prescribed as a qualification of candidates for Congress, except for the fifth district; and that, by the said act to reduce into one the several acts of Assembly respecting elections, and to regulate said elections, it is enacted that all laws, clauses, and sections of laws, repugnant to, or inconsistent with, the provisions of this act, be, and the same are hereby, repealed. From which it appears that the law of Maryland, relied upon by the petitioners against the seat of Mr. Key, is not now in force. From the above statement of facts, the committee are induced to submit the following resolution, and lay the memorialists on the table:

*Resolved*, That Philip B. Key, having the greatest number of votes, and being qualified agreeably to the constitution of the United States, is entitled to his seat in this House.

*The following facts were reduced to writing and agreed on by Mr. Key and the counsel for the petitioners against him, viz. as follows:*

The following facts are relied on by the petitioners, in the case of Mr. Key's contested election, to show that he was not an inhabitant of the State of Maryland at the time of his election, within the meaning of the constitution.

1st. That some time in the year 1801, Mr. Key became an inhabitant of the District of Columbia, at a country seat belonging to him, about two miles from Georgetown, in an airy healthy situation commanding an extensive prospect.

2d. That the country seat above mentioned is expensively built upon and improved, and in every respect furnished with accommodations for the permanent residence of a gentleman in a style of great convenience.

3d. That some time in the month of November, 1805, Mr. Key purchased about one thousand acres of land in Montgomery county, about fourteen miles from Georgetown, and about twelve miles from his seat in the District of Columbia. At the time of purchasing that land, there was no dwelling-house nor enclosures upon it, except on a few tenements occupied by tenants; the greater part of the land being waste old fields.

4th. That, some time in the summer of 1806, Mr. Key did cause a dwelling-house to be erected on his Montgomery lands, into which he removed with his family on the 18th of September, 1806, from his seat in the District of Columbia, where till then he had all along resided, from the time of his first settling in said District in the year 1801.

5th. That, on the 20th October, 1806, Mr. Key returned with his family to his seat in the District of Columbia, where they remained till about the 28th July, 1807, when they again removed to his estate in Montgomery, where they remained until the 22d of October last, when they again returned to his seat in the District of Columbia, where they still remain.

6th. That the dwelling-house on the Montgomery estate is not competent to afford a comfortable habitation to Mr. Key and family in winter, but is esteemed as fit only for a summer residence; and that it is, in respect to buildings, improvements, and accommodations, much inferior to his seat in the District of Columbia.

7th. That, on both occasions above mentioned, when Mr. Key removed with his family from his seat in the District of Columbia to his estate in Montgomery, he left the former ready furnished in its usual style, carrying but few articles, such as beds, linen, plate, &c. from one place to the other, having supplied his house in Montgomery with other furniture purchased for that purpose.

8th. That the election, at which Mr. Key was chosen and returned, was held on the 6th day of October, 1806.

Admitted:

PHILIP B. KEY.

*Facts, on the part of Mr. Key, to show that he was a bona fide resident of Maryland, and of the district for which he was chosen, which facts are admitted by the counsel for the petitioners, and are as follows, viz:*

1st. That Mr. Key is a native of Maryland; that he was a citizen and resident of that State at the adoption of the present constitution of the United States, and never was a citizen or resident of any other of the United States; that, since that time, he has served several years as a delegate to the General Assembly of Maryland; that, in 1787, he qualified as counsel in the superior courts of Maryland, and ever since hath, and still doth continue to practise law in said courts; that, in 1801, he removed from Maryland to his house near Georgetown, (about two miles from said town and about two miles from Montgomery county,) where he has continued to reside until 1806.

2d. That Montgomery county and part of Frederick compose the third Congressional district, for which Mr. Key is elected; that the ancestors of Mr. and Mrs. Key held considerable real estates in said district, and some of the nearest relations of Mr. and Mrs. Key reside in and hold large landed estates in said district, in each of the counties composing the same; that Mr. Key has, for several years last past, practised, and still does practise,

law, in the only court held in said district; and, from that circumstance, his serving in the Legislature, his living at Annapolis, the seat of Government, and an extensive practice for twenty years in the supreme courts of Maryland, he has been for many years personally known to and by a great proportion of the voters of his district.

3d. That, in November, 1805, Mr. Key bought, and soon after had conveyed to him, one thousand acres of land in Montgomery county, part of his district, which land was part of an estate that had for many years been leased out by Mrs. Key's ancestors, and was much wasted and out of repair.

4th. That, some time before this purchase, Mr. Key had declined the practice of the law in the Territory of Columbia, but still continued his practice in Montgomery; that, in January and February, 1806, he declared his intention to be a resident; that, in March, 1806, at Montgomery county court, Mr. Key often and publicly declared, and also to the people when he addressed them, that he had bought said land with intention to become a resident of the county; that he intended to build a dwelling-house on said land; that he would move his family there as soon as it was built, and that he would make it his summer residence; and, at this time, that is, at March court, 1806, in Montgomery, he refused to stand as a candidate for Congress, when solicited by his warm and influential friends.

5th. That Mr. Key has made considerable and expensive improvements on said land; that he has, in 1806, built thereon, for his summer residence, a dwelling-house, by no means such a one as could be intended for a tenant or overseer, but every way comfortable for a summer residence; that said house has all necessary offices and accommodations for household servants, and is kept ready furnished with necessary plain household furniture, tea and table service, and kitchen utensils, &c.

6th. That, before said house was completely finished, to wit, on the 18th of September, 1806, Mr. Key removed with his wife, children, and domestics to said house, and did actually live in and inhabit the said house from said 18th of September, 1806, to the 20th of October, 1806, including the 6th day of October, on which the election was held; that, on the 20th of October, Mr. Key, with his family, removed back to his house in the Territory of Columbia. In July last, Mr. Key removed himself, family, and domestics, to his house in Montgomery, which he lived in and inhabited until, on the 23d of October last, he returned to his house in the Territory of Columbia, to attend to his duties in Congress.

7th. That no political rights are acquired or attached to a residence in the county of Washington, in the Territory of Columbia. A person so situated has no right of suffrage, can neither elect, nor be elected.

*Explanations of Mr. Key on certain points, requested by the counsel for the petitioners, which are also admitted as facts.*

1st. Mr. Key, in explanation, says he has declined practice in Washington county, District of Columbia, wholly. He does not suffer his name to appear to new business; in two or three important cases, he has engaged to appear as counsel, and argue the cases when prepared for trial.

2d. Mr. Key has not practised in any county court of Maryland for many years, except in Montgomery, where he continues his full practice. On the destruction of the general court, he has followed some interesting cases, in which he had been there employed, to the counties where they were sent.

3d. Mr. Key's house in Montgomery was not plastered or painted when he first moved into it; the workmen did not finish it by six weeks so soon as they contracted to do, or he would have been in it six weeks sooner. The plastering would have been too damp, and fresh paint too unwholesome for his family and children; therefore, he removed into it unplastered and unpainted from necessity and the delay of the workmen: it is now plastered and painted.

PHILIP B. KEY.

The committee further report that petitions, signed by more than four hundred voters of Montgomery county, represent that Mr. Key had bought real estate in said county; had made considerable improvements thereon; built a commodious dwelling-house, and lived therein with his family and servants before, at, and after said election; and that he was an actual inhabitant of the State of Maryland, when elected a representative to Congress; and had often and uniformly publicly declared before that time, his intention of becoming an inhabitant and resident of said county and State.

[NOTE.—See No. 245.]

10th CONGRESS.]

No. 234.

[1st SESSION.]

CONTESTED ELECTION OF JOHN CULPEPPER, A REPRESENTATIVE FROM NORTH CAROLINA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 17, 1807.

Mr. FINDLEY, from the Committee of Elections, to whom was committed, on the 27th of November, the petition of Duncan McFarland, claiming a right to a seat in this House as a representative for the seventh district of North Carolina, he having, in his opinion, a greater number of votes given agreeable to law than John Culpepper, the sitting member—having examined the vouchers and allegations on both sides, the constitution of the United States, and the law of North Carolina, submitted the following report:

That the claim of the petitioner is not grounded on constitutional qualifications, but on the law of North Carolina, prescribing the time, place, and manner for holding elections for representatives to Congress.

By a law of that State, passed 1802, it is enacted that elections for representatives to Congress shall be held on the same days and at the same places as were, before that time, prescribed by law for holding elections for members to represent the several counties in the General Assembly of that State; that the same is to be conducted by the sheriffs of the several counties within the State, and the deputies of said sheriffs, in like manner as the annual

elections of members of the General Assembly are, except that the inspectors of the elections and clerks of the polls shall be sworn to act with justice and impartiality, which oath shall be administered by any justice of the peace then present; that no person shall vote at any election, except in the county where he resides; that no person shall vote more than once in any election for members of the General Assembly, or for a representative in Congress; that elections for members of Congress shall be conducted by the returning officer, in the same manner as members for the General Assembly heretofore had been.

In the act passed 1784, for directing the method of electing members of the General Assembly, &c., it is enacted that the returning officer shall keep the election open two days, and no longer; and the returning officer shall, at sunset of the first day, in presence of the inspectors, put his seal on the place to be made for the reception of the tickets, which, when he shall continue the election, shall be renewed the succeeding day.

By another act, passed 17th December, 1805, it is directed that the elections, which shall be held in the counties of Anslow and Richmond, shall be on the second Thursday in August, in every captain's company, at the places fixed on by them for holding the petit musters. And it is enacted (section seventh) that elections for members of Congress, and for electors to vote for the President and Vice President of the United States, shall be held in said counties, at the aforementioned places, and in the same manner, subject to the same rules and restrictions as other elections within this State.

Duncan McFarland states in his petition that the certificate of John Culpepper's election was fraudulently and illegally obtained, in direct violation of the laws and constitution of the State of North Carolina, which he proposes to prove by statements and depositions, accompanying his petition.

The committee, having examined Duncan McFarland's statements and depositions, find numerous irregularities and abuses, alleged and supported by numerous depositions; but as no law of Congress now exists, directing the manner of taking testimony in cases of contested elections, or for compelling witnesses and parties to attend when called upon, many of the depositions transmitted by the petitioner, in support of his statements, being taken *ex parte*, could not be admitted by the committee. Such as they did admit go to prove the following facts, viz:

That, in Richmond county, at Captain Thomas's company, John Culpepper had 44 votes; Duncan McFarland 9; John Hay 2; at Captain Robinson's company, said Culpepper had 67; said McFarland 19; said Hay 2; at Captain McIntosh's company, said Culpepper had 65; said McFarland 17; said Hay 1.

Elijah Thomas testifies he was one of three inspectors at Captain Thomas's muster-ground; he was not sworn, nor did he see the others sworn; there was no justice, within his knowledge, present; rather thinks there was none; they were qualified at the court-house, before they made their returns.

William Roberts testifies that none of the inspectors were sworn at the time of the election, but were the next day before they made their returns; he swore them. He was one who held the election for one of the separate elections; was one of the justices; the inspectors were not sworn on Thursday for want of a justice.

Benjamin H. Covington testifies that he was at Captain Thomas's company; acted as clerk part of the time; he was not qualified, nor does he believe the inspectors were, though he is not certain, as he was not there all the time.

Robert T. Steele testifies that he was an inspector at Captain Robinson's company; he or the others were not qualified.

Daniel Snead testifies that he was an inspector at Capt. McIntosh's company; does not know that he was sworn.

William Covington testifies that he was an inspector at McIntosh's company; rather believes he was not sworn, as he did not know such a law.

In Anson county, John Culpepper had 1,049 votes; Duncan McFarland 105; John Hay 5.

A Mr. McGregor testifies that he was an inspector two days at Wadesborough, in said county; does not remember whether he was sworn, but acted with as much caution as he could.

John Battle testifies that he was poll-keeper at Goardbine, in said county; does not recollect that he was sworn.

Isham Cherry testifies that he attended four elections in the county of Anson; he swore the inspectors; does not recollect about the clerks.

In Montgomery county, John Culpepper had, at the election at Long Creek, 286 votes; Duncan McFarland 35; John Hay 11; Sanders 2.

At Cochran's, so called, Culpepper had 141; McFarland 93; Hay 2; Sanders 4.

At Montgomery court-house, the first day, Culpepper had 35 votes; McFarland 10; Hay 1; Sanders 1. At said court-house, the second day, Culpepper had 232 votes; McFarland 53.

Wiley Smith, deputy sheriff, testifies that he believes the inspectors at Long Creek were not sworn at or before the opening of the election; they were a little time after the opening of the polls. At all the other elections the inspectors were sworn before the polls were opened; does not know that the clerks were; the deponent was in the commission of the peace at that time; the election was closed at four o'clock in the afternoon; the votes were not counted at the place, but about twenty yards from it.

At the examination of two of the before-named witnesses, John Culpepper was not present, through his own neglect; but they only go to confirm the testimony given when he was present; and much of the testimony which the committee admitted was not given with that precision with which it ought to have been.

No full official list of the polls, or number of votes given to the parties contesting, were laid before the committee; but both parties agree that the sitting member had 2,750 votes; and that Duncan McFarland had 2,701; that, consequently, John Culpepper had a majority of 49 votes.

From the above-recited testimony, admitted by the committee, it appears that inspectors and clerks, officially employed in conducting the elections in Richmond, Anson, and Montgomery counties, do not appear to have been sworn as the law of North Carolina expressly directs, and that the votes given in some of these counties, and at some elections in other counties, not being received by officers legally qualified, ought to be rejected. On rejecting the returns of Richmond, Anson, and Montgomery counties, in which it appears by the list of voters and testimony admitted that John Culpepper had a majority of 1,578 votes, gives to Duncan McFarland a large majority of votes in these counties. Some depositions were laid before the committee respecting the elections held in Moore county, taken at the instance of a friend of John Culpepper, in his absence; but though they go to prove that the elections in Moore county were not conducted agreeably to law, yet, being taken *ex parte*, they were not admitted.

From the testimony admitted, it appears that John Culpepper is not entitled to a seat in the House, he not having a majority of votes legally taken; but though Duncan McFarland appears to have a large majority of votes taken agreeably to law, yet the committee are of opinion that the truth of this is doubtful; they are the more confident in this opinion, from the sitting member having expressed his opinion that, if he had time allowed him to make a scrutiny, he would prove the elections held in the other counties were also conducted contrary to law.

The committee, however, believing that the great object, for which the power of judging of the election of members was vested in Congress, was to secure to the people a representation of the majority of the citizens, the



elections of Richmond, Anson, and Montgomery being rejected, gives a majority of the votes taken in Moore and Cumberland counties to Duncan McFarland, viz: a majority of two counties out of five which compose the Congressional district, and the votes of three counties are lost.

The committee are of opinion that, even presuming the votes in Moore and Cumberland to have been legally taken, it would be improper to deprive the other three counties of a representation for the fault of their election officers, &c.; therefore, think it most proper to give the citizens of that district an opportunity to have another election, and for this purpose submit the following resolution:

*Resolved*, That, from the testimony laid before and admitted by the committee, it appears that John Culpepper is not entitled to a seat in this House.

10th CONGRESS.]

No. 235.

[1st SESSION.]

## UNIVERSITY OF VINCENNES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 17, 1807.

Mr. NEWTON, from the Committee on Commerce and Manufactures, to whom was referred the petition of the trustees of the University of Vincennes, made the following report:

The petitioners state that the Legislature of the Indiana Territory, in the year 1806, passed an act incorporating a university in the district of Vincennes, styled the University of Vincennes; and that the same act authorized the petitioners to dispose of a small part of the land appropriated by an act of Congress for the purpose of erecting the necessary buildings for said institution. The petitioners state that, as the land belonging to the institution cannot be leased at present to advantage, they pray that Congress will pass a law laying a small tax on salt made at the public works in that Territory, and also on Indian traders, for the support of the said institution, until the other institutions in the Territory are organized and can be benefited by the fund accruing therefrom.

The committee have given to the petition of the trustees of the University of Vincennes that deliberate attention which its importance demands. They are sensible of every disposition that can be friendly to institutions the objects of which are to inculcate and disseminate knowledge of every kind. The people of no nation can be so deeply interested in promoting and encouraging the sciences as the citizens of a republic. They are frequently called upon personally to perform public duties of high concern, on the right discharge of which the happiness of individuals and the prosperity of the community depend. Information in the mass of the citizens is one of the best securities that can be devised against the abuses of power; and it operates no less forcibly in checking and restraining the aspiring ambition and subtle arts of those to whose care is confided the public welfare.

As public and private virtues spring from and are fostered and matured by true knowledge, it becomes one of the first obligations of this Government, if it can constitutionally exercise the power to take under its patronage institutions that are calculated to insure its diffusion.

The committee will inquire what considerations have been given to a subject of so much moment by the National Government? The Territories of the United States are under the superintending authority of the General Government.

In the acts of Congress we are, therefore, to look for the care and solicitude they had a right to expect from their common guardian: As the district of Vincennes, in the Indiana Territory, is brought into view by the petition of the trustees of the Vincennes University, it becomes the duty of the committee to ascertain whether the bounty of the General Government to that Territory has been sufficiently large. By an act of the 26th of March, 1804, making provision for the disposal of the public lands in the Indiana Territory, and for other purposes, a section of land, equal to 640 acres, in each township, is reserved for the support of public schools; and one entire township is set apart in each of the three districts into which that Territory is divided for the use of seminaries of learning. To the district of Vincennes is allotted one entire township, which contains twenty-three thousand and forty acres of land. The price of an acre is estimated at two dollars; and the value of the donation amounts fully to forty-six thousand and eighty dollars. On this statement the committee are willing to rest the claim of Congress to the gratitude of the citizens of that Territory and their posterity for the munificent allotments of land which have been made for the promotion of the sciences. The committee are constrained to notice the prayer of the petitioners. It is, that a law may be passed "laying a small tax on salt made at public works in that Territory, and also a tax on Indian traders, for the support of the Vincennes University, until the other seminaries are organized, and are in a situation to participate in the revenue raised and collected from those taxes." The committee will here take the liberty of observing, that, whenever the population of that Territory shall be so advanced and increased as to require seminaries of learning on the extensive scale of universities, the liberal donations of the General Government will be found to be commensurate with the views of the petitioners and with the just and laudable intentions of the donor. The reservation of the salt springs for future disposal in that Territory evidently points out the design of Congress, which was to furnish a necessary of life at a moderate price, by keeping and preserving the source of it from the monopoly of speculators: The committee are not a little surprised that the enlightened policy of Congress should escape the notice and penetration of so intelligent and so respectable a body of men as the trustees of the University of Vincennes.

The committee flatter themselves that the withholding of their assent from the prayer of the petition will be justified by that liberal mode of thinking which is inspired by the sciences, and by that true spirit of justice which equally and impartially regards the rights of all.

With deference to the House, they submit the following resolution:

*Resolved*, That, ample provision having already been made for the support of public schools and for seminaries of learning in the district of Vincennes, the prayer of the trustees of the University of Vincennes is unreasonable, and ought not to be granted.



10th CONGRESS.]

No. 236.

[1st Session.]

## APPLICATION OF AN ALIEN FOR A PATENT RIGHT.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 18, 1807.

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled. The petition of Anthony Boucherie, of the city of Philadelphia, sugar refiner, most respectfully sheweth:*

That the application of sciences to the improvement of the useful arts is one of the best means of contributing to the prosperity of society. In that aim your petitioner, for a series of years, directing his knowledge in chemistry towards the benefit of one of the most useful and rich productions of nature, has succeeded in an important discovery.

The art of extracting the sugar from the cane which produces it, known, in some measure, for more than a century back, had remained under the ignorance which generally prevailed at that early period of the laws of physics. The juice of the cane, it was said, cannot be manufactured into sugar without producing a residue of forty to fifty per cent. which residue is known in this country under the name of molasses; this is entirely erroneous.

Nature produces no molasses; it is by a wrong mode of manufacturing, the result of a decomposition depending more or less on sundry occurrences, that the planter is not acquainted with, and which perplex him so that he is obliged to confess he has no fixed rules to guide him in his process.

A sugar refiner by trade, and fond of science, the petitioner could not content himself with such uncertain proceedings; inquiries, labors, experiments, every thing that could elucidate the matter, he has tried; in these pursuits he has followed, even sometimes personally promoted, the progress of chemistry, and seized its numerous discoveries for the benefit of an art which, after thirty years' perseverance, he dares to say he has brought to great perfection.

The principles on which he proceeds are as simple as certain; by them the sugar planter may depend upon the whole amount of his crops without those reductions occasioned by the vicious system now in use. Those of Louisiana particularly, who so much deserve to be encouraged, and look up with confidence to a beneficent Government, will once more congratulate themselves for not having yielded to the difficulties they have partly overcome; they will henceforth be enabled to supply the consumption of the United States, and assist its commerce with that precious production which, in time of peace, they cannot expect to get from the West Indies.

Excited by the augmentation of produce, by the facility of baking the sugar, and the superiority of its quality, new planters will abound in that part of the Union, and increase its prosperity far beyond the hopes of its well-wishers.

The petitioner has not limited his researches to the means of preventing the formation of molasses in the sugar manufactories; but, to the great advantage of the refiner, he equally expels it from the refineries; moreover, the principles of his process apply to the fabrication of the sugar drawn from the sugar maple, and will also be extremely beneficial for those Western States which, however abundantly endowed with that precious tree, are far from gathering all the profits which may be obtained therefrom. Then, by such immense economies of raw materials, a considerable diminution will generally take place in the price of so indispensable an article.

When the petitioner brought to the United States this valuable discovery, unknown in all the sugar islands, he was far from supposing that the obtaining of a patent which would preserve to him the temporary proprietorship thereof, could be suspended until after two years' residence; that information confirmed to him by the chief of the patent division has prevented his departure for Louisiana, where he should have been at this time, had he been in possession of the only title which can assure him some indemnities for his expenses and some reward for his long labors. But inspired by the wisdom and liberality of the American Legislature, he begs leave respectfully to represent to your honorable body, that, whatever might have been the policy of the law at first, motives as powerful plead for its modification in the individual case of the petitioner; the importance of a discovery, the influence it may have on the public welfare, the possibility of its being irretrievably lost, are of themselves such as may deserve the attention of this Areopagus.

May the petitioner with great deference inquire whether a stranger, bringing with him the means of obtaining out of the same stock two ears of corn instead of one, it would be wise to deprive the country of that advantage, because the man had not completed two years' residence on [this continent? It is these two ears of corn instead of one that the petitioner offers, to those who cultivate the sugar cane and sugar maple in several States of the Union. Must the enjoyment of that benefit be withholden from them one year longer, because the improver landed on the American shore but last year?

Besides, the petitioner, who is the only possessor of this process, is sixty years of age, and can scarcely, therefore, expect to retain for many years a sufficient portion of activity to teach a number of disciples for propagating his art; perhaps, indeed, one year more may deprive the United States of one of the most useful discoveries.

If any one entertains any doubts on the advantages above announced, the petitioner humbly begs you to consider, on the one side, that a patent would be useless to him had he not, both from theory and practice, the certainty of its being successful; and on the other side, that in any manner the State cannot be exposed by the grant.

Your petitioner, therefore, humbly prays, that in consideration of what is above stated, Congress will be pleased to pass an act extending to him the benefits of the law passed on the 17th April, 1800, entitled, "An act to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patents," notwithstanding his not having previously resided two years within the United States.

And your petitioner shall ever pray.

A. BOUCHERIE.

10th CONGRESS.]

No. 237.

[1st Session.]

TABLE OF FEES AND COMPENSATION OF THE ATTORNEYS AND OFFICERS, JURORS  
AND WITNESSES, OF COURTS IN EACH STATE.

COMMUNICATED TO THE SENATE, ON THE 23TH OF DECEMBER, 1807.

SIR:

DECEMBER 26, 1807.

In obedience to a resolution of the Senate of the 6th day of February last, I have the honor to enclose tables of fees and compensation paid in all the States composing the Union, except\* Virginia and Kentucky, from which I daily expect to receive them. As soon as they are transmitted, they shall be laid before the Senate.

I have the honor to be yours, very respectfully,

C. A. RODNEY.

STATE OF NEW HAMPSHIRE.

*Attorneys' Fees.*

There shall be allowed in every bill of cost taxed for the plaintiff in the court of common pleas, the case originating there, \$1 34; for the writ, including the declaration and attorney's fees, and to the defendant recovering cost in said court, and the party, whether plaintiff or defendant, recovering costs on an appeal from a justice of the peace, there shall be taxed \$1 10 for attorney's fees; for the party recovering a bill of cost at the superior court, for attorney's fees, \$2; for every complaint entered at the superior court, including drawing the complaint, \$1 34; attorney's fee for drawing a writ, triable before a justice of the peace, 50 cents; attorney's fee for pleading for a defendant before a justice of the peace, 50 cents; drawing a complaint for discontinuance of an action before a justice of the peace, 50 cents.

*Fees of the Clerk of the Court of Common Pleas.*

For every action, petition, or complaint, entered in the court of common pleas, the clerk thereof shall receive 60 cents in full, for entry, verdict, nonsuit, or default, judgment recording, and every service relative to such action, petition, or complaint, for which no fees are otherwise particularly prescribed by this act, the said clerk paying thereout the crier and sheriff's fees; for default or nonsuit, said sum, together with 90 cents to the justices, to be paid at the time of entry; for a blank writ and summons, 10 cents; for a writ of protection, 12½ cents; for each execution, 17 cents; for entering satisfaction for a judgment, 6 cents; for entering a continuance, 12½ cents; for each *venire* to be paid out of the county treasury, 4 cents; for every writ of possession, 25 cents; for each writ of subpoena, 10 cents.

*Fees of the Clerk of the Superior Court.*

For the entry of every action on petition, 67 cents; for entry of a complaint for not prosecuting an appeal, 34 cents; for entering a judgment, and recording it at large, 34 cents; for a writ of review, 50 cents; for a writ of *scire facias*, 50 cents; for a writ of execution, 25 cents; for a writ of possession, 58 cents; for a writ of *habeas corpus*, 34 cents; for entering an appearance, at the request of any party, 10 cents; for entering a satisfaction of a judgment on record, 12½ cents; for entering a continuance, 17 cents; for filing papers, 2 cents each; for certifying the proof of a deed in court, 17 cents; for each *venire* on certificate of the justices of the superior court, 4 cents, to be paid out of the county treasury; for a subpoena, 17 cents, for every recognizance, 17 cents; for every writ of protection, 17 cents; for discharging a recognizance, 17 cents.

*Sheriff's Fees.*

For the service of a writ of summons, or *scire facias*, either by reading it to the defendant, or leaving a copy, 23 cents for each defendant; for the service of a writ of attachment, with or without summons, 23 cents for each defendant; for a bail bond, to be paid by the person bailed, 17 cents; for the service of a writ of possession, the same as for the service of the original writ on which it was obtained, with poundage for the costs, as in personal actions; for levying executions in personal actions and extents, 2½ cents on the dollar for the first fifty dollars, 2 cents on the dollar for the second fifty dollars, 1 cent on the dollar for all sums from one hundred dollars to three hundred dollars; for all sums above three hundred dollars, a half cent on each dollar; the poundage on extents to be taken in the same paper, bills, notes, orders, or certificates as the same extents issued for; for travel, for the service of each writ, execution, or extent, 3 cents per mile; the travel to be computed from the place of service to the office, place, or court to which the writ is returnable, by the way most commonly used; and where there are several persons in the same writ, execution, or extent, upon whom it is served, the travel shall be computed from the remotest of them, and no more to be allowed for travel than if it were served only on the remotest person aforesaid: provided, that no more than fifty miles' travel shall be allowed the sheriff, or other officer, serving any writ, execution, or extent, in any case; the travelling fees and fees of service to be endorsed on the writ in mesne process, and no more shall be allowed, in any case, than is so endorsed; and also the fees for service, poundage, and travel on executions and extents shall be particularly set down and expressed thereon; for summoning witnesses, 17 cents each; for serving a writ of execution for partition of real estate, on a judgment of court, 83 cents per day; and for travel and expenses, 4½ cents per mile; for every trial, 11 cents to be paid, with jurors' fees; for every default, 6 cents; for attending the grand jury, 34 cents per day; for attending the petit jury, 12½ cents each case, to be paid with the jurors' fees; for dispersing *venires*, 4 cents each, to be paid out of the county treasury; for dispersing proclamations, to be paid out of the county treasury, 4 cents each.

*Coroners' Fees.*

For serving writs the same fee for travel and service as to the sheriff; for every trial where the sheriff is concerned, 11 cents, to be paid with the jury's fees; for taking an inquisition, \$1 50; to the foreman of the jury 50 cents; and other jurors 42 cents per day, and 20 cents for every ten miles' travel; to the constable, his expenses in summoning the jury of inquest and attendance, 67 cents per day: all fees attending the inquisition on the death of

\* These statements were subsequently received and transmitted to the Senate.

any person shall be paid out of the estate of the deceased, and, in want thereof, by the county treasurer; the same being adjusted and allowed by the court of common pleas.

*Grand Jurors' Fees.*

To the grand jurors, 67 cents per day, to be paid out of the county treasury, and 4 cents per mile for their travel to and from court.

*Petit Jurors' Fees.*

To the foreman in every cause at the superior court, 50 cents; each other juror, 40 cents; and at the court of common pleas, to the foreman, in each cause, 45 cents; and to each other juror, 40 cents; and each petit juror attending either of the courts aforesaid, shall be paid out of the treasury of the county where said court is holden, 6 cents per mile for his travel to and from court.

*Witnesses' Fees.*

The witnesses before any justice of the peace, or at any of the courts aforesaid, shall be allowed for each day's attendance, 40 cents; and for every ten miles' travel, out and in, 40 cents; a ferry or toll-bridge to be reckoned as three miles' travel; and in the same proportion for a less number of miles.

By another statute, making compensation to grand and petit jurors, it is enacted, That each petit juror who shall attend the superior court of judicature, and each petit juror who shall attend the court of common pleas, in the several counties in this State, be allowed \$1 per day for each day's attendance at such courts, to be paid together with his travelling fees, as by the law, allowed out of the treasury of the county where he may attend; and such fees for attendance shall be in lieu of the fees received for trials by causes; that the fees now allowed by law to petit jurors, for trials of causes, shall be paid to the clerks of the respective courts, who shall pay over the same to the treasurer of the county where such trials are had.

That the same compensation shall be allowed to grand jurors as by this act is allowed to petit jurors, for travel and attendance.

That each talesman impanelled at either of the courts aforesaid shall be entitled to receive 50 cents for the trial of each action, for which he may be impanelled, to be paid out of the treasury of the county where such trial may be had.

STATE OF MASSACHUSETTS.

*Table of the fees and compensation of several officers, as regulated and established in the Commonwealth of Massachusetts, by an act of the Legislature passed on the 13th of February, 1796, and (being temporary) continued by another act passed in May, 1798.*

*Attorney's Fees, under the head of "allowance to parties and witnesses."*

To parties recovering costs, for an attorney in all causes where an issue in law or fact is joined in the supreme judicial court, \$2 50; and in all other causes in said court, \$1 25; and in all causes in the courts of common pleas and courts of general sessions of the peace, where an issue in law or fact is joined, \$1 50; and in all other causes in said court, \$1 00; for the declaration in each writ, 50 cents.

*Attorney General's Fees.*

In a criminal cause where one or more defendants are tried by the jury at the same time in the supreme judicial court, or where the cause is determined by an issue in law, for the attorney general, or person attending for the commonwealth, \$2 50; and if there be no trial by the jury, and the cause be not determined by an issue in law, \$1 25; and in all other causes in the court of general sessions of the peace, \$1 25; drawing an indictment in the supreme judicial court, \$1 25; same in the general sessions of the peace, \$1 25.

*Fees of the Clerk of the Common Pleas.*

For the entry of an action, including the taxing the bill of costs and filing [the papers, 50 cents; entering and recording a verdict or report of referees, 12 cents; every action withdrawn or nonsuit, 8 cents; confessing judgment or default, or joinder in demurrer, 10 cents; entering up judgment and recording the same at large, when no issue is joined, 20 cents; and where an issue of law or fact is joined, 40 cents; acknowledging satisfaction of a judgment on the record, 8 cents; entering an appeal and recognising principal and surety, 15 cents; continuance of each cause, 12 cents; entering the surrender of a principal into court, and making record thereof, 15 cents; entering a petition and order thereon for the partition or sale of real estate, 20 cents; and recording such petition or order at the rate of 12 cents a page; entering a rule of court upon the parties submitting the cause to referees, 15 cents; proving a deed in court, and certifying the same, 20 cents; every blank writ of attachment with summons, 15 cents; writ of *scire facias*, or original summons, 15 cents; original or alias writs of execution in personal matters, and filing the same when returned, 25 cents; writ of possession in real actions, 40 cents; writ of protection or *habeas corpus*, 25 cents; subpoena for one or more witnesses, 10 cents; *duces tecum*, 25 cents; each *venire facias* for jurymen, 5 cents; opening and filing a deposition, 8 cents.

*Clerk of the General Sessions of the Peace.*

Entering an indictment, presentment, complaint, or information, including the recording of judgment therein, examining and casting the bill of costs and filing the papers, 65 cents; discharging recognizance, 10 cents; warrant for a criminal, 20 cents; subpoena for one or more witnesses, 10 cents.

*Clerk of Sessions.*

Each recognizance for an innholder or retailer, &c., and recording license, 15 cents; examining and casting the grand jurors' account yearly, and order thereon, 30 cents; examining any other account, 8 cents; recording reports of highways and other matters by order of the court, 12 cents per page; copies of all papers or records, 12 cents a page; entering an appeal and recognising principal and sureties, 20 cents; keeping an account of yearly attendance of the justices of the court of the general sessions, each term 75 cents.

*Clerk of the Supreme Judicial Court.*

Entry of each action for trial, 70 cents; entry of each complaint, 35 cents; receiving and recording verdict, 40 cents; writ of review, 70 cents; writ of *scire facias*, 40 cents; original writ of execution, including taxing of costs, and

filing the papers, 65 cents; alias writ of execution, 35 cents; alias writ of *haberi facias possessionem*, 50 cents; writ of *habeas corpus*, 40 cents; copies of all papers containing less than one page, 10 cents each; of all papers containing more than a page, at the rate of 12 cents a page; entering a rule of court, 15 cents; confessing judgment or default, 20 cents; entering an appearance, 10 cents; acknowledging satisfaction of a judgment on record, 12 cents; continuing each cause, and entering the same next term, 20 cents; proving a deed of court and certifying, 20 cents; entering up a judgment and recording the same at large in cases where judgment is rendered on verdict, demurrer, or state of facts, 60 cents; and in all other cases, 30 cents; every action withdrawn or nonsuit, 20 cents; original writ of possession, including taxing, costs, and filing papers, 80 cents; for each *venire facias* for judgment, 6 cents; every writ and seal other than before mentioned, 40 cents; subpoena for one or more witnesses, 10 cents; recognizance, including principal and sureties, 20 cents; recording judgment in every criminal case, 40 cents; writ of protection, 20 cents; entering discharge of recognizance by proclamation, 15 cents; opening and filing a deposition, 10 cents.

#### *Sheriffs and Constables' Fees.*

Service of an original summons, 30 cents; and if on more than one defendant, then 30 cents for each; service of *capias* or attachment for each defendant, 30 cents; for special service of the same, at the request of the plaintiff, 50 cents for each defendant on whom such service is made; for each copy left according to law, in order to complete a service, or a copy or precept upon demand thereof, at the rate of 12 cents a page; for a bail bond and writing the same, including principal and sureties, 20 cents; serving a writ of possession, exclusive of fees for collection of costs, \$1 10; if on more than one piece of land, 75 cents for each piece of land after the first; fees for collecting costs on a writ of possession, the same as on executions in personal actions; serving a warrant, 30 cents; sheriff's aid in criminal cases to each person for every twelve hours' attendance, including expenses, \$1; and so in proportion for a greater or less time, and 4 cents for each miles' travel going out and returning home; summoning witnesses in criminal cases, 10 cents for each witness, and travel as in civil cases, unless in special cases, when the court may increase the fee to what they may judge reasonable; for attending the court and keeping the prisoner in criminal cases, 75 cents for every twelve hours, and so in proportion for a greater or less time; levying executions in personal actions for the first one hundred dollars, 4 cents; for every dollar above that, and not exceeding two hundred dollars, 2 cents for every dollar; and for all above two hundred dollars, 1 cent for every dollar; travel for the services of such executions, and also of mesne processes or warrants to him directed, 4 cents a mile, the travel to be computed from the place of service to the court or place of return by the usual way, only one travel to be allowed for one writ of execution or warrant, and if the same be served on more than one person, then the travel shall be computed from that place of service which may be most remote from the place of return, with all further necessary travel in serving such execution, writ, or warrant. But if the travel from the place of service to the place of return be more than fifty miles, then only 1 cent per mile shall be allowed for all travel exceeding that distance; serving an execution upon a judgment of court for partition of real estate, or assigning of dower, \$1 a day, and 4 cents a mile out from the place of his abode; every trial in a court of record, 15 cents; every default, 8 cents; to the officer attending the grand jury, for each day's attendance, 75 cents; attending the petit jury, for every cause, to be paid with the jury fees, 25 cents; for dispersing *venires* for jurymen, treasurer's warrants, and proclamations of all kinds, 8 cents each; for returning the certificates of votes of the several towns for governor and various other officers, to the secretary's office, 8 cents a mile, computing from the place of his abode to the said office, and but one travel to be allowed for the whole; for every deputy sheriff or constable who shall attend the supreme judicial court or court of general sessions of the peace or common pleas by their order, 75 cents a day; and, for the encouragement of the sheriff to take all possible care for the safe-keeping of prisoners, &c., he shall have such salary allowed him as the justices of the general sessions of the peace within the same county shall order, not exceeding forty dollars a year for the county of Suffolk, nor twenty-five dollars a year for any of the other counties.

#### *Coroners' Fees.*

For serving a writ, summons, or execution, and collecting the moneys due thereon, and for travel in returning precepts and inquisitions, the same allowance as is before mentioned for sheriffs for similar services; for a bail bond, 25 cents; for every trial where the sheriff is concerned, 25 cents, and the same for attending the jury therein; granting a warrant, and taking an inquisition on a dead body, \$1 00; if more than one at the same time, and who came to their death by the same means, 20 cents for each one after the first; travel, and expense for taking an inquisition, \$1 00 a day; to each of the jurymen for their travel, if above four miles out, 3 cents a mile each way, and for their services, 75 cents per day, including time and expenses; the constable, for his attendance and expenses in summoning a jury, 90 cents a day.

#### *Jurors' Fees.*

Grand jurors and jurors, for trials at each of the courts, 90 cents a day for their attendance, and 4 cents a mile for their travel out and home; and there shall be paid to the clerk of each of the aforementioned courts \$6 00 for the trial of each civil action, for the use of the county.

#### *Witnesses' Fees.*

To witnesses, in civil or criminal cases, in all the courts before mentioned, 75 cents for each day's attendance, and four cents a mile for each mile's travel going out and returning home; and before a justice of the peace, referees, or arbitrators, 33 cents a day, and for their travel the same as at other courts, provided such witnesses do personally attend said courts, respectively, and certify in writing their time and travel.

#### *Register of Probate's Fees.*

Writing a bond and letter of administration, 40 cents; writing a bond and letter of guardianship, and making record thereof, for one minor, 60 cents; and, if for more than one minor, for whom the said guardian is appointed, at the same time, 10 cents for each minor more than one; drawing a decree respecting probate of will or codicil, 40 cents; writing bond for the executor, 20 cents; writing warrant to appraise the deceased's estate, 20 cents; warrant to divide an intestate estate among the heirs, writing a warrant to set off widow's dower, or to examine the claims of an insolvent estate, 20 cents; entering the account of executor, administrator, or guardian, and an allowance thereof, or for entering on an inventory the oath of an executor or administrator, 15 cents; drawing up a decree on settlement or partition of an estate, 20 cents; drawing an order of distribution, 20 cents; a quietus, 20 cents; citation, 15 cents; summons for a witness or witnesses, 10 cents; proportioning an insolvent estate among creditors, at the rate of 50 cents for every twelve creditors, every creditor's proportion being distinguished; recording any matter, at the rate of 12 cents for each page, and the same for copy; a bond of appeal, 20 cents.

*Prothonotary.*

No officer known in Massachusetts *eo nomine*.—See Clerk's Fees.

BOSTON, November 20, 1806.

The foregoing table of fees and compensation to sundry officers of courts, as established by the existing laws of the Commonwealth of Massachusetts, collected by

GEORGE BLAKE,  
*U. S. Attorney for Mass. district.*

Besides the fees of the attorney general, as herein before enumerated, he is allowed by law an annual salary of \$1,000; to which has been added invariably for many years past an annual grant of \$500; so that his salary may be considered, in effect, and is so considered here, \$1,500 a year.

GEORGE BLAKE.

## STATE OF RHODE ISLAND.

*The Attorney General is allowed—*

For every bill of indictment drawn and found by the grand jury, \$1 50; for discharge of every person on bond to the peace, 35 cents; for every cause argued to the court or jury upon an issue joined in law or fact on behalf of the State, in criminal cases, \$3 00; for every day's attendance on the General Assembly and courts, \$1 00.

*Other Attorneys are allowed—*

For a writ and declaration, \$1 00; fee in the court of common pleas, \$1 00; in the supreme judicial court, (one only to be taxed in a bill of cost,) \$2 00.

*Clerks of the Supreme Judicial Court are allowed—*

For the entry of every writ, action, or petition, 25 cents; for filing every reason of appeal, petition, motion, plea, or answer, 4 cents; for every interlocutory judgment, 10 cents; for all copies, for every lawful page, (200 words,) 10 cents; for every action called, 8 cents; for drawing and recording final judgment upon *nihil dicit*, 30 cents; where the general issue is pleaded, 40 cents; and in all cases where there are further pleadings, 58 cents; for swearing every witness, 4 cents; for a writ of execution and the endorsement, 25 cents; for every other writ, 15 cents; for entering a rule of court, 15 cents; for copying rule and writ to referees, 37 cents; for every bond or recognizance taken in court, 20 cents; for filing all other bonds or recognizances, 6 cents; for every bill of indictment found, 8 cents; for reading the same, 8 cents; for entering plea on the same, 8 cents; for drawing and reading sentence, 33 cents; for drawing and recording final judgment upon indictment, 50 cents; for every person summoned, 3 cents; for every paper in a case, 2 cents; for every discontinuance or default, 4 cents; for discharge of every bond or recognizance, 6 cents; for every petition read in court, 6 cents; for recording judgment thereon, 25 cents; for every citation or notification, 25 cents; for searching the records by the hour, 10 cents; for attending the court by the day, 50 cents; for acknowledging satisfaction of judgment upon record, 8 cents; for recording return of partition, \$1 00; for taxing and examining the bill of cost in every case, 12 cents.

*The Clerks of the Court of Common Pleas are allowed—*

For every original writ and seal, 6 cents; for the entry of every action or petition, 13 cents; for drawing and recording final judgment upon *nihil dicit*, 12 cents; where the general issue is pleaded, 20 cents; in all cases where there are further pleadings, 40 cents; for all copies, for every lawful page, (200 words,) 10 cents; for every *nolle prosequi*, discontinuance, nonsuit, *retraxit*, *nihil dicit*, or default, 5 cents; for a writ of execution and the endorsement, 25 cents; for all other writs, other than summons for vouchers, 20 cents; for every writ of summons to warrant, 50 cents; for filing every declaration, plea, reason of appeal, motion, or answer, 4 cents; for every action called, 4 cents; for entering a rule of court, 12 cents; for every interlocutory judgment, 6 cents; for copying rule and writ to referees, 40 cents; for every bond in the clerk's office, 8 cents; and where the attorney becomes bound, the same fee; for every person summoned, 3 cents; for every paper in a case, 2 cents; for searching the records by the hour, 10 cents; for taxing and examining the bill of cost, in every case, 8 cents; for swearing every witness, 3 cents; for entering appearance, 3 cents; for attending the court by the day, 25 cents; for recording every deputation or revocation thereof by the sheriff, 12 cents; for acknowledging satisfaction of judgment upon record, 8 cents; for recording return of partition, \$1 00.

*Clerks of the General Sessions of the Peace are allowed—*

For the entry of every indictment, 12 cents; for drawing and recording final judgment thereon, 50 cents; for filing recognizance, 4 cents; for drawing and filing recognizance, 16 cents; for the discharge of every recognizance, 5 cents; for a warrant of the peace or good behavior, 12 cents; in all other respects the same as the clerks of the courts of common pleas, excepting that they are not allowed compensation by the day. N. B. The two offices are always united in the same person.

*Clerks of the Courts of Probate are allowed—*

For entering a *caveat* against the probate of a will, or granting letters of administration, 6 cents; for citation to the parties concerned, 16 cents; for taking bond and granting letters of administration or testamentary, 50 cents; for registering and copying, for every lawful page, (200 words,) 10 cents; for drawing the probate of a will or allowance of an inventory or an account, 10 cents; for searching the record, by the hour, 10 cents.

*Sheriffs are allowed—*

For serving a writ, if not more than a mile from the court-house or place of appearance, 20 cents; if more than a mile, 16 cents; for every mile's travel out beyond a mile, and the same back, the travel to be computed from

the place to which the writ is returnable, to the defendant's place of abode, 2 cents; for the copy of a writ on warrant, 10 cents; for a bail bond in civil actions, 12 cents; and where bail is taken by endorsement on the writ, the same fee; for committing a prisoner on mesne process, 20 cents; for attending a justice's court, by the day, 25 cents; for serving all executions where a party is committed to jail, 70 cents; for serving all executions where the money due thereon is collected, not exceeding four dollars, 30 cents; if above four and not exceeding seven dollars, 40 cents; if above seven and not exceeding twenty dollars, 60 cents; if above twenty and not exceeding thirty dollars, 66 cents; if above thirty and not exceeding sixty dollars, 75 cents; if above sixty and not exceeding one hundred dollars, 90 cents; and for all executions above one hundred dollars, one per cent., none of the lesser sums to be included in the greater; for travelling fees for serving executions, the same as for serving writs; for serving a writ or execution, returnable to any court out of the county where the same is served, the same number of miles' travel as if returnable to a court in the county where served; for serving a summons, if not more than a mile from the court-house or place of appearance, 12 cents; if more than a mile, the same travelling fee as for serving writs; for delivering possession of lands and tenements, while actually employed by the day, \$1 00; for advertising real or personal estate to be sold at auction, 34 cents; for selling at public auction real or personal estate, if under one hundred and fifty dollars, two per cent.; if over one hundred and fifty and under three hundred dollars, one and a half per cent.; and for all sums over three hundred dollars, one per cent., to be computed on the amount of sales, and none of the lesser sums to be included in the greater; for serving warrants and other criminal processes, the same as for serving writs, unless the court to which such warrant or process is returnable shall make a further allowance for extra services; for attending the General Assembly, the supreme judicial court, and court of common pleas, by the day, \$1 00.

*Coroners are allowed—*

For taking every inquisition, \$1 00; besides the above fee, for every day employed therein, \$1 00; each juror, by the day, 50 cents.

*Grand jurors are allowed, each—*

For attendance by the day, 50 cents.

*Petit juries are allowed, altogether—*

For every case submitted to them, \$5 00.

*Witnesses are allowed—*

For attendance, by the day, 40 cents; for travel, by the mile, 4 cents.

Received, for transcribing, sixty cents, of David Howell, Esq.

AMOS HOPKINS.

STATE OF RHODE ISLAND, &c., November 29, 1806.

The preceding [in MS.] six pages are truly extracted from the laws of this State.

Witness: SAMUEL EDDY, *Secretary*.

STATE OF CONNECTICUT.

SIR:

SUFFIELD, October 24, 1806.

Your letter of the 9th August, enclosing a resolution of the Senate of the United States, passed the 17th April, 1806, was received the 24th of September; the delay was occasioned by the letter being missent, &c. The officers mentioned in the resolution, and known in our laws, are attorneys-at-law, clerks of judicial courts, sheriffs, grand and petit jurors, and witnesses. The sums actually paid, in many instances, so far exceed the fees authorized and allowed by *statute*, that I have been led to doubt how I should comply with the requirements of the resolution; and especially as the practice of demanding and receiving fees not allowed, or not specified by any statute, is sanctioned by the highest courts of law in the State.

Subjoined are extracts from the table of fees in the court above mentioned, as fixed by the statute entitled "An act for regulating salaries and fees."

*State Attorneys' Fees, not exceeding the following allowances.*

For conducting and arguing each criminal case, not capital, before the superior court, on bill found by the grand jury, \$9; drawing an indictment or information, \$1; for a trial before the superior court in a criminal case on information, or for conducting and arguing a civil cause on behalf of the State, \$7; for prosecuting a civil cause when judgment is given on confession or default, in the superior court, \$3 34; for a capital trial, \$14; in a criminal case on confession before the superior court, \$5; in case of a *nolle prosequi* entered, or a return of not a true bill by a grand jury, \$3 34; if an assistant attorney is allowed in any trial, not capital, before the superior court, in behalf of the State, his fee shall be \$3 34; or, if capital, \$7.

In prosecutions on behalf of the State, before the county court, the attorney shall be allowed not exceeding two-thirds of the fees allowed for like services in the superior court; or less, at the discretion of the court.

*Clerk of Superior Court's Fees.*

For entering each action and judgment, 50 cents; filing each deposition, 5 cents; entering each judgment, acknowledged, 17 cents; each writ of execution, 25 cents; for copies, each page of twenty-eight lines, ten words in a line, 25 cents.

*Clerk of County Court's Fees.*

For entering each action, 5 cents; entering each judgment or continuance, 17 cents; signing each writ, 9 cents; taking a recognizance, 9 cents; each writ of execution, 17 cents.

For copies, same as clerk of superior court.

*Sheriff's Fees.*

Serving every summons, 6 cents; if by copy, 9 cents; serving an attachment, 9 cents; bail bond, 17 cents; levying each execution, not exceeding \$3 34, 17 cents; and two cents per dollar for every dollar beyond that sum

in the same currency with the execution, or equivalent in lawful money; attending the general court or superior court, per day, \$1; each mile travel out, 5.cents; attending the county court, per day, \$1 50.

*Fees and Commissions allowed the Sheriff, where any person confined in jail on execution for any civil matter is permitted to have the liberties of the prison, the following allowance, and no more.*

For every bond, \$1; as commissions on any sum not exceeding \$360, \$2 25; on any sum not exceeding \$750, \$3 75; on any sum not exceeding \$1,335, \$5; on any sum not exceeding \$2,400, \$7 50; on any sum not exceeding \$6,000, \$15; on any sum not exceeding \$13,350, \$25; and on any greater sum than, \$13,350, three-sixteenths of one per cent.

*Grand Jurors' Fees.*

Each grand juror, for attending the superior court or county court, per day, 67 cents; travel per mile out, 6 cents.

*Petit Jurors at Superior and County Courts.*

For trying each action, (50 cents each,) \$6; travel out, per mile, 5 cents.

The six dollars paid by the party whose case is tried; the travel paid by the county.

*Witnesses.*

Each witness in criminal cases, at the suit of the State, for attendance at the superior or county courts per day, \$67; travel per mile, —.

The fees mentioned as allowed to attorneys are in cases at the suit of the State; the sums actually paid by suitors are, (that is, the usual fees for arguing a cause in the county court,) from \$6 50 to \$12; besides a term fee of from \$3 to \$5, at each term, while the cause is pending; for arguing before superior court, a fee of \$5, each term the cause is pending; and for arguing, from \$12 to \$50, in proportion to importance of the cause.

It is difficult, and perhaps unnecessary, to furnish a correct statement of the actual fees and compensation, claimed and allowed to sheriffs and under-sheriffs; we have a form of action called debts by book, known, perhaps, only in Connecticut; in which the plaintiff declares that the defendant, or claimant, in a plea of debt, that the defendant owes him such a sum by book, which he has not paid, though often demanded, &c. to his damage, &c.; for this kind of action, and also the action on promissory notes, forms of the writ are prescribed by statute, and the statute specifying the sheriff's fees for serving writs of summons and attachments, has long since been construed as extending only to his fees for serving writs, the forms of which are prescribed by statute; these writs are very short: of course, the sheriff, for serving writs in actions of trespass, ejectment, trespass on the case, &c., also bills in chancery, in case he makes service by copy, as he may in all cases, and is bound to, in case he attaches property, he charges for a copy, from one to three dollars; also for his extra trouble procuring bail; as he claims, is reasonable, besides 17 cents for the bail bond; also for collecting, or levying and returning writs of execution; all the different forms whereof, known in the English law, are in commitment reduced to one, and go against the goods, chattels, or lands of the debtor; and, for want thereof, against his body. The sheriff is allowed two travels to the debtor's place of abode, and from thence to the office whence the writ issued; and also for any extra trouble, even if he makes return of *non est inventus*; if he commits the debtor to prison, he calls to his assistance one or two keepers, as he judges the case requires, whose fees and expenses, with his own, in carrying the debtor to jail, he charges on his writ, besides the *commission* allowed for collecting, &c. &c. If a prisoner, in jail on execution, who has the liberties of the prison, breaks his bonds, and the sheriff becomes liable, and is sued, although his bail are sufficient and ultimately save him harmless from the *payment*, still he charges a fee of from \$7 to —, in proportion to the amount of the demand.

With respect to clerks of the superior court and county courts, both offices are usually held by one person in the same county; the statute fixing their fees is now construed as extending only to the forms of action prescribed as before mentioned by statute, and the general issue is pleaded, in which cases the record may be very short; but in cases where the issue is formed by special pleadings, or special verdicts of a jury, decrees in chancery, &c., the clerk demands and receives for recording a judgment, from 22 cents to \$5. Our superior and county courts are, by statute, vested with chancery powers; in this county, the superior and county courts hold each three terms in a year; on the docket of the superior court at the last term there were 239 actions; at the last term of the county court, there were about 470 causes on their docket.

If the object is correct information as to the actual compensations allowed, the foregoing statements seemed necessary. Such are the practices sanctioned by our courts, with how much propriety or justice I will not say. It should, however, be remarked, that our statute fixing the fee table, as it is called, with but little variation or increase, is much the same as it stood half a century since; but as increasing compensation to officers is unpopular, especially in party times, the men in power withhold that which, under different circumstances, the unbiassed sense of the community would grant: hence the courts have resorted to *construction*, to obtain that compensation which the Legislature have not as yet allowed by statute. I began to make the extract at the date, but from many circumstances, unforeseen and unavoidable, it is not completed until this time. I hope neither your convenience nor the public business will be incommoded by the delay.

I am, sir, with very great respect, your most obedient servant,

HEZ. HUNTINGTON.

HOB. MR. BRECKENRIDGE.

STATE OF VERMONT.

*An act regulating Fees.*

Sec. 1. *It is hereby enacted, by the General Assembly of the State of Vermont,* That the fees for the several officers and other persons hereinafter mentioned shall be as follows, viz:

*Governor's Fees.*

For signing a charter of land, \$8; for every other charter or grant by him signed, \$3.

*Lieutenant Governor's Fees.*

For attendance on council per day, \$4; travel per mile, each way, 6 cents.

*Counsellors' Fees.*

For attendance, per day, \$1 50; travel per mile, each way, 6 cents.

*Representatives' Fees.*

For attendance, per day, \$1 50; travel per mile, each way, 6 cents; Speaker of the General Assembly, per day, \$2 50; travel per mile, each way, 6 cents; clerk of the General Assembly, fees per day, \$2 50; travel per mile, each way, 6 cents; engrossing clerk's fees per day, \$2 50; travel per mile, each way, 6 cents.

*Secretary of State's Fees.*

Recording laws, for every hundred words, 7 cents; receiving and filing each petition of a private nature, 11 cents; receiving and filing each petition for grants of land, 17 cents; for drawing, attesting, and registering a charter for lands, \$3 34; for copies of laws, petitions, and other papers, for each hundred words, 7 cents; for each citation between party and party, 17 cents; attendance on the General Assembly, per day, \$2 50; travel per mile, each way, 6 cents; and there shall be paid to the secretary, for the use of the treasury, on filing each petition between party and party, \$4 00.

*Secretary of Council's Fees.*

For each military commission, and affixing the seal thereto, he finding blanks, 25 cents; each commission for the judges of the supreme court, 34 cents; each commission for the judges of the county courts, and the probate courts, 34 cents; for justices' commission for each county, 75 cents; every order of council for the benefit of particular persons, 17 cents; affixing the State seal, (military commissions excepted,) 17 cents; attendance on council, per day, \$2 50; travel per mile, each way, 6 cents.

*Supreme Court's Fees.*

Chief judge, while on the circuit, per day, \$4 50; each side judge, while on the circuit, per day, \$3 67; each motion for arrest of judgment, or new trial for the benefit of the judges, 67 cents; for allowing and signing writs of error, *audita querela*, *habeas corpus*, and taking recognizance for the same, 67 cents; and there shall be paid into the hands of the clerk, for the benefit of the judges, for each action tried, \$2 50; and for each nonsuit, default, or confession, \$1 00.

*County Court's Fees.*

For each action tried, there shall be paid to the clerk for the benefit of the judges, 67 cents; for each abatement, nonsuit, default, or confession, 34 cents; for each license for a tavern keeper, 50 cents; for each entry of an action for the benefit of the judges, 67 cents; the chief judge's share of the above perquisites to be one-quarter more than the side judges'. For allowing and signing *audita querela*, and *habeas corpus*, and taking recognizance in the same, for each judge 50 cents; for each motion in arrest of judgment and new trial, 50 cents.

*Judge of Probate's Fees.*

For granting administration, 34 cents, if the inventory exceed \$166, 50 cents; receiving and approving each will, if the inventory do not exceed \$166, 34 cents; if the inventory exceed that sum, 50 cents; allowing accounts, settling and dividing estates, 84 cents; every necessary order or rule, 17 cents; appointment of persons to inventory and appraise, 25 cents; appointing commissioner or commissioners to set off widow's dower, 25 cents; appointing guardians, 34 cents; fees for commissioners appointed on testate or intestate estates, per day, \$1 00; travel per mile, 6 cents; executors and administrators, such sum per day as the judge of probate shall judge reasonable.

*Register of Probate's Fees.*

Drawing and filing an administration bond, 34 cents; drawing each letter of administration, 25 cents; drawing probate of will, if the inventory do not exceed \$166, 34 cents; if it exceed \$166, 42 cents; recording or copying a will, codicil, inventory, or other necessary paper, for each hundred words, 8 cents; for every citation, 13 cents; for every quietas or acquittance, 42 cents; making out and registering commission to receive and examine the claims of creditors to insolvent estates, 50 cents; entering an order upon the administrator to pay the debts of the several creditors returned by commissioners, 25 cents; entering every other necessary order or rule, 9 cents; drawing and filing guardian bond, 34 cents.

*Justice's Fees.*

Drawing a writ, 17 cents; signing a summons, 9 cents; signing an attachment or summons when bond is given, 13 cents; subpoena for each witness, 6 cents; judgment in each action tried, 50 cents; if on verdict of jury, 67 cents; on confession or default, 25 cents; for taking deposition out of court, 34 cents; for citation to appear, 17 cents; each continuance, 17 cents; every warrant for criminals and bond, 34 cents; recognizance, 17 cents; each *venire* for a jury, 25 cents; for every appeal including the recognizance, 25 cents; for taking acknowledgment of deed, 12 cents; for recording execution, and officer's return thereon extended on real estate, which the officer for serving the same shall collect and pay, 75 cents; for issuing a citation to the adverse party on complaint of a prisoner to swear out of jail, 50 cents; for making and signing certificates to prisoners and jailers, each 25 cents; for attending court of jail delivery, 50 cents; for travel per mile each way, 6 cents; making rule of reference between parties, 50 cents; rendering judgment on report of referees so appointed, 50 cents; for every execution, 25 cents.

*Clerks of the Supreme and County Courts' Fees.*

For signing each summons, 9 cents; for signing each summons or attachment when bond is given, 13 cents; for attendance at the supreme court per day, \$1 00; entering each judgment on abatement, nonsuit, default, or confession, 25 cents; clerks of the county court for entering each judgment on demurrer or after verdict, 50 cents; clerk of the supreme court for the same, \$1 00; taking each recognizance in court, 17 cents; filing each necessary paper, 6 cents; every appeal or review, 34 cents; every rule or order of court, 9 cents; every continuance in supreme court, 16 cents; every continuance in county court, 8 cents; every execution, including the filing, 25 cents; for recording each deputy sheriff's deputation and oath, 25 cents; recording execution extended on real estate, with the officer's return who shall collect and pay the same, \$1 00; every license to an innkeeper, 17 cents; for all copies or other services made or done by direction of the court, and not herein before remunerated, such sum or sums as shall be allowed by the courts respectively, according to their length and difficulty.



*Attorney's Fees.*

For drawing writ, and declaration or note, 17 cents; all other writs such sum as shall be allowed by the courts respectively, according to their length and difficulty.

*State Attorney's Fees.*

For every indictment or information, \$1 00; if more than one count, such sum as shall be allowed by the court; term fee, \$2 00; for each cause tried, not exceeding \$5 00; copy of the indictment, such sum as shall be allowed by the court.

*Sheriffs, Constables, and Collectors' Fees.*

Serving every process on each defendant by reading, 6 cents; if by copy, 17 cents; for taking bail, 17 cents; for each mile's travel for the service of all writs and other processes, to be computed from the place of service to the place of return, 6 cents; for levying each execution amounting to three dollars or under, 15 cents; and for each three dollars over, 4 cents; for each day's attendance on appraisement or sale of estate taken in execution, 34 cents; for attending before a justice court when required, 34 cents; for attending freeholder's court, per day, \$1 00; for copy of execution extended on lands, and the return thereof to the office for record, 50 cents; for attendance on the General Assembly or supreme or county court, per day, \$1 00; constables for the like service, \$1 00; collectors of taxes to be allowed the like fees as sheriffs, in cases of execution, when they levy on persons or estate, and one dollar out of each fifty dollars collected and paid into the State or county treasury: *Provided*, that no sheriff, constable or other officer shall be entitled to any fees for a return of *non est inventus* on any civil writ or process; sheriff and assistants per day, 67 cents; for half a day, 34 cents; for appraisers of real estate on execution, 67 cents; for half a day, 34 cents.

*Parties and Witnesses' Fees in the Supreme and County Courts.*

Term fee on abatement, nonsuit, or default, in the first term, \$1 00; term fee in all other cases, \$1 00; and the party recovering shall be allowed for his attorney on nonsuit or default, \$1 50; for trial of issue of law or fact, \$3 00; travel for plaintiff or defendant within this State, per mile, 5 cents; witnesses' travel per mile, 5 cents; attendance per day, 75 cents; in justice's courts, travel for plaintiff or defendant and witnesses per mile, 5 cents; attendance of plaintiff or defendant and witnesses per day, 50 cents; for half a day 34 cents.

*Grand Juror's Fees.*

Travel per mile, 6 cents; for each day's attendance on supreme and county courts, 75 cents; for each complaint, 50 cents.

*Petit Juror's Fees.*

Pannel of, for trying each cause before the supreme or county court, \$5 00; for trying each cause before a justice, to be advanced by the party praying the same in a civil action, \$1 50; for trying each cause before a freehold court, such sum as shall be allowed by the justices holding the same, according to their travel and attendance.

*Town Clerk's Fees.*

For recording a common deed poll, including the certificate of filing, to be advanced by the party lodging the same for record, 20 cents; copying of the same, 20 cents; and in the same proportion for all other deeds; recording survey bill, 9 cents; recording marriage, birth, or death, 4 cents; recording each mark, 9 cents; recording execution extended on real estate, with the officer's return thereon, to be collected and paid by the officer serving the same, \$1 00; recording certificate of a religious sentiment, 12 cents.

*Proprietor's and other Collector's Fees.*

Travel from his dwelling house to the place of sale, to be equally divided among the delinquent proprietors or land owners, per mile, 6 cents; for drawing and conveying an advertisement to be divided as aforesaid, \$1 00; for attendance and sale of each delinquent proprietor's right, 34 cents; each deed of conveyance, including the acknowledgment, 34 cents; for each receipt for money before sale, 6 cents.

*Jailer's Fees.*

For commitment of a prisoner, 34 cents; for discharge of a prisoner, 34 cents; diet per week for State prisoners, \$1 00; for the bonds for the liberties of the prison, 34 cents; fees for freeholders summoned to assess damages sustained in laying out highways, per day, 50 cents; for half a day, 33 cents.

*Surveyor General's Fees.*

Per day, exclusive of expenses, \$1 50.

*County Surveyor's Fees.*

Exclusive of expenses, per day, \$1 00.

*Auditor of Account's Fees with the Treasurer.*

Per day, \$2 00.

*Auditor of Accounts against the State.*

While attending the Legislature, travel per mile each way, 6 cents; attendance per day, \$1 50.

*Impounder's Fees.*

For all horse kind, and neat cattle, per head, 11 cents; sheep per head, 2 cents; swine per head, 8 cents; three-fourths to the impounder, and the other fourth to the pound keeper.

*Notary Public's Fees.*

For every protest under seal, \$1 00; for every certificate under seal, 50 cents; for waiting on a person to demand payment, or witness any matter, and certify the same under seal, \$1 00.

SECTION 2. *And it is hereby further enacted*, That the judges of the supreme court of judicature, judges of the county court, judges and registers of probate, justices of the peace, Secretary of State, Secretary of Council,

clerk of the General Assembly, clerk of the supreme and county courts, town clerks, notaries public, sheriffs and all other persons whose duty it may be by law to record any proceedings, or give any copies, attestations, or certificates other than such for which particular fee or fees is, are, or shall be established, shall be allowed seven cents for every hundred words, and for less than a hundred words in the same proportion; and for every certificate on the copy of the whole case, 17 cents; and for any other duty or service done or performed, such sum shall be in proportion to the fees specifically provided by this or any other act for such officers or persons respectively.

MIDDLEBURG, October 15, 1806.

The preceding is a true copy of an act regulating fees by the Legislature of the State of Vermont, the 27th day of October, in the year of our Lord 1798. Compared and examined by me,

THOMAS LEVERETT, *Secretary of State.*

Fee for copy, \$2 00.

### STATE OF NEW YORK.

AN ACT regulating the fees of the several officers and ministers of justice within this State, passed April 8, 1801.

*Be it enacted by the people of the State of New York, represented in Senate and Assembly,* That no officer or other person shall exact, demand, or ask, or be allowed any greater or other fee or reward, for, or in respect of, any service hereafter to be done or performed, than such as is hereinafter specified, that is to say:

In the court for the trial of impeachments, and correction of errors.

#### *The Clerk's Fees.*

For reading and filing the writ, return, and record,  $37\frac{1}{2}$  cents; for filing every affidavit or other proceeding,  $12\frac{1}{2}$  cents; for entering every rule, 19 cents; for every certified copy of a rule, 19 cents; for entering every appearance,  $12\frac{1}{2}$  cents; for entering every judgment or dismissal, 25 cents; for entering the judgment and *remittitur* on the roll, for each sheet containing seventy-two words,  $12\frac{1}{2}$  cents; for the seal to any record or process, 50 cents; for copies of records, pleadings, and other proceedings, for each sheet containing ninety words, 9 cents; for taxing a bill of costs, 50 cents.

#### *The Crier's Fees.*

In each cause,  $37\frac{1}{2}$  cents.

In the Court of Chancery,

#### *The Master's Fees.*

For every summons,  $37\frac{1}{2}$  cents; for copies of all charges and discharges brought in before the master, for each sheet containing ninety words, 9 cents; for scheduling writings, for each sheet of such schedule containing ninety words, 9 cents; for every report in pursuance of an order made upon hearing a cause, \$1 25 cents; for every other report made upon petition or motion only,  $62\frac{1}{2}$  cents; for taking and drawing the acknowledgment or proof of a deed or mortgage,  $37\frac{1}{2}$  cents, (a lease and release to be considered as one deed); for drawing every report, for each sheet containing ninety words,  $12\frac{1}{2}$  cents; for every copy thereof, each sheet as aforesaid, 9 cents; for swearing a defendant to an answer or plea, or swearing a witness, or taking an affidavit,  $12\frac{1}{2}$  cents; for signing every exhibit brought before him,  $12\frac{1}{2}$  cents; for the caption and writing of every recognizance,  $37\frac{1}{2}$  cents; for taxing every bill of costs before a decree,  $37\frac{1}{2}$  cents; for taxing a bill of costs after a decree, 75 cents. And all costs of the party plaintiff, including officers' fees, whensoever costs shall be directed to be taxed, shall be taxed in one bill only; and in like manner all the costs of the party defendant, including officers' fees, shall be taxed in one bill only, and only one fee shall be allowed for any such one taxation. And where moneys are ordered by the court to be put out by a master, or where an estate is ordered to be sold by a master, and where the master is ordered to take an account of an estate, or between partners in trade, the chancellor shall make such allowance to the master for the same as he shall judge reasonable.

#### *The Register's Fees.*

For drawing all rules and orders, for each sheet containing ninety words, 19 cents; and entering the same, for each sheet, 9 cents; for reading and filing every report, petition, or other paper,  $12\frac{1}{2}$  cents; for copies of all rules, orders, reports, affidavits, records, and proceedings, for each sheet containing ninety words, 9 cents; for every certificate, 19 cents; for entering a cause for hearing,  $12\frac{1}{2}$  cents; for making or certifying notes for the causes that stand for hearing; for grounding a subpoena to hear judgment; for each cause, 19 cents; for drawing every decree, for each sheet containing ninety words, 19 cents; but no record, writing, report, order, or proceeding, to be inserted therein, *verbatim*, or in *hæc verba*, shall be computed as any part of such draught. For engrossing every decree, including all reports, orders, and other proceedings, records, and writings inserted therein, for each sheet containing ninety words, and including parchment,  $12\frac{1}{2}$  cents; for entering every dismissal, 50 cents; for examining and signing every decree, and attending the chancellor to get the same signed by him, \$1; for searching for any order or decree, for every year in which such search is made, 6 cents; for entering all attachments and proclamations, 9 cents for each person; for entering every amercement, 19 cents; for entering an appearance upon process of contempt,  $12\frac{1}{2}$  cents; for engrossing all depositions, exhibits, records, and pleadings to be exemplified, for each sheet containing ninety words, 9 cents.

#### *The Clerk's Fees.*

For sealing every writ, 25 cents; for drawing and engrossing every subpoena or attachment, including parchment,  $62\frac{1}{2}$  cents; for drawing all other writs and commissions, when done by him, for every sheet containing ninety words, 19 cents; and engrossing, when done by him, for each sheet, including parchment,  $12\frac{1}{2}$  cents; for entering the defendant's appearance and certificate thereof, and serving the same, 25 cents; and if two or more defendants appear at one time, no more than one fee for entering and certifying their appearance shall be allowed; for copies of all bills, answers, and other pleadings whatsoever, for each sheet containing ninety words, 6 cents; for meeting to settle commissioners, on joining in commission, 50 cents; for every certificate that pleadings are filed, costs of contempt paid, or other matter necessary to be certified,  $12\frac{1}{2}$  cents; for filing every bill, answer, plea, replication,

rejoinder, demurrer, or other pleading, 12½ cents; for entering a rule to answer, reply, or rejoin, or other rule in the rule-book, and copy thereof, and serving on the clerk of the opposite party, 25 cents; for entering receipt of rule to answer, reply, or rejoin, or other rule in the rule-book, and making and serving a copy of the rule on the solicitor, 25 cents; for searching for any bill, answer, or other pleading, for every year in which such search is made, 6 cents; for attending master with rule-book, on taxing costs, 25 cents; for attending court on hearing with the pleadings, whether they are read or not, 50 cents.

#### *The Examiner's Fees.*

For taking the examination of every deponent, for each sheet containing ninety words, 25 cents; for making a fair copy of the same on paper for the witness to sign, for each sheet, 12 cents; for certifying every exhibit shown to a witness on his examination, 25 cents; for copies of all depositions, exhibits, and interrogatories, when required, for each sheet containing ninety words, 12 cents; for attending court with depositions and exhibits, \$1; for administering an oath, or taking an affidavit, 12 cents and 5 mills.

#### *The Counsel's Fees.*

For a retaining fee in each cause, \$3 75 cents; but a retaining fee shall not be taxed or allowed to the same person both as counsellor and solicitor in the same cause; for perusing and signing every bill, answer, plea, demurrer, and other special pleadings, interrogatories, and exceptions, if not done by the person acting as solicitor in the same cause, \$2 50 cents; for every motion of course before the chancellor, 50 cents; but no motion to be allowed for common process, nor for rules to answer, reply, rejoin, produce, or examine witnesses, or for publication or the like, which are to be issued or entered of course by the clerks; for every special motion, \$1 25 cents; for arguing every plea or demurrer, \$3 75 cents; for arguing before the master upon exceptions, or other special matter, \$2 50 cents; for arguing before the chancellor upon petition or exceptions, \$2 50 cents; for arguing upon the final hearing of any cause, \$5; but no cost to be taxed for more than one counsel in the same cause.

#### *The Solicitor's Fees.*

For a retaining fee in every cause, \$2 50 cents; but when the same person acts as solicitor and counsel, no retaining fee to be allowed as solicitor; for drawing every bill, answer, plea, demurrer, replication, rejoinder, interrogatories, exceptions, and other proceedings, for each sheet containing ninety words, 19 cents; but no record, writing, report, order, or proceeding, to be inserted therein, *verbatim*, or *in hæc verba*, shall be computed as any part of such draught; for all engrossments, including parchment, 12½ cents for each sheet containing ninety words, computing all records, writings, reports, orders, and proceedings inserted therein, and all copies on paper, 6 cents for each sheet as aforesaid; for attending the chancellor on petition, 50 cents; for attending the court upon hearing upon every argument, \$1 25; for attending the register upon drawing decretal order, 50 cents; for attending the chancellor upon every common motion, 50 cents; for attending upon every special motion when argued, 75 cents; for serving every order, 19 cents; for giving notice of the examination of a witness, either before the examiner, or a master, or commissioners, 25 cents; for drawing instructions for the examination, 25 cents; for abbreviating every bill, answer, and other pleadings, and depositions, and exhibits, 3 cents for each sheet containing ninety words; for drawing brief for counsel, 19 cents for each sheet containing ninety words, and a copy thereof, 6 cents for each sheet as aforesaid; for drawing charge or discharge before a master, for each sheet containing ninety words, 19 cents; for attending the master upon any matter referred to him, 50 cents; for attending the master upon a summons, 50 cents; for attending on taxing costs, 50 cents; for copy of a bill of costs, to be taxed before a decree made, 37½ cents; after a decree, 75 cents; for drawing notice of every motion, copy, and service, 37½ cents.

#### *The Fees of the Sergeant-at-arms.*

For taking a person into custody, \$1; for mileage, for each mile going out only, 12½ cents; for the return of an order or process, 12½ cents; for attendance at every final hearing, 37½ cents; for serving every summons to attend a master, 12½ cents; for taking bail upon attachment or other process, 75 cents; and every person in contempt, before being discharged, shall, besides other fees, pay the sergeant-at-arms 83 cents.

#### *In the Supreme Court.*

*Fees to the Commissioner in the city of New York for acts done by him appertaining to the office of Chancellor and Judge of the Supreme Court.*

For taking bail, 37½ cents; for allowing every writ of error, writ of privilege, *habeas corpus*, *procedendo*, *certiorari*, or prohibition, 37½ cents; for taking the acknowledgment of satisfaction out of court, 37½ cents; for taking the acknowledgment or proof of a deed or mortgage, 37½ cents—a lease and release to be considered as one deed; for admitting an infant by guardian or next friend, 25 cents; for taking the acknowledgment of a fine by *dedimus*, 50 cents; for examining and signing the indentures of a fine, 50 cents; for examining and signing the enrolments of the several parts of a fine, 25 cents for each roll; for examining and signing the enrolments of a recovery, 62½ cents; for examining and signing the exemplification of a fine or recovery, 62½ cents; for taking an affidavit, 12½ cents; for taking acknowledgment of a warrant of attorney for levying a fine or suffering a recovery, or to prosecute or defend a real action, 25 cents; for allowing a warrant of attorney in other cases, 12½ cents; for every attendance at his chamber on motion, or on examining a witness, 62½ cents; for every order or certificate upon the act concerning insolvent debtors, 37½ cents; for every warrant, order, report, or certificate, or appointment of trustees upon the act relative to absconding or absent debtors, 37½ cents; to a commissioner for taking every affidavit to be read in the supreme court, 12½ cents.

#### *In the Court of Errors and Supreme Court.*

#### *Counsel's Fees.*

For perusing and amending every special pleading and entry, \$1 25; for assisting on special motions, \$1 25; for attending the court of errors to make or oppose a motion, \$1 25; for trial of a cause, or arguing a demurrer or a special verdict, or in error, \$3 75; but no costs shall be taxed for counsel in any cause but where counsel is actually employed, and then only for one counsel.

#### *Attorney's Fees.*

For a retaining fee, \$3 62½ cents; but where several suits are brought upon one bond, note, or bill of exchange, no more than one retaining fee shall be allowed, nor shall any retaining fee be allowed in any suit upon a bail

bond, or to the defendant's attorney, upon confessing judgment on a bond by virtue of a warrant of attorney; for drawing a copy of a warrant of attorney, 12½ cents; for every term, a term fee of 62½ cents, but no more than three to be allowed in any cause; for drawing all process and returns, admissions of guardians or next friends, all recognizances of bail, pleadings, adjournments, suggestions, special verdicts, demurrers to evidence, and other necessary entries, records, bonds to prosecute, and affidavits, 19 cents for each sheet containing seventy-two words; but no record, writ, return, pleading, bond, covenant, or other writing, to be inserted *verbatim*, or *in hæc verba*, shall be computed as any part of such draught; for engrossing the same, including parchment where used, and computing all records, writs, returns, pleadings, bonds, covenants, and other writing, inserted therein, 12½ cents for each sheet, containing seventy-two words, except that, for such engrossments as were formerly used to be made on paper, there shall be allowed only 6 cents for each sheet; for every necessary motion, 62½ cents; but no motion to be allowed upon judgment by confession, by virtue of a warrant of attorney, where no suit is brought either for entering the action, or a rule to plead; for every attendance before the court of errors in order to make a motion, or to oppose a motion, 62½ cents; for arguing every special motion, \$1 25; for a fee on trial, inquest, or assessment of damages by the clerk, \$1 50; for drawing every *postea*, 75 cents; for arguing demurrer, special verdict, or in error, \$3 75; for drawing a brief, and a copy or copies thereof, \$1 12½ cents; for drawing up a judgment, 75 cents; for entering the judgment on the roll, 37½ cents; for every notice, copy, and service on the opposite party, or his attorney, 25 cents; for copy and service of notice of trial on the clerk, 25 cents; for making a note of the issue for the judges, to be served on the clerk, with a copy of the notice of trial, and for copy and service, 37½ cents; for attendance on balloting or striking a jury, or both, 62½ cents; for attendance on examining a witness out of court, 25 cents; for attendance on taxing a bill of costs, 25 cents; for serving a certified copy of a rule, or a copy of a declaration, with a certified copy of a rule to plead, 19 cents; for copy of a bill of costs to be taxed, delivered to the opposite party or his attorney; if before issue joined or judgment, 37½ cents; if after, 75 cents; and no more than one writ of execution shall be taxed in any case.

*Fees of the Clerk of the Supreme Court in civil causes.*

For sealing a writ, entering the same, filing the precipe, and entering on the docket, 12½ cents; filing a declaration or other pleading, 12½ cents; entering an appearance or default, 12½ cents; entering every rule, 19 cents; a certified copy of a rule when required, 12½ cents; every report of damages assessed by him, \$1; entering every nonsuit, 19 cents; calling and swearing every jury, 25 cents; entering the return of a writ and filing the writ, 12½ cents; filing a writ of error, *habeas corpus*, or *certiorari*, with the return thereof, 12½ cents; swearing each witness, 6 cents; swearing a constable to attend a jury, 6 cents; reading every writing given in evidence, 12½ cents; filing every roll, 12½ cents; docketing a judgment, 25 cents; taking a verdict and entering the same in the minutes, 19 cents; entering a judgment, 19 cents; entering or filing a *retraxit* or discontinuance, 12½ cents; drawing and engrossing exemplifications of records, for each sheet containing seventy-two words, 12½ cents; for copies of records and pleadings, for each sheet containing seventy-two words, 9 cents; attending and striking a special jury, and delivering a copy of the panel to each party, 75 cents; copies of records to be returned upon writs of error, for each sheet containing seventy-two words, 12½ cents; filing an affidavit or other paper on request, 9 cents; entering satisfaction on record, 19 cents; searching the records in any one year, 12½ cents, and for every other year in which search is made, 3 cents; searching for a judgment, for every term in which such search is made, 6 cents; entering confession of lease, entry, and ouster, 19 cents; reading and entering a *postea*, 25 cents; swearing each witness to a will, 12½ cents; drawing the proof of wills and codicils, for each sheet containing seventy-two words, 19 cents; recording a will or codicil, and the proof as by law directed, 19 cents for each sheet containing one hundred and twenty-eight words; and for copies thereof, when required, 12½ cents for each sheet containing one hundred and twenty-eight words; examining and signing a note of a fine, 12½ cents; examining and signing the indentures of a fine, 37½ cents; making, entering, and endorsing each proclamation of a fine, 37½ cents; attending and examining the enrolment of the several parts of a fine, 62½ cents; examining and signing, and affixing the seal to the exemplification of a fine or recovery, 62½ cents; signing a judgment, 25 cents; and taxing every bill of costs, 50 cents.

*Fees of the Clerk of the Supreme Court in criminal causes, (not capital,) where the service is done at the request of the defendant, but no fees to be allowed in any other cases.*

For entering an appearance, 12½ cents; entering the discharge of a person upon bail, 12½ cents; entering an imparlance, 12½ cents; entering or filing a plea, 12½ cents; reading a record or other writing given in evidence, 12½ cents; swearing a witness, 6 cents; respiting a recognizance, 6 cents; taking a recognizance in court, and entering thereof, 37½ cents; copies of all indictments, informations, and pleadings when required, for each sheet of seventy-two words, 9 cents; entering a relinquishment of a plea, 12½ cents; entering a submission, 12½ cents; every subpoena for witnesses, 28 cents; entering an order or rule of court, 19 cents; a copy of an order or rule of court, 12½ cents; taking and entering a verdict when for the defendant, 19 cents; taxing and copying a special verdict for each sheet containing seventy-two words, 19 cents; entering a judgment for defendant, 25 cents; reading and entering the allowance of a pardon or warrant of *nolle prosequi*, or *cessat processus*, 37½ cents.

*Fees of the respective Clerks of the Circuit Courts and Sittings.*

For entering in the judge's book every cause noticed for trial, 25 cents; filing every *nisi prius* record, 12½ cents; entering every rule, 19 cents; a copy of a rule, 12½ cents; entering confession of lease, entry, and ouster, 19 cents; for calling and swearing a jury, 25 cents; swearing each witness, 6 cents; swearing a constable to attend a jury, 6 cents; reading every deed and writing given in evidence, 12½ cents; filing a plea or bill of exceptions, 12½ cents; copies thereof, for each sheet containing seventy-two words, 6 cents; taking and entering a verdict, 19 cents; a certified copy of the minutes of a trial, 25 cents; copies, if required, of original writings read in evidence on the part of the defendant in cases of special verdict or demurrer to evidence, 9 cents for each sheet containing seventy-two words; entering every nonsuit, 19 cents; entering every appearance or default, 12½ cents, and \$2 50 in each cause noticed for trial, and not countermanded in due time, in lieu of all travelling charges.

*Fees of the Clerk of each Circuit Court in the Oyer and Terminer and General Jail Delivery.*

For entering an appearance, 12½ cents; a subpoena, 25 cents; entering an order or rule of court, 20 cents; a copy of an order or rule of court, 12½ cents; entering a *nolle prosequi*, or *cessat processus*, 20 cents; reading and entering an allowance of a pardon, 25 cents; swearing a witness, 6 cents; reading every paper given in evidence, 12½ cents; respiting a recognizance, 6 cents; discharging a defendant by proclamation, 12½ cents; entering de-

defendant's confession,  $12\frac{1}{2}$  cents; entering or filing defendant's plea,  $12\frac{1}{2}$  cents; entering an imparlance,  $12\frac{1}{2}$  cents; taking a recognizance,  $37\frac{1}{2}$  cents; entering relinquishment of plea,  $12\frac{1}{2}$  cents; taking and entering verdict when for the defendant, 20 cents; taking and entering special verdict, for each sheet containing seventy-two words, 20 cents; copies of records, indictments, informations, and pleadings, when required, for each sheet containing seventy-two words, 9 cents; entering allowance of *habeas corpus*, writ of error, or *certiorari*, and returning the same, 50 cents.

*Sheriff's Fees in the Supreme Court.*

For serving a writ, 56 cents; every mile going only, 6 cents, to be computed in the county of Tiosa from the bridge commonly called Nanticoke bridge, in the town of Union, and in every other county from the sheriff's place of abode, except where it is otherwise fixed by law; a bail bond, or a defendant's appearance endorsed,  $37\frac{1}{2}$  cents; returning a writ, if served,  $12\frac{1}{2}$  cents; every demand of a defendant, upon an exigent, and every proclamation upon a writ of proclamation, or in a real action,  $12\frac{1}{2}$  cents; summoning a jury, \$1; a copy of the panel of jurors,  $12\frac{1}{2}$  cents; serving an execution for or under two hundred and fifty dollars, 2 cents and 4 mills per dollar; and for every dollar more than two hundred and fifty, 1 cent and 2 mills; the poundage on writs of *feri facias*, and all other writs for levying moneys, to be taken only for the sum levied; advertising lands or tenements for sale on any execution, \$1  $87\frac{1}{2}$ , to be recovered in like manner as his poundage; and half that sum, if such execution be stayed or settled after advertising and before the sale; and no further sum shall be demanded for continuing such advertisement more than six weeks; for serving a writ of possession or restitution, without the aid of the posse comitatus, \$1 25; and with the aid of the posse comitatus, \$3 75; and mileage for every mile from the place fixed by law, 6 cents; every person committed to prison,  $37\frac{1}{2}$  cents; discharging every person from prison,  $37\frac{1}{2}$  cents; bringing up a prisoner by *habeas corpus* in civil causes, \$1 50; and mileage for every mile from the jail,  $12\frac{1}{2}$  cents; executing a writ of inquiry, summoning the jury for that purpose, and returning the inquisition, \$1 50; attending a view, \$1  $87\frac{1}{2}$  per day; and going and returning, \$1 25 per day; attending with a prisoner before a judge, on his being surrendered by his bail, and for receiving the prisoner into custody, \$1; summoning the jury to inquire of a forcible entry or detainer, \$2 50; copy of every writ, when demanded, 19 cents; serving an attachment against the estate of an absconding or absent debtor, so much as the judge who issued the warrant shall certify to be reasonable; serving a notification issued by the comptroller on any person to account for moneys received to the use of the people of this State, the like fees as on serving common process; and all services done by them in their offices for the public, whether in the supreme court or elsewhere, the like fees as are allowed for the like services in causes between private parties: *Provided*, That no sheriff shall be allowed any fee for the service or execution of any mesne process returnable on the first day of any term, unless the same shall be returned during such term, nor on any such process returnable on any subsequent day of any term, unless the same shall be returned within twenty days after the return day.

*The Crier's Fees in the Supreme Court.*

For calling every action, 9 cents; ringing the bell for each action in court,  $12\frac{1}{2}$  cents; calling the jury,  $12\frac{1}{2}$  cents; swearing a witness, 6 cents; making proclamation for the discharge of any person, 9 cents; calling the plaintiff on a nonsuit, nine cents; calling the defendant on a default, 9 cents; calling the defendant on a recognizance, 9 cents; every proclamation upon a fine, 9 cents.

*The Juror's Fees in the Supreme Court, Circuit Courts and Sittings.*

For every juror, in each action in which he is sworn,  $12\frac{1}{2}$  cents, if in the city and county of New York; and in any other city or county, 25 cents; every juror coming to and attending a view and returning, 75 cents per day; every struck juror, or juror from a foreign county, coming to and attending at court and returning, 75 cents per day.

*Fees to the Attorney General.*

For his services on occasions where he may attend on behalf of the people of this State, without the State of New York, at the rate of \$5 50 per day, besides all charges for expenditures and disbursements necessarily incurred by him in or about the prosecution or defence of any action, right, or claim in which the people of this State may be interested; and the like sum per day for his services in attending any court of oyer and terminer and jail delivery in any county of this State, other than the city and county of New York, at the request of the person administering the government of this State, or of a judge of the supreme court.

*Fees to the District Attorneys.*

For drawing every precept and every indictment, including such as may be prepared by the direction of the grand jury, although afterwards not finally agreed to by them, at the court of oyer and terminer or jail delivery, and general sessions of the peace, 19 cents for drawing per folio; and for engrossing  $12\frac{1}{2}$  cents per folio; process of subpoena actually made out and issued, 25 cents for every subpoena; for process actually made out and issued to bring in the defendants, 25 cents on each indictment; arguing the matter where the defendant shall submit, \$1 and 25 cents; every trial, or arguing a demurrer, or in opposition to a motion in arrest of judgment, in the court of oyer and terminer or jail delivery, and general sessions of the peace, \$4; the proceedings in outlawry, \$12 and 50 cents for each defendant outlawed; and at the rate of 15 cents per mile, to be computed from their respective places of residence, for going to and returning from each court they shall attend; a transcript certified into the court of exchequer, 25 cents for each defendant named therein; making up a record by order of a judge, 19 cents for the draught, and  $12\frac{1}{2}$  cents for the copy, for each sheet containing seventy-two words, and the like compensation if made up at the instance of a defendant, but then to be paid for by such defendant; and for their services at any court at which the attorney general shall also attend, at the request of the person administering the Government of this State, or a judge of the supreme court, \$5 for every day they shall so attend.

In the Court of Common Pleas and Mayor's Court.

*Fees to the First Judge.*

For a license to an attorney, \$1.

*Fees to the Recorder in the several Mayor's Courts.*

For the first motion in every cause, 75 cents.

*Fees to be divided among the Judges who are present when the service is done.*

For the first motion in every cause in the court of common pleas,  $37\frac{1}{2}$  cents; admitting a person to practise as an attorney,  $\$1\ 87\frac{1}{2}$  cents; admitting a guardian on the act for the partition of lands, 25 cents.

*Fees to be paid to the Judge, Mayor, or Recorder who does the service.*

For admitting an infant by guardian or next friend, 19 cents; taking bail in his own court, 25 cents; in the supreme court,  $37\frac{1}{2}$  cents; taking acknowledgment of satisfaction out of court,  $12\frac{1}{2}$  cents; attending or showing cause of action, or other special matter out of court, 25 cents; taking an affidavit,  $12\frac{1}{2}$  cents; allowing a warrant of attorney,  $12\frac{1}{2}$  cents; taking and drawing acknowledgment or proof of a deed or mortgage, lease and release to be considered as one deed,  $37\frac{1}{2}$  cents; a certificate or order concerning an insolvent debtor,  $37\frac{1}{2}$  cents; for a warrant, order, report, certificate, or appointment of trustees, in pursuance of the act concerning absconding and absent debtors,  $37\frac{1}{2}$  cents; signing a judgment,  $12\frac{1}{2}$  cents; taxing a bill of costs, 25 cents; but no judgment shall be signed or taxation of costs made by any assistant judge of any court.

*Fees of the Justices of the Peace.*

For a precept to summon a jury to inquire of a forcible entry or detainer,  $37\frac{1}{2}$  cents; administering an oath,  $12\frac{1}{2}$  cents; swearing a jury to inquire of a forcible entry or detainer, 25 cents; a precept to summon a jury to try a traverse of the force,  $37\frac{1}{2}$  cents; swearing a jury to try the traverse, 25 cents; drawing the conviction on a forcible entry or detainer,  $\$1$ ; a warrant of restitution,  $37\frac{1}{2}$  cents; a *mittimus* for a fine or forfeiture, 19 cents; a warrant against any person for a breach of the peace or misdemeanor, 19 cents; a bond or recognizance, 25 cents; a summons upon a penal law,  $12\frac{1}{2}$  cents; drawing a conviction,  $37\frac{1}{2}$  cents; a warrant to levy a penalty, 19 cents.

*The Attorneys' Fees in the Court of Common Pleas and Mayor's Court.*

For a retaining fee,  $\$2\ 50$  cents; but where several suits are brought upon one obligation, note, or bill of exchange, no more than one retaining fee shall be allowed, nor shall any retaining fee be allowed in any suit upon a bail bond, or to the defendant's attorney upon confessing judgment on a bond by virtue of a warrant of attorney; for a warrant of attorney,  $12\frac{1}{2}$  cents; drawing a copy of a plaint, 19 cents; every necessary motion, 25 cents; drawing a declaration, 75 cents; copy of a declaration,  $37\frac{1}{2}$  cents; drawing a plea, 25 cents; copy thereof,  $12\frac{1}{2}$  cents; drawing all other pleadings,  $12\frac{1}{2}$  cents; for each sheet containing seventy-two words; and for a copy thereof, 6 cents for each sheet; drawing a writ of inquiry and copy,  $\$1\ 12\frac{1}{2}$  cents; drawing every notice of trial, copy and service, 25 cents; copy and serving on the judge or judges,  $12\frac{1}{2}$  cents; drawing every other notice, copy, and service, 19 cents; drawing a brief for trial, or inquest, and copy, 75 cents; fee on trial, or for arguing demurrer, or special verdict,  $\$2$ ; fee on inquest or assessment of damages by the clerk,  $\$1$ ; attendance on a judge on examining a witness, or showing cause of action, or to mitigate bail, or other special matter, 25 cents; attendance on taxing costs, 25 cents; copy of a bill of costs to be taxed for the opposite party or his attorney, when required, 25 cents; drawing and copy of record of judgment,  $\$1\ 50$  cents.

*Fees of the Clerks of the Court of Common Pleas and Mayor's Court.*

For every writ of *capias*, entering the action and seal, 25 cents; a bond given by the plaintiff to prosecute when necessary, 25 cents; copy of a declaration, when required,  $37\frac{1}{2}$  cents; for copies of all other pleadings, when required, 6 cents for every sheet of seventy-two words; filing every declaration or other pleading on paper, 6 cents; entering a *retraxit*, or discontinuance, or satisfaction,  $12\frac{1}{2}$  cents; entering every rule,  $12\frac{1}{2}$  cents; and for a copy thereof, when required,  $12\frac{1}{2}$  cents; attending the striking or balloting a jury, or both, and making a copy of the panel for each party, 50 cents; entering an appearance or default, 6 cents; entering the return of every writ, 6 cents; and filing the writ, 6 cents; drawing special bail, when he does it,  $12\frac{1}{2}$  cents; reading and entering allowance of *habeas corpus*, writ of error, or *certiorari*, and for the return thereof, 50 cents; a *venire* or other jury process and seal,  $37\frac{1}{2}$  cents; a subpoena, 25 cents; calling a panel and swearing a jury, 19 cents; swearing each witness on trial, 6 cents; and swearing a constable, 6 cents; reading every paper given in evidence, 6 cents; receiving and entering a verdict,  $12\frac{1}{2}$  cents; entering judgment,  $12\frac{1}{2}$  cents; sealing a writ of inquiry, 19 cents; every report of damages assessed by him,  $\$1$ ; drawing a jury and making a panel at the instance of the sheriff or other proper officer, on jury process, 75 cents; making and returning a book of freeholders for striking a jury,  $\$3\ 75$  cents; an execution and seal,  $37\frac{1}{2}$  cents; entering recognizance of bail on record, 25 cents; drawing and copy of a record of judgment, when done by him,  $\$1\ 50$  cents; and for a copy to be signed when the attorney makes the draught, 75 cents; searching the records in any one year,  $12\frac{1}{2}$  cents; and for every other year in which search is made, 3 cents; for swearing each witness to a will or codicil, 6 cents; docketing a judgment,  $12\frac{1}{2}$  cents; filing a record, 6 cents; searching for a judgment in one term,  $12\frac{1}{2}$  cents; and in every other term in which such search is made, 6 cents; drawing the proof of wills or codicils,  $12\frac{1}{2}$  cents for each sheet of seventy-two words; recording deeds, wills and codicils, and the proof thereof required by law, 19 cents for each sheet containing one hundred and twenty-eight words; and for copies thereof, when required,  $12\frac{1}{2}$  cents for each sheet containing one hundred and twenty-eight words; entering or registering each mortgage,  $\$1$ ; entering satisfaction on every mortgage, 25 cents.

And the said clerk, as clerk of the general sessions of the peace, shall be entitled to the same fees for the like services as he is entitled to receive as clerk of the oyer and terminer and general jail delivery; and no person being bound by recognizance to appear and answer, or indicted and fined either in the supreme court or any court of oyer and terminer and jail delivery, or general sessions of the peace, shall be discharged until such person shall have paid the fees of the clerks of the said courts respectively.

*The Sheriff's Fees in the Court of Common Pleas and Mayor's Court.*

For serving a writ,  $37\frac{1}{2}$  cents; mileage to be computed as in the supreme court, 6 cents per mile; every bail bond,  $37\frac{1}{2}$  cents; returning a writ, if served, 9 cents; summoning a jury, 75 cents; a copy of the panel of the jurors, 12 cents; attending a view,  $\$1\ 25$  cents per day, and going and returning  $\$1$  per day; every demand of a defendant upon an exigent, and every proclamation on a writ of proclamation, or in a real action,  $12\frac{1}{2}$  cents; for serving an execution for or under two hundred and fifty dollars, 6 cents for every two dollars and fifty cents; and for every two dollars and fifty cents more, 3 cents; the poundage on writs of *feri facias*, and all other writs for levying money to be taken only on the sum levied; for serving a writ of possession or restitution, with the aid of the posse comitatus,  $\$2\ 50$  cents; and without such aid,  $\$1\ 25$  cents; and mileage, going only, for every mile from the place

fixed by law, 6 cents; for every person committed to prison,  $37\frac{1}{2}$  cents; for discharging every person from prison,  $37\frac{1}{2}$  cents; for executing a writ of inquiry, summoning the jury for the purpose, and returning the inquisition, \$1 50 cents; for attending with a prisoner before a judge, on his being surrendered by or in discharge of his bail, and receiving the prisoner into custody, 50 cents; for copy of every writ, when demanded,  $12\frac{1}{2}$  cents; for serving an attachment against the estate of an absconding or absent debtor, so much as the judge who issues the warrant shall certify to be reasonable.

*Provided*, That no sheriff shall be allowed any fee for the service or execution of any mesne process returnable on the first day of any term, unless the same shall be returned during such term; nor on any such process returnable on any subsequent day of any term, unless the same shall be returned within twenty days after the return day.

*The Crier's Fees in the Courts of Common Pleas, Sessions, and Mayor's Courts.*

For calling every action, 9 cents; for calling a jury,  $12\frac{1}{2}$  cents; for calling and swearing a witness, 6 cents; for ringing the bell, for every action, 9 cents; for calling a defendant, 6 cents; for calling a plaintiff, on a nonsuit, 6 cents; for making proclamation for the discharge of any person, 6 cents; for calling any person on recognizance, 6 cents.

*The Coroner's Fees.*

For the view of each body, \$3 75 cents: *Provided*, That in Richmond county the coroner's fees shall be no more than \$2 50 cents; for serving writs in all cases the like fees as are hereinbefore allowed to the sheriff for the like service; and the fees of the coroner for taking inquests in each county shall be certified by at least two of the supervisors, and paid by the treasurer of the county; and in the city of New York, the same shall be paid in the same manner as the other contingent charges in the said city are directed to be paid.

*The Jurors' Fees in the Common Pleas and Mayor's Courts.*

For every juror sworn in each action in the mayor's court of the city and county of New York,  $12\frac{1}{2}$  cents; and in any other court of common pleas or mayor's court, 25 cents; for each juror attending a view, 50 cents per day; for every struck juror, 75 cents per day.

*The Constable's Fees.*

For serving a warrant, 19 cents; for serving a summons,  $12\frac{1}{2}$  cents; for mileage, for every mile, going only, 6 cents; for levying a fine or penalty to the amount of two dollars and fifty cents or under,  $12\frac{1}{2}$  cents; and on all sums above two dollars and fifty cents at the rate of  $12\frac{1}{2}$  cents on every two dollars and fifty cents; for taking a defendant in custody on a *mittimus*,  $12\frac{1}{2}$  cents; for conveying a person to jail,  $12\frac{1}{2}$  cents, if within one mile, and for every mile more, going only, 6 cents.

*Fees of the Court of Probates.*

For administering an oath,  $12\frac{1}{2}$  cents; for drawing the proof of a will or codicil, 19 cents for each sheet containing one hundred and twenty-eight words; for the probate of a will and the letters testamentary thereon, or letters of administration, 19 cents for each sheet of one hundred and twenty-eight words; for affixing the seal to the same, 75 cents; for drawing and copy of bond on granting letters of administration, 50 cents; for recording wills, codicils, and the proof thereof, and letters testamentary, and letters of administration, 19 cents for each sheet containing one hundred and twenty-eight words; for entering and filing a *caveat*, 19 cents; for a citation to witnesses, or for any other purposes, including the seal, 75 cents; for taking, and entering, and filing a renunciation,  $37\frac{1}{2}$  cents; for filing an inventory,  $12\frac{1}{2}$  cents; for searching the records in his office in any one year,  $12\frac{1}{2}$  cents; and for every other year in which such search is made, 6 cents; for filing a petition,  $12\frac{1}{2}$  cents; for making and entering every order, 75 cents; for taking depositions, 19 cents for each sheet containing one hundred and twenty-eight words; for copies of all records, depositions, or other pleadings, when required,  $12\frac{1}{2}$  cents for each sheet containing one hundred and twenty-eight words; for every decree or sentence in suits for legacies, or distributions, or order for the sale of any real estate, \$3 75 cents; for an execution, \$1 25 cents; for hearing and determining where a will or administration is contested or upon appeal, \$2 50 cents; for the seal to exemplifications, 75 cents.

*Fees of the Surrogates.*

For administering an oath,  $12\frac{1}{2}$  cents; for drawing the proof of a will or codicil, 19 cents for each sheet containing one hundred and twenty-eight words; for the probate of a will and letters testamentary thereon, or letters of administration, 19 cents for each sheet containing one hundred and twenty-eight words; for the seal to the same, 75 cents; for the bond upon granting letters of administration, 50 cents; for recording wills, codicils, and the proof thereof, and letters testamentary, and letters of administration, 19 cents for each sheet containing one hundred and twenty-eight words; for entering and filing a *caveat*, 19 cents; for filing every petition for the sale of any real estate,  $12\frac{1}{2}$  cents; for making and entering every order thereon, 75 cents; for every decree or order for the sale of any real estate, \$3 75 cents; for a citation for witnesses, or any other purpose, including the seal, 75 cents; for taking, entering, and filing a renunciation,  $37\frac{1}{2}$  cents; for filing an inventory,  $12\frac{1}{2}$  cents; for searching the records in his office for any one year,  $12\frac{1}{2}$  cents; and for every other year in which said search is made, 6 cents; for taking depositions, 19 cents, each sheet containing one hundred and twenty-eight words; for copies of records or depositions, when required,  $12\frac{1}{2}$  cents for each sheet containing one hundred and twenty-eight words; for hearing and determining where a will or administration is contested, \$2 50 cents; for the seal to exemplifications, 75 cents; but no fees shall be demanded or taken by any surrogate in any case where it shall appear to him; by the oath of the person applying for letters testamentary or of administration, that the goods, chattels, and credits, of the testator or intestate do not exceed the value of \$37 50.

*Witnesses' Fees in the several Courts, and the charges of summoning them.*

For each witness attending in his own county, 25 cents per day, besides his reasonable expenses; for attending from a foreign county, and coming and returning, 50 cents per day, besides his reasonable expenses; for the judge of the court of probates, the Secretary of the State, or any clerk or surrogate attending on subpoena with wills, records, or other written evidence, \$1 25 cents per day; for every surveyor, for going to and returning from a view, and going to, attending at, and returning from, the trial, \$1 25 cents per day; and for his actual service on the view, \$2 50 cents per day; for serving a subpoena on each witness,  $12\frac{1}{2}$  cents.



*Fees to be paid to the Secretary,*

Who shall keep an account of such fees, and exhibit the same quarter-yearly to the comptroller of this State, who shall examine and file the same in his office, and certify the amount thereof to the treasurer, and the said secretary shall pay the same to the treasurer.

For writing a *caveat*, 12½ cents; for searching the records in his office for any one year, 12½ cents; and for every other year in which such search is made, 6 cents; for copies of records, 12½ cents for each sheet containing one hundred and twenty-eight words; for every patent for lands, for a single lot, the sum of eight shillings; for each patent for more than one and less than four, the sum of twelve shillings for each patent; for more than three, and less than nine lots, the sum of sixteen shillings; and for each patent, for more than eight lots, the sum of twenty-four shillings; which fees shall be paid by the person or persons in whose favor any patent or patents shall issue.

SEC. 2. *And be it further enacted*, That no person empowered to administer oaths shall demand or take any fee for administering the oath of allegiance or oaths of office to the members of the Legislature, nor more than twenty-five cents for administering such oaths to any other officer.

SEC. 3. *And be it further enacted*, That whenever the same person shall act as attorney and counsel, or as solicitor and counsel in the same cause, he shall not be entitled for the same service to fees, both as counsel and attorney, or as counsel and solicitor, but shall be allowed the fees of counsel only, in the courts of common law and chancery, for the particular service done as counsel; and the fees of an attorney or solicitor only for the particular service done as attorney or solicitor, and shall not, in any such case, be allowed any fees for attending upon or consulting with counsel, or for any copies of papers, pleadings, or records, for counsel.

SEC. 4. *And be it further enacted*, That if any person shall, knowingly or wilfully, exact or compel any person to pay for any of the services aforesaid any other or greater fee, sum of money, or reward, than is hereinbefore allowed for the same, every such person, upon conviction thereof, either at the suit of the party grieved, or upon information or indictment, shall pay to the party grieved treble damages, and such fine to the people of the State of New York as the court in which such conviction shall be had shall think proper to impose, and shall, also, if an officer, forfeit and lose his office.

SEC. 5. *And be it further enacted*, That all former acts regulating the fees of the said several officers and ministers of justice, shall be, and the same are, hereby repealed.

## STATE OF NEW JERSEY.

## AN ACT to regulate fees.

SECTION 1. *Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That a sheet or folio shall contain one hundred words; and in all cases where an entry of any writing or copy is to be paid for, the said sheet shall consist of one hundred words.

SEC. 2. *And be it enacted*, That the officers and persons in this act named shall be entitled to demand and receive, for the services hereinafter mentioned, the fees thereto respectively annexed, and no more.

*The Governor.*

For a license of marriage, hand and seal, \$1 34; for the seal to every probate of a will or letter of administration, \$1 20; for every writ of error or other original writ, 40 cents; for the first rule in every cause in error, \$1; for every judgment in a cause in error, \$1; for a license to an attorney and solicitor, \$3; for a license to a counsellor-at-law, \$3; for the seal to a sheriff's commission, \$1; for the seal to a commission for a clerk of any court, \$1; for the seal to every certificate, exemplification, or other paper, \$1 20.

## Fees of the Court of Errors.

*The Clerk's Fees:*

For reading and filing the writ, return, and record, 34 cents; for filing every affidavit or other proceeding, 12 cents; for entering every rule, 20 cents; for every certified copy of a rule, 20 cents; for entering every appearance, 12 cents; for entering every judgment, 25 cents; for entering every judgment and *remittitur* on the roll, for each sheet, 12 cents; for the seal to any record or process, 50 cents; for copies of records, pleadings, and other proceedings, for each sheet, 9 cents; for taxing a bill of costs, 50 cents.

*The Fees of the Secretary of this State.*

For every order, warrant, or certificate, under the Governor's hand and seal, countersigned by the Secretary, 40 cents; for entering deeds and other writings on the record, for each sheet, 5 cents; for every copy of the same, and other papers in his office, for every sheet, 5 cents; for a commission for a sheriff, \$1 34; for a commission for a clerk in any court, \$1 34; for searching the records, for every book, 7 cents; for a license to an attorney and solicitor, \$3; for a license to a counsellor-at-law, \$3; and for every other commission to be paid by the treasurer of this State, 25 cents; for drawing a certificate to pass under the great seal or any other seal, and engrossing the same, for each sheet, 12 cents.

## Fees of the Prerogative Office.

For engrossing a last testament and will and probate, for each sheet, 12 cents; for engrossing letters of administration, for each sheet, 12 cents; for recording last testaments and wills, and letters of administration, for each sheet, 8 cents; for filing every last testament and will, 10 cents; for recording inventory, for each sheet, 8 cents; for filing inventory, 8 cents; for every bond taken in the office, 34 cents; for every marriage license, \$1 20; for entering and filing *caveat*, 20 cents; for searching the records for any one year, 12 cents.

## Fees of the Prerogative Court.

*The Ordinary.*

For making every order or rule, \$1; for the seal to citation, monition, or process, 50 cents; for hearing and determining every appeal, \$4.



*The Register.*

For drawing citation, monition, or process, \$1; for entering every order or rule of court, 20 cents; for copy thereof, 14 cents; for entering and filing appeal, 20 cents; for filing every petition, pleading, or other paper, 14 cents; for reading the same, 14 cents.

## Fees of the Court of Chancery.

*The Chancellor's Fees.*

For seal to every common writ, 40 cents; for every opinion or order on a petition or motion controverted and argued in court, \$1 34; for every order on petition out of court, 66 cents; for every common motion, 75 cents; for every dismissal of a bill for want of prosecution, \$1 34; for every decree, \$2 50.

*The Fees of Masters.*

For every summons, 40 cents; for copy of all charges and discharges brought before the master, and scheduling writings, for each sheet, 10 cents; for every report in pursuance of an order made upon hearing a cause, \$1 34; for every other report made upon petition or motion only, 67 cents; for drawing every report, for each sheet, 14 cents; swearing a defendant to an answer or plea or taking an affidavit, 20 cents.

*Clerk's Fees.*

For entering action, 20 cents; for entering appearance of the defendant, 20 cents; for filing every bill, answer, plea, replication, and other pleading, and every affidavit, petition, report, examination, deposition, or other paper, 12 cents; for copy of the same, for each sheet, 8 cents; for entering rule to answer, reply, or other rule in a cause, 20 cents; for copy thereof, 12 cents; for searching for any bill, answer, pleading, or other paper, for every year in which such search is made, 8 cents; for entry of every dismissal, 50 cents; for every commission to examine witnesses, \$1 34; for entering a cause for argument or hearing, 50 cents; for swearing every witness, 8 cents; for attending court on argument or hearing with the bill, answer, pleadings, and other documents and papers filed in the cause, 50 cents; for reading every bill, answer, or other pleading, document, or paper on argument or hearing, 20 cents; for money brought into court by order, and lodged with him, after the rate of one cent per dollar.

*Examiner's Fees.*

Taking the examination of every witness, for each sheet, 20 cents; certifying every exhibit shown to a witness, 30 cents.

*Fees of Solicitor and Counsel.*

For a retaining fee, \$2 00; drawing every bill, answer, plea, demurrer, replication, and other pleading, and drawing exceptions and other proceedings, for each sheet, 20 cents; engrossing the same, for each sheet, 10 cents; drawing and engrossing every subpoena or attachment, 70 cents; drawing other process and writs, for each sheet, 20 cents; drawing notice of every motion, copy, and service, 40 cents; every motion of course, 80 cents; but no motion to be allowed for common process, nor for rules to answer, reply, or the like, which are to be entered of course by the clerk; every special motion, \$1 50; counsel arguing every plea or demurrer, or upon petition, or exceptions, or other special matter, \$3 00; counsel arguing upon the final hearing, \$4 00; but no costs to be taxed for more than one counsel in a cause; drawing every decree, for each sheet, 20 cents; engrossing the same, for each sheet, 12 cents; for copy of every bill of costs to be taxed before a decree, 20 cents; copy of every bill of costs to be taxed after a decree, 30 cents; every term fee, 80 cents; but no more than three term fees to be allowed in any cause.

*Sheriff's Fees.*

To be the same as for the like services in the supreme court.

*Fees of the Sergeant-at-arms in the Court of Chancery.*

For attending the court at each of its stated terms, for every day, to be paid by the treasurer, \$1 00; for attending every special sitting for the argument of any plea or demurrer in any cause or causes, to be paid by the party or parties applying for such special sitting, and to be taxed to him or them in his or their bill of costs, if costs shall be adjudged, \$1.

## In the Supreme Court.

*Fees to be divided among the Judges who are attending court when the service is performed.*

For a license to an attorney and solicitor, \$3 00; for a license to a counsel, \$3 00; for the first motion in every cause, 80 cents; for the trial or argument of every cause, \$1 00; for assessment of damages, \$1 00; for every recognizance, 40 cents; for every rule in a cause, 34 cents.

*Fees to be paid to the Judge who shall perform the service.*

For drawing order for bail, 40 cents; for taking bail, 40 cents; for every justification or disallowance of bail, 40 cents; for taking every affidavit, 14 cents; for allowing every writ of error, *habeas corpus*, *certiorari*, prohibition, *procedendo*, *supersedeas*, or other writ, where an allowance is necessary, 50 cents; for making a return of a writ of error, examining and annexing a transcript of the record thereto, and delivering the same to the court of appeals, \$3 00; for signing and returning *postea*, \$1 00; for order of commitment of every person surrendered by or in discharge of his bail, 40 cents; for signing judgment, 50 cents.

*Counsel's Fees in the Court of Appeals and Supreme Court.*

For trial of a case, or arguing a demurrer or special verdict, \$3 00; but no costs to be taxed for more than one counsel on each side; for attending the court of appeals to make or oppose a motion, \$1 50.

*Fees of Attorneys-at-law.*

For a retaining fee in each cause, except in ejectment, \$1 00; for drawing every summons, *capias*, or other mesne process, 34 cents; for drawing a warrant of attorney, 10 cents; for copy thereof, 7 cents; for drawing every affidavit, 14 cents; for copy of the same, when necessary, 7 cents; for drawing special bail-piece and attending the

judge, 40 cents; for drawing notice of justification of bail, 30 cents; for copy and service thereof, 20 cents; for every declaration, plea, or other pleading, not exceeding three sheets, 70 cents; for copy thereof, when necessary, 30 cents; for every writ of error, dower, replevin, *habeas corpus*, *certiorari*, prohibition, *procedendo*, *scire facias*, *venire*, or *distringas*, 60 cents; for every declaration, plea, replication, or other pleading, exceeding three sheets, for every sheet, 20 cents; for copy thereof, 12 cents; for copy of bond, note of hand, account, or other deed, or writing, for every sheet, 9 cents; for every special motion, not exceeding two in any cause, 80 cents; for every subpoena, 34 cents; for every ticket for the same, 10 cents; for drawing notice of every motion, where notice of the same is necessary, 25 cents; for copy and service thereof, 20 cents; for attendance on striking a jury, \$1 00; for drawing notice of trial, 25 cents; for copy and service thereof, 20 cents; for drawing every *breviat*, 40 cents; for copy thereof, 14 cents; for arguing every special motion, \$1 25; for arguing demurrer or special verdict, or trying every cause, except a cause in ejectment, \$2 00; for drawing notice of taxing costs, where necessary, 25 cents; for copy and service thereof, 20 cents; for drawing *capias ad satisfaciendum*, 50 cents; for drawing execution against goods and chattels, 50 cents; for drawing execution against goods and lands, 70 cents; for term fee, 80 cents; but no more than two term fees to be allowed where judgment is entered by default, nor more than three in any case; for drawing declaration in ejectment, \$1 50; for retaining fee in ejectment, \$1 50; for every attendance before the court of errors, in order to make or oppose a motion, \$1 00.

#### *Fees of the Attorney General.*

For every indictment to which the defendant or prisoner pleads guilty, \$10 00; for every indictment to which the defendant or prisoner pleads guilty, and afterwards retracts his plea and pleads not guilty, \$12 00; for every indictment to which the defendant or prisoner pleads not guilty, is tried, and found guilty, \$15 00; the above sums to be in full of the taxable costs and charges of the attorney general; but no costs shall be allowed where the indictment is quashed, the defendant is acquitted, or the judgment is arrested.

#### *Fees of the Clerk of the Supreme Court in civil cases.*

For drawing every summons, *capias*, subpoena, or other process, if he shall do it, 34 cents; for sealing every writ, 14 cents; for entering every action, 10 cents; for entering an appearance or default, 14 cents; for entering the return of a writ, 14 cents; for entering every rule of court, 16 cents; for a certified copy thereof, when required, 12 cents; for filing every writ, declaration, pleading, roll, or other paper, 8 cents; for entering every *retraxit*, discontinuance, or nonsuit, 15 cents; for reading every petition, and entering order thereon, 20 cents; for every copy of such order, 12 cents; for searching the records, 20 cents; for calling and swearing every jury, 40 cents; for swearing each witness, 8 cents; for reading every record, deed, or writing, given in evidence, 14 cents; for swearing a constable to attend a jury, 8 cents; for taking a general verdict, and entering the same, 20 cents; for entering judgment, 12 cents; for entering every special verdict or demurrer to evidence, for each sheet, 12 cents; for copies of writs, declarations, pleadings, special verdicts, demurrers to evidence, records, and other papers, for each sheet, 8 cents; for reading and entering a *postea*, 20 cents; for entering satisfaction on record, 20 cents; for entering confession of lease, entry, and ouster, 20 cents; for recording every judgment in the book of judgments, \$1 00; for taxing every bill of costs, 50 cents.

#### *Fees of the Clerk of the Supreme Court, and of the Courts of Oyer and Terminer and General Jail Delivery, in criminal cases.*

For entering every indictment and filing the same, 20 cents; for every process, subpoena, or other writ, 34 cents; for sealing the same, 14 cents; for every ticket for a subpoena, 10 cents; for entering an appearance or default, 14 cents; for entering a recognizance taken in court, 20 cents; for discharging by proclamation and entering the same, 20 cents; for entering and filing a plea, 14 cents; for entering a relinquishment of a plea, 8 cents; for entering an order or rule of court, 16 cents; for a certified copy thereof, when required, 12 cents; for calling and swearing every jury, 40 cents; for swearing each witness, 8 cents; for reading every record, deed, or writing given in evidence, 14 cents; for swearing constable to attend jury, 8 cents; for taking and entering a general verdict, 20 cents; for entering every special verdict, for each sheet, 12 cents; for entering judgment, 12 cents; for copies of writs, indictments, pleadings, special verdicts, and other papers, for each sheet, 8 cents, but no costs to be allowed where the indictment is quashed, judgment arrested, or the defendant acquitted, or discharged for want of prosecution; for taxing every bill of costs, 50 cents.

#### *Fees of the Clerks of the Circuit Courts.*

For entering every action, 10 cents; for filing every *nisi prius* record, 10 cents; for entering every nonsuit and rule, 10 cents; for a copy of a rule, 8 cents; for filing every *venire* or *distringas* and return, 10 cents; for entering every appearance or default, 10 cents; for entering confession of lease, entry, and ouster, 16 cents; for calling and swearing a jury, 30 cents; for swearing each witness, 8 cents; for reading every record, deed, or writing, given in evidence, 12 cents; for filing every bill of exceptions, 10 cents; for a copy thereof, for each sheet, 8 cents; for swearing a constable to attend a jury, 8 cents; for taking and entering a general verdict, 20 cents; for entering in the minutes every special verdict or demurrer to evidence, for each sheet, 12 cents; for copy thereof, for each sheet, 8 cents; for drawing *postea*, when a general verdict is found, 70 cents; for taxing a bill of costs, 50 cents; for drawing *postea*, in case of a special verdict or demurrer to evidence, for each sheet, 8 cents.

#### *Fees of Sheriffs.*

For serving an attachment against the estate of an absconding or absent debtor, \$2 50; for serving a *capias ad respondendum* or other mesne process, \$1 50; for serving a *capias ad satisfaciendum*, \$1 50; for returning every writ, 12 cents; for mileage on serving every writ, 2 cents, out and in, for every mile, to be computed from the court-house, but the whole mileage shall, in no case, exceed \$2: *Provided*, That no mileage shall be allowed on a writ of *feri facias*, partition, possession, restitution, *seisin*, *venire facias*, *distringas*, or inquiry; for serving every declaration in trespass and ejectment, and mileage as aforesaid, \$2; for taking every bail-bond in the supreme court, 70 cents; for taking every bail-bond in the court of common pleas, 35 cents; for serving every *venire facias* or *distringas* and return, \$1; for producing the list of freeholders, and attending the judge within the county, \$2 70; and, if out of the county, 20 cents for every mile from the court-house of his county to the place where he shall attend the judge, in addition to the said fee of \$2 70; for summoning a special jury, \$2 70; for attending a jury of view, each day, \$1 50; for executing every writ of partition, swearing the jury, and making return of the writ, \$3; and, if the execution of the said writ shall occupy more time than one day, then, in addition to the above sum,

he shall be allowed after the rate of \$1 50 a day, for every day more that he shall attend the said jury; for executing every writ of possession and return, \$2; for executing every writ of inquiry, summoning the jury, and returning the inquisition, \$2; for serving every execution, if it be of or under one hundred dollars, \$1; and if it be above that sum, 2 cents on every dollar, to be computed on the amount of the debt or damages paid or secured to the plaintiff, by sale or otherwise; for advertising the property for sale, provided the sheriff or deputy sheriff attend in pursuance of the advertisement, \$3 50; for the crier of the vendue, when the sheriff proceeds to sell, for every day he shall be actually employed in such sale, \$1; for every adjournment of a sale, \$1, but no more than one adjournment shall be allowed; and if the sheriff shall have several executions against a defendant, he shall only be allowed for advertising, attending, and adjourning, as if he had but one execution; for a deed to a purchaser of real property, \$2 50; for every person committed to prison, 25 cents; for discharging every person from prison, 12 cents; for victualling a prisoner for every day, 10 cents; for attending with a prisoner before a judge, on his being surrendered by or in discharge of his bail, and receiving him into custody, \$1 50: That the sheriff shall file his taxed bill of costs with the clerk of the court, out of which execution issued, at the term next after the sale of the property, or, in default thereof, he shall not be entitled to any costs; and, if any sheriff shall charge, in such bill of costs, for services not done, or not allowed by law, or shall take any greater fee or reward for any service by him done than is or shall be allowed by law, he shall pay to the party aggrieved \$30, to be recovered by action of debt, with costs.

In the Courts of Common Pleas.

*Fees to be divided among the Judges, who are attending court when the service is performed.*

For the first motion in every cause, 50 cents; for every rule in a cause, 20 cents; for the trial or argument of every cause, 50 cents; for assessment of damages, 75 cents; for every writ of error or *habeas corpus* allowed and entered, 20 cents.

*Fees to be paid to the Judge who performs the service.*

For drawing order for bail, 25 cents; for taking bail, 25 cents; for every justification or disallowance of bail, 25 cents; for taking every affidavit, 10 cents; for order of commitment of every person surrendered by or in discharge of his bail, 20 cents; for signing every judgment, 50 cents.

In the Courts of General Quarter Sessions.

*Fees to be divided among the Justices, who are attending court when the service is performed.*

For the first motion in a cause, 50 cents; for every rule in a cause, 20 cents; for the trial or argument of every cause, 50 cents; for every recognizance, 25 cents.

*Fees to be paid to the Justice of the Peace, who performs the service, where he is entitled to fees, and they are not otherwise ascertained by law.*

For every recognizance, 25 cents; for a pass, 20 cents; for a *mittimus*, 25 cents; for taking examinations, for each sheet, 14 cents; for every oath or attestation, 5 cents; for a warrant against a person for a breach of the peace or a misdemeanor, 25 cents; for a summons on a penal law, 13 cents; for drawing a conviction, 25 cents; for a warrant to levy a penalty, 25 cents.

*Fees of the Clerks of the Courts of Common Pleas.*

For drawing every summons, *capias*, or other process, if he shall do it, 30 cents; for sealing every writ, 14 cents; for entering every action, 8 cents; for entering an appearance or default, 10 cents; for entering the return of a writ, 10 cents; for entering every rule of court, 10 cents; for a certified copy thereof, when required, 8 cents; for filing every writ, declaration, pleading, roll, or other paper, 8 cents; for entering every *retraxit*, discontinuance, or nonsuit, 8 cents; for reading every petition and entering order thereon, 15 cents; for every copy of such order, 10 cents; for searching the records, 12 cents; for calling and swearing the jury, 20 cents; for swearing each witness, 6 cents; for reading every record, deed, or writing, given in evidence, 10 cents; for swearing constable to attend a jury, 6 cents; for taking and entering a general verdict, 8 cents; for entering judgment, 8 cents; for entering every special verdict or demurrer to evidence, for each sheet, 10 cents; for taxing every bill of costs, 50 cents; for recording every judgment in the book kept for that purpose instead of judgment rolls, \$1 00; for copies of writs, declarations, pleading, special verdicts, records, and other papers, for each sheet, 8 cents; for entering satisfaction on record, 14 cents; for reading and entering every allowance of a writ of error, *habeas corpus*, or other writ requiring an allowance, and returning the same, 50 cents; for entering deeds of conveyances on the record, for each sheet, 6 cents; for searching the records of such deeds, 7 cents.

*Fees of the Clerks of the Courts of General Quarter Sessions.*

For entering and filing an indictment, 16 cents; for every process, subpoena, or other writ, 25 cents; for sealing the same, 14 cents; for every ticket for a subpoena, 9 cents; for entering an appearance or default, 10 cents; for entering a recognizance taken in court, 15 cents; for entering and filing a plea, 8 cents; for discharging by proclamation and entering the same, 15 cents; for entering the relinquishment of a plea, 8 cents; for reading every petition and entering order thereon, 15 cents; for copy of such order, 10 cents; for every rule or order of court, 10 cents; for copy of such rule or order, 8 cents; for searching the records, 12 cents; for calling and swearing the jury, 20 cents; for swearing each witness, 6 cents; for reading every record or other writing given in evidence, 10 cents; for swearing constable to attend a jury, 6 cents; for taking and entering a general verdict, 8 cents; for entering judgment, 8 cents; for entering every special verdict, for each sheet, 10 cents; for copies of writs, indictments, pleadings, special verdicts, and other papers, for each sheet, 8 cents; for entering the allowance of every *habeas corpus*, writ of error, or *certiorari*, and returning the same, 50 cents; but no cost to be allowed where the indictment is quashed, judgment arrested, or the defendant acquitted or discharged for want of prosecution; for taxing bill of costs, 50 cents.

*Fees of Coroners.*

For the view of a dead body, \$2 00; for a precept to summon a jury, 50 cents; for swearing the jury, 25 cents; for swearing every witness, 6 cents; for drawing and returning the inquisition, \$1 00; for taking examinations in writing, for each sheet, 14 cents; for burying a dead body, \$4 00.

Which fees the collector of the county is hereby authorized and required to pay, on being taxed by the clerk of the court of common pleas of the county; and the said county collector shall be allowed the same, in the settlement of his accounts with the treasurer of the State.

Serving writs, advertising property, and making deeds, the same fees as are by law allowed to sheriffs for the same services, and under the like restrictions and regulations.

#### *Criers' Fees.*

For calling every action, 9 cents; for calling a jury, 12 cents; for swearing a witness, 6 cents; for calling the plaintiff on a nonsuit, 8 cents; for calling the defendant on a default, 8 cents; for calling the defendant on a recognizance, 8 cents; for calling the bail on a recognizance, 8 cents; for making proclamation to discharge a person, 8 cents.

#### *Fees of Jurors.*

Every juror, for each action on which he is sworn or affirmed, including a writ of inquiry, coroner's inquest, and indictment, 25 cents; for every juror who appears in a cause, but is not sworn or affirmed, 12 cents; for every juror going to, attending, and returning from, a view, for each day, \$1 00; for every juror from a foreign county, going to, attending at, and returning from, court, being sworn or affirmed in a cause, for each day, \$1 00; for every such juror who attends, and is not sworn or affirmed, to be allowed for going to, attending at, and returning from, court, after the rate of 50 cents for each day.

[No compensation whatever is allowed to grand jurors.]

#### *Fees of Witnesses.*

For every witness attending a court, or commissioners, or referees, or arbitrators, in his own county, for each day, 50 cents; for every witness, from a foreign county, attending a court, or commissioners, or referees, or arbitrators, after the rate of \$1 a day, in which shall be included his or her going to, and returning from, the same, allowing one day for every thirty miles from and to his or her place of residence.

#### *Fees to the Secretary.*

For the Secretary of this State, or any clerk attending on subpoena, with wills, records, or other written evidence, after the rate of \$1 00 a day, and mileage as aforesaid.

#### *Fees of Surveyors.*

Every surveyor, for his actual service on a view, for each day, \$2 00; every surveyor, for his going to and returning from a view, for each day, \$1 00; for every chain-bearer, on a view, for each day, 70 cents; for serving a subpoena on each witness, 13 cents.

#### *Fees of the Constable, where he is entitled to fees, and they are not otherwise ascertained by law.*

The constable shall, for the same services, be allowed the same fees as are established by the act constituting courts for the trial of small causes; and, also, seventy-five cents per day each, for every day he shall attend at the supreme courts, circuit courts, courts of oyer and terminer and general jail delivery, courts of common pleas, and general quarter sessions of the peace, in the respective counties, to be paid by the county collector of the said counties, on his producing a certificate from the presiding judge or justice of such court, setting forth the number of days he may have so attended: *Provided*, That when two or more courts are held at the same time, the constable shall receive no more than seventy-five cents per day for his attendance on all the said courts.

### STATE OF PENNSYLVANIA.

#### *Fees allowed to the Prothonotary of the Supreme Court.*

For issuing every writ, docketing, and return, \$1 80; for entering every appearance, 13 cents; for entering a special bail, 50 cents; for bail piece and seal, 50 cents; for filing declaration, plea, demurrer, replication, &c., and entering each, 13 cents; for filing all other papers, each, 20 cents; for every continuance, 13 cents; for every rule of reference, &c. 17 cents; for copy if demanded, 33 cents; for entering discontinuance, *retraxit*, or quashing writ of error, 13 cents; for every trial, swearing jury, and recording general verdict, 67 cents; for every trial, swearing jury, and recording special verdict, \$1; for swearing each witness, 5 cents; for recording each judgment, 20 cents; for arrest of judgment, 13 cents; for acknowledging satisfaction, 25 cents; for filing and entering report, 25 cents; for entering judgment thereon, 13 cents; for subpoena and seal, 50 cents; for each name after the first, 10 cents; for every ticket, if issued, 25 cents; for copy of narr. &c. per line of twelve words, 1 cent; for drawing list of special jury, attending, striking, and copies, \$1; for filing narr. in ejectment, and docketing the cause, 50 cents; for entering concession of lease, entry, and ouster, 13 cents; for entering every motion or rule, 13 cents; for calling plaintiff or defendant, and entering default, 26 cents; for entering *cesset executio*, 13 cents; *venire* or *distringas*, \$1; for making up *nisi prius* record, per line of twelve words, 1 cent; for *postea* containing the proceedings at *nisi prius*, \$1 33; for every search of record, 20 cents; for copy per line of twelve words, 1 cent; for every certificate and seal, 67 cents; for commission to take depositions out of the State, \$1 50; for filing interrogatories and copy per line, 1 cent; for reading and filing petition for divorce; docketing the same, \$2 33; for issuing subpoena thereon, \$1 50; for entering decree or judgment, 13 cents; for taking and entering acknowledgment of sheriff's deed, and recording certificate of acknowledgment under seal, \$1 50; for entering judgment confessed, \$1 50; for making up record, per line of twelve words, 1 cent.

#### *Clerk of Oyer and Terminer.*

For all services performed in any one prosecution, if paid by the party, \$4; if paid by the county, \$2.

#### *Prothonotary of Common Pleas.*

For issuing *levari facias* and *venditioni exponas*, \$1 20; for issuing every other writ, docketing the same, and return, \$1; for entering appearance, 7 cents; for entering oyer and imparlance, 7 cents; for entering special bail, 20 cents; for bail piece under seal, 33 cents; for entering surrender, 10 cents; for entering exonerator, 10 cents; for filing narr. plea, &c., on each, 7 cents; for filing reasons in arrest of judgment, and exceptions to report of referees, 6 cents;

for filing all other papers of each party in one cause, and reading the same, if necessary, 20 cents; for every continuance, 7 cents; for every rule of reference for trial or other rule, 13 cents; for copy thereof under seal, 33 cents; for entering discontinuance, *retraxit*, or nonsuit, 7 cents; for entering a writ quashed, 7 cents; for swearing jury and constable, and recording general verdict, 50 cents; for swearing each witness, 5 cents; for every trial where there is a special verdict recorded, 67 cents; for recording each judgment, 13 cents; for entering arrest of judgment, 13 cents; for acknowledging satisfaction, 13 cents; for entering report of referees, 20 cents; for entering judgment thereon, 13 cents; for issuing subpoena and seal, 33 cents; for every name after the first, 33 cents; for every subpoena ticket, 10 cents; for copy narr. or plea, per line, 1 cent; for drawing list of special jury, attending, striking, and copies, 67 cents; for filing narr. in ejectment, and docketing the cause, 33 cents; for entering confession of lease, entry, and ouster, 10 cents; for entering every motion, 7 cents; for calling plaintiff or defendant, and entering default, 20 cents; for entering *casset executio*, 10 cents; for every search of record, 13 cents; for copy thereof, per line, 1 cent; for certificate and seal, 33 cents; for commission to take depositions out of the State, \$1; for filing interrogatories, 13 cents; for copy thereof, per line, 1 cent; for taking and entering acknowledgment of sheriff's deed, recording certificate, and seal, \$1; for entering judgment confessed, \$1 20; for entering amicable suit, 26 cents; for filing petition of insolvent debtor, recording order and proceedings, \$1; for issuing *certiorari* to remove justice's proceedings, 53 cents.

#### Clerk of Quarter Sessions.

For filing and entering every recognizance taken out of court, 25 cents; for calling recognizance and forfeiture, 10 cents; for respiting recognizance, 10 cents; for discharging forfeited recognizance, 10 cents; for docketing every indictment found by the grand jury, 33 cents; for entering discharge by proclamation, 13 cents; for each recognizance, 13 cents; for entering plea not guilty, 13 cents; for entering special plea or demurrer, 20 cents; for entering submission, 13 cents; for retracting plea, 7 cents; for entering *nolle prosequi*, 13 cents; for calling and attesting jury, 26 cents; for attesting each witness, 5 cents; for entering verdict and judgment, 13 cents; for entering arrest of judgment, 13 cents; for entering every motion and rule, 7 cents; for entering process awarded, issuing process, taking return, and recording, 67 cents; for issuing subpoena and ticket, 33 cents; for every name after the first, 3 cents; for reading, filing, and entering petition and order thereon, 25 cents; for copy of order to view a road, for every line, 1 cent; for seal, 7 cents; for reading and recording return, for every line, 1 cent; for order to open a road under seal, 67 cents; for performing all duties of clerk for each tavern license, \$1; for copy of record, each line, 1 cent.

#### Sheriff.

For serving writ of arrest with commitment or bail-bond and return, \$1 20; if more than one defendant, each 50 cents; for assigning bail bond, 13 cents; for serving summons in debt, copy narr. in ejectment, or copy of any other process, \$1; for every defendant besides one, 50 cents; for serving *scire facias*, \$1 20; for taking and filing replevin bond, attachment bond, or other indemnification, 33 cents; for travelling expenses, each mile, 4 cents; for executing *feri facias*, if money paid without sale, \$1 20; for taking goods into custody, advertising and selling per pound, not exceeding one hundred, 7 cents; for every pound above one hundred, 4 cents; for keeping goods and chattels, fees to be regulated by the court in case of dispute; for selling lands levied on, or delivering them to the creditor, and making return for every pound, not exceeding one hundred, 7 cents; for every pound above one hundred, 4 cents; no poundage shall be paid for more than the real debt, &c.; for summoning and returning traverse jury in each cause that is tried, 40 cents; for summoning and returning special jury, to be paid by the party putting off or losing the cause, \$2; for summoning jury of inquiry, &c., taking inquisition and return, \$3; for executing writs and orders of partition or valuation, attesting jury and return, \$3 33; if engaged more than one day, for each day's attendance after, \$2; for summoning party to appear on partition, or summons of landlord against tenant, 75 cents; for poundage and commissions for receiving and paying money on attachment, *capias ad satisfaciendum*, or notice to recover rents, for every sum not exceeding one hundred pounds, per pound, 7 cents; for every pound above one hundred, 4 cents; but no poundage shall be paid for more than the real debt; turnkey's fees on commitment for any offence or criminal matter, to be paid on discharge of the prisoner, 67 cents; for sheriff's deed on sale of lands, \$2 67; for acknowledging the same, 67 cents; for every criminal cause, \$1 33; for every capital cause and *committitur* \$3 33; for levying fines, &c., per pound, 7 cents; for making proclamation on divorce, \$2; for serving witness with subpoena, 20 cents; for copy writ of arrest, for each line, 2 cents; turnkey's fees to be paid on discharge of a prisoner for debt, above twenty pounds, 50 cents.

#### Sheriff.

For debt, if under twenty pounds, 33 cents; for serving process on indictment, \$1 20; for serving citation and return, in orphan's court or register's court, 67 cents; for serving every attachment, \$1 20; for executing *haberi facias possessionem*, *retorno habendo*, *levari facias*, or *liberari facias*, each, \$1 20; for returning of *non est inventus*, 25 cents; for return of *nulla bona*, 25 cents; for executing every death warrant, \$12; to crier, for each action called in court, 10 cents.

#### Juries.

For every day's attendance at court, grand or petit, \$1; for every inquisition on real estate, 26 cents; for inquisition of damages, 26 cents; for each day's attendance on view, or other service in the country, 50 cents.

#### Witnesses.

For each day's travelling to and from, and attendance at court, 50 cents; for each day's travelling to and from, and attendance before justice of the peace, 25 cents.

#### Clerk of Orphan's Court.

For reading and filing every petition or report, 13 cents; for entering thereof on record, 25 cents; for entering every judgment, order, or rule of court, 20 cents; for seal and certificate annexed to any copies for the use of the party, 33 cents; for copy of record, per line, 1 cent; for citation with seal, 33 cents; for subpoena with one name, 33 cents; for every name after the first, 4 cents; for every search, 10 cents; for entering appointment of guardians, 25 cents; for copy, certificate, and seal, 33 cents; for entry of settlement of accounts of executors, &c., 50 cents; for every copy thereof, not exceeding one hundred items, with certificate and seal, \$1 25; for every additional item, 1 cent; for reading petition for pension, order, copy, and seal, 50 cents; for reading and filing petition of administrators, for sale of intestate lands, swearing or affirming them, and making the necessary orders thereon, 67 cents; for giving notice of sale, for every advertisement thought necessary by the court, 25 cents; for reading and filing petition for partition or valuation of intestate lands, and entering every order thereon, \$2.

*Register of Wills.*

For the probate of a will, 67 cents; for registering the same, each line of twelve words, 1 cent; for bond of executors or administrators, and recording, \$1; for filing and entering renunciation, 26 cents; for granting letters of administration, 75 cents; for annexing will, each line, 1 cent; for issuing citation, 26 cents; for entering *caveat*, 20 cents; for administering oath, 7 cents; for filing list of articles appraised, 13 cents; for filing list of articles sold at vendue, 13 cents; for examining, passing, and filing account of executor or administrator, \$1 50; for copy, certificate, and seal, if not exceeding one hundred items, \$1; for every additional item, 1 cent.

*Coroner.*

For viewing a dead body, \$2 67; for summoning and qualifying inquest, drawing and returning inquisition, \$1 33; for summoning and qualifying each witness, 20 cents, (to be paid out of the effects of the slayer, in case of murder or manslaughter, if he hath any; if not, by the county, with mileage from the court-house to the place of viewing the body;) for executing any process or writs of any kind, same fees as sheriff and mileage.

The prothonotaries or clerks of the supreme court, and the prothonotaries or clerks of the several courts of quarter sessions and common pleas, within the commonwealth of Pennsylvania, furnish their accounts annually to the Comptroller and Register General; and of the amount of fees received during the space of one year, fifteen hundred dollars remain clear of tax, and the residue thereof is taxed seventy-five per cent.

The prothonotary of the supreme court of the eastern district, and the prothonotary of the common pleas of the city and county of Philadelphia, in addition to the above fifteen hundred dollars, are allowed five hundred clear of tax.

*Attorneys in the Common Pleas.*

For issuing *præcipe*, &c., in suits ended the first court, \$1 67; if after the first court, the further sum of \$1 66; for every suit prosecuted to judgment, discontinuance, \$4; on appeals, if settled the first court, \$1 33; if after the first court, \$2; if judgment is rendered, &c., \$3.

Fees in the supreme court double the amount of those in the common pleas.

## STATE OF DELAWARE.

## AN ACT for regulating and establishing fees.

*Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the fees to be paid within this State shall be as hereinafter are ascertained, limited, and appointed, that is to say:

*To the use of the State.*

For a license to keep a public house of entertainment, and to sell all liquors, signed and sealed, \$12; for a license for the same, and to sell all liquors except wine, \$8; for a license to a hawker or peddler, travelling on foot, \$4; for a license to such person travelling with one or more horses, \$6; for a license of marriage, \$2; for every impression of the great seal, in private cases, \$1; for a commission for a sheriff or coroner, or writ of assistance to a sheriff, under the great seal, to be paid by the party, \$10; for a commission for attorney general, register, recorder, or clerk, under the great seal, to be paid by the party, \$10.

*To the Secretary.*

For drawing and engrossing a pardon or reprieve, under the great seal, to be paid by the party, \$2; for every search, in private cases, 10 cents; for a certificate under the great seal to any instrument of writing, in private cases, to be paid by the party requiring the same, \$1; for a certificate under his hand and seal of office, in private cases, 50 cents; for an exemplification of any record, roll, or paper in his office, in private cases, 1 cent per line of twelve words, to be paid by the party requiring the same. Every proclamation, commission of *dedimus protestatam* to qualify officers; commission to chancellor, judges of the supreme court and court of common pleas; every general commission of the peace, or commission for a single justice of the peace; every warrant for the execution of a criminal; all licenses to keepers of public-houses, hawkers, peddlers, or petty chapmen; licenses of marriage; all exemplifications of transcripts of records, rolls, or papers in his office; or other instruments which the public service of this State may require, to be done *ex officio*.

*To the Judges of the High Court of Errors and Appeals.*

For taking bail out of court to prosecute a writ of error, \$1.

*To the Justices of the Supreme Court.*

For allowing and signing, out of court, every *certiorari*, or *habeas corpus*, 33 cents; for taking a deposition out of court, drawn in form, 33 cents; for taking the acknowledgment of a deed, out of court, and certifying it under his hand, 60 cents.

*To the Justices of the Court of Common Pleas.*

The same fees as are allowed to the justices of the supreme court for the like services.

*To the Justices of the Peace.*

For writing, signing, and sealing every warrant upon complaint, in criminal matters, 20 cents; for every *mittimus*, recognizance, or pass, 20 cents; for writing, signing, and sealing every warrant for debt, attachment, arrest, or summons, 13 cents; for administering, and certifying at large, an oath or affirmation, in proving specialities, notes, or accounts, against deceased persons, if drawn by the justices, 7 cents; otherwise, without fee or reward; for taking the acknowledgment of an indenture of apprenticeship, signing the same, and making a record thereof, 50 cents; for writing the assignment of a servant, signing the same, and making a record thereof, 20 cents; for taking a deposition or affidavit, drawn in form, 20 cents; for writing and signing a summons for witnesses, in all complaints, 7 cents for one witness, and not exceeding 13 cents for two or more; for signing judgment, 10 cents; for execution thereon, 13 cents; for viewing a force, 67 cents; for drawing a record thereof, 67 cents; for drawing a record in every case before them removed by *certiorari*, and returning the same, 33 cents.

*To the Attorney General.*

For the whole prosecution in every capital cause, to be paid by the party if convicted and able, but, if acquitted, to be paid by the county or party, as the court shall direct, \$10; but if the bill be not found by the grand inquest,

to be paid by the county, \$2 40; for every other matter by bill of indictment, if found by the grand inquest, to be paid by the party, if convicted and able; but if not convicted, to be paid by the county or party, as the court shall direct, \$2 40 cents; if not found, to be paid by the county, \$1 20; for every attachment in the court of general quarter sessions of the peace and jail delivery, \$1.

#### SEC. 8. *To the Recorder of Deeds.*

For recording, alphabeting, and comparing deeds and other writings, for each line of twelve words, 1 cent; for a copy or exemplification of any record in the said office, for each line of twelve words, 1 cent, to be paid by the party demanding the same; for searching any roll or record, 7 cents; for an endorsement or certificate on each deed proved and acknowledged, and every other certificate, and his hand and seal of said office thereto, 30 cents.

#### SEC. 9. *To the Sheriff of each county.*

For serving and making return of every summons, *capias*, or *replevin*, 47 cents; for serving every bench warrant or attachment for contempt, in vacation 67 cents; for serving bench warrant or attachment issued returnable in term time, \$1 00; for every writ of entry and return in a common recovery, 33 cents; for every writ of seisin, and return in the same, 33 cents; for taking goods into custody for safe keeping when any part of the debt may be satisfied on such execution, 47 cents; for taking the body into custody for safe keeping on an execution, 47 cents; for serving a summons, citation, subpoena, injunction out of chancery, orphans' court, or from the register for the probate of wills and granting letters of administration, 53 cents; for every proclamation of rebellion out of chancery, \$1 00; for summoning and serving a witness with subpoena, and making return thereof, and mileage, 13 cents; for serving execution, and making return thereof, with an inventory and appraisal, &c. 80 cents; for every return of *non est inventus, nulla bona, nihil habet*, including mileage, 20 cents; for copy of a summons, subpoena, &c. 13 cents; for delivery of a copy of declaration in ejectment, 27 cents, and mileage; in every other action, 7 cents; for every bail bond, replevin bond, or bond of indemnity, 33 cents; for mileage to and from the place of serving a writ, to be counted from the court house, except where mileage is included, 2 cents; for turnkey fees on every *committitur*, when the person is actually in prison in the county jail, but not without, 27 cents; for a copy of a panel when demanded, 7 cents; for assigning every bail bond, 20 cents; for summoning the grand jury to attend for one year, \$3 00; for summoning and qualifying two appraisers, to appraise goods taken in execution, including mileage, 53 cents; for advertising goods or lands for sale, to be paid by the party only in whose suits the said advertisements are made, for once advertising, and no more, 67 cents;\* for selling goods or lands executed, or delivering to the creditors, and returning *feri facias, venditioni exponas, liberari facias, or levari facias*, for any sum not exceeding fifty dollars, 53 cents; and for all other debts, where the sum is above fifty dollars, three cents per dollar on the sale of personal estate, and two cents per dollar on the sale of real estate, for the whole debt and no more; and that no dollarage shall be paid for more than the real debt or damage due to the plaintiff named in the execution; and one cent per dollar on all prior judgments not on execution, paid off by money arising on the sale of lands by any execution, and that no dollarage shall be exacted in case there is not sufficient to satisfy the debt or damages, other than to the amount the goods or lands actually sold for; and that no creditor who may have had an execution laid on such goods or lands, or judgments on such lands, they being subject to prior executions or judgments, shall pay any dollarage, but for such sum as he or she actually receives on his or her debt; for summoning and inquiring into the value of rents, issues and profits of lands by two freeholders, making inquisition and return thereon, 67 cents, and mileage to the respective lands inquired on; for executing writs of *elegit*, summoning and qualifying the jury, and making return thereon, including mileage and the inquisition thereon, \$4 00; for executing writ of inquiry of damages, and every other writ of inquiry, summoning and attesting the jury, and return thereof, including mileage, \$3 00; executing writs of partition, summoning and attesting the jury, and making return thereof, including mileage, \$4 00; for attending on the land to be divided, the first day, one dollar; for every day longer, 67 cents; serving a *venire facias* for a struck jury to attend on view and trial, including mileage, \$4 00; for serving a *venire facias* for a struck jury to attend on trial, \$2 00;† for summoning and returning a jury, and annexing a panel to each *venire facias juratores*, 13 cents;‡ for attending the first day, \$1 00;§ for every day longer, 67 cents;§ for returning the *habeas corpora juratorum*, and *venire facias* thereon, 13 cents; for serving writs of attachment, taking the goods or lands, and making return, 67 cents and mileage; for levying the attachment in the hands of garnishees, and summoning them, 40 cents; for selling goods or lands upon an attachment, the same as on *feri facias*; for executing precepts in cases of forcible entry and detainer, to wit: for summoning the jury and return, including mileage, three dollars; for attending the first day, \$1 00; for every day longer, 67 cents; for serving a precept or writ of restitution, and mileage, \$1 33; for executing a writ of estrepement for all services, besides mileage, \$1 33; for levying fines and forfeitures, 2 cents per dollar; for whipping every person by judgment of court, 67 cents; for branding and pilloring a person, \$1 33; for branding only, 67 cents; for pilloring only, 67 cents; for executing a sentence of death, \$16 00; for every indictment tried or submitted, 67 cents; for summoning the members of the General Assembly, in their respective counties, on a writ from the Governor, \$2 00, to be paid by the county.

#### *In the Courts of Oyer and Terminer.*

Making proclamation throughout the county, to be paid by the county, \$2 00; for summoning the grand jury and petit jury, to be paid as above, \$8 00; every *committitur* to be paid by the party, 53 cents; serving and returning every summons for a witness, 13 cents and mileage; attending on the said court during the sitting thereof, to be *ex officio*.

#### *In the Court of Appeals.*

For his attendance on the said court every day it is held, \$1 00, to be paid by the State; same fees and mileage on writs, &c. as in the supreme court.

SEC. 10. *And be it enacted*, That none of the above fees shall be taken by any sheriff, on any execution issued by a justice of the peace.

#### SEC. 11. *To the Clerk of the High Court of Errors and Appeals.*

For writing, signing, &c. a writ of error, \$1 00; for entering every action or appeal, 20 cents; for filing errors assigned, or causes of appeal, 13 cents; for reading the record, with all the proceedings below, 20 cents; for every

\* See chapter 58, c. This allowance altered, "for advertising the first time, 60 cents; and for the second and third time, 45 cents each."

† See chap. 58, c. This allowance altered, to wit: serving a *venire facias* for a struck jury, including mileage, "\$2 00."

‡ See chap. 58, c. This allowance is increased to 20 cents.

§ These allowances are made only in cases of attendance of sheriff in laying down pretensions, in cases of trespass or ejectment, for which see chap. 58, c.



*retraxit* actually filed, 13 cents; for every discontinuance or quashing of a writ of error or appeal, 13 cents; for entering every appearance at the first term, to be paid by the party appearing, 13 cents; for every imparlance or continuance, 13 cents; for entering every judgment, 20 cents; for writing every writ of restitution, *procedendo*, or other writ not before mentioned, \$1 00; for entering every warrant of attorney or rule of court, 13 cents; for drawing a bill of costs, containing and specifying the particulars in words at length, and delivering the same to the party applying, 67 cents.

SEC. 12. *To the Clerk of the Supreme Court and the Prothonotary of the Court of Common Pleas, in their respective courts.*

For writing, signing, and sealing every *certiorari*, *habeas corpus*, *venire facias*, *habeas corpora juratorum*, writ of arrest, attachment, replevin, summons, or judicial writ, if drawn by the clerk, 47 cents; for entering every action or indictment, 4 cents; for filing every declaration or indictment, 4 cents; for copy of a declaration in any action or suit, made out and delivered, if required, 20 cents; for withdrawing or discontinuing every action, 4 cents; for every *retraxit*, if actually entered and filed, 4 cents; for filing every *demurrer*, plea, replication, and pleading subsequent and issue, in any action, to be paid by the party pleading, 7 cents; for filing record returned on a *certiorari*, 7 cents; for reading *certiorari* and return, 13 cents; for copy of every plea, replication, or pleading subsequent, to be paid by the party requiring the same, one cent for each line of twelve words; for calling the jury and attesting them, 13 cents; for attesting each witness on a trial, to be paid by the party producing such, 4 cents; for attesting the bailiff to attend the jury, 7 cents; for entering an arrest of judgment, to be paid by the party moving, 7 cents; for filing reasons in arrest of judgment, 3 cents; for recording every verdict, 13 cents; for entering a judgment, 7 cents; for entering every appearance at the first term, to be paid by the party appearing, 7 cents; for every imparlance or continuance, 3 cents; for entering a *committitur*, 3 cents; for admission of every guardian or next friend, and copy signed and sealed, 13 cents; for entering and filing every warrant of attorney, 4 cents; for drawing a bill of costs, containing and specifying the particulars in words at length, 7 cents; for acknowledging satisfaction of a judgment on record, 7 cents; for acknowledgment or proving of a deed in court, with a certificate signed and sealed, the whole business, 40 cents; for reading a deposition or affidavit, 3 cents; for recording a mark or brand, 13 cents; for search of a record, 7 cents; entering an appeal from the register or orphan's court, 7 cents; for filing exceptions, 7 cents; for filing record and proceedings returned, 7 cents; for every rule of reference, rule to plead, or other rule of court, 4 cents; for copy thereof, signed and sealed, 13 cents; for entering and filing every writ, original or judicial, which by law is a returnable process, 4 cents; for taking and filing every affidavit in attachment or other matters, required to be done by him, 10 cents; for reading and entering a report of auditors, and filing the same, 7 cents; for entering on record the title of every deed acknowledged or proved in court, 7 cents; for entering and filing every recognizance of bail, 7 cents; for a copy of the same, with seal and certificate signed, 13 cents; for adjudication of a debtor to serve his creditors, and all proceedings relating thereto, 67 cents; for copy thereof, with seal and certificate signed, 33 cents; for reading and entering every petition, and order thereon for a sheriff to convey lands sold by any former sheriff, 67 cents; for copy thereof, with seal and certificate signed, if required, 67 cents; for an exemplification in every common recovery under seal, \$2; for entering, recording, and filing all the proceedings therein, \$1 33; for writing, signing, and sealing every subpoena to give evidence, containing the names of four persons, to be paid by the party summoning, 33 cents; for every subpoena containing a less number, to be paid as above, 20 cents; for drawing out a list of forty-eight names from the sheriff's book of freeholders, for a special or struck jury, and all his services in striking the same, 40 cents; for copy of every record or other proceeding, for every line, twelve words to a line, .1 cent; for signing any writing not before enumerated, or where it is not written by the clerk, 7 cents; for affixing the seal of office to any writing not before enumerated, 13 cents; for entering up judgment by warrant of attorney, and all the services thereon, 67 cents; for confession of a judgment on an amicable suit, and all the services thereon, 50 cents; for recording a *testatum fieri facias*, 40 cents.

SEC. 13. *And to the Clerk of the Supreme Court in the court of Oyer and Terminer and General Jail Delivery, double the fees allowed the Clerk of the General Quarter Sessions of the Peace and Jail Delivery. (For these see after, section 18.)*

And for writing, signing, and sealing a precept for holding a court of oyer and terminer and general jail delivery, to be paid by the county, \$1; for making a complete transcript of the whole record on a conviction for a capital offence, to be sent to the Governor, \$2.

SEC. 14. *And that the fees belonging to the Register of the Courts of Chancery shall be as follows, viz:*

For writing, signing, and sealing every original writ, 40 cents; for every subpoena, *ad respondendum*, or other subpoena with four names, if required, 33 cents; if only one name, 20 cents; for every attachment under seal, 47 cents; for every commission of rebellion, under seal, 80 cents; for every *audita querela* or writ of sequestration, if drawn by the clerk, under seal, 67 cents; for every writ of injunction, *habeas corpus*, or *ne exeat*, 47 cents; for a writ of execution of a decree, and seal, 67 cents; for entering every appearance, 7 cents; for writing and filing every decree, 1 cent per line of twelve words; for entering every dismissal, 7 cents; for filing every bill, plea, answer, *demurrer*, replication, or rejoinder, 7 cents; for filing every affidavit, 4 cents; for filing interrogatories, depositions, per sheet, 7 cents; for filing a petition, 7 cents; for every rule, order to plead, answer, or *demurrer*, reply, or other rule, 7 cents; for a commission to examine witnesses, under hand and seal, 67 cents; for recording in books, by him provided for that purpose, of commission or depositions of witnesses, 1 cent per line, twelve words in a line; for a *dedimus potestatem*, 40 cents; for searching for every order or decree, 7 cents; for copy of any bill, answer, replication, decree, affidavit, order, &c., or of any deeds, papers, letters, or accounts, left with him pursuant to an order of court, with certificate under hand, 1 cent per line, twelve words to a line.

SEC. 15. *And that the fees belonging to the Clerk of the Court of the General Quarter Sessions of the Peace and Jail Delivery, shall be as follows, viz:*

For writing, signing, and sealing every warrant of the peace or good behavior, requiring to bring sureties, if drawn by the clerk, 10 cents; for writing, signing, and sealing every common warrant or *mittimus*, if drawn by the clerk, 13 cents; for every recognizance, if drawn by him, 10 cents; for every recognizance returned by a justice or conservator of the peace, 4 cents; for entering and filing an indictment, 4 cents; for copy thereof, if required, 13 cents; for making out process against the defendant upon an indictment, and fixing seal, 27 cents; for discharge of every person upon bail for the peace, good behavior, contempt, or indictment returned ignoramus, 4 cents; for every plea of not guilty, 4 cents; for entering special plea or demurrer, 4 cents; for entering every submission, 7 cents; for calling the jury and attesting them, 13 cents; for attesting each witness on every trial, 4 cents; for



entering every verdict, 10 cents; for entering every judgment, 4 cents; for copy of every judgment, with certificate, signed and sealed, 20 cents; for respiting a recognizance, 4 cents; for every writ of restitution, signed and sealed, 33 cents; for reading, entering, and filing every petition, 20 cents; for reading and filing the return of a road, 13 cents; for recording the same, or a copy thereof, 1 cent per line; for entering *nolle prosequi*, 7 cents; for a *similiter* to join issue, 7 cents; for a *venire facias*, signed and sealed, 20 cents; for reading the indictment and arraigning the criminal, 4 cents; for continuing the cause, 4 cents; for reading every deposition on trial, 4 cents; for entering the allowance of certiorari, writ of error, or procedendo, 4 cents; for entering a rule upon motion to arrest judgment, 7 cents; for entering every *committitur*, 13 cents; for entering the arrest of judgment, 7 cents; for an *habeas corpus*, signed and sealed, 20 cents; for drawing up and examining every record of all the proceedings upon an indictment, in a book of good paper, for every line containing twelve words, 1 cent; for copy thereof, 1 cent per line of twelve words; for making out the estreats for levying fines and forfeitures, 3 cents; for writing every recommendation for license to keep a public house, inn, tavern, or ale-house, 13 cents; for a process against a master to answer the complaint of an apprentice, or servant, signed and sealed, 20 cents; for writing, signing, and sealing every subpoena to give evidence, containing the names of four witnesses, 33 cents; and for every lesser number, 20 cents; for bills of costs, containing and specifying the particulars in words at length on each indictment, 7 cents; for writing, signing, and sealing every judicial writ in criminal causes, 20 cents; for every search, to be paid by the party, 7 cents; for his hand to any writing, other than as above mentioned, 7 cents; for affixing seal of said office to any writing other than as above mentioned, 7 cents; for reading every petition or other paper to the court, not before mentioned, to be done *ex officio*.

Sec. 16. *And that the fees belonging to the several Registers in this State shall be as follow, viz:*

For granting letters of administration, with seal, and registering the same, and taking bond, \$2 00; but if the estate be under eighty dollars, then half fees, and no more; for proving a will, with copy and seal, and recording the same, \$2 27; for letters testamentary, with seal, and registering them, \$1 07; for drawing, taking, and filing every bond to be given by executors, 53 cents; for every citation or attachment, with seal, 40 cents; for entering every citation, 4 cents; for filing an inventory, 7 cents; for copy of an inventory, for every line, 1 cent; for a search, 7 cents; for a copy of letters of administration, administration bond, or letters testamentary, being signed and sealed, 53 cents; for a *caveat*, 13 cents; for every renunciation entered in the office, 13 cents; for a copy of any record, paper, account, or will, to any person requiring the same, 1 cent per line, twelve words to a line; for appointing and qualifying two freeholders as appraisers, or warrant to swear them, ten cents; for administering an oath or affirmation to executors, administrators, or subscribing witnesses to a will, to be done *ex officio*; for administering an oath or affirmation to any other witness, 7 cents; for taking a deposition in writing in any cause before him, 20 cents; for definitive sentence in any case before him, and recording the same, 53 cents; for every interlocutory order, 30 cents; for affixing his hand to any certificate not before mentioned, 13 cents; for filing every account, 7 cents; for adjusting and settling an executor, or administrator, or guardian's account, examining and casting up the inventory and appraisement, entering the order and final sentence thereon, making the calculations and distribution on said account, and making a record of such settlement; if such account be under one hundred and twenty dollars, \$1 00; if under eight hundred dollars, \$2 00; and if above eight hundred dollars, \$3 00; for writing, signing, and sealing every subpoena to give evidence, containing the names of four persons, to be paid by the party summoning, 33 cents; and for every subpoena containing a less number, to be paid as above, 20 cents; for entering and filing every writ, which is by law a returnable process, 4 cents; for affixing the seal of office to any writing, not herein before enumerated, 13 cents.

Sec. 17. *That the fees belonging to the several Clerks of the Orphans' courts in this State shall be as follow, viz:*

For reading and filing a petition, 7 cents; for reading a will or inventory, 4 cents; for entering an order of court or final sentence, 10 cents; for reading letters of administration or testamentary, 4 cents; for the appointment of a guardian, taking bond, recording same, with a copy, under seal, 40 cents; for binding an orphan, with a copy, under seal, 33 cents; for reading, entering, and filing a petition for a division, or valuation, or sale of lands, &c., and order thereon, 20 cents; for recording and copying the same, 1 cent per line; for filing an appeal, and exceptions on an executor, administrator, or guardian's account, entering the order and final sentence, making the calculation and distribution on said account, filing the same, and all other services, 67 cents; for entering every order of court, 4 cents; for entering an acceptance and assignment of lands at the valuation, 7 cents; for drawing and taking a recognizance at large, in the name of the State, from any person accepting lands and tenements on a valuation, 20 cents; for each advertisement for sale of land, 7 cents; for every citation, signed and sealed, 20 cents; for qualifying every witness brought before the court, 4 cents; for every attachment for contempt, 20 cents; for every subpoena, containing the names of four persons, 33 cents; less than four, 20 cents; for recording every other matter and thing in the same court, copy of an administrator's account, or other record, when required, for every line, not less than twelve words, 1 cent per line; for the seal of office to any writing not before enumerated, if required, 10 cents; for certificate to any copy not before enumerated, 7 cents; for every search, 7 cents; for every bill of costs, containing and specifying the particulars, 7 cents; for reading and filing every return of division, valuation, or sale of lands, 20 cents.

SEC. 18. *Attorney at law.*

For every writ, if drawn by the attorney, 40 cents; for every appearance, for either plaintiff or defendant, in a suit, \$2 60; for every appeal bond for prosecuting an appeal in the court of appeals, one dollar; for every appeal bond for prosecuting an appeal from the orphans' court, \$1 00; for drawing every warrant of attorney, 13 cents; for giving oyer of a bond or other oyer, 1 cent per line, twelve words to a line, to be paid by the party craving oyer; for drawing out the general issue, 10 cents; for all pleadings in a cause subsequent to a declaration, to be paid by the party pleading, every line of twelve words, injunction, prohibition, &c., 1 cent; for declaration, plea, &c., by warrant of attorney, \$2 67.

Sec. 19. *And that the fees belonging to the Notaries and Tabellions Public for this State shall be as follow, viz:*

For registering a bill of exchange, promissory note, or bank note, 20 cents; for registering a foreign sea protest, \$1 00; for registering an obligation, letter of attorney, or writing of the usual length of one of these, with a probate, under seal, and certificate, \$1 00; for registering a bill of sale, probate, &c., 80 cents; for registering a foreign bill of exchange, protested, with a certificate, 67 cents; for a certified copy of such protest, 67 cents; for drawing and registering a common sea protest, with seal, 67 cents; for drawing and registering a protest against a merchant or merchants for detaining a ship beyond proper time, with answer and persistence to protest, with seal, and registering, \$4 00; for a certified copy of a common sea protest, under seal, \$1 67 cents; for a certified copy,

under seal, of protest against a merchant, &c., \$2 00; for attestation to a letter of attorney, obligation, &c., under seal, 60 cents; for notarial affidavit to an account, under seal, 53 cents; for protest of a bill of exchange for non-acceptance or non-payment, or promissory note for non-payment, and registering, seal, &c., 80 cents.

SEC. 20. *That the fees belonging to the Clerks of the Senate and House of Representatives shall be as follow, viz:*

For reading every petition of a private nature, and the several entries attendant thereon, to be paid by the party, 50 cents; for copy of every petition, when required, with the names of the signers thereof, and certificate, 50 cents, to be paid as above; for copy of every order of the House in private matters, and certificate, 23 cents, to be paid as above; for copy of any papers filed in the House, when required, for every line, twelve words to a line, 1 cent per line; for certificate thereto, 7 cents; for every search in private matters, 7 cents; for engrossing a bill, for every sheet, 2 cents per line of twelve words; for every day's attendance as clerk, transcribing, &c., \$2 00 per day, and no more.

SEC. 21. *And the fees belonging to the Sergeant-at-Arms shall be as follow, viz:*

For serving every order, \$1 00; for taking any person into custody, 33 cents; for travelling charges, per mile, 2 cents going, and the same returning; for every day's attendance on any person, where committed, 26 cents.

SEC. 22. *Fees to the Doorkeepers of the respective Houses.*

For every day's attendance, \$1 00.

SEC. 23. *To the Bell-ringer of the General Assembly.*

For each day, 33 cents.

SEC. 24. *Fees to the Coroner of each county.*

For viewing the body of any person slain or murdered, to be paid out of the goods and chattels, lands and tenements, of the murderer or slayer, if he hath any; but if he hath not, by the county, besides mileage, from the court house to where the body is found, \$1; for summoning and qualifying the inquest, drawing and returning the inquisition, including mileage, \$2; for summoning and qualifying each witness, and mileage from the place where the body is found, 33 cents; for taking examinations or depositions of witnesses in writing, for each, 20 cents; for taking every recognizance, 10 cents; for summoning or arresting the sheriff, or any other person where he is party, executing a writ of *feri facias*, or other execution, the same fees as are allowed the sheriff in like cases; for travelling charges, 2 cents per mile.

SEC. 25. *To the Crier.*

For every action entered in the supreme court and in the court of common pleas, 13 cents; for every suit in the court of appeals, 67 cents; for calling each witness on a trial, 2 cents; for calling a jury sworn at the bar, 7 cents; every indictment, 13 cents; calling a nonsuit, 7 cents; calling a default, 7 cents; every attorney admitted on record, \$1; every common recovery suffered in court, 40 cents; every prothonotary, sheriff, clerk of the peace, or clerk of the supreme court, the first time after they undertake the execution of their respective offices, \$1; clearing every person by proclamation, 7 cents; for every judgment in the orphans' court, each 10 cents; opening and adjourning the court, to be paid by the county, 7 cents.

SEC. 26. *To the Surveyors of Lands.*

For each day's attendance as a surveyor on view of land, or other service required to be performed by any act of Assembly of this State, for each day's necessary attendance, \$2; for every map, plot, or draught, with explanatory notes, such sum as the court shall allow.

SEC. 27. *To the Chain Carriers.*

For each day, with accommodation, 50 cents.

SEC. 28. *And that the fees belonging to the jurors and inquests within this State shall be as follow, viz:*

For trying all actions on issue joined, each juror sworn or affirmed, 13 cents; for every inquisition on writ of inquiry of damages, elegit, partition, inquest of office, or any other inquiry, each per diem, 33 cents; for every inquisition made by the coroner, or other proper officer, on view of a dead body, to each juror, 33 cents; for each jurymen summoned, and attending on view, per diem, 33 cents; for each juror or freeholder appointed by the orphans' court, to divide or value lands under the intestate act of this State, or to view and make an estimate of the annual value, &c. of minors' lands, under the act for amending the laws relating to testamentary affairs, and for the better settling intestates' estates, 50 cents per diem; for every auditor appointed by rule of court, for making report or award, 67 cents; for every day after the first, 33 cents.

Every bailiff or constable attending the grand jury, 50 cents per diem, to be paid by the county.

Attending each petit jury on a trial, till they give in a verdict, 23 cents, to be paid by the party.

The sheriff and every inspector and clerk sworn and attending the general elections in each of the counties, \$1 50 per day, and no more, to be paid by the county.

Every constable who shall attend the court of oyer and terminer and general jail delivery, or court of general quarter sessions of the peace and jail delivery, not exceeding three, to be selected by the court, 50 cents per diem.

Every grand juror summoned and sworn, for every day of his attendance and service in any of the courts of this State, provided he is sworn or affirmed before the charge is given, to be paid by the county, 80 cents.\*

Every petit juror summoned, for every day of his attendance, provided he appears at every calling of his name by order of the court, to be paid by the county, 80 cents.†

Every witness, for every day of his or her attendance in any of the courts of this State, if he or she resides out of the county from whence the summons issues, 80 cents; and if in the county, 53 cents.‡

Every witness, for every day's attendance before a justice of the peace, 20 cents, and no more.

SEC. 29. *And be it enacted,* That the act entitled "An act to increase the daily allowance of grand and petit jurors and witnesses," is hereby repealed, made null and void.

\* An additional allowance of three cents per mile from place of abode to court house, for each day of their attendance, in chap. 104, c.

† A like additional allowance in chap. 104, c. as in preceding note.

‡ In said chap. 104, c. like additional allowance as to jurors before.

SEC. 30. *To the Sheriff for serving executions issued by a Justice of the Peace.*

For all executions for debts not exceeding fourteen dollars, the sum of 40 cents; for all executions on debts above fourteen dollars, and not exceeding thirty-two dollars, at the rate of five per cent. on the sum actually levied and raised; and that no mileage or other fees shall be paid or allowed to any sheriff on any execution issued by a justice of the peace.

SEC. 31. Appraisers appointed by the register for the probate of wills and granting letters of administration, for any estate not exceeding one hundred and thirty-six dollars, by them appraised or valued, shall have and receive at the rate of two cents for every dollar; and for all estates above one hundred and thirty-six dollars, and not exceeding three hundred dollars, at the rate of one cent for every dollar; and for all estates exceeding three hundred dollars, at the rate of one cent for every three dollars, and no more.

SEC. 32. *And be it enacted,* That the act entitled "An act for appraisement of goods taken in execution," shall be, and is hereby, repealed.

SEC. 33. *To a Constable for serving a warrant or summons in cases of debt.*

For every warrant or summons, including mileage and all services, except summoning of witnesses, until judgment is obtained, 33 cents; for summoning witnesses or auditors for the trial of any matter before a justice of the peace, 10 cents each, and mileage; for serving every warrant in criminal matters, including mileage, 50 cents; for summoning every witness, 10 cents, and mileage; for conveying any person to jail under a commitment, 20 cents, and mileage.

STATE OF MARYLAND.

*Fees allowed to Attorneys-at-law in the courts of law and equity in the State of Maryland.*

April session, 1715, ch. 48, s. 7.

There shall be paid to any attorney or other person practising the law in any of the county courts of this province, for bringing, prosecuting, or defending any action, of what nature or quality soever, to final judgment, agreement, or other end thereof, the sum of one hundred pounds of tobacco, unless the principal debt and damage, or balance of any debt and damage sued for and recovered, do exceed the sum of two thousand pounds of tobacco, or ten pounds sterling; that then the said attorney shall have two hundred pounds of tobacco, and no more; and to any attorney or other person practising the law in the provincial court, high court of chancery, commissary's court, or for prosecuting or defending any appeals, writs of error, or any other matter or thing whatsoever, before his excellency the Governor and Council, the several sums hereafter expressed and set down; that is to say, for prosecuting or defending any cause, plaint or action, of what nature soever in the *provincial court*,\* to final judgment, agreement, or other end thereof, the sum of four hundred pounds of tobacco, and no more; for any fee in the high court of chancery, and court of vice-admiralty, six hundred pounds of tobacco, and no more; for any fee in the commissary's court, four hundred pounds of tobacco, and no more; for any fee upon any writ of error or appeal which shall be before his excellency the Governor and Council, † six hundred pounds of tobacco, and no more; and to his Majesty's attorney general for any action in the provincial court, at the suit of his Majesty, indictment, presentment, or information, the sum of four hundred pounds of tobacco, and no more.

November session, 1805, ch. 65, s. 16.

That all attorneys practising in the court of appeals of this State shall be entitled to receive the same fees as attorneys were entitled to receive in the late general court.

The following fees are allowed to the several officers hereinafter mentioned by the act of November, 1779, ch. 25, to wit:

*To the Register in Chancery.*

A subpoena *ad respondendum*, with not more than three names and return, 12 pounds of tobacco; every name more than three, 2 pounds; an injunction, and return, 38 pounds; a writ of sequestration, and return, per side, and so *pro rata*, 8 pounds; an *audita querela*, and return, 86 pounds; filing every bill in chancery, 20 pounds; every court the same shall continue to be charged to the complainant only, 20 pounds; filing every answer in chancery, 17 pounds; every oath to the same if taken in court, 6 pounds; recording every return of commission and deposition, per side, and so *pro rata*, 8 pounds; a writ of *ad quod damnum*, and return, per side, and so *pro rata*, 8 pounds; every order on motion, 12 pounds; for a *ne exeat*, and return, 64 pounds; for drawing any matter or thing not mentioned that passeth the seal, if it exceeds one side, computing seven words to be a line, and fifteen lines to a side, and so *pro rata*, 8 pounds; for recording the same, per side, as before, 8 pounds; search the first year, nothing; for all searches above one year, if the matter searched be found and no copy taken, 15 pounds; if copy taken, no charge for the search; for filing every plea in chancery if not recorded, 4 pounds; for filing every demurrer in chancery, if not recorded, 4 pounds; for recording the same per side, and so *pro rata*, 4 pounds; an attachment of contempt, and return, 8 pounds; a proclamation of rebellion, and return, 64 pounds; a commission of rebellion, and return, 64 pounds; filing accounts, books of accounts, bonds, deeds, or other papers or writings, referred to and made part of any bill in chancery plea, answer, or other pleadings or process thereupon, if not recorded, 4 pounds; for recording the same, per side, and so *pro rata*, 4 pounds; for filing every return of commission and deposition, if not recorded, 4 pounds; for recording the same, per side, and so *pro rata*, 4 pounds; for filing every deposition taken in court of chancery without commission, if not recorded, 4 pounds; for recording the same, per side, and so *pro rata*, 4 pounds; filing every petition in chancery and order thereon if not recorded, 4 pounds; for recording the same, per side, and so *pro rata*, 4 pounds; filing every bond with or without security if not recorded, 4 pounds; for recording the same, per side, and so *pro rata*, 4 pounds; for every subpoena with not more than three names and return, 12 pounds; for every name more than three, 2 pounds; a commission to examine evidences, per side, and so *pro rata*, 8 pounds; for copy of any matter or thing herein before mentioned, if required and delivered, per side, and so *pro rata*, 8 pounds.

\* This court was afterwards called "The General Court."

† This court was afterwards organized, and called "The Court of Appeals."

*To the Clerk of the General Court on the Western and Eastern Shores respectively.*

A *recordari* and return, 6 pounds of tobacco; a writ of inquiry of damages and return, per side, and so *pro rata*, 8 pounds; for entering an appeal, 8 pounds; a commission to take acknowledgments and return, 64 pounds; a writ of covenant to pass a fine, and return, 8 pounds; a writ of assize, and return, 51 pounds; a writ of *melius inquirendum* or *monstraverunt*, and return, 64 pounds; any warrant or license, 8 pounds; any other pass or discharge, 8 pounds; writing a sheriff's commission, bond, and recording it, 150 pounds; for filing every special plea and every other pleading to making up the issue for each if not recorded, 4 pounds; for recording the same, per side, and so *pro rata*, 4 pounds; for filing every account if not recorded, 4 pounds; for recording the same, per side, and so *pro rata*, 4 pounds; for filing plots or warrant of survey out of the general court, and depositions if not recorded, 4 pounds; for recording depositions, per side, and so *pro rata*, 4 pounds; taxing and filing bill of costs, 8 pounds; a copy thereof, if demanded, with the articles at large, 8 pounds; issuing every execution, and filing the same, and return, without any charge for copy of judgment, 14 pounds; *habere facias possessionem*, and return, 16 pounds; a writ of *posse comitatus*, and return, 51 pounds; a writ of discharge, if any, and return, 51 pounds; writing and recording a commission for every county court, 210 pounds; issuing and filing every common writ and return, 12 pounds; filing every declaration if not recorded, 4 pounds; for recording the same, per side, and so *pro rata*, 4 pounds; every appearance entered of either party in the general court, 6 pounds; entry of defendant's imparlance, 4 pounds; a continuance or reference to be charged to the plaintiff only, 4 pounds; making up the issue or issues in every suit when done by the clerk, 20 pounds; rule to plead for trial when ordered by the court, 4 pounds; a *venire facias* for jurors, if issued by the order of the court, 16 pounds; a copy of the panel, 4 pounds; entering panel, 4 pounds; entering every verdict, 4 pounds; entering and signing judgment, 26 pounds; a short copy of the judgment if demanded, 16 pounds, a transcript of the whole proceedings, per side and so *pro rata*, 8 pounds; *scire facias* on a judgment, per side, and so *pro rata* without any charge for search or copy of judgment, 8 pounds; *scire facias* against special bail, per side, and so *pro rata*, without any charge for search or copy of judgment, 8 pounds; a replevin, and return, 12 pounds; a *procedendo*, and return, 16 pounds; a writ of restitution, and return, 16 pounds; drawing *dedimus potestatem* to examine evidences, 32 pounds; a *habeas corpus*, and return, 22 pounds; an *elegit*, and return, 22 pounds; a warrant of survey, and return, 32 pounds; a *certiorari*, and return, 32 pounds; a commission of *audita*, and return, 32 pounds; a writ of diminution, and return, 16 pounds; a writ of error to the county court, and return, 38 pounds; a *scire facias* thereupon, and return, 16 pounds; a *supersedeas* thereupon, and return, 16 pounds; entering an acknowledgment of deed of conveyance in court, 6 pounds; recording a conveyance, per side, and so *pro rata*, 8 pounds; filing every recognizance taken out of court, if not recorded, 4 pounds; recording the same, per side, and so *pro rata*, 4 pounds; taking every recognizance in court, with or without sureties, 4 pounds; appearance of the principal to every recognizance, 8 pounds; for filing or taking every special bail in or out of court, 8 pounds; an attachment with *scire facias*, and return, 26 pounds; discharging every recognizance with or without security, 12 pounds; a copy of every recognizance, 12 pounds; every process to apprehend a criminal, issued by order of court, and return, 16 pounds; appearance of the person charged to every indictment or verdict, 8 pounds; *scire facias* against security for cost on a recognizance, per side, and so *pro rata* and return, without any charge for search or other matter, 8 pounds; swearing every jury, 46 pounds; swearing every bailiff, 4 pounds; every oath taken in court, 4 pounds; *duces tecum*, and return, per side, as before, 8 pounds; affixing the seal of the court to the copy of any judgment or a transcript of any judgment or any record or certificate, 12 pounds; taking security on condemnation on attachment, 6 pounds; a writ of restitution, per side, and so *pro rata*, 8 pounds; entering action agreed, struck off, or abated, 2 pounds; a *scire facias* on a *certiorari*, per side, and so *pro rata*, 8 pounds; a *scire facias* on *audita querela*, per side, and so *pro rata*, 8 pounds; commission to examine evidences, per side, and so *pro rata*, 8 pounds; an attachment on non-compliance with the common rule in ejectment, per side, and so *pro rata*, 8 pounds; a general court commission, per side, and so *pro rata*, 8 pounds; a summons in partition per side, and return, and so *pro rata*, 8 pounds; a writ of partition, and return, per side, and so *pro rata*, 8 pounds; an attachment in partition and return per side, and so *pro rata*, 8 pounds; an *habere facias seisinam*, and return, per side, and so *pro rata*, 8 pounds; every respite and continuance, 14 pounds; every order in criminal cases, 8 pounds; every indictment, per side, and so *pro rata*, 8 pounds; a copy of every indictment, per side, and so *pro rata*, 8 pounds; filing plea to the same, 8 pounds; recording the same, per side, and so *pro rata*, 8 pounds; confession to every indictment, 8 pounds; every indictment after the first name, 10 pounds; allowance of a writ of error, 10 pounds; rule of trial, 8 pounds; recording the verdict, 4 pounds; entering conviction and signing judgment, 25 pounds; every death warrant, 36 pounds; a writ of withernam, and return, 25 pounds; a writ of estrepement, and return, 25 pounds; for issuing commission to trustees under the act for regulating attachments, per side, and so *pro rata*, 8 pounds; filing same, and the return and proceedings of the trustees, 8 pounds; attachment of contempt, per side, 8 pounds; writ of dower, per side, 8 pounds; summons in dower, 8 pounds; for entering admission of guardian or next friend, 8 pounds; for entering commitment, 8 pounds; for entering suggestion of death, 4 pounds; for filing warrant of attorney, 4 pounds; entering award of execution, 8 pounds; filing bail piece, 4 pounds; filing *supersedeas*, 4 pounds; subpoena *ad justificandum*, 8 pounds; a *retorno habendo*, and return, per side, and so *pro rata*, 8 pounds; a writ of *distringas* and return, per side, and so *pro rata*, 8 pounds; a commission of oyer and terminer, per side, and so *pro rata*, 8 pounds; a commission of jail delivery per side, and so *pro rata*, 8 pounds; a *dedimus potestatem* to swear the judges of assize or sheriff, per side, and so *pro rata*, 8 pounds; a writ of publication to the laws, 12 pounds; search the first year, nothing; for all searches above one year, if the matter searched for be found, 14 pounds; for recording or copying any matter or thing in this table enumerated, for which no other allowance hath been already made, and not prohibited to be recorded, per side, and so *pro rata*, 8 pounds; appearance and surrender in discharge of bail, 8 pounds; filing every affidavit, 4 pounds; entering every default on recognizance, 4 pounds; entering list of common law fines, per side, and so *pro rata*, 8 pounds; for copy thereof, per side, and so *pro rata*, 8 pounds; for entering security for costs, 8 pounds; copy of orders for witnesses' attendance, 4 pounds; for entering *americiament* on sheriff or coroner, on mesne process, 8 pounds; filing award, 4 pounds; for recording the same per side, and so *pro rata*, 9 pounds.

*To the Clerks of the County Courts.*

For issuing every common writ and return, 10 pounds of tobacco; filing every declaration, if not recorded, 2 pounds; a copy of the same, if demanded, per side, and so *pro rata*, 4 pounds; every appearance entered of either party, 4 pounds; entry of imparlance, 2 pounds; for every continuance or reference to be charged to the plaintiff only, 3 pounds; every subpoena, including all persons, applied for at the same time, 6 pounds; rule to plead, or trial moved for and entered, 2 pounds; for making up the issue or issues in every suit, when done by the clerk, 6 pounds; entering and signing judgment, 15 pounds; a *venire facias* for jurors, if issued by order of court, 6 pounds; entering the panel, 2 pounds; copy of panel, 2 pounds; taxing and filing bill of cost, 5 pounds; copy thereof, if demanded, with the articles at large, 5 pounds; issuing every execution, and filing the same, without any charge for copying judgment, 10 pounds; for filing every special bail, taken in or out of court, 2 pounds; a writ of inquiry of damages, per

side, and so *pro rata*, 4 pounds; for entering an appeal, 4 pounds; a return of a *certiorari* or *habeas corpus*, and copy of the record per side, and so *pro rata*, 4 pounds; entering a writ of error, 4 pounds; every oath taken in court, 3 pounds; proving a deed or writing, 4 pounds; a copy of the same, if required, per side, and so *pro rata*, 4 pounds; for entering *feri facias*, where the same is executed, and schedule returned, but in no other case, per side, and so *pro rata*, 4 pounds; the same fees in elegits, 4 pounds; recording the mark of cattle or hogs, 3 pounds; taking and certifying acknowledgments of land in court, 5 pounds; recording a conveyance of land, per side, and so *pro rata*, 4 pounds; allowance of *habeas corpus*, 4 pounds; for all searches the first year, nothing; for all searches above one year, be the time of what length soever, if the matter searched for be found, 10 pounds; if copy taken, then per side, and so *pro rata*, 4 pounds; every *scire facias*, per side, and so *pro rata*, without any charge for search or copy of judgment, 4 pounds; attachment on *scire facias*, 18 pounds; short copy judgment, if expressly demanded, 10 pounds; *habeas corpus*, and filing the same, and return, 8 pounds; elegit, and filing the same, and return, 8 pounds; *duces tecum*, and return, 40 pounds; taking security on condemnation, 8 pounds; entering action agreed, discontinued, struck off, or abated, 2 pounds; commission to examine evidences, and return, per side, and so *pro rata*, 4 pounds; a continuance or reference to be charged to the plaintiff only, 2 pounds; for filing every special bail, 2 pounds; if recorded, per side, and so *pro rata*, 4 pounds; for filing every replication, 2 pounds; if recorded, per side, and so *pro rata*, 4 pounds; for filing joinder, surrejoinder, 2 pounds; if recorded, per side, and so *pro rata*, 4 pounds; and for every other pleading for making up the issue for each, 2 pounds; if recorded, per side, and so *pro rata*, 4 pounds; for filing demurrer and joinder in demurrer, each, 2 pounds; if recorded per side, and so *pro rata*, 4 pounds; for filing every account, 2 pounds; if recorded, per side, and so *pro rata*, 4 pounds; for recording or copying any matter or thing not herein enumerated, if requested by the party, for which no other allowance hath been already made, per side, and so *pro rata*, 4 pounds; for entering return of every writ or other process, 2 pounds; for filing every paper not herein before mentioned, 2 pounds; for every rule, by order of court, 2 pounds.

#### Criminal fees.

Filing every recognizance taken out of court, if not recorded, 2 pounds; for taking every recognizance, with or without sureties, in court, 3 pounds; appearances of the principal to every recognizance, 5 pounds; discharging of recognizance, with or without security, 8 pounds; every process to apprehend a criminal, issued by order of court, 10 pounds; every appearance of the person charged to every presentment or indictment, 5 pounds; every respite and continuance, 5 pounds; for every order, 4 pounds; a copy of recognizance, with or without security, 8 pounds; for filing every indictment or information, 5 pounds; for recording the same, per side, and so *pro rata*, 2 pounds; a copy of the panel, 2 pounds; for recording the verdict, 10 pounds; entering and signing judgment, 15 pounds; a copy of the indictment, per side, and so *pro rata*, 5 pounds; entering a plea, 5 pounds; confession of indictment, 5 pounds; for recording or copying any matter or thing not herein enumerated, if requested by the party, for which no other allowance hath been already made, per side, and so *pro rata*, 4 pounds; for copy of every matter not herein before enumerated, per side, and so *pro rata*, 4 pounds; for entering the panel, 2 pounds; for issuing every warrant of execution, 8 pounds.

By November, 1787, ch. 34, there shall be a deduction of one-fourth part from all officers' fees allowed by this act, which are chargeable by law to the State, or any county, except sheriff's fees, for the imprisonment of persons criminally charged.

#### Chancery proceedings in County Courts.

Entering motion, and order thereon, 4 pounds; entering and signing decree, 15 pounds; taxing and filing costs, 5 pounds; copy costs, with articles at large, if demanded, 5 pounds; affixing the seal to any transcript or certificate, 5 pounds; filing every bill, 2 pounds; filing every answer, 2 pounds; filing every plea, 2 pounds; filing every demurrer, 2 pounds; filing accounts, book of accounts, bonds, deeds, or other papers or writings referred to, or made part of any bill in chancery, answer, or other pleadings or process thereupon, for each, 2 pounds; filing every return of commission and depositions, 2 pounds; commission to examine witnesses, per side, and so *pro rata*, 4 pounds; filing every return of commission and depositions, 2 pounds; filing every deposition, if taken in court and without commissions, 2 pounds; filing every petition, and order thereon, 2 pounds; entering every appearance, 3 pounds; filing every bond, with or without security, 2 pounds; for recording or copying any matter or thing not herein enumerated, if requested by the party, and for which no other allowance hath been made, per side, and so *pro rata*, 4 pounds.

#### To the Sheriff.

Serving writ, and return, 27 pounds; taking bail bond, 14 pounds; collecting officers' fees, for every hundred, six per cent; for every commitment and releasement, 16 pounds; empannelling a jury, 90 pounds; serving *scire facias*, including the persons summoned, 23 pounds; serving citation, 23 pounds; executing a warrant of resurvey, per day, 75 pounds; summoning evidences to prove the bounds of land, for each person summoned, 23 pounds; if empowered to swear evidences, for every witness sworn by him, 10 pounds; serving a subpoena, and return, 23 pounds; for keeping a prisoner in jail, and finding him victuals, per day, 12 pounds; serving a writ of possession in ejectment, and return, 112 pounds; writ of seisin on a common recovery, and return, 10 pounds; serving an ejectment, and return, 51 pounds; every election, for one or more members, 1,000 pounds; serving an attachment of contempt, and return, 38 pounds; serving writ of estrepement, and return, 75 pounds; serving *ne exeat*, and return, 200 pounds; serving a copy of declaration, or short note, 4 pounds; summoning appraisers, to value goods taken by attachment, *feri facias*, or replevin, for each appraiser summoned, 23 pounds; swearing the said appraisers, every oath, 10 pounds; serving an attachment on judgment or execution, and return, 8 pounds; executing a writ of *ad quod damnum* or *melius inquirendum*, and return, per day, 75 pounds; empannelling a jury on the same, 180 pounds; swearing the said jury, for every oath, 10 pounds; taking an inquisition, and returning the same with the said writ, 75 pounds; serving a writ of re-restitution, and return, 112 pounds; empannelling a jury to inquire of a forcible entry and detainer, 180 pounds; to each person summoned as an evidence on the same, 23 pounds; for summoning chain carriers, each, if required, 23 pounds; for swearing chain carriers, every oath, 10 pounds; for an arrest on a warrant, and return, in criminal cases, 18 pounds; for serving *duces tecum*, and return, 18 pounds; return on an attachment, when *mesne* process, 8 pounds; for laying an attachment in any garnishee's hands, for each garnishee, 23 pounds; for all goods and chattels which any sheriff shall attach and take into his possession, or wherewith he shall be chargeable, the same fees as on executions; returning *feri facias* on replevin, each, 8 pounds; the same fees on a *feri facias* or replevin as upon attachments; also, the same fees on appraisement and sale of goods distrained and sold for rent; serving writ of *retorno habendo*, and return, 75 pounds; serving a writ of *distringas*, and return, 75 pounds; serving and return of *elegit* or *liberato*, 75 pounds; empannelling jury on *elegit* or extent, 180 pounds; for swearing the same, each, 10 pounds; serving writ of restitution, and return, 112 pounds; summons in partition, for every person summoned, and return, 23 pounds; serving writ of partition, and return, 26 pounds; empannelling jury thereon, 180 pounds; swearing the jury, each, 10 pounds; attendances, per day, 75

pounds; serving an attachment in partition, and return, 90 pounds; returning writ, inquiry of damages, 75 pounds; empannelling jury thereon, 180 pounds; swearing the same, each, 10 pounds; attendance per day, 75 pounds; proclamation of rebellion, and return, 90 pounds; serving withernam, and return, 75 pounds; and the same fees allowed as upon replevins.

By the 4th section of the act of November, 1779, ch. 25, it is provided, that poundage fees on any writ of *capias ad satisfaciendum* shall not be demanded or taken for any greater sum than the real debt, *bona fide* due and claimed by the plaintiff, amounts to.

By the 2d section of the act of November session, 1790, ch. 59, the sheriff, on the service of any execution for money or tobacco, shall charge and receive at the rate of seven and a half per cent. for the first ten pounds in money, or 1,000 pounds of tobacco; and three per cent. for the residue, in the same species the execution shall issue for. On execution or attachment on lands held for years, or a greater estate, only one-half the poundage fees; and if the estate in land shall not be chargeable by appraisement, and delivered to the plaintiff, or by sale of the sheriff, one-quarter part of the poundage fees only shall be chargeable.

#### *To the Clerk of the Court of Appeals.*

Recording every writ of error, *scire facias*, and return, per side, and so *pro rata*, computing one hundred and five words to a side, the like for recording a transcript, the like fees for recording errors per side, and so *pro rata*, 8 pounds; entering and signing judgment, 47 pounds; taxing and filing a bill of cost, 8 pounds; copy of the same, if demanded, 8 pounds; filing bill of cost from the general, chancery, or any other court, 8 pounds; writ of diminution, and return, 22 pounds; writ of possession, or any other execution and return, 20 pounds; entering any motion or order, filing or recording any bond in court, entering any petition, entering and drawing any affidavit or deposition taken or returned into court, copy errors, recording proceedings transmitted from the chancery court, or copy the same, filing and recording any plea, replication, or demurrer, or copy the same in common law proceedings, entering and reference in court, and copy the same, or copying any other proceedings per side, and so *pro rata*, 8 pounds; issue and rule, 24 pounds; affixing the seal of the court to any copy of proceedings or exemplifications, 131 pounds; and for all other services the same fees as taken in the general court; the clerk of every court of delegates to have the same fees that are allowed and limited by this act to the clerk of the court of appeals, and no more.

The court of appeals being abolished by the Legislature, a new court was established, to be held on the Western and on the Eastern shores; and by the 15th section of the act of November session, 1805, ch. 65, it is enacted that the clerks of the court of appeals for the Western and Eastern shores, respectively, shall have the same fees for their services as the clerks of the county courts are entitled to for the same or similar services by law.

#### *Crier's Fees in General Court.*

Swearing every jury, 106 pounds; swearing every witness, 10 pounds; swearing the bailiff, 10 pounds; every oath taken in court, 5 pounds; every special bail, 54 pounds; clearing every prisoner by proclamation, if required, 60 pounds; for every recognizance, 20 pounds.

#### *Coroner's Fees.*

Viewing the body of any person or persons murdered or slain, or otherwise dead, by misadventure, to be paid out of the goods and chattels of the party so dead, if any there be, otherwise to be levied by the commissioners of the county where such accident shall happen, 250 pounds; arresting or summoning any sheriff, sued or prosecuted in any court, and for taking security, 26 pounds; the same fees allowed wherein the sheriff is plaintiff or defendant, on all processes as to the sheriff, and no more.

#### *Crier's Fees in the County Court.*

Swearing every jury, 36 pounds; swearing every bailiff, 4 pounds; every other oath in court, 3 pounds; for special bail, 20 pounds; clearing every prisoner by proclamation, if required, 30 pounds; for calling every recognizance, 16 pounds.

#### *To the Registers of the Land Office on the Western and Eastern shores, respectively.*

For a common warrant and entry, 33 pounds; for renewing the same, and entry, whether in or out of date, 33 pounds; for recording certificate, per side, computing one hundred and five words to a side, and so *pro rata*, 8 pounds; for making out a grant, 90 pounds; for recording the same, 67 pounds; for special warrant on the proclamation of escheat, or re-survey, including petition and order thereon, 250 pounds; for searching for any matter or thing first year, nothing; if the matter searched for be found, 14 pounds; for a special warrant for vacant cultivation, including petition, and order thereon, 150 pounds; for renewing every special warrant, whether in or out of date, 33 pounds; entering every *caveat*, and order, 24 pounds; for every deed or assignment, 75 pounds; for drawing a petition, at the request of the party, 54 pounds; for all copies, per side, as before, 8 pounds; for filing every paper, at the request of the party, 4 pounds; for entering every application for warrant, 10 pounds; for copy thereof, per side, and so *pro rata*, 8 pounds; for every seal, 10 pounds.

#### *How the fees allowed in tobacco are to be payable, &c.*

October session, 1780, ch. 23, s. 3. All fees and allowances made in tobacco shall be paid and discharged in tobacco, at the rate of 12s. 6d. per cwt., or in specie, valuing dollars at 7s. 6d.

#### *Fees allowed to the Registers of Wills, in the several counties of the State, by the act of November session, 1797, ch. 76.*

For every probate of will, where no controversy or letters granted, including demand, and all oaths necessary thereto, 80 cents; for granting letters of administration; swearing the administrators, taking bond, issuing warrant to appraisers, and warrant to swear them, or for probate of any will, granting letters testamentary, if required, taking bond, issuing warrant to appraisers to swear them, \$3 20; *dedimus potestatem*, to take answer, per side, and so *pro rata*, 8 cents; for recording wills, inventories, accounts, or copying the same, per side, computing seven words to the line, and fifteen lines to a side, and so *pro rata*, 8 cents; taxing and filing costs, 8 cents; copy costs, if demanded and delivered, 8 cents; for drawing definitive sentence on plenary proceedings, and recording the same, per side, and so *pro rata*, 8 cents; a writ of execution or definitive sentence, per side, and so *pro rata*, 8 cents;

cents; seal to definitive sentence, if required, 30 cents; seal to a writ of execution of definitive sentence, 30 cents; copy of every libel, answer, replication, or rejoinder, per side, if demanded, 8 cents; drawing deposition of witnesses, per side, and so *pro rata*, 10 cents; filing interrogatories, per side, and so *pro rata*, 4 cents; every common citation, per side, and so *pro rata*, 8 cents; every special citation, per side, and so *pro rata*, 8 cents; every attachment, 30 cents; attachment on decree, per side, and so *pro rata*, 8 cents; subpoena for costs, 20 cents; every appearance of the party, 8 cents; entering of every return of process, 8 cents; *quietus est*, nothing; for a continuance or reference, to be charged to the libellant only, 8 cents; for a search of the record, the first year, nothing; for every search afterwards, be the time of what length soever, if the matter searched for be found, 20 cents; exemplification of letters testamentary, or administration, under seal, 80 cents; commission or proclamation of rebellion, 80 cents; commission to examine evidences, and commission to auditors, 60 cents; *scire facias*, 60 cents; *duces tecum*, 30 cents; entering every motion in suits depending in court, and order thereon, 8 cents; if above one side, after the rate of per side, and so *pro rata*, 8 cents; entering prayer for appeal, 10 cents; filing every libel, answer, replication, petition, or exhibits, where not recorded, for each, 4 cents; for recording or copying any matter or thing not herein enumerated, if requested by the party, per side, and so *pro rata*, 8 cents; writ of sequestration and return, per side, and so *pro rata*, 16 cents; filing every matter, if not recorded, 4 cents; for entering and taking executor's renunciation, 8 cents; for entering widow's renunciation, 8 cents; for every oath, 4 cents; for every certificate, 8 cents; for making out and filing the balance, and distribution of a deceased person's estate, 60 cents; for taking bond for security of said balance, 40 cents; for filing the same, 4 cents; for recording the same, per side, and so *pro rata*, 8 cents; for entering choice or appointment of guardian, and approbation with sureties, 8 cents; for taking guardian's bonds, 40 cents; for filing the same, 4 cents; recording the same, per side, and so *pro rata*, 8 cents; for taking recognizance for apprentice bound in court, 40 cents; for warrant to sheriff to summon jury, 25 cents; for filing panel of jury, 4 cents; copy of the same, 8 cents; filing every presentment and entering order thereon, 12 cents; for *scire facias* against executors or administrators for costs, 40 cents; for every seal, 20 cents; for taking an appeal bond, 40 cents; for filing the same, 4 cents; recording the same, per side, and so *pro rata*, 8 cents; for stating and passing every account, 80 cents; for every voucher, 4 cents.

*Allowances to Grand and Petit Jurors and Witnesses.*

April session, 1715, c. 37, s. 8, and May session, 1719, ch. 3, s. 2. For every verdict given by the petit jury in any cause, to be paid by the party for whom such verdict shall pass, and be allowed in the bill of costs, twelve shillings.

November session, 1797, ch. 94. There shall be allowed to each grand and petit jurymen, attending the general court, the sum of \$2 50 for each and every day such grand and petit jurymen shall attend for the discharge of his duty, besides itinerant charges.

There shall be allowed to each grand and petit jurymen, attending the several county courts, and each petit jurymen attending the orphan's court, the sum of \$1 50 for each and every day such grand and petit jurymen shall attend, for the discharge of his duty as such.

There shall be allowed to each witness, attending the general court, the sum of \$1 50 for each and every day such witness shall attend for the discharge of his duty, besides itinerant charges.

There shall be allowed to each witness attending the county or orphan's court the sum of \$1 for each and every day such witness shall attend for the discharge of his duty, besides itinerant charges to be allowed to witnesses coming from other counties.

STATE OF VIRGINIA.

*Table of the Fees allowed by law to Attorneys in the State of Virginia.*

*In the County Courts.*

In common cases, \$2 50; in all chancery suits, or real, mixed, or personal actions, where the title or bounds of lands shall or may come in question, \$5 00; on petition for small debts, \$1 25; for attending a survey in the county, for each day's attendance, \$3 58; for any opinion or advice where no suit is brought or defended, \$1 67.

*In the District Courts.*

When the title or bounds of lands shall or may come in question, \$5 00; in all other cases, except those transferred from the general court, \$2 50; in the cases so transferred, the fees shall be the same as in the general court.

*In the General Court.*

For an opinion or advice where no suit is brought or defended, \$3 58; in any suit where the title or bounds of lands shall or may come in question, \$16 66; in all other cases, \$8 33.

*In the High Court of Chancery.*

In all cases the fee is \$16 66.

*In the Court of Appeals.*

In all cases the fees are the same as in the general court.

*The Clerk of the Court of Appeals*

Shall receive the same fees as are allowed to the clerks of the general court and high court of chancery for similar services.

*The Clerk of the High Court of Chancery.*

For filing a bill, answer, replication, or other pleadings, each, 26 cents; for a copy thereof, for every twenty words, 2 cents; for entering every decree, 18 cents; for drawing up every decree at large, entering the substance of the bill, answer, and other pleadings, the substance of the evidence, and the decree thereupon, for every twenty words, 2 cents; for filing the depositions in every cause in behalf of each party, 26 cents; for a copy of the depositions, for every twenty words, 2 cents.



*To the Clerk of the General Court.*

For a copy of a warrant and inquisition of escheat, \$1 92; or of an inquisition of escheat, 83 cents; for the probate of any testament, and recording the same, for entering the orders for appraising the estate, recording the inventory, writing and sealing the probate, or any other matter concerning the same, or for a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraising the estate, recording the inventory, or for any other matter concerning the same where the appraisement does not amount to more than three hundred dollars, \$3 50; where the appraisement is more than three, and less than fifteen hundred dollars, \$5 00; where more than fifteen hundred dollars, or where there is no appraisement, \$7 00; for a copy of probate, or commission of administration, 70 cents; for recording the memorial of each bargain, sale, mortgage, or other conveyance, marriage settlement, or deed of trust, 18 cents; for recording the certificate of a probate, or administration, 18 cents; for a copy of a will or inventory, 70 cents; and if the original is contained in more sheets than one, for a copy of each sheet, 52 cents; for a copy of an account, 35 cents; for recording a deed or deeds for the conveying or settling any lands or tenements only, or together with slaves or personal estate, or any way concerning the same, acknowledged or proved in the general court, \$2 62; for a copy of such deed or deeds, with the endorsement thereon, and for a certificate of the acknowledgment or proof, and recording, \$1 57; for issuing a commission to take the acknowledgment and privy examination of a *feme covert*, and recording it with the return of the commissioners, 87 cents; for a copy thereof, 52 cents; for recording a deed concerning slaves, or any personal matter only, \$1 22; for a copy thereof, with a certificate of the acknowledgment or proof, and recording, 70 cents; for a deed of gift for slaves only, or for a copy thereof, 35 cents; for recording a letter of attorney acknowledged and proved in the general court, and every thing relating thereto, \$1 22; for a copy thereof, 70 cents; for recording a bond with condition other than for performance of covenants in deeds of conveyance or settlement of lands, 70 cents; for a copy of a bond with condition, 35 cents.

*In actions and other suits.*

For every writ of error, *supersedeas*, or *scire facias*, 43 cents; for taking bond on issuing a writ of error or *supersedeas*, 43 cents; for every other writ in any action or suit whatsoever, 35 cents; for entering the sheriff's return, and entering the bail by him returned in the entry book, 35 cents; for entering special bail, 35 cents; for entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party, 18 cents; for entering security for costs for persons out of the country, 35 cents; for filing a declaration, and every plea or demurrer in any cause to the making up of the issue, and for filing errors upon appeals, writs of error, or *supersedeas*, 35 cents; for a copy of every declaration, plea or demurrer, or of errors, 35 cents; for every rule entered in the rule book, 35 cents; for a copy of every rule, 18 cents; for every order in court before trial, 18 cents; for a copy of the same, 18 cents; for filing papers for each party in any action or suit, 26 cents; for docketing every cause on the docket, (to be charged but once,) 18 cents; for every trial, swearing the jury and witnesses, and recording a general verdict, 87 cents; for administering an oath or affirmation in court, except witnesses to a jury, 18 cents; for every trial where there is a special verdict, swearing the witnesses and jury, and recording such verdict, \$1 30; where there is no jury, but a case agreed, 43 cents; for swearing the witnesses for each party in every cause where there is no jury, 26 cents; for a copy of a case agreed, or notes of a special verdict, 43 cents; for entering every order made in court, after verdict or demurrer joined, 18 cents; for entering every continuance on the court docket, 18 cents; for entering every judgment, 18 cents; for making a complete record of every cause, inserting a case agreed, or special verdict at large, from the notes and all deeds and other evidences at large, for every twenty words, 2 cents; for a copy thereof, or any part thereof, the same; for a recognizance in court, 35 cents; for filing a return of a *habeas corpus*, 26 cents; for filing the record on a writ of error, 26 cents; for copy of such record, for every twenty words, 2 cents.

*To the Clerk of the General Court or High Court of Chancery, (as the case may be.)*

For taking a bond upon issuing injunctions, 43 cents; for every *dedimus potestatem*, 35 cents; for recording the report of auditors when it is desired, 70 cents; for making a complete record of every cause, for every twenty words, 2 cents; for filing the return of a *certiorari*, 26 cents; for taxing the costs in any action or suit, and a copy thereof, 35 cents; for recording any thing not herein particularly mentioned, or for a copy thereof, for every twenty words, 2 cents; for a search for any thing, if above a year's standing, or reading the same or any part thereof, if required, if a copy be not taken, 18 cents; for every order to a witness for attendance, (to be charged to the party against whom the order goes,) 18 cents.

*To the Clerks of the District Courts.*

For issuing a summons on a petition for lapsed lands, 87 cents; for every order thereon, 26 cents; in all other cases, the same fees with those of the county courts for similar services; and for all other services, the same as those of the clerk of the general court.

*To the Clerk of the District Court, or the Clerk of the High Court of Chancery, (as the case may be.)*

For filing the record upon an appeal, or *supersedeas* for a county or other inferior court, 26 cents; for a copy of such record, for every twenty words, 2 cents.

*To the Clerks of the County and Corporation Courts.*

For every writ in the nature of an *ad quod damnum*, to be paid upon issuing such writ, 83 cents; for recording the same, with the inquisition thereupon, to be paid before inquisition recorded, \$1 92; for a copy of such writ and inquisition, to be paid down, 83 cents; for taking a bond upon issuing injunctions in chancery, 35 cents; for recording deeds of lease and release, for conveying or settling of lands only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof, or acknowledgment, as the case is, and all matters relating thereto, \$2 62; for a copy thereof, 95 cents; for recording every deed of feoffment, or bargain and sale, or other single deed for conveying or settling lands or tenements only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof, or acknowledgment, as the case is, and all matters relating thereto, \$1 75; for a copy thereof, 70 cents; for issuing and recording a commission to take the acknowledgment, and privy examination of a *feme covert*, with the certificate of the commissioners, if such commission be required, 70 cents; for a copy thereof, 35 cents; for recording a patent, 87 cents; for a copy thereof, 43 cents; for recording a deed concerning slaves, or any personal matter or thing only, with certificate of its proof or acknowledgment, 70 cents; for a copy thereof, 52 cents; provided, however, that for a deed of gift for slaves only, or for a copy thereof, there shall be allowed only, 35 cents; for recording a letter of attorney, 52 cents; for a certificate of the proof, or acknowledgment thereof, 18 cents;



for a copy of a letter of attorney, with such certificate, 43 cents; for recording a bond, with conditions other than for performance of covenants in deeds of conveyance, or settlement of lands, 35 cents; for copy of a bond, with condition, other than an appeal bond, the same; for a copy of any other obligation or promissory note, 18 cents; for the probatation of any will or testament, and recording the same, entering the order or orders for appraising the estate, and for any other matter concerning the same, where the will shall be contained in one sheet, 70 cents; and if the will is contained in more than one sheet, for every such sheet, 35 cents; for a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraisement, and for any other matters concerning the same, 70 cents; for recording an inventory, where the appraisement does not amount to more than thirty dollars, 18 cents; where the appraisement exceeds that value, and is under one hundred and fifty dollars, 87 cents; and where it shall exceed one hundred and fifty dollars, and is under three hundred dollars, \$1 75; and where it shall exceed three hundred dollars, or there is no appraisement, \$4 37; for a copy of a will or inventory, if the original is contained in one sheet, 52 cents; if the original is contained in more sheets than one, for a copy of every such sheet, besides the first, 35 cents; for recording the age of a servant or slave, adjudged in court, 18 cents; for a certificate thereof, if required, 14 cents; for attending a court for examination of criminals and trial of slaves, if the court is held for that purpose, (to be paid by the public,) \$3 50; for a copy of a list of tithables, in his precinct, 35 cents; for the whole fee for an ordinary license and bond, 87 cents; for a copy of the rates of liquors, 26 cents; for a marriage license, certificate, and bond, 87 cents; for every search for every thing above a year's standing, if a copy be not taken, 8 cents; for reading any thing if a copy be not required, 8 cents.

*In actions and other suits.*

For every writ other than such as are herein particularly mentioned, 18 cents; for a copy of such writ, 8 cents; for every writ of execution or *scire facias*, 26 cents; for a copy thereof, 14 cents; for recording the return thereof, 14 cents; for a writ of attachment in any action, 26 cents; for recording the return thereof, 26 cents; for an attachment granted by a justice of the peace, returnable to the court, and recording the return, and putting the same in the docket, 35 cents; for every summons to summon a garnishee on such attachment, 18 cents; for filing every bail bond, or entering the bail returned, 18 cents; for docketing every cause, except by petition, to be charged but once, 8 cents; for a copy of the return of any writ, 5 cents; for entering special bail, 18 cents; for entering security for costs for persons out of the country, 18 cents; for entering the appearance of the defendant or defendants, where there is no attorney, in any suit except by petition, 8 cents; for entering one or more attorneys for each party, 8 cents; for every petition, declaration, or other pleadings, except in suits by petition for debt, *detinue*, *assumpsit*, or trover, 18 cents; for a copy of any declaration, special plea, or demurrer, 18 cents; for a copy of a plea, if the general issue, 5 cents; for every trial, swearing the jury and witnesses, filing all papers, and recording a general verdict, 70 cents; for every trial where there is a special verdict, or case agreed, and recording the same, \$1 18; for swearing the witnesses in every other cause, where there is no jury, or case agreed, except by petition, 18 cents; for filing the papers of each party in every cause except by petition, and where there is a jury or case agreed, 18 cents; for a copy of a special verdict or case agreed, and every thing therein set forth, or for making up a full and complete record, for every thirty words, 2 cents; for entering every judgment, or for a copy thereof, 18 cents; for filing a bill, answer, replication, and other pleadings in chancery, for each, 18 cents; for a copy thereof, for every thirty words, 2 cents; for a commission to examine witnesses, 43 cents; for attending and writing depositions taken against inspectors before justices of the peace, \$1 75; for entering every decree in chancery, 26 cents; for filing the depositions in any suit, for each party, 8 cents; for every deposition taken in court, 18 cents; for a copy of a deposition, 18 cents; for administering an oath in court not relating to the trial of any cause then depending, and certifying the same, 18 cents; for every recognizance in court, 18 cents; for entering the order or orders in any cause in one court, 26 cents; for entering every order for attendance of witnesses, 18 cents; for a copy of any order, 18 cents; for recording the report of a jury in the county, surveyor, auditor, or viewers, 35 cents; for a copy thereof, 35 cents; for taxing costs to any judgment or decree where costs are recovered, or for a copy of a bill of costs, if required, 20 cents; for a copy of an account, 18 cents; for entering an appeal, and taking bond to prosecute it, 35 cents; for a copy of the bond, 18 cents; for returning an appeal and security to the office of the court of chancery, or a district court, as the case may be, 52 cents; for returning a writ of error, *supersedeas*, *certiorari*, or *habeas corpus*, 35 cents; for a copy of the proceedings of the cause wherein the appeal is granted, for every thirty words, 2 cents; for recording the acknowledgment of satisfaction of a judgment, 18 cents; for entering each order for a witness's attendance (to be charged to the party in whose behalf the witness is summoned, and taxed in the bill of costs, if such party recover,) 18 cents; for a copy thereof, to be taxed and charged in like manner, 18 cents; for an attachment thereon, to be charged to the party against whom the attachment shall be issued, 18 cents; for the whole fee, chargeable for every petition for debt, *detinue*, *assumpsit*, or trover, and all the proceedings therein, including a copy of the judgment, and taxing costs, if required, except the respective fees for summoning witnesses, entering attorneys, for every order for continuance, and for issuing execution, where any of those matters happen, 87 cents; for entering an attorney in such petitions, to be paid by the party by whom such attorney shall be employed, and not to be taxed in the bill of costs, 8 cents; for a summons for several witnesses living in one county, if summonses for all be taken out at one time, 18 cents; for recording any thing not here particularly mentioned, or for a copy thereof, for every thirty words, 2 cents; for the acknowledgment and proof of any deed in the county court, and for certifying the same to be recorded in the general court, 52 cents.

*To the Sheriff or Sergeant, (as the case may be.)*

For an arrest, bond, and return, 63 cents; for returning a *capias*, *non est inventus*, 21 cents; for serving a *scire facias*, 30 cents; for serving any person with an order of court, and making return thereof, 30 cents; for pillorying any person, 42 cents; for putting into the stocks, 21 cents; for ducking any person, 42 cents; for putting in prison, and release, 42 cents; for serving a subpoena in chancery, 30 cents; for serving a summons upon a petition for debt, *detinue*, *assumpsit*, or trover, 30 cents; for serving a subpoena for a witness in any case in court, except summoned in court, 21 cents; for summoning an appraiser, auditor, viewer, or witness, to any deed, will, or writing, if required to be summoned, but not else, 21 cents; for summoning and empannelling a jury in every cause wherein a jury shall be sworn, \$1 05; for coming to attending the district court with the *venire*, and return of the *venire facias*, the same as is allowed to a *venire man*, (to be paid by the public,) and for attending the district with stolen goods where there is no *venire*, the same; for summoning the justices of the county, and attending the court for the examination of a criminal, (to be paid by the public,) \$4 20; for removing every criminal from the county jail to a district jail, for every mile, 10 cents; for removing a debtor by *habeas corpus* from the county jail to a district jail, for every mile, 4 cents; for executing every condemned person, and all fees incident thereto, (to be paid as aforesaid,) \$5 25; for summoning a jury upon any inquisition, survey, writ of dower, or partition, if the jury

appear, \$3 15; and if the jury do not appear, \$1 57; for making a return of a writ of dower, partition, or in the nature of an *ad quod damnum*, \$1 05; for every day's attendance upon a jury in the country after they are sworn, or attendance upon a surveyor when ordered by the court, \$1 05; for serving a writ of *haberi facias seisinam*, or *haberi facias possessionem*, \$1 05; for serving an attachment upon the body, 63 cents; for serving a writ of *distringas* issuing from a judgment in detinue when the specific thing shall be taken, \$1 05; for serving a declaration in ejectment, if against one tenant, 63 cents; and if against more tenants than one, for serving the declaration on every other tenant, 30 cents; for whipping a servant, to be paid by the owner, and repaid by the servant, 42 cents; for whipping a free person by order of court, to be paid by such person, 42 cents; for whipping a slave by order of court, to be paid by the county, and repaid by the public, 42 cents; for taking a bond or bonds to the creditor, under the act entitled "An act for reducing into one the several acts concerning executions and for the relief of insolvent debtors," 63 cents; for proceeding to sell on any execution on behalf of the commonwealth, or of any individual, if the property be actually sold or the debt paid, the commission of five per centum on the first three hundred dollars, or ten thousand pounds of tobacco, and two per centum on all sums above that, and one-half of such commission where he shall have proceeded to sale, and the defendant shall have replevied; and no other commission, fee, or reward shall be allowed upon any execution, except for the expense of removing and keeping the property taken; for serving an attachment, or for making distress upon the goods exceeding ten dollars, if sold, the same fee as for serving an execution where the goods do not exceed that value, or are not sold, 63 cents; for every garnishee summoned on such attachment, 21 cents; for executing any writ of *distringas* or attachment on a decree in chancery, the same fee or commission upon the amount of the value of the goods and chattels recovered or money mentioned in such decree as is by law allowed for serving any other execution; for serving and returning a general or district court writ, summons, or order, where the same is not comprehended in any of the foregoing articles, 63 cents; for making a proclamation, as the law directs, in proving wills or proceeding to outlawry, 42 cents; for selling a servant at public outcry, by order of court, and all fees incident, 42 cents; for keeping and providing for a debtor in jail, each day, 21 cents; for serving a justice's warrant, 21 cents; for summoning a witness before a justice, 10 cents; for all public services of the sheriff, to wit, attending the courts of claims, empannelling grand juries, publishing writs for electing delegates or senators, and attendance, serving all public orders of court, (except against guardians, where they shall stand out in contempt, to be charged to such guardian,) and all other public and county services, to be levied annually by the justices on the county, 25 cents.

*To the Coroner.*

For taking an inquisition on a dead body, to be paid out of the estate of the deceased, if the same be sufficient, if not, by the county, \$2 80; for all other business done by him, the same fees as are allowed the sheriff for the same services.

*Witnesses.*

For attending the county courts, referees, commissioners, or other persons, for the purpose of giving testimony, or on a survey of lands in the county where they reside, for every day, 53 cents; and those residing in, and summoned from, another county, the same, together with travelling expenses as in the superior courts; for attendance in the superior courts, for every mile going and returning, each, 4 cents; for attendance each day, \$1 04; in criminal cases, either before the examining court or the district court, the same as in civil cases.

STATE OF NORTH CAROLINA.

*A table of fees and compensation allowed by the laws of North Carolina to attorneys at law, prothonotaries, registers, and clerks of judicial courts, to sheriffs and coroners, to grand and petit jurors, and witnesses, viz:*

*To the Attorney General.*

For every bill of indictment found, or presentment made, £1 6s. 8d; if the bill be found *ignoramus*, the prosecutor shall pay 13s. 4d.

*To the Solicitor General.*

The same allowances and fees as the attorney general.

*To the County Solicitor.*

For prosecuting for the State, in any matter, civil or criminal, in any of the county courts, the same fees which are allowed by law to the attorney general for the like services.

*To Attorneys.*

For every suit in equity, £10; for every suit in the superior court, where the title of lands shall come in question, £5; for all other suits originally commenced in any of the said courts on the law side, £5; in all appeals from any other courts to said superior courts, £5; in all suits in the county courts, where the titles of lands shall come in question, £5; in all other suits originally commenced in the said county courts, £2; in every appeal from the judgment of a justice of the peace to said county courts, £1.

*To the Clerks and Masters in Equity.*

For a report on an answer, 3s.; for a report on an answer, and plea, 4s.; for a report on a demurrer and answer, 4s.; for an affidavit to an answer, 1s. 6d.; for an affidavit to a bill, 1s. 6d.; for a separate affidavit, 2s.; for a copy of report by the office, copy sheet containing ninety words, 2s.; for copies of proceedings and exemplifications, for each copy sheet, 2s.; for taking a bond, 1s. 6d.; for every rule given for service, 2s. 6d.; for every rule not for service, 2s. 3d.; for every subpoena, writ, or other process, 10s.; for every *dedimus* or commission, 5s. 4d.; for every injunction, 10s.; for drawing decrees, by the copy sheet, 4s.; for enrolling a bill or answer, by copy sheet, 2s.; for entering plea or demurrer, 2s.; for recording depositions to perpetuate testimony, for each copy sheet, 2s.; for search, 1s.; for every dismissal, 2s.; for a report stating an account, as much as the court may, in discretion, think adequate to the actual labor and trouble bestowed, not exceeding £25.

*To the Clerks of the Superior Courts.*

For every leading process returned to the first court, and all subsequent process, appearances, pleas, rules, orders, and other services necessary thereon, until the making up an issue, inclusive, and also for dismissal or

final judgment, where either happens, or for confession of judgment, 10s.; for every continuance or reference of every cause after the second court, including all the fees for every necessary service, 4s.; for the court at which the cause is determined, including all fees for every necessary service thereon, and entering final judgment, inclusive, 18s.; for every subpoena, provided the party insert no more than four witnesses in the same, 2s.; for every execution or order of sale, when necessarily issued and returned, including all services thereon, with taxing costs, and copy, and entering satisfaction, 5s.; for every *scire facias* against bail, with making an issue thereon, or entering judgment without plea, including fees for every necessary service thereon, provided that the party cast shall not be subject to this unless the *scire facias* is requisite and required by the plaintiff, 8s.; for giving a copy of the record of any cause, when demanded by either of the parties, 6s.; for every recognizance, 2s.; for every order or rule of court, made in matters foreign to the suit depending in court, and copy thereof, when demanded, 2s. 8d.; for searching a record out of court, 1s.; for a commission to take the examination of a *feme covert* or witnesses, in any cause depending, the return thereon entering, and all other services necessary thereon, 3s.; for a special *venire facias*, in an action of ejectment, or where the bounds of lands shall come in question, when the said writ shall be issued, 8s.; for a special verdict, demurrer, or motion in arrest of judgment, and argument thereon, 4s.; for a writ of error, *certiorari*, or appeal, with a transcript of the record, and all services necessary thereon, 8s.; for making out certificates of witnesses' or jurymen's attendance, 8d.; for every security taken to prosecute plaintiff's suit, or pay costs, 2s.; for entering the same, with the names of the security, 2s.; for advertising the distribution of the business of the next term for each county, £1; for fixing the seal to any instrument of writing that may require the same, 2s. 6d.; for indictment, calling the prisoner to the bar, charging or arraigning him, receiving and entering his plea at length, 10s.; for each recognizance, to be paid, so far as respects the person admitted to bail and his securities, at the time when taken, 2s.; for each subpoena in state cases, 2s.; for the trial, entering of final judgment, and issuing a copy of the sentence of the court, 18s.; for each continuance of an indictment, 4s.

#### To the Clerk of the County Court.

For every leading process returned to the first court, including all services, together with dismissal or final judgment, where either happens, 10s.; for every presentment or indictment, 6s.; for entering and filing every recognizance, 2s.; for every continuance or reference of any cause after the second court, including all fees, for every service necessary thereon, 3s.; for the court at which the cause is determined, including all services, 7s. 6d.; for every subpoena, provided the party insert no more than four witnesses in the same, 1s. 6d.; for every execution or order of sale necessarily issued, including all services thereon, with taxing costs and copy, and entering satisfaction, 3s. 9d.; for every *scire facias* against bail, with making up an issue thereon, entering judgment without plea, including all pleas for every necessary service thereon, provided that the party paying costs shall not be subject to this unless the *scire facias* is necessary and required by the plaintiff, 6s.; for copy of the record of any cause, 4s. 6d.; for every order or rule of court, made on matters foreign to the suit depending in court, and a copy thereof, if demanded, 2s.; for entering on the minutes the probate of wills, qualifying executors, making certificates, recording the will, and giving copy thereof, 8s.; for granting administration, taking bond, and all other services thereon, 8s.; for proving, and recording at length, and filing an inventory, account of sales, or account current, exhibited by any administrator, executor, or guardian, or for search, copy, or certificate of the same, if the estate be under one hundred pounds, 2s.; if above, 4s.; for every marriage license and bond, 8s.; for searching a record out of court, 2s.; for proving or entering acknowledgment of a conveyance of lands or other estate, and certifying the same, with order of registration, and examination of *feme covert*, without commission, 2s.; for a commission to take the examination of a *feme covert* or witnesses, in a case depending in court, entering the return thereon, and other necessary services, 2s. 4d.; for guardian or other bond taken in court, including all services, 6s.; for indentures of apprenticeship, 6s.; for a special verdict, or demurrer, or motion in arrest of judgment, 3s.; for a writ of error or appeal, with a transcript of the record, 8s.; for making certificates of witnesses' attendance, 8d.; for recording a mark or brand, and granting certificate thereof, 1s. All other services done by the clerks of the said courts are *ex officio*, amongst which are all notices or writs of *scire facias* against jurymen, and the courts may allow reasonable satisfaction for the same, not exceeding, per annum, £20; for every security taken for prosecuting a suit or paying costs, 2s.; for entering the same, with securities' names, 2s.; for petition to correct error in grants or mean conveyances, 5s.; for affixing the seal where requisite, 2s. 6d.; for recording processioneer's certificate, 2s. 6d.; for every search of the entry taker's book, 1s.; for copy of every location, 1s.; for issuing warrant, granting certificate, and affixing the seal as directed by act of 1796, c. 7, § 4, 4s.; for tavern license and bond, and copy of tavern rates, 8s.

#### To Sheriffs.

For selling an orphan's estate, to be allowed by the county court, not exceeding  $2\frac{1}{2}$  per cent.; for every arrest, 5s. 4d.; for every bail-bond, 2s.; for serving copy of a declaration, 1s.; for serving a subpoena, for each person named therein, 2s. 8d.; for pillorying a person, 5s.; for an attachment, the same as for an arrest, and, if further trouble by moving of goods, to be taxed by the court; for executing a warrant of distress, or execution against the body or goods,  $2\frac{1}{2}$  per centum; for summoning, empannelling, and attending on every jury, in every cause in court, 1s.; when a special *venire* shall issue by order of court, for summoning each juror and attending the same, 2s.; for putting a person in the stocks, and releasing, 5s. 4d.; for every commitment, 2s. 8d.; for every release, 2s. 8d.; for serving a writ of possession of land, 8s.; for serving and attending on any person on a *habeas corpus*, per day, 15s.; for calling every action in court, 4d.; for selling the estate of an intestate, to be allowed by the court, not exceeding  $2\frac{1}{2}$  per cent.; for summoning every warden of the poor, to be paid by the county, 2s. 1 $\frac{1}{2}$ d.; for services of equity, process, and incidental thereto, the same fees as for the like services at law; for apprehending any criminal, 10s.; for conveying any person in his custody, for criminal offence, to the jail where such person ought to be confined, at the rate of 6d. per mile; for each person composing the sheriff's guard, 3d. per mile; and 4s. for each day such sheriff shall maintain said prisoner; for carrying any sentence or order, on the part of the State, into execution, where the convict is to be corporeally punished, 10s.; for the execution and decent burial of a felon, £5.

#### To Coroners.

For attending on every inquest, £1 4s.; the same fees for discharging the duties of a sheriff as such sheriff would be entitled to by this act for performing the same services.

#### Jurors.

To each juror to the superior courts, (except in the districts of Morgan and Salisbury, and the counties of Persan, Chowan, and Robeson,) for every thirty miles in going and returning, 10s.; for each day's attendance, 10s.;

to every juryman who shall attend the superior courts for the districts of Morgan and Salisbury, and from the counties of Chowan and Persan, for every day's attendance, 8s.; for every thirty miles he shall travel in going to and returning from said courts, 8s.; and such sums as shall be necessarily expended by him in crossing ferries.

N. B. The above fees to jurors are to be paid out of a county tax, to be levied in the county to which the jurors belong.

*To Jurors attending the County Courts.*

In most of the counties, the jurors attending the county courts are allowed nothing; in some, by particular laws, they are allowed a compensation, which varies in different counties, and is paid out of a tax to be levied in the county.

*To Witnesses.*

Each person, who shall attend any of the superior or county courts as a witness, shall be allowed for every day's attendance, and for every thirty miles he shall travel in going or returning from the said court, 8s.; for every day's attendance in the county courts, 4s.; and ferriages.

It may be proper to remark, that the currency of North Carolina is fixed by law at twenty shillings for every two dollars and a half; but a paper currency has been in circulation ever since the war, which is depreciated, and for many years past has been fixed by common consent at twenty per cent. below par; that is to say, it has passed at the rate of twenty shillings for every two dollars. In this currency, the fees of attorneys, clerks, sheriffs, &c., have been generally paid; and, when they are paid in silver and gold, the dollars are received at the rate of two for every twenty shillings.

STATE OF SOUTH CAROLINA.

*Table of Fees established by an act of the Legislature of South Carolina, passed 14th February, 1791.*

*Fees of the Secretary of State.*

For every search, 8d.; for a commission for a place of profit, 15s.; for entering satisfaction on a mortgage, 1s.; for recording a mark or brand, 1s.; for recording or copying any writing, for every copy sheet containing ninety words, 5d.; for drawing a proclamation and copy to the printer, to be paid by the State, 5s.; for a militia commission to be paid by the State, 4s.; for a pardon or reprieve, with the great seal, and recording, to be paid by the State, 5s.; for attending the courts of justice with records, 3s.; for finding the wax and appending the great seal to laws, to be paid by the State, for each law, 2s.; for a general commission of the peace for any county or district, to be paid by the State, 10s.; for a separate commission of the peace, to be paid by the State, 2s. 6d.; for making out a grant of lands, recording and fixing the great seal, 10s.; for a testimonial with the great seal, 5s.; for registering the certificate of a person becoming a citizen, 5s.

*Fees of the Master and Commissioners in Equity.*

For every summons, 1s. 9d.; for every copy of a charge or discharge, 1s.; for taking every affidavit in writing, 1s. 6d.; for every oath administered, 6d.; for taking every recognizance, 2s.; for every day's attendance in court on any cause, 3s. 6d.; for taking the oath of every defendant to an answer out of office, and attendance, 5s.; for every attendance in office, on summons of either party, or their solicitors, 3s. 6d.; for hearing and determining any contested matter, and order thereon, 5s.; for making up and returning every report into court, but only one report to be charged in each suit, 14s.; for commissions on sales, under decrees of the court, 3 per cent. for the first hundred, and 1 per cent. on all sums above; for drawing each set of conveyances, £1 5s.

*Fees of the Register and Commissioners in Equity.*

For affixing the seal of the court to subpoena or other writ, and signing the same, 2s. 6d.; for affidavit of service of subpoena or other writ, 2s. 6d.; for examining every witness, drawing depositions, exemplifications of proceedings in any cause, if required, containing minutes of a decree, all orders of court, or for copies thereof, per copy sheet of ninety words, 5d.; for every search, 8d.; for entering every cause for hearing, 1s.; for attending court in each cause, 3s. 6d.; for reading all papers in a suit, 2s.; for examining decree, affixing seal thereto, and attending the judges in court to sign, and certificates of examinations, 4s.; for notification to insert in gazette, by order of court, and attendance on printer, 1s. 6d.; for affixing every seal, and signing every commission to take answers, and examine witnesses, or for other purposes, 2s. 6d.

*Fees of the Complainant's Solicitor in Equity.*

Preparing and filing a bill in equity, with all necessary exhibits, £7; for drawing interrogatories in chief for complainant's witnesses, and cross-interrogatories, drawing and engrossing commissions, attending to strike commissioners, where necessary, with proper instructions, £3 10s.; for arguing exceptions on points of law before the master or judge at chambers when necessary, and attending thereon, including all charges incidental thereto, £2; for all other services in the cause, including briefs served on judges, except the decree, £3; for drawing and engrossing decree, per copy sheet, 5d.

*Fees to Defendant's Solicitor.*

For preparing and filing defendant's answer, and all necessary exhibits, £7; for drawing interrogatories in chief for defendant's witnesses, drawing and engrossing cross-interrogatories, commissions, attending to strike commissioners, where necessary, with instructions, £3 10s.; for arguing exceptions on points of law before the master or judges at chambers, when necessary, including notices, attendance, and all incidental charges relative thereto, £2; for all other services in the cause, including serving judges with briefs, and except the decree, £3; for drawing and engrossing decree, per copy sheet, 5d.

In the Superior Courts of law.

*Plaintiff's Attorney.*

For filling up writs, signing, attendance to lodge the same with sheriff, and all incidental charges, when settled before declaration filed, in cases where no bail is required, £1; for every extra copy of a writ and notice, 1s. 6d.; for all subsequent proceedings whatever to the filing of the declaration, or obtaining interlocutory judgment in-

clusive, where no bail is required, £1 5s.; in all cases where special bail is required, 7s.; for all proceedings subsequent to the former, including final judgment and verdict, 15s.; for all other services whatever, including the whole proceedings to the issuing of execution, inclusive, 6s.; for all exhibits in cases of covenant, per copy sheet of ninety words, 5d.; to the jury in each cause tried, 5s.

*Attorneys' Fees in extraordinary cases.*

For every demurrer, joinder, and argument on a point of law, £1 5s.; for every motion for new trial, or in arrest of judgment, or special matter and argument, £1 5s.; for every renewal of writ or execution, 5s.; for filling up every writ of subpoena, and four tickets, inclusive, 5s.; for every rule to show cause in arrest of judgment, copy and notice, and motion for a new trial, 7s.; for preparing every commission to examine witnesses, where necessary, attending to strike commissioners, drawing interrogatories in chief, and cross-interrogatories, and instructions, £2; to each material witness attending the court, residing in the cities, towns, or villages where the courts are held, per day, 2s. 4d.; to each witness from the country, including horse hire per day, 4s. 8d.; all witnesses to be allowed their ferrage and toll; for commencing, and prosecuting, and defending a suit, by summary process, £1.

*Attorneys' Fees in all cases of dower or partition.*

All fees from the commencement to the end of the proceedings, all services inclusive, surveyor's fees extra, £5.

*Attorneys' Fees on writs of attachment.*

In addition to common costs on bond, note, or account, except printer's bill, £3.

*Defendant's Attorney.*

For appearance, filing bail, and imparlance, £1; for drawing and filing plea, or demurrer, or other proceedings, previous to joinder in demurrer, or issue taken, 17s. 6d.; for verdict in cases found for defendant, *postea*, bill of costs, and attending taxation, copy, and notice, including all charges, 10s.; for drawing commissions to examine witnesses, drawing interrogatories, attending to strike commissioners, and instructions, all incidental charges inclusive, £2; for copies of all exhibits necessary to be filed by defendant, per copy sheet, 5d.

*Attorneys in the County Courts.*

For commencing, and prosecuting, and defending a suit in the county court, £1; for defending a person charged by indictment or information, or sued on a forfeited recognizance, £1; for commencing, and prosecuting, and defending a summons and petition, under the summary jurisdiction, 12s. 6d.; for stating objections, and bringing up an appeal, all charges inclusive, 14s.

*Clerks of the Superior Courts of law.*

For attending to sign a writ and affixing seal, 1s.; for filing a declaration, plea, replication, demurrer, joinder in demurrer, or other pleading, 9d.; for copying a declaration, or other writing, per copy sheet, 5d.; for entering every special order of court, or copy, 6d.; for every search in the records, where the cause is ended, 8d.; for signing every judgment, 2s.; for attending drawing a jury for special court, 3s. 6d.; for each day's attendance at a special court, 3s. 6d.; for drawing a bail-piece, attending and taking bail, 2s.; for recording every judgment, or other writing, for every copy sheet, 5d.; for every recognizance, 2s.; for receiving money in court, and paying it again, 1 per cent.; for his attendance in every cause tried in court, swearing jury, and reading papers, and docketing the same, 2s.; for swearing every witness, 6d.; for every certificate, and signing, 6d.; for administering every oath, 9d.; for recording the verdict, 6d.; for attending at the judge's chambers on a special argument, 2s.; for recording or copying a plat of land, and copy, 2s. 4d.; for issuing a *certiorari*, or other special writ, and sealing, 3s. 6d.; for making out a license for the admission of an attorney, administering the oath, and recording qualification, £1 10s.; for a *dedimus potestatem*, and sealing, 2s.; for filing and entering return thereof, 1s.; for entering a decree on summary process, and execution, 2s.; for recording the brand and mark of a stock of cattle, 1s. 6d.

*Attorney General.*

On papers returned, and no indictment given out, and *nolle prosequi* entered, £1 5s.; where an indictment is found, £2; upon bill of indictment found and tried before petit jury and verdict or confession, £3 10s.

*Clerk of the Sessions and Peace.*

On a *nolle prosequi*, 7s.; when a bill is found or thrown out, 15s.; upon bill found, and trial before petit jury, and verdict, £1; on each writ of *venire* for summoning jurors, 1s. 6d.; on each writ of *habeas corpus*, or bench-warrant, 7s.; each writ of subpoena and tickets, 2s.; for every order of bastardy, taking a recognizance, and all other proceedings, 2s. 6d.; for each order for restitution of goods, 1s. 2d.; on each certificate to the coroner, 8d.; for the whole fee of a tavern license and bond, 9s. 4d.

*Sheriffs.*

For serving every writ, or summons, or other process, taking bail, returning and proving service, and assigning bail-bond, 7s.; for copy left at the defendant's residence, or where he cannot be personally arrested, returning and proving service, 5s.; for mileage from the court-house of the districts respectively to the defendant's residence, or where he may be found or taken, but not for returning, each mile, 3d.; for commitment and releasement of any prisoner, 2s. 6d.; for summoning all juries to the sheriff of each district court, £15 per annum, to be paid by the State; to the sheriff of each county for summoning all juries in his county, and for serving public orders for the benefit of the county, £5 per annum, to be paid by the county; for serving any order or rule of court, except public orders or rules, and delivering a copy, 2s.; for serving every writ of subpoena and tickets, and returning the same, 2s.; for serving a bench-warrant or a warrant of a justice of peace, and return thereof, and proving service in the same manner as on services of writs, 4s.; for every return of a writ where the goods or persons are not to be found, 2s.; for dieting white persons in the several jails and workhouses in the State, allowing one pound of bread and one pound of flesh, wholesome provisions, per day, 1s.; for dieting negroes or other slaves, allowing wholesome food, per day, 8d.; for executing a person condemned to death, to be paid by the State, £1; for putting a person in the stocks, branding, pillorying, whipping, or cropping, to be paid by the State, each, 5s.; for bringing

up a prisoner on *habeas corpus*, and discharging or reconveying to prison, to be paid by the party if solvent, and, if insolvent, then by the State, 5s.; for conveying a prisoner on *habeas corpus* or otherwise from one district or county jail to another, every mile he shall necessarily ride, going to and returning from, for each mile, 3d.; all necessary expenses to be allowed the sheriff in addition to the immediate foregoing charge; for levying an execution on the goods of the defendant and selling the same, for all sums where the debt does not exceed £100, two and a half per cent. commissions, and for all sums where the debt exceeds £100, one per cent.; where an execution shall be lodged in the sheriff's office, only to bind the property with directions not to levy, for entering the same in his books, 2s. 6d.; for serving an execution against the body of defendant, and return, 7s.; for every prisoner brought up for trial at the sessions, to be paid by the State, 1s. 6d.; for drawing each set of conveyances, £1 5s.; for an inquisition by jury, taken on view of a dead person, and return, to be paid by the State, £2; in all cases where the defendant, after the sheriff may have levied on their property, shall settle with the plaintiff before actual sale, the sheriff in such cases shall only be entitled to one-fourth per cent., besides all reasonable disbursements, and also for fees for entering execution; but if the defendant shall pay the money to the sheriff, one per cent. in lieu of the one-fourth.

#### Coroner.

For every service done by the coroner, the same fees as are payable to the sheriff for the same services.

N. B. If there be no coroner within twenty miles of the body found, the inquest may be made, and the fees may be taken, by any justice of the peace in like manner; and who shall, in that case, have all the powers of the coroner.

#### Justices of the Peace.

For oath and warrant in all criminal cases, 2s.; for a recognizance and return, 2s.; for a warrant in civil cases, 1s.; for a commitment, 1s.; for a warrant of hue and cry, 1s. 6d.; for taking a deposition, 1s. 6d.; for administering every oath, 6d.; for a probate to any writing, signing, and swearing witness, 1s. 6d.; for examining and swearing witnesses, and hearing and determining the cause, 1s.; for every toll of estrays given in at the same time, and other incidental charges, agreeable to law, 3s.; for writing and signing an execution, 1s. 2d.; for issuing attachment, with the oath of the party, bond and return agreeable to law, 5s.; for every appeal, with the proceedings, to the county court from a justice's judgment, bond and security inclusive, 3s.

#### Constables.

For serving a warrant, 2s. 6d.; for summoning a witness, 1s.; for summoning a coroner's jury and witnesses, all charges inclusive, 10s.; for putting a person in the stocks, to be paid by the State, 2s. 6d.; for serving an attachment on the effects of a person absconding, or about to abscond, making an inventory and return, returnable to the county court, 4s. 8d.; for the like services where the attachment is returnable before a magistrate, 2s. 4d.; for whipping a person by lawful authority, to be paid by the State, 2s. 6d.; for levying an execution, 1s.; for poundage or commissions on all sums levied, five per cent; for mileage in all criminal cases, attachments, and levying executions, and in no other cases, for each mile out, but not for returning, 3d.; for carrying a hue and cry, to be paid by the State, 8s.; for his attendance in searching for stolen goods, for every day, at the request of the party complaining, 3s.

#### Notary Public.

For taking deposition and swearing witnesses, per copy sheet, 6d.; for every protest, 10s.; for a duplicate of depositions, protest, and certificate, per copy sheet, 5d.; for each attendance on any person to prove any matter or thing, and certifying the same, 3s.; for every notarial certificate with seal affixed, 2s. 6d.

#### Clergy of every settled church, of every denomination.

For registering every birth, marriage, or burial, 1s. 6d.; for every search of the register, 8d.; for every certificate from the register, 1s. 6d.; for every citation read in church, 5s.

#### Surveyor General.

For every search, 8d.; for copying plat and certificate, 5s.; for receiving, recording a plat, and sending the same to the secretary's office, to be passed into a grant, 10s.; for a certificate in all other cases, 1s. 6d.; for a deputation and instructions to a deputy surveyor, 5s.

#### Deputy Surveyor.

For surveying every acre of land, one half-penny; for making out a fair plat, certifying, signing, and returning the same, 10s.; for running old lines for any person, or between parties, where any disputes arise, or by order of court, while they are on the survey, 14s.; per day.

#### Powder Receiver and Inspector.

For every 100 lbs. weight of gunpowder received into the magazine, 3s. per 100 lbs. to be paid, one half on receiving the same into the magazine, and the other half on delivering the same.

#### Clerks of the Senate and House of Representatives.

For any copy or extract from the journals of either House, to any person requiring the same, except a member of either branch of the Legislature, or the Executive, each copy sheet, 5d.; for every search, 8d.

#### Commissioner of Locations.

For receiving applications, making entries, and granting warrants under hand and seal of office, 3s.; for recording a plat and sending it to the surveyor general's office, 7s.; for every search, 8d.

#### Register of Mesne Conveyances.

For a search, 8d.; for entering satisfaction on a mortgage, 1s.; for recording or copying deeds, each copy sheet, 5d.; for recording or copying a plat, 4s. 8d.; for a certificate from the office, 2s.

*Fees of the Ordinary.*

For a marriage license, bond and registering, £1; for a citation and recording, 2s. 6d.; for qualifying administrators, bond, letters of administration, and warrant of appraisement, recording letters and oath, 14s.; for proving a will, probate, recording and filing the will, and certified copy, where it does not exceed four copy sheets, 9s. 4d.; and for every other copy sheet, 5d.; for qualifying executors, letters testamentary, and recording, 5s.; for warrant of appraisement, oath, and recording, 5s. and if renewed, 2s. 6d.; for filing renunciation of executors and recording, 2s.; for a dedimus to prove a will, and qualifying executors, or administrators, and copy of oath, 7s.; for guardianship bond, letters and recording, 14s.; for entering caveat, or withdrawing, 2s.; for a search, 8d.; for hearing a litigated cause, 14s.; for swearing and examining each witness, 6d.; for recording or copying any other writing, per copy sheet, 5d.; for filing petition for sale of testator's or intestate's effects, examining into the propriety of the proposed sales, and endorsing order thereon, 4s. 8d.; for examining the accounts of executors and administrators, vouchers and filing, for the first year's accounts, 14s.; and for every other year, 5s.

*County Attorney.*

For commencing and prosecuting an indictment, or information, tried by petit jury or confessed, £1; for entering a *nolle prosequi* by order of court, 5s.; for commencing and prosecuting a *scire facias*, on forfeited recognizances, 9s. 4d.

*County Court Clerk's Fees.*

For the whole fee of a tavern license, or permit to retail spirituous liquors, and bond, and furnishing rates, 9s. 4d.; for every search, 8d.; for reading any paper or record filed in court, 6d.; for every writ issued, 2s.; for an attachment granted by the justice of peace, returnable to the court, and putting the same upon the docket, 1s. 6d.; for every summons for a witness or witnesses, 1s.; for entering every cause on the docket, to be charged but once, (except petition and summons,) 6d.; for entering every special bail, 2s.; for entering security for costs for persons out of the county, 1s. 6d.; for entering the appearance of the defendant or defendants, (except on summons and petition,) 6d.; for all subsequent proceedings after writ, to interlocutory judgment inclusive, 1s.; for all other proceedings to final judgment and verdict, 3s. 6d.; for all other proceedings, executions inclusive, 2s.; for filing the papers of each party in every cause, where there is a jury or case agreed and argued, 1s.; for all and every other thing done by the clerk during the trial of any issue, 2s.; for entering every judgment and copy thereof, 1s.; for every recognizance—for entering an appeal and taking bond, and for returning the same to the office of the clerk of the superior court, 4s. 3d.; for copy of proceedings of the cause, wherein the appeal is granted, for every copy sheet, 5d.; for an attachment, 1s. 6d.; for issuing petition and summons, and entering return thereof, 3s.; for entering decree and execution on summary process, 3s. 6d.; for recording every judgment or other writing, per copy sheet, or copy thereof, 5d.; for entering every toll of estrays, and keeping the same affixed up at the court-house, and all other incidental charges, 3s.

*County Clerk's Fees, on Letters of Administration granted by the County Courts.*

For a citation, 1s. 6d.; for each administration bond, 1s.; for letters of appraisement, 1s.; for a dedimus, 1s.; for probate of a will, 1s.; for granting letters testamentary, with the will annexed, 1s. 6d.; for recording any of the above instruments, and the appraisement, per copy sheet, 5d.; for examining the accounts of executors and administrators, vouchers, and filing the same, under the inspection of the court, for the first year's account, 5s.; and for every other year, 2s. 6d.

SECT. 3. *And be it further enacted by the authority aforesaid,* That if any of the public officers of this State, or other person or persons, entitled to fees by this act, and in the foregoing lists particularly mentioned, shall take or receive any further, other, or greater fee or reward for any of the services in the said foregoing lists respectively mentioned, or shall invent or contrive any other or further fee or reward for any of the said services, then, and in every such case, the person or persons so offending, upon due proof and conviction, shall forfeit for the first offence, four times the amount of the sum so taken, paid, or received, to be recovered in any court of record in this State; one half to be paid to the person who shall sue for the same, and the other moiety to be paid into the public treasury for the use of the State, except in such counties where county courts are established; in which cases, the said last-mentioned moiety shall be paid for the use of the county; and for the second offence shall stand divested of his office, and be rendered incapable of re-appointment to the same; and on information from the court under hand and seal, the Governor shall fill up the vacancy, if the Legislature should not be sitting; and if in the county courts, the vacancies shall he filled up by the justices of the said county.

## STATE OF GEORGIA.

"Fees and compensation paid to Attorneys at law, Prothonotaries, Registers, and Clerks of judicial courts, to Sheriffs and Coroners, to Grand and Petit Jurors and witnesses," in the State of Georgia.

*Sheriff's Fees, in civil cases.*

For serving a copy of a process, and returning the original, 7s.; if more than one defendant, for each additional copy served, 2s. 4d.; for levying execution on the body or property, 7s.; for summoning each evidence, 2s. 4d.; on all sums where the execution does not exceed £15, 5 per cent. on the amount of property sold; on all sums above £15, and where the execution does not exceed £100, 2½ per cent.; on all sums where the execution exceeds £100, 1 per cent.; and that no commission shall be demanded where property is not actually sold. For making out and signing a bill of sale of other property, 4s. 8d.; *Provided,* That fees shall be allowed only for one bill of sale, where the same will be sufficient to convey the property sold to one person, or joint purchasers; unless the purchaser, or purchasers, shall choose more than one. For conducting a debtor, under confinement, before a judge or court, 4s. 8d.; for summoning a jury to try a caveat, and attendance, 4s. 8d.; for summoning a special jury, and all other services, attending trials of appeal cases, 4s. 8d.; for a bail bond, 4s. 8d.; for making out and executing titles to land, 14s.; (if wrote by the purchaser, 4s. 8d.)

*Sheriff's Fees, in criminal cases.*

For re-committing any person when a *habeas corpus* is brought to his relief, 4s. 8d.; for summoning a jury, 4s. 8d.; on every copy of a *mittimus*, 1s. 2d.; for every mile a prisoner shall be removed on a *habeas corpus*, 1s. 2d.;



for removing a prisoner by *habeas corpus*, where no mileage is paid, per day, 4s. 8d.; for executing a criminal, 37s. 4d.; for conducting a prisoner before a judge or court, to and from jail, 4s. 8d.; for executing a warrant of escape, 3s. 6d.; for each mile to serve the same, 2d.; for executing and returning a bench-warrant, 4s. 8d.; for each mile to serve the same, 2d.; for putting a person into the stocks, 2s. 4d.; for whipping, cropping, or branding a criminal, 4s. 8d.; for apprehending a person suspected, if committed or held to bail, 4s. 8d.; for each person, not exceeding two, who may be employed to guard a prisoner to jail, per day, 4s. 8d.

#### Coroner's Fees.

For summoning an inquest on a dead body, and returning the inquisition, 46s. 8d.; for providing a coffin, and burial expenses, 14s. In all other cases, the same as the sheriff.

#### Register of Probate's Fees.

For receiving application, and granting citation, 4s. 8d.; for signing a warrant of appraisement, 2s. 4d.; for signing the probate of a will, 4s. 8d.; for recording a will or other paper, per copy sheet, 3½d.; for a certified copy of a will or other paper, per copy sheet, 3½d.; for receiving an appraisement, and recording the same, if under \$100, 2s. 4d.; if above \$100, 4s. 8d.; for receiving application, and granting letters dismissory, 4s. 8d.; for granting citation to show cause why administration should not be repealed or set aside, 9s. 4d.; for granting letters of administration, or letters testamentary, 9s. 4d.; for entering a *caveat* against administration being granted, or will proven, 4s. 8d.; for every marriage license, 4s. 8d.; for attending judges for determining a *caveat*, per day, 4s. 8d.

#### Fees of the Attorney General.

For drawing a *capias* against a person indicted and not bound over, or against a person presented by a grand jury, 1s. 2d.; for drawing a *capias* against a defaulting juror, 2s. 4d.; for drawing an indictment against a person presented by the grand jury, and bound over, 4s. 8d.; for entering a *nolle prosequi*, 7d.; for attending at judges' chambers to take the affidavit of any person, in criminal cases, 4s. 8d.; for drawing an affidavit, or any other instrument of writing, per copy sheet, 3½d.; for a subpoena in criminal cases, 1s. 2d.; for retaining fee against persons indicted, 14s.

#### Attorneys' Fees.

On each cause commenced and tried in the superior or inferior courts, 18s. 8d.; on each appeal prosecuted to judgment, except appeals from a justices' court, 18s. 8d.; (where the defendant prevails, to receive the fee in lieu of the plaintiff's attorney.)

#### Jurors' and Witnesses' Fees, in civil cases.

To the petit jury, for each cause tried, to be paid by the plaintiff, and taxed in the bill of costs, 4s. 8d.; to a special jury, for each appeal tried, to be paid by the appellant, and taxed in the bill of costs, 4s. 8d.; to each witness, per day, for his or her attendance, and for coming and returning, allowing thirty miles for a day, not allowing for more than three witnesses, to be paid by the person summoning the same, and taxed in the bill of costs, 3s. 6d.; the witnesses to have the same allowance in criminal cases, where the person prosecuted is found guilty.

#### Clerk's Fees, in criminal cases.

For every writ and seal, 1s. 2d.; for every panel of a jury, 1s. 2d.; for every order on a fine for a juror, (unless excuse made,) and entering the same, 1s. 2d.; for ordering a fine peremptory, entering and reading, 1s. 2d.; for copying the same for the attorney general, 1s. 2d.; for fee on a writ of *capias* and seal, 1s. 2d.; for the clerk's attendance in hearing a motion in arrest of judgment, or at the judges' chambers on a petition preferred, or a *habeas corpus*, or to take the examination or information of any person, 3s. 6d.; for taking an examination, information, or affidavit, per copy sheet, 6½ cents; for drawing a warrant, 1s. 2d.; for a commitment or liberate, 1s. 2d.; for taking an acknowledgment of bail before the judge, or in court, and drawing recognizance thereof, 2s. 4d.; for every subpoena ticket, 7d.; for every indictment, if the criminal be found guilty, 2s. 4d.; for every arraignment, or charging a defendant with indictment, if found guilty, 1s. 2d.; for entering a plea, 7d.; for calling a jury, 7d.; for clerk's attendance on every cause tried, 1s. 2d.; for every sentence or judgment, and entering the same, 1s. 2d.; for every copy of every indictment, or other paper, 4d.; for every copy of judgment to the sheriff, and order thereon, 1s. 2d.; for calling a traverse, or discharging a recognizance, 1s. 2d.; for recording the proceedings of a cause, per copy sheet, 6½ cents; for every person acquitted by proclamation, 1s. 2d.; for every search, 7d.; for a writ of *dedimus potestatem*, 4s. 8d.; for renewal of *capias*, 1s. 2d.

#### Fees of the Clerk in the Superior Court, in civil cases.

For every suit commenced therein, if settled before judgment, and each nonsuit, 7s.; for each copy of a writ, where there are more than one defendant, after the first copy, 2s. 4d.; for every suit so commenced, and prosecuted to judgment, including every service, to entering up satisfaction, 14s.; for each appeal, if settled before verdict, 4s. 8d.; for each appeal, prosecuted to judgment, including every service, to entering up satisfaction, 9s. 4d.; for every writ of subpoena and ticket, 7d.; for a writ of partition of lands, 14s.; for issuing a commission to examine witnesses, 4s. 8d.; for making out letters of guardianship, and security taken, 4s. 8d.; for every order for the sale of land, and copy thereof, 2s. 4d.; for recording any instrument of writing, per copy sheet, 6½ cents; for each search, 7d.; for a certified copy of any record, per copy sheet, 3½d.; for every foreclosure of mortgage, and recording proceedings, 4s. 8d.; for every inquiry of title, respecting property levied on by the sheriff, and claimed by a third person, 4s. 8d.; for every tavern license, including every service therein, 4s. 8d.

#### Fees of the Clerk of the Inferior Court.

For each cause settled before judgment, and each appeal to the superior court, 7s.; for each copy of a writ, where there are more than one defendant, after the first copy, 2s. 4d.; for each cause commenced therein, and prosecuted to judgment, not appealed from, including every service, to entering satisfaction, 14s.; for subpoena tickets, commissions, and letters of guardianship, and inquiries respecting property claimed, nonsuits, and any other service performed, the same fees as allowed to the clerk of the superior court; for each appeal, prosecuted to judgment, from a justices' court, 4s. 8d.; if settled by the parties, 2s. 4d.; including every service, to entering satisfaction.



## STATE OF KENTUCKY.

*Table of fees and compensation allowed by law to the respective officers and others, as hereinafter mentioned.*

*Attorneys-at-law in the Court of Appeals.*

In each chancery cause, to be taxed in the bill of costs, \$10; in every common law action, \$5.

*Note.*—These are the fees taxed, but no attorney is restrained from receiving or demanding more from his client; and the fees paid, in fact, are in the general not less than \$20 in common law cases, and \$30 in chancery. Attorneys prosecuting for the commonwealth are appointed in each county by the courts thereof, the circuit court appointing an attorney to prosecute therein, the county court also appointing their attorney; the allowance to each is at the discretion of the court annually, and varying according to the population, wealth, &c. of each county, from \$100 to \$300. No fees are taxed for attorneys in criminal cases; in civil cases, where the State prevails, the same fees are taxed against the defendant for the use of the attorney for the commonwealth as in other similar cases.

*To Sheriffs.*

For an arrest and return, 62½ cents; for every bail bond, (by act of 1799, vol. 2, Brad. page 55,) 50 cents; for returning a *capias non est inventus*, 21 cents; for serving a *scire facias*, 31 cents; for serving any person with an order of court, and making return thereof, 31 cents; for pillorying any person, 41½ cents; for putting into the stocks, 21 cents; for ducking any person, 41½ cents; for putting in prison and release, 41½ cents; for serving subpoena in chancery, 31 cents; for serving subpoena for a witness in any cause in court, except summoned in court, 21 cents; for summoning an appraiser, auditor, viewer, or witness to a deed, will, or writing, if required to be summoned, 21 cents; for summoning and empannelling a jury in every cause wherein a jury shall be sworn, \$1 40; for summoning a jury in a criminal case, (act of 1802,) \$1 50; for coming to and attending the district court with the *venire*, and return of the *venire facias*, the same as is allowed to a *venire man*, (to be paid by the public;) and for attending the district court with stolen goods, where there is no *venire man*, the same, \$1 04; for summoning the justices of the county, attending a court of oyer and terminer, for the examination of a criminal, \$4 17; for removing every criminal from any county jail to any public jail, for every mile, 12½ cents; for every horse impressed for that purpose, for each day, (act of 1802,) 25 cents; for removing a debtor by *habeas corpus* from any county jail to any public jail, for every mile, 4½ cents; for executing a condemned person, and all fees incident, \$5 21; for summoning a jury upon any inquisition, survey, writ of dower, or partition, if the jury appear, \$3 12½; and if the jury do not appear, \$1 56; for making a return of a writ of dower, partition, or in nature of an *ad quod damnum*, \$1 04½; for each day's attendance on a jury in the county after they are sworn, or attendance on a surveyor when ordered by the court, \$1 04½; for serving a writ of *habere facias possessionem*, or *sessinam*, 63 cents; for serving a declaration in ejectment, if against one tenant, 63 cents; if more than one, for every other tenant, 31 cents; for whipping a servant, to be paid by the servant, and repaid by the servant, 41½ cents; for whipping a free person by order of court, to be paid by such person, 41½ cents; for whipping a slave by order of court, to be paid by the public, 41½ cents; for selling a servant at public outcry by order of court, and all fees incident, 41½ cents; for keeping and providing for a debtor in jail, each day, 21 cents; for keeping or providing for a runaway or criminal in jail, each day, to be paid by the public, 18 cents; for serving an execution, if the property be actually sold, or the debt paid, or where the sheriff shall have taken bond for the delivery of property, which, if not complied with at the day of sale, five per centum on the first hundred pounds, and two per cent. on all sums above that; and where he shall have levied an execution, and the defendant shall have replevied, or where, under the same circumstances, execution is stopped by injunction, writ of error, or *supersedeas*, by order of the party for whom it is issued, one half the above commissions; for serving an attachment on the goods exceeding three pounds, if sold, the same fee as for serving an execution—where the goods do not exceed that value, or are not sold, 63 cents; for every garnishee summoned on attachment, 21 cents; for serving a writ of *distingas*, 66 cents; to the sheriff of Franklin for attending the court of appeals, for each day, \$4; to all public services of sheriffs, viz: attending courts of claims, empannelling grand juries, publishing writs of election, and his attendance thereat, serving all public orders and courts, and all other public and county services, a yearly sum not exceeding \$40, to be levied annually by the justices of the county; and the sheriff shall lay before the court an account of his services, to enable them to judge of the quantum within the said limit.

*To the Coroner.*

For an inquisition on a dead body, to be paid out of the estate of the deceased if the same be sufficient, if not, by the county, \$6; all other services rendered by him, the same fees as are allowed sheriffs for similar services.

Guards, summoned and attending, to secure criminals in jail are allowed, per day, 75 cents; for travelling to and returning from guarding any prisoner to the public jail, (the said guards furnishing themselves at their own expense,) per mile, 3 cents.

*The Clerk of the Court of Appeals.*

For every writ of *dedimus potestatem*, 37½ cents; for taking bond, issuing *supersedeas*, 43 cents; for entering the appearance of either party in person or by attorney, 16 cents; for every rule entered on the rule docket, 16 cents; for copy of every rule, 16 cents; for entering every continuance on the court docket, 25 cents; for administering an oath or affirmation in court, 16 cents; for entering every judgment, 25 cents; for copy thereof, 16 cents; for entering every decree, 50 cents; for copy of the same for every twenty words, 2 cents; for filing the record upon an appeal writ of error or *supersedeas*, 25 cents; for copy of such record, for every twenty words, 2 cents; for taxing the costs in any action or suit, and a copy thereof, 35 cents; for every order to a witness for attendance, to be charged to the party against whom such order goes, 16 cents; for copy thereof, 16 cents; for attachment thereon, 16 cents; for every order in court, 25 cents; for recording a deed where one tract of land only is conveyed, taking the acknowledgment or proof thereof, and certifying the same, \$1; for every tract more than one contained in such deed, 25 cents; for recording each certificate annexed to, or endorsed on such deed, when offered to be recorded, 16 cents; for a copy of any deed, three-fourths of the fee for recording the same; for recording a deed concerning slaves or personal matters only, \$1; for a copy thereof, 75 cents; for recording a letter of attorney, 75 cents; for a copy thereof, 50 cents; for recording a bond with condition other than for the performance of covenants, 75 cents; for a copy of a bond with condition, 50 cents; for a search for any thing above one year's standing, and reading the same over, or any part thereof, if required, 16 cents; for docketing every cause to be charged but once, 16 cents; for every other source of the clerk a reasonable compensation shall be made by the party to be determined by the court, according to the equity of the case, and a regard to the fees herein allowed; for recording or transmitting a memorial of a deed to the clerk of the county wherein the lands lie, 12½ cents.

*The following fees established by the Court of Appeals by the power hereinbefore recited, viz:*

For filing errors, or for a copy thereof, 35 cents; for filing the record upon the return of a *certiorari*, 25 cents; for entering the return of writ of error *supersedeas certiorari*, summons or execution, 28 cents; for recording a receipt of a former grant or conveyance of land, &c., in any deed contained, 75 cents; for recording or copying a receipt, 16 cents; for recording a certificate endorse on or annexed to any instrument of writing when offered for record, or for a copy thereof, 16 cents; for entering every plea or for a copy thereof, 28 cents; for entering sheriff's return upon any writ or precept, or for a copy thereof, 28 cents; for swearing a jury in any cause or suit, 75 cents; for recording any verdict of a jury or matter, agreed by the parties, for every twenty words, 2 cents; for copy of an execution and return thereon, 37½ cents; for recording the award of arbitrators, the report of auditors, viewers, or commissioners, or a copy thereof, for every twenty words, 2 cents; for a copy of any bond taken by any clerk of the superior or inferior courts directed by law to be taken, and not included in a complete record in such case, 50 cents; for copy of any account not included in a complete record, if it be contained in one page or less, or for recording the same, 35 cents; for recording or copying an account for every twenty words more than are contained in one page, 2 cents; for an order to advertise, or an order of survey, 37½ cents; for recording a connexion of surveys, or for a copy thereof for every survey in such connexion, 16 cents; for recording, making out a complete record, or for a copy thereof, for every twenty words, 2 cents; for recording or copying every paper not herein otherwise provided for, every twenty words, 2 cents; for recording a commission, or for issuing the same to take the relinquishment of a *feme covert*, 50 cents; for recording bond for the conveyance of land or for a copy thereof, 50 cents; for recording articles of agreement or copy, \$1; for filing the papers of each party in any cause, 25 cents; for affixing seal of office and certificate accompanying the same, 50 cents; for each certificate for which no fee is herein specially allowed, 25 cents; for recording every official certificate for which no fee is herein specially allowed 25 cents; for copy of a *caveat* separate from complete record, 25 cents; for copy of a grant or patent filed with papers, 43 cents; for copy of a plat and certificate, with papers, 25 cents; for copy of every entry from commissioners' books, 25 cents; for copy of every entry from surveyors' books, 17 cents; for recording the return on a *mandamus* for every twenty words, or a copy thereof, 2 cents; for issuing execution, 33 cents.

*Fees of the Clerk of the General Court.*

For similar services, the same fees as the clerk of the court of appeals is entitled to; and for services not before specified in the same fees which were allowed to the late district and quarter session courts, viz: for every writ other than those particularly specified with the endorsement, 25 cents; for a copy thereof, 15 cents; for copy of a bail bond, 25 cents; for entering special bail, or for a copy thereof, if required, 18 cents; for filing declaration, plea, or demurrer, 10½ cents; for every *scire facias*, and recording the return, 40 cents; for every writ of *elegit*, 30 cents; for recording the return thereof, every twenty words, 2 cents; for taking bonds upon injunctions in chancery, or upon appeals or *certiorari*, 33 cents; for returning on appeal, writ of error, or *certiorari*, 25 cents; for filing the same, 12½ cents; for recording the acknowledgment of a satisfaction of a judgment, 18 cents; for each summons for a witness or witnesses, 18 cents; for administering an oath in court not relating to the trial of the cause, and certifying the same, 18 cents; for issuing a subpoena in chancery, 21 cents; for endorsement on a subpoena or injunction, 10 cents; for filing each bill, answer, replication, or other pleading in chancery, 10 cents; for recording report of surveyor for every twenty words, 2 cents; for a copy of the same for every twenty words, 2 cents; for every writ of *idiota inquirendo*, 25 cents; for recording return, for every twenty words, 2 cents; for making complete record in every cause, for every twenty words, 2 cents; for copy of the same, for every twenty words, 2 cents; for copy of every paper or record not otherwise provided for, every twenty words, 2 cents; for public services for which no fees are herein particularly provided, a yearly sum to be adjudged by the court, not exceeding \$60.

Clerks are allowed a reasonable compensation for paper, books, and presses, to be adjudged of and certified by their respective courts.

Grand and petit jurors are not allowed any compensation; they are not called without the limits of their respective counties by the present laws establishing the judiciary; and repeated attempts have been unsuccessfully made in the Legislature to change the mode of summoning petit juries, (who are taken now from among the bystanders,) and to give them a compensation.

Jurors summoned by *venire facias*, for the trial of criminals, were allowed, under the district court system, where they were liable to be called without the limits of their respective counties, five shillings per day, for attendance and mileage, at the rate of two pence; and ferriages going and returning. Under the present circuit court system, they are allowed 2s. 1d. per day, for attendance, and mileage at the rate of 2d. going and returning, and ferriages.

*Witnesses.*

For attending the court of appeals or general court, 5s. per day; and where they reside without the county in which the court is holden, 2d. per mile, going to and returning from the court, and ferriages; for attending circuit courts, county courts, arbitrators, to have their depositions taken, &c. &c. 2s. 1d. per day, and mileage going and returning where summoned beyond the limits of their county, at the rate of 2d. and ferriages; witnesses attending in criminal cases are entitled to similar allowances, to be paid by the commonwealth; but not allowed in any case to claim their attendance in more than one cause for the same attendance, though summoned in several cases; not more than three witnesses for proof of any one fact, to be taxed in the bill of costs.

SIR:

FRANKFORT, KENTUCKY, December 14, 1807.

The foregoing is a table of fees allowed by law in this State, extracted and compared with the different laws upon the subject.

Whilst the subject of fees and costs of judicial proceedings is before the Congress of the United States, it may not be unavailing to mention that the subject of costs in actions prosecuted on behalf of the Government, where such actions are unsuccessful, has produced much perplexity in the federal courts of this State, and the clerk's fees in particular. By the State regulations, all fees for public services in criminal and civil cases are included (some few services excepted) in a gross allowance to officers of courts for *ex officio* services, to be certified by the courts, not exceeding a limited sum; in misdemeanors, the prosecutor must be named at the foot of the indictment or presentment, and is liable for costs if unsuccessful, and may, at the discretion of the court, be compelled to give security for costs; if the prosecution succeeds, the costs are taxed against the prosecuted. Witnesses in criminal cases of felony are paid by the commonwealth, but in all other cases must look to the prosecuted or prosecutor as the case may be.

The claims of clerks, marshals, and witnesses, upon many *prosecutions* in this State which have ended *unsuccessfully*, particularly in cases arising under the late excise laws, are very considerable, and, indeed, remain as yet undecided to a considerable extent. What alteration or definite declaration of Legislative will in this respect, or whether any is necessary, I submit to your better experience as the Attorney General of the United States.

Believe me, sir, it will, at all times, be pleasing to render you, as an officer of the Government, or individually, any assistance in my power. I am, sir, very respectfully, your fellow citizen,

GEO. M. BIBB.

C. A. RODNEY, Esq.

### STATE OF TENNESSEE.

#### *List of fees due to the different officers in Tennessee.*

##### *To Attorneys.*

For each suit in chancery, \$12 50; for each suit in the superior courts on the law side, \$6 25; for each suit originally commenced in the county courts, \$2 50; for each suit taken to said county courts by appeal, \$1 25.

##### *To the Attorney General.*

For each bill of indictment, in supreme courts, (true bill,) \$3 00; for each bill of indictment, in supreme court, (ignoramus) \$1 25.

##### *To Clerks of Supreme Court.*

For every leading process returnable to the first court, including all services thereon, together with dismission or final judgment, (if either happen,) \$1 00; for every continuance or reference of every cause after the second court, including all fees for every necessary service, 40 cents; for entering every presentment or indictment, together with charging the prisoner and entering his plea, 60 cents; for the court at which the cause is determined, including all services in entering judgment, \$1 60; for every subpoena, if not more than four witnesses inserted, 20 cents; for every execution and order of sale, and all services in issuing, taxing costs, and receiving return for the same, 40 cents; for every *scire facias* for bail, *all services thereon*, 80 cents; for a copy of a record of any cause when demanded by either party, 60 cents; for every recognizance, 20 cents; for every order or rule of court, made on a matter foreign to a suit depending, and a copy thereof, 24 cents; for searching a record out of court, 10 cents; for a commission to take examination of witnesses on any cause depending, or to take examination of a *feme covert* and all services thereon, 20 cents; for a special *venire facias* to examine and return the bounds of land, 80 cents; for a special verdict, demurrer, or motion in arrest of judgment and argument thereon, 40 cents; for a writ of error, *certiorari* or appeal, with a transcript of the record, and all services, \$1 60; for making certificates of witnesses and jurors' attendance, 6 cents; for each security taken in issuing a writ, 20 cents; for recording such bond, with security, 20 cents.

##### *To Clerks and Masters in Equity.*

For a report on an answer, 40 cents; for a report on a plea, and answer, 40 cents; for a report on a demurrer, and answer, 40 cents; for an affidavit to a bill or answer, 25 cents; for a separate affidavit 25 cents; for a copy, by the office copy sheet, 25 cents; for a report stating an account, one per cent. on the amount of each act exhibited, if under £200, if over, one-half per cent.; for copies of proceedings and exemplifications, (copy sheet,) 25 cents; for copies of bills or answers, (by copy sheet,) 25 cents; for every injunction, \$1 50; for every subpoena to answer writ or other leading process, \$1 25; for every *scire facias*, 75 cents; for entering a plea or demurrer, 25 cents; for recording depositions to perpetuate testimony, by copy sheet, 25 cents; for every rule given for service, 25 cents; for every rule not for service, 15 cents; for every *dedimus potestatem*, 50 cents; for commissioners to take the affidavits of parties to an answer, \$1 00; for every subpoena for witnesses (each witness,) 25 cents; for every order of publication, \$1 00; for entering every issue of fact, and every service attending the trial by jury, \$1 00; for each security for prosecution of a suit, 25 cents; for recording prosecution bond, 15 cents; for drawing decrees by the copy sheet, 25 cents; for enrolling same, by copy sheet, 25 cents; for drawing deed of conveyance, when decreed "for parties to convey the right," reciting suit, &c. \$2 00; for every notice issued not for publication, 25 cents; for searching the record out of court, 25 cents; for every dismission, 25 cents; for every continuance after first court, 25 cents.

##### *To Sheriffs.*

For every bail bond, 25 cents; for serving a copy of a declaration, 75 cents; for serving a subpoena, on each person, 25 cents; for pillorying a person, 50 cents; for each arrest on process, \$1 00; for an attachment, the same as for an arrest; if additional trouble, to be taxed by general court for executing a warrant of distress or execution against the body or goods, 2½ per cent.; summoning jury, &c., 12 cents; for serving a *capeas*, a writ for the body, \$1 00; for putting person in the stocks, and releasing, 50 cents; for commitment and releasement, each, 50 cents; for every *scire facias*, 60 cents; for returning the same, or any other process not found, half of the sum for executing it; for serving a subpoena in equity, 60 cents; for serving a writ of possession of land, \$1 00; for executing any condemned person, \$12 50; for serving and attending any person on a *habeas corpus*, per day, \$1 00; for whipping a person by order of court, 50 cents; for summoning each garnishee, 60 cents; for every time an action is called in court, 4 cents; for imprisonment of felons or any other person, and finding them per day, 25 cents.

##### *To Coroners.*

The same fees as to sheriffs for similar services.

##### *To Registers.*

For registering each grant or deed where only one tract of land is conveyed, 81¼ cents; for each tract over one, 25 cents; for each search of a register's book, 12½ cents; for each copy of deed, grant, &c., and a certificate, 75 cents.

##### *To Grand Jurors and Petit Jurors other than Talesmen.*

Attending the superior courts, per day, \$1 00.

##### *To Witnesses.*

Attending the superior courts, per day, and for every thirty miles travelling, \$1 00.

## STATE OF OHIO.

AN ACT regulating the Fees of civil officers, in civil and criminal cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That, from and after the taking effect of this act, the fees and compensations of the several officers, and other persons herein mentioned, shall be as follows, and no more, viz:

*Sheriff's Fees in the Common Pleas.*

For the service of every writ or summons, and return thereof, (subpœnas only excepted,) when only one defendant is named therein, 35 cents; for each additional defendant named therein, 15 cents; for every bail-bond, 50 cents; for every commitment to prison, 30 cents; for discharging a person from prison, 30 cents; for attending a prisoner before a judge, or in court, when required, 30 cents; for serving a writ of possession with the aid of the *posse comitatus*, \$2; for serving the said writ without such aid, 75 cents; for executing a writ of inquiry, and returning the same with the inquisition, \$1 25; for the copy of any writ or process necessary to complete a service, for each hundred words thereof, 10 cents; for serving and returning a subpœna, for each person named therein and actually summoned, 10 cents; for travelling fees upon each writ of subpœna, 4 cents; for summoning a jury, to be allowed on each issue tried, including travelling fees, 50 cents; for summoning a grand jury to attend the court of common pleas, including travelling fees, to be paid by the county, \$2; for making out a list, for striking a special jury, and delivering the same, 50 cents; for summoning a special jury, including travelling fees, \$2; for travelling fees upon all writs, precepts, and subpœnas not otherwise provided for, to be computed from the place of return to the place of service, per mile, 5 cents; for poundage on all moneys made on execution, 2 per cent.; for service of a declaration in ejectment and return, the same fees as allowed for the service of a summons; for making and executing a deed for land sold on execution, to be paid by the purchaser, \$2; for making a deed for land sold for taxes, to be paid by the purchaser, \$1; for serving a *scire facias*, and making return thereof, 35 cents; for serving any person with an order of court, and making return thereof, 30 cents; for serving a subpœna in chancery, 30 cents; for keeping and providing for a debtor in jail, each day, 25 cents; on each action for opening court, to be charged once every term, 8 cents; on calling action, each term, 8 cents; for calling jury, 10 cents; for calling each witness, 4 cents.

*Sheriff's Fees in the Supreme Court.*

For executing a criminal, to be paid out of the county treasury, \$8; for bringing up a person on *habeas corpus* in civil causes, 75 cents; for travelling fees, the same as in common pleas; and all other services rendered in the supreme court, the same fees as are allowed for similar services in the court of common pleas: provided that no compensation shall be allowed the sheriff for any service performed in the supreme court, for which service a compensation is not herein provided in the court of common pleas. For summoning a jury on forcible entry and detainer, or forcible detainer, \$2; for serving a writ of restitution, 75 cents, and mileage thereon as in other cases; for serving summons in forcible entry and detainer, or forcible detainer, 35 cents, and mileage as in other cases.

When the State of Ohio fails in prosecution, or the defendant proves insolvent, or unable to pay the fees when convicted, no fees for any services, by the sheriff or other officer, in such case performed, shall be paid by the county treasury, (the ordinary diet, fuel, and water, furnished to a prisoner, only excepted,) any law, custom, or usage to the contrary notwithstanding: *Provided*, That the sheriffs of the several counties, for their fees in all prosecutions, where the State of Ohio fails in prosecution, or where the criminal shall prove insolvent, or unable to pay, for publishing writs for electing members of the General Assembly, and all other public and county services not otherwise provided for, they shall respectively receive, annually, a sum not more than \$60, nor less than \$20, to be paid out of the county treasury upon the order of the commissioners.

*Clerk's fees in the Supreme Court, in civil cases.*

For filing ticket, sealing writ, and entering the same, 25 cents; for filing declarations or other papers, when required, 6 cents; for entering the sheriff's return, 6 cents; for docketing every cause, to be charged but once, 6 cents; for entering the appearance of either party, by attorney or personally, to be charged but once, 8 cents; for entering every special rule, 6 cents; for entering every special bail, 12 cents; for swearing and empannelling a jury, 25 cents; for administering an oath or affirmation (except to jurors) in court, 4 cents; for taking and entering verdict, 6 cents; for entering up every judgment, or a copy thereof, 16 cents; for engrossing special verdict, per sheet of one hundred words, 10 cents; for entering a discontinuance, 10 cents; for attending on striking special jury, and delivering copies, 50 cents; for entering satisfaction on record, 10 cents; for drawing process when required, for every sheet of one hundred words, 10 cents; for entering issue joined, 15 cents; for drawing cost bill, 35 cents; for copy of a rule of reference, 25 cents; for commission to take depositions with the seal of court, 50 cents; for each and every continuance, 10 cents; for a *venire facias*, 25 cents; for making a complete record in every cause, for every twenty words, 2 cents; for copy of record and proceedings when required, per sheet of one hundred words, 10 cents; for certificate, with the seal annexed, 50 cents; for every copy of every paper or record, not herein otherwise provided for, for every twenty words, 2 cents; for every writ of error, *supersedeas*, *certiorari*, or *habeas corpus*, 25 cents; for taking bond on issuing writ of error, *supersedeas*, *certiorari*, or *habeas corpus*, 37½ cents; for filing the record upon an appeal, writ of error, *supersedeas*, *certiorari*, or *habeas corpus*, 12½ cents; for every order to a witness for attendance, to be charged to the party against whom such order goes, 6 cents; for subpœna in chancery, 20 cents; for filing each bill, answer, replication, or other pleadings in chancery, 10 cents; for an order to advertise, 25 cents; for entering every decree at large, for every twenty words, 2 cents; for entering security for costs, 6 cents; for a search or examination of the records, if a copy is not required, 12½ cents, (suitors and officers of the court excepted.)

*Clerk's Fees in the Supreme Court, in criminal cases.*

For entering defendant's appearance, 8 cents; for discharging on bail, 10 cents; for drawing process, 25 cents; for entering plea, 6 cents; for drawing a subpœna and seal, 25 cents; for administering an oath or affirmation (excepting to jurors) in court, 4 cents; for making up the record, for every sheet of one hundred words, 10 cents; for entering judgment, 12½ cents; for taking recognizance, and entering the same, 25 cents; for copies of indictments or pleadings, per sheet of one hundred words, 10 cents; for copy of the traverse, 10 cents; for entering every order or special rule of court, 10 cents; for copy of the same, when required, 8 cents; for entering a *nolle prosequi* or *cessat processus*, 6 cents; for a search or examination of the records, and reading the same, if a copy is not required, 12½ cents.

*Clerk's Fees in the Court of Common Pleas.*

For filing ticket, and issuing *capias*, attachment, replevin, execution, *certiorari*, *supersedeas*, or summons, under the seal of the court, and entering the same, 25 cents; for drawing writs, *scire facias*, with the seal of the court annexed, per sheet of one hundred words, 10 cents; for entering the appearance of either party, by attorney or personal, to be charged but once, 8 cents; for entering the sheriff's return, 6 cents; for docketing every cause, to be charged but once, 6 cents; for filing declaration, demurrer, pleadings, depositions, or other necessary documents, each, 4 cents; for receiving the panel, and swearing the jury, 12 cents; for swearing each witness, 4 cents; for every order to a witness for attendance, to be charged to the party against whom such order goes, 6 cents; for swearing a constable, 4 cents; for taking and recording a verdict, 10 cents; for entering judgment, 10 cents; for entering a discontinuance, 10 cents; for entering every special rule, 6 cents; for a commission to take depositions, under the seal of the court, 50 cents; for every writ of subpoena, for one or more witnesses, 12 cents; for taking bail, 12 cents; for issuing bail piece, when required, 40 cents; for recording the proceedings and judgment in each action, per sheet of one hundred words, 10 cents; for copy of record or pleadings on file, when required, per sheet of one hundred words, 10 cents; for entering confession of judgment, 10 cents; for entering confession of lease, entry, and ouster in ejectment, 10 cents; for copy of a rule of reference, with the seal of the court annexed, 25 cents; for entering satisfaction of a judgment on record, 12½ cents; for the writ of *venire*, to be taxed on each issue tried, 12 cents; for entering a continuance, ten cents; for a *venire facias* for a special jury, 25 cents; for attending the striking a special jury, and furnishing the panel thereof to each party, 50 cents; for reading and entering allowance of *habeas corpus*, writ of error, or *certiorari*, and the return, 15 cents; for making out a copy of a record, with the seal of the court and certificate annexed, upon appeal, writ of error, *habeas corpus*, or *certiorari*, and transmitting the same, for each sheet of one hundred words, 10 cents; for each certificate to which the county seal is required, and not herein provided for, 50 cents; for the probate of any will or testament, and certificate thereof, 33 cents; for recording a will, for every twenty words, 2 cents; for administering an oath to executor or administrator, and taking bond, 40 cents; for entering the order or orders for appraising the estate, 12½ cents; for copy thereof, 12½ cents; for letters of administration and copy, \$1; for recording inventory, for every twenty words, 2 cents; for a copy of a will or inventory, for every twenty words, 2 cents; for filing appeal from justice of the peace, and docketing the same, 8 cents; for entering security for costs, 6½ cents; for a search or examination of the records, and reading the same, if a copy is not required, 12½ cents; for a search or examination of the stray book, and reading the same, if a copy is not required, 6½ cents; for entering appeal, and taking bond to prosecute it, 33½ cents; for subpoena in chancery, 20 cents; for filing each bill, answer, replication, or other pleading, in chancery, 8 cents; for an order to advertise, 25 cents; for entering every decree at large, for every twenty words, 2 cents; for drawing cost bill, 35 cents; for entering allowance of writ of error, *habeas corpus*, or *certiorari*, 15 cents; and the clerks of the respective courts shall be allowed by the commissioners of their proper county, annually, a reasonable compensation for money expended in purchasing blank books, which sum shall be paid out of the county treasury.

*Clerk's Fees in the Court of Common Pleas in Criminal Cases.*

For issuing a *capias* or other process upon indictment, under the county seal, 25 cents; writ of subpoena, for one or more witnesses, 20 cents; a *venire* for traverse jury, to be allowed in each trial, 25 cents; entering defendant's appearance or plea, 6 cents; receiving the panel and swearing the jury, 12 cents; swearing each witness, 4 cents; swearing a constable, 4 cents; receiving and entering verdict, 12 cents; entering judgment, 16 cents; making up the record, for every sheet of one hundred words, 10 cents; copies of a record or original paper on file, when required, per sheet of one hundred words, 10 cents; drawing up a recognizance in form, when required, 25 cents; drawing cost bill, 35 cents.

*Provided*, That the clerks of the courts of common pleas, in the several counties, for their fees in all prosecutions, where the State of Ohio fail, or where the criminal shall prove insolvent, or unable to pay, shall respectively receive, annually, a sum not exceeding \$50, nor less than \$20; and for opening, adjudging, and certifying the returns of members of the General Assembly, and county officers, they shall respectively receive, annually, a sum not exceeding \$6, nor less than \$2, to be paid out of the county treasury, upon the orders of the commissioners.

*Recorder's Fees.*

For recording a mortgage, deed of conveyance, letter of attorney, or any other instrument of writing, for every sheet of one hundred words, 12½ cents; all copies of records, for every sheet of one hundred words, 10 cents; every search, 12½ cents.

*Coroner's Fees.*

For the view of a dead body, \$3; drawing all necessary writings, and making return, for every hundred words, 10 cents; for travelling, each mile, to the place of view, 5 cents; for issuing a *venire* for a jury, 25 cents; to each juror, upon inquisition of a dead body, 50 cents. The coroner's, constable's, and juror's fees, to be paid out of the county treasury. All services rendered, under the authority of the court, the same fees as are allowed the sheriff, for the same services.

*Fees of Justices of the Peace, in civil cases.*

For a summons or *capias*, 12½ cents; every subpoena for one person, 10 cents; each person, in addition, 4 cents; entering judgment on trial, 25 cents; when confessed, 12½ cents; granting and issuing execution, 25 cents; a certified copy of proceedings, on an appeal or *certiorari*, 30 cents; every continuance or adjournment, at the request of the party, 10 cents; granting and entering rule of reference, 10 cents; copy thereof, 10 cents; taking recognizance of bail, 25 cents; issuing bail piece, 12 cents; swearing witnesses, each, 4 cents; issuing writs of attachment, 25 cents each; *scire facias*, 20 cents; advertising bans of matrimony, 50 cents; marrying, and making return thereof, \$1 50 cents; the proof or acknowledgment of a deed or other instrument of writing, with a certificate thereon, 25 cents; taking depositions, 10 cents for every hundred words; for granting certificate, 10 cents; for entering discontinuance or satisfaction, 10 cents.

*Fees of Justices of the Peace in Criminal Cases.*

For a warrant, in criminal cases, 25 cents; taking an examination in writing, 10 cents for every hundred words; swearing each person, 4 cents; taking recognizance, 25 cents; a commitment to jail, 25 cents; a search warrant, 25 cents.

*Constables' Fees, in civil cases.*

For serving summons, or other writ, not herein provided for, on each person therein named, 10 cents; for travelling, in going to serve the aforesaid process, per mile, 5 cents; and when two or more persons are named in

such process, mileage to be allowed only to the most remote place of service. For copy of a summons left at the place of abode, 12½ cents; for serving execution on body or goods, 20 cents, and mileage as above; for commitment to prison, 25 cents, and mileage as above; for summoning a jury upon a dead body, 75 cents; on all sums made on execution, 4 per cent.; for attending upon a jury, on each trial, 25 cents.

*Constables' Fees, in criminal cases.*

For serving a warrant on each person named therein, and return, 25 cents, and mileage as in civil cases; for serving a subpoena on each person named therein, 10 cents, and mileage as above; for commitment of each person, 25 cents; for mileage from the place of examination to prison, each mile, 5 cents; for every day's attendance on the grand jury, 75 cents, to be paid out of the county treasury.

*Jurors' Fees.*

For each juror, upon each cause he may be empanelled to try, 40 cents, to be advanced by the person in whose favor the verdict shall be given, and taxed in the bill of costs.

*Grand Jurors' Fees.*

For each day's attendance, 75 cents, which shall be paid out of the county treasury upon the order of the commissioners.

*Witnesses' Fees.*

For going to, attending at, and returning from court, under a subpoena, per day, 50 cents.

*Fees under the law against forcible entry and detainment.*

There shall be allowed to the several persons performing services under said act, except for services hereinbefore provided for, the same fees as are allowed and taxed in the court of common pleas, for performing similar services.

*Fees allowed for services actually rendered under the act for the partition of real estate.*

To each commissioner, for each day he shall be actually employed in the partition of any real estate, and in going to, and returning therefrom, \$1 50; to the surveyor, for each day he shall be employed in making a survey under the said act, \$2; to each chain-carrier and axe-man, for each day employed in making such survey, 75 cents.

*Fees to the Officers of the Court.*

The same fees as are allowed for the same or similar services in other cases of a like nature.

*In the Supreme Court.*

Attorneys and counsellors at law shall be entitled to receive of the party against whom judgment is entered, for a docket fee, after trial, \$8; for a docket fee, if cause is settled before trial, \$5.

*In the Court of Common Pleas.*

For a docket fee, after trial, \$6; for a docket fee, if cause is settled before trial, \$3.

SEC. 2. *Be it further enacted*, That in all cases in law where an officer, in the due execution of his office, shall be required to write or set up an advertisement for the sale of lands, such officer shall be allowed for every such advertisement, 25 cents; and if such advertisement is required to be published in a newspaper, the officer proving such publication shall be refunded the money he may pay therefor, to be taxed in the bill of costs.

SEC. 3. *Be it further enacted*, That all and every of the respective officers, whose fees are herein ascertained, limited, and appointed, shall, and they are hereby required to make fair tables of their fees, respectively, according to this act, and to publish and set up the same in their respective offices, within three months after the taking effect of this act, in some conspicuous part, for the inspection of all persons who have business in the said offices, on pain of forfeiting, for each day the same shall be missing through the said officer's neglect, the sum of \$5, which penalty may be recovered in any court of record by action of debt, one-half to the informer, and the other half to the use of the county where the offence shall have been committed. If any officer, whatsoever, shall ask, take, or demand greater fees than are hereinbefore expressed and limited, for any service to be done by him in his office, or if any officer shall charge or demand, and take any of the fees herein ascertained, when the business for which such fees are charged shall not have been actually done and performed, such officer, for every such offence, shall, on conviction thereof before any court of record for the proper county, forfeit and pay to the party injured, any sum not exceeding fifty dollars. It shall and may be lawful for any person to refuse payment of fees to any officer, who shall not make out a bill of particulars signed by him, if required, and also a receipt or discharge signed by him, for the fees paid.

SEC. 4. *Be it further enacted*, That so much of the act entitled "An act to regulate county levies," as authorizes the county commissioners, at their annual meeting, to allow compensation to the justices of the peace, clerks of the courts of general quarter sessions of the peace, sheriff, and constables, for services by them or either of them performed, for and on behalf of their several counties, respectively; also, the law, entitled "A law ascertaining and regulating the fees of the several officers and persons therein named," adopted and published at Cincinnati, the sixteenth day of June, one thousand seven hundred and ninety-five; also, the law in addition to the same, published at Cincinnati, the first day of May, one thousand seven hundred and ninety-eight; and also, the act, entitled "An act regulating the fees of constables in the several counties within this Territory," passed at Cincinnati, the nineteenth day of December, one thousand seven hundred and ninety-nine; and also, the act, entitled "An act regulating the fees of civil officers, and for other purposes," passed the twenty-third day of January, one thousand eight hundred and two; and also, the fourth section of the act, entitled "An act allowing compensation to the associate judges, and for other purposes," passed the eighteenth day of February, one thousand eight hundred and four, be, and the same are hereby, repealed: *Provided*, That nothing herein contained shall be considered to extend to, or effect the fees for services performed prior to the taking effect of this act.

This act shall take effect and be in force from and after the first day of June next.

SECRETARY OF STATE'S OFFICE, Chillicothe, Ohio.

I do certify, that the foregoing bill is a correct copy of the original roll in my office.

Given under my hand, this 6th day of November, 1806.

WILLIAM CREIGHTON, JUN.

[10th CONGRESS.]

No. 238.

[1st SESSION.]

## BURR'S CONSPIRACY—JOHN SMITH, A SENATOR FROM OHIO.

COMMUNICATED TO THE SENATE, DECEMBER 31, 1807.

Mr. ADAMS, from the committee appointed on the 27th of November last, to inquire whether it be compatible with the honor and privileges of this House, that John Smith, a Senator from the State of Ohio, against whom bills of indictment were found at the circuit court of Virginia, held at Richmond in August last, for treason and misdemeanor, should be permitted any longer to have a seat therein, and to inquire into all the facts regarding the conduct of Mr. Smith, as an alleged associate of Aaron Burr, and report the same to the Senate, submitted the following report:

Your committee are of opinion, that the conspiracy of Aaron Burr and his associates against the peace, union, and liberties of these States, is of such a character, and that its existence is established by such a mass of concurring and mutually corroborative testimony, that it is incompatible not only with the honor and privileges of this House, but with the deepest interests of this nation, that any person engaged in it should be permitted to hold a seat in the Senate of the United States.

Whether the facts, of which the committee submit herewith such evidence as, under the order of the Senate, they have been able to collect, are sufficient to substantiate the participation of Mr. Smith in that conspiracy, or not, will remain for the Senate to decide.

The committee submit also to the consideration of the Senate, the correspondence between Mr. Smith and them, through their chairman, in the course of their meetings. The committee have never conceived themselves invested with authority to try Mr. Smith. Their charge was to report an opinion relating to the honor and privileges of the Senate, and the facts relating to the conduct of Mr. Smith. Their opinion, indeed, cannot be expressed in relation to the privilege of the Senate, without relating, at the same time, to Mr. Smith's right of holding a seat in this body; but in that respect the authority of the committee extends only to proposal, and not to decision. But as he manifested a great solicitude to be heard before them, they obtained permission from the Senate to admit his attendance, communicated to him the evidence in their possession, by which he was inculpated, furnished him, in writing, with the questions arising from it, which appeared to them material, and received from him the information and explanations herewith submitted as part of the facts reported. But Mr. Smith has claimed, as a right, to be heard in his defence by counsel, to have compulsory process for witnesses, and to be confronted with his accusers, as if the committee had been a circuit court of the United States. But it is before the Senate itself, that your committee conceived it just and proper that Mr. Smith's defence of himself should be heard. Nor have they conceived themselves bound in this inquiry by any other rules than those of natural justice and equity, due to a brother Senator on the one part, and to their country on the other.

Mr. Smith represents himself, on this inquiry, as solitary, friendless, and unskilled, contending for rights which he intimates are denied him; and the defender of Senatorial privileges which he seems apprehensive will be refused him by Senators, liable, so long as they hold their offices, to have his case made their own. The committee are not unaware that, in the vicissitudes of human events, no member of this body can be sure that his conduct will never be made a subject of inquiry and decision before the assembly to which he belongs. They are aware that, in the course of proceeding which the Senate may now sanction, its members are marking out a precedent which may hereafter apply to themselves. They are sensible that the principles upon which they have acted ought to have the same operation upon their own claims to privilege as upon those of Mr. Smith; the same relation to the rights of their constituents, which they have to those of the Legislature which he represents. They have deemed it their duty to advance in the progress of their inquiry with peculiar care and deliberation. They have dealt out to Mr. Smith that measure, which, under the supposition of similar circumstances, they would be content to find imparted to themselves; and they have no hesitation in declaring, that, under such imputations, colored by such evidence, they should hold it a sacred obligation to themselves, to their fellow Senators, and to their country, to meet them by direct, unconditional acknowledgment or denial, without seeking a refuge from the broad face of day in the labyrinth of technical forms.

In examining the question whether these forms of judicial proceedings, or the rules of judicial evidence, ought to be applied to the exercise of that censorial authority which the Senate of the United States possesses over the conduct of its members, let us assume, as the test of their application, either the dictates of unfettered reason, the letter and spirit of the constitution, or precedents, domestic or foreign, and your committee believe that the result will be the same; that the power of expelling a member must, in its nature, be discretionary, and in its exercise always more summary than the tardy process of judicial tribunals.

The power of expelling a member for misconduct results, on the principles of common sense, from the interest of the nation, that the high trust of legislation should be invested in pure hands. When the trust is elective, it is not to be presumed that the constituent body will commit the deposite to the keeping of worthless characters. But when a man, whom his fellow-citizens have honored with their confidence, on the pledge of a spotless reputation, has degraded himself by the commission of infamous crimes, which become suddenly and unexpectedly revealed to the world, defective indeed would be that institution which should be impotent to discard from its bosom the contagion of such a member; which should have no remedy of amputation to apply until the poison had reached the heart.

The question upon the trial of a criminal cause, before the courts of common law, is not between guilt and innocence, but between guilt and the possibility of innocence. If a doubt can possibly be raised, either by the ingenuity of the party or of his counsel, or by the operation of general rules in their unforeseen application to particular cases, that doubt must be decisive for acquittal, and the verdict of not guilty, perhaps, in nine cases out of ten, means no more than that the guilt of the party has not been demonstrated in the precise, specific, and narrow forms prescribed by law. The humane spirit of the laws multiplies the barriers for the protection of innocence, and freely admits that these barriers may be abused for the shelter of guilt. It avows a strong partiality favorable to the person upon trial, and acknowledges the preference that ten guilty should escape rather than that one innocent should suffer. The interest of the public that a particular crime should be punished, is but as one to ten, compared with the interest of the party, that innocence should be spared. Acquittal only restores the party to the common rights of every other citizen; it restores him to no public trust; it invests him with no public confidence; it substitutes the sentence of mercy for the doom of justice; and to the eyes of impartial reason, in the great majority of cases, must be considered rather as a pardon than a justification.



But when a member of a legislative body lies under the imputation of aggravated offences, and the determination upon his cause can operate only to remove him from a station of extensive powers, and important trust, this disproportion between the interest of the public and the interest of the individual, disappears; if any disproportion exists, it is of an opposite kind. It is not better that ten traitors should be members of this Senate, than that one innocent man should suffer expulsion. In either case, no doubt, the evil would be great. But, in the former, it would strike at the vitals of the nation; in the latter it might, though deeply to be lamented, only be the calamity of an individual.

By the letter of the constitution, the power of expelling a member is given to each of the two Houses of Congress, without any limitation other than that which requires a concurrence of two-thirds of the votes to give it effect.

The spirit of the constitution is, perhaps, in no respect more remarkable than in the solicitude which it has manifested to secure the purity of the Legislature by that of the elements of its composition. A qualification of age is made necessary for the members, to ensure the maturity of their judgment; a qualification of long citizenship, to ensure a community of interests and affections between them and their country; a qualification of residence, to provide a sympathy between every member and the portion of the Union from which he is delegated; and to guard, as far as regulation can guard, against every bias of personal interest, and every hazard of interfering duties, it has made every member of Congress ineligible to office which he contributed to create, and every officer of the Union incapable of holding a seat in Congress. Yet, in the midst of all this anxious providence of legislative virtue, it has not authorized the constituent body to recall in any case its representative. It has not subjected him to removal by impeachment; and when the darling of the people's choice has become their deadliest foe, can it enter the imagination of a reasonable man that the sanctuary of their legislation must remain polluted with his presence, until a court of common law, with its pace of snail, can ascertain whether his crime was committed on the right or on the left bank of a river; whether a puncture of difference can be found between the words of the charge and the words of the proof; whether the witnesses of his guilt should or should not be heard by his jury; and whether he was punishable, because present at an overt act, or intangible to public justice, because he only contrived and prepared it. Is it conceivable that a traitor to that country which has loaded him with favors, guilty to the common understanding of all mankind, should be suffered to return unquestioned to that post of honor and confidence, where, in the zenith of his good fame, he had been placed by the esteem of his countrymen, and in defiance of their wishes, in mockery of their fears, surrounded by the public indignation, but inaccessible to its bolt, pursue the purposes of treason in the heart of the national councils? Must the assembled rulers of the land listen with calmness and indifference, session after session, to the voice of notorious infamy, until the sluggish step of municipal justice can overtake his enormities? Must they tamely see the lives and fortunes of millions, the safety of present and future ages, depending upon his vote, recorded with theirs, merely because the abused benignity of general maxims may have remitted to him the forfeiture of his life?

Such, in very supposable cases, would be the unavoidable consequences of a principle which should offer the crutches of judicial tribunals as an apology for crippling the congressional power of expulsion. Far different, in the opinion of your committee, is the spirit of our constitution. They believe that the very purpose for which this power was given, was to preserve the Legislature from the first approaches of infection. That it was made discretionary because it could not exist under the procrastination of general rules; that its process must be summary, because it would be rendered nugatory by delay.

Passing from the constitutional view of the subject, to that which is afforded by the authority of precedent, your committee find that, since the establishment of our present National Legislature, there has been but one example of expulsion from the Senate. In that case, the member implicated was called upon, in the first instance, to answer whether he was the author of a letter, the copy of which only was produced, and the writing of which was the cause of his expulsion. He was afterwards requested to declare whether he was the author of the letter itself, and declining, in both cases, to answer, the fact of his having written it was established by a comparison of his handwriting, and by the belief of persons who had seen him write, upon inspection of the letter. In all these points the committee perceive the admission of a species of evidence, which, in courts of criminal jurisdiction, would be excluded, and, in the resolution of expulsion, the Senate declared the person inculpated *guilty of a high misdemeanor*, although no presentment or indictment had been found against him, and no prosecution at law was ever commenced upon the case.

This event occurred in July, 1797. About fifteen months before that time, upon an application from the Legislature of Kentucky, requesting an investigation by the Senate, of a charge, against one of the members from that State, of perjury, which had been made in certain newspaper publications, but for which no prosecution had been commenced, the Senate did adopt, by a majority of 16 votes to 8, the report of a committee, purporting that the Senate had no *jurisdiction* to try the charge, and that the memorial of the Kentucky Legislature should be dismissed. There were, indeed, very sufficient reasons of a different kind assigned in the same report, for not pursuing the investigation, in that particular case, any further; and your committee believe that, in the reasoning of that report, some principles were assumed and some inferences drawn, which were altogether unnecessary for the determination of that case, which were adopted without a full consideration of all their consequences, and the inaccuracy of which was clearly proved by the departure from them in the instance which was so soon afterwards to take place. It was the first time that a question of expulsion had ever been agitated in Congress, since the adoption of the constitution. And the subject being thus entirely new, was considered perhaps too much with reference to the particular circumstances of the moment, and not enough upon the numerous contingencies to which the general question might apply. Your committee state this opinion with some confidence, because, of the sixteen Senators who, in March, 1796, voted for the report dismissing the memorial of the Kentucky Legislature, eleven, on the subsequent occasion, in July, 1797, voted also for that report, which concluded with a resolution for the expulsion of Mr. Blount. The other five were no longer present in the Senate. Yet, if the principles advanced in the first report had been assumed as the ground of proceeding at the latter period, the Senate would have been as impotent of jurisdiction upon the offence of Mr. Blount as they had supposed themselves upon the allegation against Mr. Marshall.

Those parts of the fifth and sixth articles, amendatory to the constitution, upon which the report in the case of Mr. Marshall appears to rely for taking away the jurisdiction of the Senate, your committee suppose can only be understood as referring to prosecutions at law; to suppose that they were intended as restrictions upon powers expressly granted by the constitution to the Legislature, or either of its branches, would, in a manner, annihilate the power of impeachment, as well as that of expulsion. It would lead to the absurd conclusion that the authority given for the purpose of removing iniquity from the seats of power should be denied its exercise in precisely those cases which most loudly call for its energies. It would present the singular spectacle of a Legislature vested with powers of expelling its members, of impeaching, removing, and disqualifying public officers, for trivial transgressions beneath the cognizance of the law, yet forbidden to exert them against capital or infamous crimes.



Those two articles were in substance borrowed from similar regulations contained in that justly celebrated statute, which for so many ages has been distinguished by the name of the Great Charter of England. Yet in that country, where they are recognized as the most solid foundations of the liberties of the nation, they have never been considered as interfering with the power of expelling a member, exercised at all times by the House of Commons; a power which there, however, rests only upon parliamentary usage, and has never been bestowed, as in the constitution of the United States, by any act of supreme legislation. From a number of precedents which have been consulted, it is found that the exercise of this authority there has always been discretionary, and its process always far otherwise compendious than in the prosecutions before the judicial courts. So far, indeed, have they been from supposing a conviction at law necessary to precede a vote of expulsion, that, in one instance, a resolution to demand a prosecution appears immediately after the adoption of the resolution to expel. In numerous cases the member submits to examination, adduces evidence in his favor, and has evidence produced against him, with or without formal authentication; and the discretion of the House is not even restricted by the necessary concurrence of more than a bare majority of the votes.

The provision in our constitution which forbids the expulsion of a member by an ordinary majority, and requires for this act of rigorous and painful duty the assent of two-thirds, your committee consider as a wise and sufficient guard against the possible abuse of this legislative discretion. In times of heat and violent party spirit, the rights of the minority might not always be duly respected if a majority could expel their members under no other control than that of their own discretion. The operation of this rule is of great efficacy both over the proceedings of the whole body, and over the conduct of every individual member. The times when the most violent struggles of contending parties occur, when the conflict of opposite passions is most prone to excess, are precisely the times when the numbers are most equally divided; when the majority amounts to the proportion of two-thirds, the security in its own strength is of itself a guard against extraordinary stretches of power; when the minority dwindles to the proportion of one-third, its consciousness of weakness dissuades from any attempts to encroach upon the rights of the majority, which might provoke retaliation. But if expulsion were admissible only as a sequel to the issue of a legal prosecution, or upon the same principles and forms of testimony which are established in the criminal courts, your committee can see no possible reason why it should be rendered still more imbecile by the requisition of two-thirds to give it effect.

It is now the duty of your committee to apply the principles which they have here endeavored to settle and elucidate, to the particular case upon which the Senate have directed them to report. The bills of indictment found against Mr. Smith, at the late session of the circuit court of the United States at Richmond, (copies of which are herewith submitted,) are precisely similar to those found against Aaron Burr. From the volume of printed evidence communicated by the President of the United States to Congress relating to the trial of Aaron Burr, it appears that a great part of the testimony which was essential to his conviction upon the indictment for treason, was withheld from the jury upon an opinion of the court, that Aaron Burr, not having been present at the overt act of treason alleged in the indictment, no testimony relative to his conduct or declarations elsewhere, and subsequent to the transactions on Blennerhassett's island, could be admitted. And, in consequence of this suppression of evidence, the traverse jury found a verdict "that Aaron Burr was not proved to be guilty, under that indictment, by any evidence submitted to them." It was also an opinion of the court, that none of the transactions, of which evidence was given on the trial of Aaron Burr, did amount to an overt act of levying war, and, of course, that they did not amount to treason. These decisions, forming the basis of the issue upon the trials of Burr, anticipated the event which must have awaited the trials of the bills against Mr. Smith, who, from the circumstances of his case, must have been entitled to the benefit of their application; they were the sole inducements upon which the counsel for the United States abandoned the prosecution against him.

Your committee are not disposed now to question the correctness of these decisions on a case of treason before a court of criminal jurisdiction. But whether the transactions proved against Aaron Burr did or did not amount, in technical language, to an overt act of levying war, your committee have not a scruple of doubt on their minds that, but for the vigilance and energy of the Government, and of faithful citizens under its directions, in arresting their progress and in crushing his designs, they would, in a very short lapse of time, have terminated not only in a war, but in a war of the most horrible description, in a war at once foreign and domestic. As little hesitation have your committee in saying, that, if the daylight of evidence, combining one vast complicated intention, with overt acts innumerable, be not excluded from the mind by the curtain of artificial rules, the simplest understanding cannot but see what the subtlest understanding cannot disguise, crimes before which ordinary treason whitens into virtue—crimes of which war is the mildest feature. The debauchment of our army, the plunder and devastation of our own and foreign territories, the dissolution of our national union, and the root of interminable civil war, were but the means of individual aggrandizement, the steps to projected usurpation. If the ingenuity of a demon were tasked to weave, into one composition, all the great moral and political evils which could be inflicted upon the people of these States, it could produce nothing more than a texture of war, dismemberment, and despotism.

Of these designs, a grand jury, composed of characters as respectable as this nation can boast, have, upon the solemnity of their oaths, charged John Smith with being an accomplice. The reasons upon which the trial of this charge has not been submitted to the verdict of a jury, have been shown by your committee, and are proved by the letter from the Attorney of the United States, for the district of Virginia, herewith reported. And your committee are of opinion that the dereliction of the prosecution on these grounds cannot, in the slightest degree, remove the imputation which the accusations of the grand jury have brought to the door of Mr. Smith.

Your committee will not permit themselves to comment upon the testimony which they submit herewith to the Senate; nor upon the answers which Mr. Smith has given as sufficient for his justification. Desirous as the committee have been that this justification might be complete, anxiously as they wished for an opportunity of declaring their belief of his innocence, they can neither control nor dissemble the operation of the evidence upon their minds; and, however painful to their feelings, they find themselves compelled by a sense of duty, paramount to every other consideration, to submit to the Senate, for their consideration, the following resolution:

*Resolved*, That John Smith, a Senator from the State of Ohio, by his participation in the conspiracy of Aaron Burr against the peace, union, and liberties of the people of the United States, has been guilty of conduct incompatible with his duty and station as a Senator of the United States. And that he be therefor, and hereby is, expelled from the Senate of the United States.

On the question to agree to the resolution, it was determined in the negative, two-thirds of the Senators present not concurring therein—yeas 19, nays 10.

Those who voted in the affirmative are, Messrs. Adams, Anderson, Condit, Crawford, Franklin, Gaillard, Gilman, Gregg, Kitchel, Maclay, Mathewson, Milledge, Moore, Robinson, Smith, of Maryland, Smith, of Tennessee, Sumter, Tiffin, and Turner.

Those who voted in the negative are, Messrs. Giles, Goodrich, Hillhouse, Howland, Pickering, Pope, Reed, Smith, of New York, Thruston, and White.

10th CONGRESS.]

No. 239.

[1st Session.]

## BRIGADIER GENERAL JAMES WILKINSON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 11TH OF JANUARY, 1808.

In obedience to the direction of the House of Representatives, expressed in their resolution of Friday last, I submit the following statement:

I arrived from Europe at New Orleans in December, 1786, having been invited to the country by an uncle of considerable wealth and influence, who had been long resident in that city. Shortly after my arrival, I was employed in the office of the Secretary of the Government. This office was the depository of all state papers. In 1787, General Wilkinson made his first visit to New Orleans, and was introduced by my uncle to the Governor and other officers of the Spanish Government.

In the succeeding year, 1788, much sensation was excited by the report of his having entered into some arrangements with the Government of Louisiana, to separate the Western country from the United States, and this report acquired great credit upon his second visit to New Orleans, in 1789. About this time I saw a letter from the general to a person in New Orleans, giving an account of Colonel Conolly's mission to him from the British Government in Canada, and of proposals made to him on the part of that Government, and mentioning his determination of adhering to his connexion with the Spaniards.

My intimacy with the officers of the Spanish Government, and my access to official information, disclosed to me shortly afterwards some of the plans the general had proposed to the Government for effecting the contemplated separation. The general project was, the severance of the Western country from the United States, and the establishment of a separate Government in the alliance, and under the protection of Spain. In effecting this, Spain was to furnish money and arms, and the minds of the Western people were to be seduced, and brought over to the project by liberal advantages resulting from it, to be held out by Spain. The trade of the Mississippi was to be rendered free, the port of New Orleans to be opened to them, and a free commerce allowed in the productions of the new Government with Spain, and her West India islands.

I remember, about the same time, to have seen a list of names of citizens of the Western country, which was in the handwriting of the general, who were recommended for pensions, and the sums were stated proper to be paid to each, and I then distinctly understood that he and others were actually pensioners of the Spanish Government.

I had no personal knowledge of money being paid to General Wilkinson, or to any agent for him on account of his pension, previously to the year 1793 or 1794. In one of these years, and in which I cannot be certain until I can consult my books, a Mr. La Cassagne, who, I understood, was postmaster at the falls of Ohio, came to New Orleans, and, as one of the association with General Wilkinson in the project of dismemberment, received a sum of money, four thousand dollars of which, or thereabout, were embarked by a special permission, free of duty, on board a vessel which had been consigned to me, and which sailed for Philadelphia; in which vessel Mr. La Cassagne went passenger. At and prior to this period, I had various opportunities of seeing the projects submitted to the Spanish Government, and of learning many of the details from the agents employed to carry them into execution.

In 1794, two gentlemen of the names of Owens and Collins, friends and agents of General Wilkinson, came to New Orleans. To the first was intrusted, as I was particularly informed by the officers of the Spanish Government, the sum of six thousand dollars, to be delivered to General Wilkinson, on account of his own pension, and that of others. On his way, in returning to Kentucky, Owens was murdered by his boat's crew, and the money, it was understood, was made away with by them. This occurrence occasioned a considerable noise in Kentucky, and contributed, with Mr. Power's visits at a subsequent period, to awaken the suspicion of General Wayne, who took measures to intercept the correspondence of General Wilkinson with the Spanish Government, which were not attended with success.

Collins, the co-agent with Owens, first attempted to fit out a small vessel in the port of New Orleans, in order to proceed to some port in the Atlantic States; but she was destroyed by the hurricane of the month of August, of 1794. He then fitted out a small vessel in the bayou St. John, and shipped in her at least eleven thousand dollars, which he took round to Charleston.

This shipment was made under such peculiar circumstances, that it became known to many, and the destination of it was afterwards fully disclosed to me by the officers of the Spanish Government, by Collins and by General Wilkinson himself, who complained that Collins, instead of sending him the money on his arrival, had employed it in some wild speculations to the West Indies, by which he had lost a considerable sum, and that in consequence of the mismanagement of his agents, he had derived but little advantage from the money paid on his account by the Spanish Government.

Mr. Power was a Spanish subject resident in Louisiana, and the object of his visits to the Western country became known to me in 1796, when he embarked on board the brig Gayoso at New Orleans, for Philadelphia, in company with Judge Sebastian, in which vessel, as she had been consigned to me, I saw embarked, under a special permission, four thousand dollars or thereabout, which I was informed were for Sebastian's own account, as one of those concerned in the scheme of dismemberment of the Western country.

Mr. Power, as he afterwards informed me, on his tour through the Western country, saw General Wilkinson at Greenville, and was the bearer of a letter to him from the Secretary of the Government of Louisiana, dated 7th or 8th of March, 1796, advising that a sum of money had been sent to Don Thomas Portel, commandant of New Madrid, to be delivered to his order. This money Mr. Power delivered to Mr. Nolan, by Wilkinson's directions. What concerned Mr. Nolan's agency in this business I learned from himself when he afterwards visited New Orleans.

In 1797 Power was intrusted with another mission to Kentucky, and had directions to propose certain plans, to effect the separation of the Western country from the United States. These plans were proposed and rejected, as he has often solemnly assured me, through the means of a Mr. George Nicholas, to whom, among others, they were communicated, who spurned the idea of receiving foreign money. Power then proceeded to Detroit to see General Wilkinson, and was sent back by him under guard to New Madrid, from whence he returned to New Orleans. Power's secret instructions were known to me afterwards, and I am enabled to state that the plan then contemplated entirely failed.

At the periods spoken of, and for some time afterwards, I was resident in the Spanish Territory, subject to the Spanish laws, and without an expectation of becoming a citizen of the United States. My obligations were

then to conceal, and not to communicate to the Government of the United States, the projects and enterprises which I have mentioned of General Wilkinson and the Spanish Government.

In the month of October of 1798, I visited General Wilkinson, by his particular request, at his camp at Loftus's heights, where he had shortly before arrived. The general had heard of remarks made by me on the subject of his pension, which had rendered him uneasy, and he was desirous of making some arrangements with me on the subject. I passed three days and nights in the general's tent. The chief subjects of our conversation were the views and enterprises of the Spanish Government in relation to the United States, and speculations as to the result of political affairs. In the course of our conversations he stated that there was still a balance of ten thousand dollars due him by the Spanish Government, for which he would gladly take in exchange Governor Gayoso's plantation near the Natchez, who might reimburse himself from the treasury at New Orleans. I asked the general whether this sum was due on the old business of the pension? He replied that it was, and intimated a wish that I should propose to Governor Gayoso a transfer of his plantation for the money due him from the Spanish treasury. The whole affair had always been odious to me, and I declined having any agency in it. I acknowledged to him that I had often spoken freely and publicly of his Spanish pension, but told him I had communicated nothing to his Government on the subject. I advised him to drop his Spanish connexion. He justified it heretofore from the peculiar situation of Kentucky, the disadvantages that country labored under at the period when he formed his connexion with the Spaniards, the doubtful and distracted state of the Union at that time, which he represented as bound together by nothing better than a rope of sand, and he assured me solemnly that he had terminated his connexions with the Spanish Government, and that they never should be renewed. I gave the general to understand that as the affair stood I should not in future say any thing about it. From that period until the present I have heard one report only of the former connexion being renewed, and that was in 1804, shortly after the general's departure from New Orleans. I had been absent for two or three months, and returned to the city not long after General Wilkinson sailed from it. I was informed by the late mayor, that reports had reached the ears of the Governor, of a sum of ten thousand dollars having been received by the general of the Spanish Government, while he was one of the commissioners for taking possession of Louisiana. He wished me to inquire into the truth of them, which I agreed to do, on condition that I might be permitted to communicate the suspicion to the general, if the fact alleged against him could not be verified. This was assented to. I made the inquiry, and satisfied myself, by an inspection of the treasury book for 1804, that the ten thousand dollars had not been paid. I then communicated the circumstance to a friend of the general, Mr. Evan Jones, with a request that he would inform him of it. The report was revived at the last session of Congress, by a letter from Colonel Ferdinand Claiborne, of Natchez, to the delegate of the Mississippi Territory. A member of the House informed me that the money in question was acknowledged by General Smith to have been received at the time mentioned, but that it was in payment for tobacco. I knew that no tobacco had been delivered, and waited on General Smith for information, as to the receipt of the money, who disavowed all knowledge of it; and I took the opportunity of assuring him, and as many others as mentioned the subject, that I believed it to be false, and gave them my reasons for the opinion.

This summary necessarily omits many details tending to corroborate and illustrate the facts and opinions I have stated. No allusion has been had to the public explanations of the transaction referred to, made by General Wilkinson and his friends. So far as they are resolved into commercial enterprises and speculations, I have the best opportunity of being acquainted with them, as I was, during the time referred to, the agent of the house who were consignees of the general at New Orleans, and who had an interest in his shipments, and whose books are in my possession.

WASHINGTON CITY, *January 11, 1808.*

DANIEL CLARK.

DISTRICT OF COLUMBIA, *to wit:*

JANUARY 11, 1808.

Personally appeared before me, William Cranch, chief judge of the circuit court of the District of Columbia, Daniel Clark, Esq., who being duly sworn on the Holy Evangelists of Almighty God, doth depose and say, that the foregoing statement made by him under the order of the House of Representatives, so far as regards matters of his own personal knowledge, is true, and so far as regards the matters whereof he was informed by others, he believes to be true.

Sworn before me,

W. CRANCH.

10th CONGRESS.]

No. 240.

[1st SESSION.]

BRIGADIER GENERAL JAMES WILKINSON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 20TH OF JANUARY, 1808.

*To the House of Representatives of the United States:*

Some days previous to your resolutions of the 13th instant, a court of inquiry had been instituted at the request of General Wilkinson, charged to make the inquiry into his conduct which the first resolution desires, and had commenced their proceedings. To the judge advocate of that court the papers and information on that subject, transmitted to me by the House of Representatives, have been delivered to be used according to the rules and powers of that court.

The request of a communication of any information which may have been received at any time since the establishment of the present Government, touching combinations with foreign agents for dismembering the Union, or the corrupt receipt of money by any officer of the United States from the agents of foreign Governments, can be complied with but in a partial degree.

It is well understood that in the first or second year of the Presidency of General Washington, information was given to him relating to certain combinations with the agents of a foreign Government for the dismemberment of

the Union; which combinations had taken place before the establishment of the present Federal Government. This information, however, is believed never to have been deposited in any public office, or left in that of the President's Secretary, (these having been duly examined,) but to have been considered as personally confidential, and therefore retained among his private papers. A communication from the Governor of Virginia to President Washington is found in the office of the President's Secretary, which, although not strictly within the terms of the request of the House of Representatives, is communicated, inasmuch as it may throw some light on the subjects of the correspondence of that time between certain foreign agents and citizens of the United States.

In the first or second year of the administration of President Adams, Andrew Ellicott, then employed in designating, in conjunction with the Spanish authorities, the boundaries between the territories of the United States and of Spain, under the treaty with that nation, communicated to the Executive of the United States papers and information respecting the subjects of the present inquiry, which were deposited in the office of State. Copies of these are now transmitted to the House of Representatives, except of a single letter and a reference from the said Ellicott, which, being expressly desired to be kept secret, is therefore not communicated, but its contents can be obtained from himself in a more legal form; and directions have been given to summon him to appear as a witness before the court of inquiry.

A paper "on the commerce of Louisiana," bearing date the 18th of April, 1798, is found in the office of State, supposed to have been communicated by Mr. Daniel Clark, of New Orleans, then a subject of Spain, and now of the House of Representatives of the United States, stating certain commercial transactions of General Wilkinson in New Orleans; an extract from this is now communicated, because it contains facts which may have some bearing on the questions relating to him.

The destruction of the War Office by fire in the close of 1800 involved all information it contained at that date. The papers already described, therefore, constitute the whole of the information on these subjects deposited in the public offices during the preceding administrations as far as has yet been found: but it cannot be affirmed that there may be no other, because the papers of the offices being filed for the most part alphabetically, unless aided by the suggestion of any particular name which may have given such information, nothing short of a careful examination of the papers in the offices generally could authorize such an affirmation.

About a twelvemonth after I came to the administration of the Government, Mr. Clark gave some verbal information to myself as well as to the Secretary of State, relating to the same combinations for the dismemberment of the Union. He was listened to freely; and he then delivered the letter of Governor Gayoso addressed to himself, of which a copy is now communicated. After his return to New Orleans he forwarded to the Secretary of State other papers, with a request that after perusal they should be burnt. This, however, was not done: and he was so informed by the Secretary of State, and that they would be held subject to his orders. These papers have not yet been found in the office. A letter, therefore, has been addressed to the former chief clerk, who may perhaps give information respecting them. As far as our memories enable us to say, they related only to the combinations before spoken of, and not at all to the corrupt receipt of money by any officer of the United States: consequently, they respected what was considered as a dead matter known to the preceding administrations, and offering nothing new to call for the investigations which those nearest the dates of the transactions had not thought proper to institute.

In the course of the communications made to me on the subject of the conspiracy of Aaron Burr, I sometimes received letters, some of them anonymous, some under names true or false, expressing suspicions and insinuations against General Wilkinson. But only one of them, and that anonymous, specified any particular fact, and that fact was one of those which had been already communicated to a former administration.

No other information within the purview of the request of the House is known to have been received by any department of the Government from the establishment of the present Federal Government. That which has been recently communicated to the House of Representatives, and by them to me, is the first direct testimony ever made known to me, charging General Wilkinson with a corrupt receipt of money: and the House of Representatives may be assured that the duties which this information devolves on me shall be exercised with rigorous impartiality. Should any want of power in the court to compel the rendering of testimony obstruct that full and impartial inquiry which alone can establish guilt or innocence and satisfy justice, the legislative authority only will be competent to the remedy.

TH: JEFFERSON.

JANUARY 20, 1808.

WAR DEPARTMENT, *January 2, 1808.*

In compliance with a request from Brigadier General James Wilkinson, the President of the United States has directed a court of inquiry to be instituted, for the purpose of hearing such testimony as may be produced in relation to the said General James Wilkinson's having been, or now being, a pensioner to the Spanish Government, while holding a commission under the Government of the United States.

Colonel HENRY BURBECK as President, Colonel THOMAS H. CUSHING and Lieutenant Colonel JONATHAN WILLIAMS, as members, are hereby directed to meet at the city of Washington, on Monday the 11th day of the present month of January, as a court of inquiry for the purpose above stated; and, after a full investigation of such evidence and circumstances as may come to their knowledge, the court will report to this Department a correct statement of its proceedings, together with its opinion on the amount of testimony exhibited.

Walter Jones, Esquire, district attorney for the district of Columbia, will be requested to act as judge advocate or recorder to the court.

H. DEARBORN, *Secretary of War.*

Colonel HENRY BURBECK, *President Court of Inquiry.*

SIR:

RICHMOND, *May 31, 1790.*

The enclosed copy of a letter from the Spanish Governor of New Orleans to a respectable gentleman in Kentucky, was handed to me by Mr. Banks of this city. As the subject of this paper appears interesting to the United States, I have taken the liberty to forward it to you.

I am, with the highest respect, your most obedient servant,

BEVERLY RANDOLPH.

SIR:

NEW ORLEANS, *September 16, 1789.*

General Wilkinson having represented to me, that you had it in contemplation to settle in this province, and that your example would have considerable influence on many good families of your country, I think it my duty, in

order to forward the intentions of my royal master, to inform you that I shall receive you and your followers with great pleasure, and that you have liberty to settle in any part of Louisiana, or any where on the east side of the Mississippi, below the Yazoo river. In order to populate the province, His Majesty has been graciously pleased to authorize me to grant to the emigrants, free of all expense, tracts of from two hundred and forty to eight hundred acres, in proportion to their property, and in particular cases of men of influence, who may aid these views, I shall extend the grant as far as three thousand acres. To all persons who actually become settlers, liberty is granted to bring down their property in the produce of your country, duty free; but the King does not agree to take your tobacco, and, of consequence, you must depend upon the common market of this city, as the province makes more than the quantity which the King allows me to take. I mention this particular to prevent disappointment. You will be exempt from taxation, and will be allowed the private exercise of your religion without molestation from any person whatever, and will enjoy all the rights, privileges, and immunities of His Majesty's other subjects.

In order to cultivate an amicable connexion with the settlers of the Ohio, His Majesty has been graciously pleased, at the same time, to give liberty to the inhabitants of that country to bring down their produce to this city for sale, subject to a duty of fifteen per cent. on the value here; but to prevent imposition, and to distinguish between the real settler and the trader, the former, on entering their produce at the custom-house, will be obliged to subscribe to the conditions mentioned in the proclamation, of which General Wilkinson carries a copy for your information.

Though unknown to you, General Wilkinson has taught me to respect your character.

It is, therefore, I subscribe myself, with great esteem, sir, your most obedient and humble servant,

ESTEVAN MIRO.

BENJAMIN SEBASTIAN, Esq. *Kentucky.*

Attest:

SAMUEL COLEMAN, A. C. C.

MY DEAR FRIEND:

NATCHEZ, *June 17, 1796.*

I received your favor of the 12th instant, in which you give me a proof of your sincere friendship by opening your heart, without reserve, on the interesting subject of the treaty. Following the same sentiments that have dictated to you the confidence that you have in me, I shall, unreservedly, and in the most confidential manner, give you my opinion on the same subject.

I have powerful reasons to believe that the part of the treaty concerning limits will never be accomplished; and for that reason so little has been said on what otherwise should be detailed concerning the subjects and citizens of both countries. The State of Georgia is as much displeased as you express yourself, and several petitions have already been presented to Congress against the treaty.

In the time that the treaty was signed, the political affairs of Europe determined our court to do any thing to keep the United States in a perfect neutrality, and thereby destroy a new plan that was forming to renew and continue a destructive war. The treaty with England had a different object. It was to attract the Americans to their interest in such a manner as to have still in her power to keep them dependent; the plan has fallen through, and the British will no longer deliver the posts. Our treaty that was made to counterbalance that, will suffer equal difficulties; for the circumstances being altered, so will be the conditions on every side. Spain made a treaty with the Union; but if this Union is dissolved, one of the contracting parties exists no longer, and the other is absolved from her engagements. It is more than probable that a separation of several States will take place, which will alter the political existence of a power that could influence on the balance of that of others; therefore Spain, being deprived of that assistance, which could arise from her connexion with the Union, will alter her views. This is the political situation of things with regard to the treaty; besides that, there are other insurmountable difficulties with respect to the *Indians*, which render impracticable the execution of the part concerning limits; therefore, even when no change should happen in the United States, the treaty will be reduced to the navigation of this river.

Laying aside every obstacle, and only guided by the same principles that have affected you, I have already represented in the strongest and most energetic manner on the subject of real property; without a solution from court, it will be out of our power to fulfil the contents of the treaty. When I told you that your property should not suffer in this Government, was founded on all these principles, and several others that are not vanished. I have constantly been a friend to the country, and in this, critical moment will not neglect its interest. Be sure, and assure all your neighbors, that I will do the needful, and that my exertions at all times shall be in proportion to the exigency.

With regard to the debts of this Government, they will continue to be paid in the manner prescribed; however, I shall act in such a manner as to have them cleared much sooner than what is expected. Every individual of this Government is just now attending their crops of cotton, that promise very advantageously; therefore in this critical moment they must not be disturbed, or they will suffer essentially. I am waiting anxiously for Mr. Dunbar to regulate several things in which he has had, and is to have an interference. I really believe that the baron has him employed. I do not know for certain when the baron is to go to the Havana, nor do I believe that he knows it. The first packet may perhaps throw some light on the subject. The return of our court to Madrid will be productive of some very great change in the administration of our affairs; therefore I wait that moment with impatience.

Nothing can affect the mortgage you have on Fuly's property; he has not yet appeared, but Mr. Ree acts for him.

I remain, with the most sincere friendship, my dear friend, your most obedient,

MANUEL GAYOSO DE LEMOS.

Reserve this letter.

P. S. In the other letter I express the reason of my new regulation, &c.

DANIEL CLARK, Esq.

*Extract from a paper on the commerce of Louisiana, supposed to be referred to in a letter from Mr. Daniel Clark to the Secretary of State, of the 18th April, 1798, and written by him.*

About the period of which we are now speaking, in the middle of the year 1787, the foundation of an intercourse with Kentucky and the settlements on the Ohio was laid, which daily increases. Previous to that time, all those who ventured on the Mississippi had their property seized by the first commanding officer whom they met, and little or no communication was kept up between the countries. Now and then, an emigrant who wished to settle in Natchez, by dint of entreaty, and solicitation of friends who had interest in New Orleans, procured per-

mission to remove there, with his family, slaves, cattle, furniture, and farming utensils; but was allowed to bring no other property, except cash. An unexpected incident, however, changed the face of things, and was productive of a new line of conduct. The arrival of a boat, belonging to General Wilkinson, loaded with tobacco and other productions of Kentucky, is announced in town, and a guard was immediately sent on board of it. The general's name had hindered this being done at Natchez, as the commandant was fearful that such a step might be displeasing to his superiors, who might wish to show some respect to the property of a general officer; at any rate, the boat was proceeding to Orleans, and they would then resolve on what measures they ought to pursue, and put in execution. The Government, not much disposed to show any mark of respect or forbearance towards the general's property, he not having at that time arrived, was about proceeding in the usual way of confiscation, when a merchant in Orleans, who had considerable influence there, and who was formerly acquainted with the general, represented to the Governor that the measures taken by the Intendant would very probably give rise to disagreeable events; that the people of Kentucky were already exasperated at the conduct of the Spaniards in seizing on the property of all those who navigated the Mississippi; and, if this system was pursued, they would very probably, in spite of Congress and the Executive of the United States, take upon themselves to obtain the navigation of the river by force, which they were well able to do; a measure for some time before much dreaded by this Government, which had no force to resist them, if such a plan was put in execution. Hints were likewise given that Wilkinson was a very popular man, who could influence the whole of that country; and probably that his sending a boat before him, with a wish that she might be seized, was but a snare at his return to influence the minds of the people, and, having brought them to the point he wished, induce them to appoint him their leader, and then, like a torrent, spread over the country, and carry fire and desolation from one end of the province to the other.

Governor Miro, a weak man, unacquainted with the American Government, ignorant even of the position of Kentucky with respect to his own province, but alarmed at the very idea of an irruption of Kentucky men, whom he feared without knowing their strength, communicated his wishes to the Intendant that the guard might be removed from the boat, which was accordingly done; and a Mr. Patterson, who was the agent of the general, was permitted to take charge of the property on board, and to sell it free of duty. The general, on his arrival in Orleans some time after, was informed of the obligation he lay under to the merchant who had impressed the Government with such an idea of his importance and influence at home, waited on him, and, in concert with him, formed a plan for their future operations. In his interview with the Governor, that he might not seem to derogate from the character given of him by appearing concerned in so trifling a business as a boat-load of tobacco, hams, and butter, he gave him to understand that the property belonged to many citizens of Kentucky, who, availing themselves of his return to the Atlantic States by way of Orleans, wished to make a trial of the temper of this Government, as he, on his arrival, might inform his own what steps had been pursued under his eye, that adequate measures might be afterwards taken to procure satisfaction. He acknowledged with gratitude the attention and respect manifested by the Governor towards himself in the favor shown to his agent; but at the same time mentioned that he would not wish the Governor to expose himself to the anger of his court by refraining from seizing on the boat and cargo, as it was but a trifle, if such were the positive orders from court, and that he had not a power to relax them according to circumstances. Convinced by this discourse that the general rather wished for an opportunity of embroiling affairs than sought to avoid it, the Governor became more alarmed. For two or three years before, particularly since the arrival of the commissioners from Georgia, who had come to Natchez to claim that country, he had been fearful of an invasion at every annual rise of the waters, and the news of a few boats being seen was enough to alarm the whole province. He revolved in his mind what measures he ought to pursue (consistent with the orders he had from home to permit the free navigation of the river) in order to keep the Kentucky people quiet; and, in his succeeding interviews with Wilkinson, having procured more knowledge than he had hitherto acquired of their character, population, strength, and dispositions, he thought he could do nothing better than hold out a bait to Wilkinson to use his influence in restraining the people from an invasion of this province till he could give advice to his court, and require further instructions. This was the point to which the parties wished to bring him; and, being informed that in Kentucky two or three crops were on hand, for which, if an immediate vent was not found, the people could not be kept within bounds, he made Wilkinson the offer of a permission to import, on his own account, to New Orleans, free of duty, all the productions of Kentucky, thinking by this means to conciliate the good-will of the people, without yielding the point of navigation, as the commerce carried on would appear the effect of an indulgence to an individual, which could be withdrawn at pleasure. On consultation with his friends, who well knew what further concessions Wilkinson could extort from the fears of the Spaniards, by the promises of his good offices in preaching peace, harmony, and good understanding with this Government, until arrangements were made between Spain and America, he was advised to insist that the Governor should insure him a market for all the flour and tobacco he might send, as, in the event of an unfortunate shipment, he would be ruined whilst endeavoring to do a service to Louisiana. This was accepted. Flour was always wanted in New Orleans, and the King of Spain had given orders to purchase more tobacco for the supply of his manufactories at home than Louisiana at that time produced, and which was paid for at about \$9 50 per cwt. In Kentucky it cost but \$2, and the profit was immense. In consequence, the general appointed his friend Daniel Clark his agent here, returned by way of Charleston in a vessel, with a particular permission to go to the United States, even at the very moment of Gardoqui's information; and, on his arrival in Kentucky, bought up all the produce he could collect, which he shipped and disposed of as before mentioned; and for some time all the trade for the Ohio was carried on in his name, a line from him sufficing to ensure to the owner of the boat every privilege and protection he could desire. On granting this privilege to Wilkinson, the Government came to a resolution of encouraging emigration from the Western country, and offered passports to all settlers, with an exemption of duty on all the property they might bring with them invested in the produce of the country they came from, under the denomination of settlers. All those who had acquaintances with a few persons of influence in Orleans obtained passports, made shipments to their address, which were admitted free of duty, and, under pretence of following shortly after with their families, continued their speculations. Others came with their property, had lands granted them, which, after locating, they disposed of, and, having finished their business, returned to the United States. A few only remained in the province, and they were the people who, in general, availed themselves least of the immunities granted by the Government. They possessed a few slaves and cattle, but had little other property, and they generally settled among their countrymen in the Natchez, and increased the cultivation of tobacco, at that time the principal article raised for export in the district. This encouragement given to emigrants and speculators opened a market for the produce of the Ohio. Flour was imported from Pittsburg; and the farmers finding a vent for all they could raise, their lands augmented in value, their industry increased, and they exported annually to Louisiana, for some time past, from ten to fifteen thousand barrels of flour, for which they generally find a ready market. When the first adventurers began to purchase, flour was to be had for from 18 to 20 shillings, Pennsylvania currency, per barrel, on the Monongahela, but was of a very bad quality, and was only made use of for biscuit, or in times of scarcity. It gradually improved, and in 1792 the best kind was supposed



equal to that manufactured in Philadelphia; but, being put up negligently, does not keep so long, and for that reason alone is not so much esteemed as Philadelphia flour.

The court of Spain, informed by its officers here of the steps they had taken, and the motives which had induced them, otherwise ignorant of the situation of affairs with respect to Kentucky, and consequently easily impressed with the ideas they wished to inculcate, not only approved of what they had done, but granted a further permission to all the inhabitants of the Western country to export their produce to Orleans, where it was admitted on paying fifteen per cent. duty. This increased the intercourse, as many who would not before adventure, while it was a matter of favor granted by the Governor, now entered into commercial speculations; and, from the Ohio, the province of Louisiana was not only supplied with a sufficient stock of flour, whiskey, and salted provisions, hemp, and, latterly, cordage, but a considerable quantity of some of them often was shipped from hence, as the produce of this province, to Havana and other Spanish ports; besides these articles, the produce of their lands, dry goods were secretly imported, and sold in the different ports along the river; and, although orders were given to the commandant of New Madrid, the first Spanish port below the mouth of the Ohio, to prevent such importations, and seize on all who transgressed these orders, it was easily avoided. Here the boats gave a manifest of their cargo, under which a passport was given; this was endorsed by the different commandants on the river as the boats passed; the owners might sell their cargoes where they pleased, and by the manifest which they were bound to deliver to the Government immediately on their arrival at Orleans, their duties were calculated. These duties continued to be exacted, at the rate of fifteen per cent. until after the arrival of the Baron de Carondelet, when, under the idea of facilitating certain political ideas of his own, he reduced them, on his own authority, to six per cent. This measure was highly disapproved of by Gardoqui, the Minister of Finance, who threatened to make him personally responsible for the difference, and ordered the duties to be placed on the former footing. The Baron, who was not easily diverted from a favorite measure, paid no attention to the minister's first orders; he represented a second time, and again received a more positive order than the first. Despairing of being able to gain his point with him, and determined not to abandon it, he addressed himself to the King, through the Minister of State. His plans were approved of, and the duty fixed at six per cent., at which rate it still subsists: and this is the duty exacted on every thing imported from any of the American settlements on the Ohio or Mississippi for sale in New Orleans. This duty is far from being burdensome to the importer, on account of the low rate of estimation, and the facility with which, by various means, a considerable part of it is always avoided. Flour is valued but at four dollars a barrel; first quality tobacco, three dollars per hundred weight; other quality, two dollars; whiskey, thirty-seven and a half cents per gallon; and salt provisions and all other articles at a reasonable rate, as may be seen in the tariff which accompanies this, according to which the duties are calculated, and which naturally fall on the consumer. By degrees the importation of flour from the Ohio has almost put a final stop to any from the Atlantic States, and we shortly expect that such quantities will be manufactured in the Western country, as to permit the merchant of Orleans to enter into competition with those of the Middle States at foreign markets. The quantity of different productions imported from the Ohio since the opening of that trade has varied considerably from year to year. In the beginning, tobacco was the principal export from Kentucky, and at one period from one thousand five hundred to two thousand hogsheads came down the Mississippi annually for three or four years; they, at the same time, exported a great quantity of butter, lard, and salt provisions. Within the last three years, the exportation of tobacco has considerably diminished, and flour seems to take its place. Hemp has likewise been imported from thence in considerable quantities; was formerly reshipped from hence to the Atlantic States, but what now comes is manufactured here. Cordage is likewise imported from Kentucky, where some rope-walks are set up; and, in future, it is to be presumed that little or no hemp will be exported from New Orleans: for the encouragement of the manufactory here, that article is exempt from duty on importation. In the year 1792, the King ceased purchasing the usual quantities of tobacco in Louisiana, which was formerly two millions of pounds, on account of some frauds in packing, and the general bad quality of the tobacco, as the planters, sure of having theirs received by the inspectors, on giving a small gratuity, made generally three cuttings, and put up every thing that ever looked like tobacco. This punishment was sensibly felt, as a great price was given for it, say nine dollars and a half per hundred weight. This culture ceased immediately on the eastern side of the Mississippi on this event taking place. The people of Natchez turned their attention to indigo, which they raised with success; but changed this branch for that of cotton, which now forms the staple article of their growth, and bids fair to be an object of the greatest importance; the crop of last year from that district is supposed to exceed three thousand bales of two hundred and fifty pounds each, and the average price has been twenty cents per pound.

SIR:

NATCHEZ, June 4, 1797.

As it is probable that this will reach you before my despatches of the 27th of last month, by way of New Orleans, I have enclosed duplicates.

About seven days ago, twenty-five Spanish soldiers arrived at this place, where they continued one night, and then proceeded up to the Walnut Hills. On the 28th of May, I received a letter from Governor Gayoso, No. 1, to which I replied on the 31st, No. 2. From Governor Gayoso's letter, it appears that the Baron de Carondelet is not well satisfied with his conduct; they are at this time not on good terms, and the breach has been widened by the artful management of a certain Mr. Power, now at this place, who was last season intriguing in the State of Kentucky for the Spanish Government; he is particularly patronised by the Baron. The transactions which the Baron alludes to, I suspect, are the arrangements I made with Governor Gayoso, by which the troops of the United States were brought into this district with his consent and apparent approbation. The difficulty of getting them away is now obvious both to himself and the Baron, and as it was done without consulting the latter, he feels an inclination to condemn the conduct of the former.

It is now reported by the Spaniards that a minister plenipotentiary has been sent by the court of Madrid to the United States to inform our Executive that the country and posts, now held by His Catholic Majesty on the east side of the Mississippi, above the thirty-first degree of North latitude, are not to be given up until a general peace takes place in Europe, and that, from the uniform pacific disposition of the United States, there can be no doubt of his success. This report is credited but by few.

The citizens of the United States, who are trading on the Mississippi, are frequently treated with great intolerance at the Spanish posts, and their property taken for the use of His Catholic Majesty, when wanted, and always at a reduced price. About three weeks ago, a cargo of flour, consisting of between three and four hundred barrels, was taken at the Walnut Hills from a Mr. McCluny, of Washington county, in the State of Pennsylvania, against his will, to be paid for in New Orleans at such price as the officers of Government see proper to give, which is generally three dollars per barrel less than the current price in market. A few days ago Mr. Francis Baily, a citizen of the United States, who had lately come on here with some goods, had a tender of a commissary's certificate payable at the treasury in New Orleans, which species of paper was passing at a discount of twelve per cent.; Mr. Baily declined taking the certificate as payment for the debt, and appealed to Governor Gayoso for redress, who

immediately decreed that the tender was legal. These cases are not singular; they are particularised because both the gentlemen mentioned will be in Philadelphia in the course of a few weeks, and I expect will make a point of substantiating the facts—both cases being a violation of the late treaty between His Catholic Majesty and the United States.

From the jealous and suspicious disposition of the Spaniards, I do not think it possible that any treaty or compact can be lasting between that nation and our Western people, while the former have any possessions on the east side of the Mississippi.

Dr. Watrous is now here. He was on his way from Fort Hamilton, on furlough, to the State of Connecticut, but Captain Pope and myself prevailed upon him to stay with us, until we have some intelligence respecting our continuance in this country.

I am, sir, with great esteem and respect, your friend and humble servant,

ANDREW ELLICOTT.

The SECRETARY OF STATE of the United States.

P. S. At the moment I was folding this, the enclosed proclamation, No. 3, by the Baron de Carondelet, was put into my hands. The various and contradictory reasons assigned by the Spanish officers for their delay in carrying the late treaty into effect, are too obvious to need a comment.

A. E.

SIR:

NATCHEZ, June 5, 1797.

I have this moment received private information that Mr. Powers, who I have mentioned to you in my communication of yesterday, is, by order of the Baron de Carondelet, to proceed immediately, through the wilderness, to the State of Kentucky. There is every reason to believe that his business is to forward the views of Spain, by detaching the citizens of Kentucky from the Union. It has been hinted to me that Mr. Powers will, in the first instance, pay a visit to General Wilkinson, who we are informed is now in Cincinnati.

I am, sir, your obedient servant,

ANDREW ELLICOTT.

The SECRETARY OF STATE of the United States.

SIR:

DARLING'S CREEK, November 8, 1798.

On the 10th of last month, having opened the boundary between the United States and His Catholic Majesty, from the Mississippi river to the thin pine country, we ceased carrying the line on in that accurate scientific manner in which it was begun, and from the end of the line, designated in the report which accompanies this, the work will generally be done with a common surveying compass, and corrected at the different navigable water-courses which it may happen to cross.

The line mentioned in the report is opened sixty feet wide, and passes through a country impenetrable to any but Americans. The labor has been equal to what would in our country have opened at least one hundred miles. The business, it is evident, will not go on with that rapidity we could wish; nothing, however, will be wanting on our part, and I think it will be completed the ensuing season. Governor Gayoso has evidently been brought into a co-operation very reluctantly, and certainly has no desire of having it pushed. Mr. Power, a gentleman well known for his intrigues in Kentucky and other parts of the United States, is the surveyor on the part of the crown of Spain; he has attended but one week on the line, and I do not believe that he will attend another, during the execution of the work. He has, however, employed a deputy, who is Mr. Daniel Burnet, the same person who carried Mr. Hutchins's papers to Congress last winter; he has yet behaved very well. The others employed, Major Minor excepted, are of little consequence, except to disorganize and talk politics. The acting commissary is a Mr. Gensack; he was taken by the British at the Cape, and carried to Jamaica, from whence he made his escape to the United States, where he found safety, but, in the true character of his nation, he equally hates both Americans and British: he is sullen, reserved, and intriguing. There are no Spaniards concerned in the business, but a few of the common soldiers. Major Minor and Mr. Burnet are Americans; the others, including the laborers, are generally French, or descended from French ancestors, or Roman Catholic Irish. When I look over this strange heterogeneous collection, I cannot help asking this question: "Can the Spaniards really be serious in carrying the treaty into effect?" If they are, it is very extraordinary that there is not one of that nation employed above the rank of a common soldier.

I have always been of opinion that it was a happy circumstance for both countries that Major Minor was appointed commissioner on behalf of the crown of Spain; his prudence and sound judgment will, in all probability, enable us to carry the work through, which I am confident would not have been the case, had Mr. Power been appointed to that trust, as was proposed by Governor Gayoso, and to which I pointedly objected, as did Mr. Dunbar also.

If our surveyor had been a man of prudence and talents, our difficulties would have been much less; but his want of information, extreme pride, and ungovernable temper, constantly furnishes the opposite party with weapons. He has insinuated that the work is erroneous, and that Major Minor and myself have combined to injure both Governments, and wantonly lavish away public money. He himself has been the only idle person on the side of the United States; his whole attendance on the line as surveyor would not exceed one week. His insinuations, I am confident, would have but little weight with the people of the United States, but the case is very different with the Spaniards, naturally jealous, and uninformed in science, particularly so far as it relates to astronomical operations.

On Friday the 12th of last month, General Wilkinson arrived at our camp, and continued with us until Sunday the 14th. We had much conversation on the state and situation of the country; his ideas respecting both appeared very correct so far as I was able to determine. He informed me that he had seen some of Mr. Freeman's correspondence with Captain Guion, which, in his opinion, came fully within the meaning of the late sedition law; and recommended, in the most serious manner, that he should be immediately suspended from his employment on the line. This, added to the opinion of Governor Sargent, (who spent a number of days at our camp,) Colonel Bruin, and many other respectable gentlemen, determined me in taking that measure. The surveying at present is done by Mr. Gillespie, the chain-carrying by Mr. Ellicott and Walker. General Wilkinson has removed Mr. McClary from the command of my escort; his conduct was far less exceptionable than that of Mr. Freeman, and when he did err it was generally the effect of bad advice.

Mr. Freeman left our camp on the 30th September, at the very time we were changing our system of carrying on the work, and in which the compass only is used, without giving me any notice of his departure, that arrange-



ments might be made to meet the want of a surveyor. He was absent until the evening of the 17th ultimo, and on the morning of the 18th he was furnished with a note of suspension. He has constantly conducted himself in that same independent way.

The reference, No. 9, which was in cipher, in my communication of the 14th of November last, contained an account of an extraordinary plan; but that plan, in my opinion, is now given over, and the knowledge obtained of the country, its strength, and the disposition of the inhabitants, will be turned to the advantage of the United States by some of the principal characters concerned. It is the best they now can do. That the plan is given over may be collected from No. 1, which for particular reasons is in cipher, and ought to be secret. It cannot be considered as a literal translation, which you will see by the introduction, but it conveys accurately the ideas contained in the letter from which it is extracted.

The plan of Baron de Carondelet, mentioned in my communication of 27th June last year, was correct as there stated; the particulars I have since obtained, and will be detailed to you by a gentleman, in the course of a few months, who was in the secret of the whole business. That you may not be at a loss when that gentleman calls upon you, he will have a letter of introduction from me, with an official communication, and a number of questions in the same cipher with reference to No. 1. His answers to those questions will convince you that my information has constantly been correct.

I shall leave this place (where I have only halted to draw up this communication) to-morrow, and proceed to the Pearl river, where the guide line will be corrected. I shall then proceed down the river to Lake Meripaus, from thence into Lake Pontchartrain and to New Orleans, where I expect to arrive about the 1st of January next. From New Orleans I shall follow the coast to Mobile, and again correct the guide line as run by the surveyors. From Mobile I shall follow the coast to Pensacola; I shall pursue the coast to the Chatetucka, and ascend the river to the guide line: as soon as that is corrected, I shall proceed to the mouth of Flint river and from thence to St. Mary's.

You will easily perceive that my design in following the coast is to obtain an accurate knowledge of its situation, the navigation of the different rivers we shall have to ascend, and to correct the geographical positions where it may be necessary. My map of the Mississippi, corrected by a great number of observations, is now made out in the rough, and ready for copying.

The astronomical observations which I have made since I left Philadelphia, will make a large and not uninteresting publication.

Our business now goes on with the greatest harmony. That part near the coast, in which, as an American and friend to my country, I feel myself the most interested, will be nearly completed before Mr. Freeman can join us, if the President should disapprove of the measures which have been taken with him; and in that case I must request the favor of being permitted to return home. All that his friend General Mathews, Colonel Pannell and a few others can say of him, must be negative evidence; they may say what he has not done; but what they say he has done in forwarding our business must be from his own report. They have not been visitors at our camp, where the only information founded upon facts could be had. He has not made a single observation since we came into this country, though he endeavored, after my course at the beginning of the line was furnished, one whole week without success. He is, nevertheless, by General Mathews and Colonel Pannell, declared not inferior to Newton! This is not strange; they may possibly have less scientific knowledge than he has, and the solemn air and dictatorial manner of a professional schoolmaster may have contributed much to establish his character with them. His abuse of me I disregarded, till his caballing got into the camp; the consequences then became more serious, and the measure which I took was founded upon the best of motives—the service of my country, and *I have but one*, added to a natural desire to live in peace with all mankind. I have but few observations to add to the depositions respecting his conduct which are forwarded with this. Mr. Robins, one of the deponents, is superintendent of the laborers, and always with them. Mr. Collins, another of the deponents, is as worthy a man as any in the United States, and assistant to Mr. Anderson; he constantly resides in the laborers' camp. Mr. Lindsey likewise resides in the camp; he is a gentleman of veracity, and agent for the contractor. These gentlemen have been with us from the commencement of the business to the present time, and perfectly acquainted with the conduct of Mr. Freeman, and superior to his art, which he frequently exerted with them in vain. Similar depositions to those forwarded might be obtained from the gentlemen of the Spanish camp, but it appeared to me improper. You will see I have omitted taking those of Mr. Gillespie and the chain bearers; it might be said they were interested. And, as Mr. Anderson has been equally abused with myself, on that account his has not been taken. You will see by the depositions that I rise early: it is generally before the break of day; from that time till dark I rarely sit down one hour; after candle light I am generally engaged till 10 o'clock in writing and arranging my observations.

I hope the citizens of the United States begin by this time to be weaned from their attachment to the French nation. For my part I have experienced so much want of principle and integrity among them, and their partisans in this country, both individually and collectively, that my prejudices against the whole nation are so strong, that it is with difficulty I can guard my expressions so as not to give offence.

The arrival of General Wilkinson has created considerable alarm in the Spanish colonies below, and Governor Gayoso has directed that the militia within his Government be immediately armed. The fears and jealousies of the Spanish nation will certainly, in the course of a few years, occasion the loss of all the country on this side of the Mississippi, to the crown of Spain.

The whole of my correspondence on various subjects, since my communication of the 29th July last, would make a large volume, and as there is but little of it immediately interesting to the United States, I shall only refer you to Nos. 2, 3, 4, and 5.

I am sensible you will perceive a great want of arrangement in this communication; but at the same time I am equally so that you will excuse it, when I assure you that the whole packet, except Mr. Clark's letters and the correspondence with Governor Gayoso, is the work only of two nights and one day, and that in the woods without any other table than a small instrument box, the weather cold and windy, and all my young men who used to aid me in copying many miles ahead on the line.

I am sorry that the report mentioned in the beginning of this is not forwarded; my part has been done some time, but the Spanish part is not yet ready, owing to the absence of Mr. Power: I shall write to you again from New Orleans. In the mean time, believe me to be, &c.

ANDREW ELLICOTT.

HON. SECRETARY OF STATE.

P. S. Daniel Clark, Esq., of New Orleans, has lately spent a number of days with me in my camp: from him I have received much valuable information, which it will be unnecessary for me to detail, as he will give it to you himself in Philadelphia the ensuing winter. He intends to visit that city immediately after our interview in New Orleans.

There is not a gentleman of literature or science, and scarcely one of respectability in this country with whom I have not been upon the most intimate footing ever since I came into it: and every attack that has been made upon me has arisen either from envy or misconception; to which I should never have paid any attention had the principles of opposition not entered our camp, and began to embarrass our business.

A. E.

10th CONGRESS.]

No. 241.

[1st SESSION.]

## BRIGADIER GENERAL JAMES WILKINSON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, ON THE 4th FEBRUARY, 1808.

*To the House of Representatives of the United States:*

FEBRUARY 4, 1808.

In my message of January 20th, I stated that some papers forwarded by Mr. Daniel Clark of New Orleans, to the Secretary of State, in 1803, had not then been found in the office of State, and that a letter had been addressed to the former chief clerk, in the hope that he might advise where they should be sought for. By indications received from him they are now found. Among them, are two letters from the Baron de Carondelet, to an officer serving under him at a separate post, in which his views of a dismemberment of our Union are expressed. Extracts of so much of these letters as are within the scope of the resolution of the House are now communicated. With these were found the letters written by Mr. Clark to the Secretary of State, in 1803. A part of one only of these relates to this subject, and is extracted and enclosed for the information of the House. In no part of the papers communicated by Mr. Clark, which are voluminous, and in different languages, nor in his letters, have we found any intimation of the corrupt receipt of money by any officer of the United States from any foreign agent. As to the combinations with foreign agents for dismembering the Union, these papers and letters offer nothing which was not probably known to my predecessors, or which could call anew for inquiries, which they had not thought necessary to institute, when the facts were recent, and could be better proved. They probably believed it best to let pass into oblivion transactions which, however culpable, had commenced before this Government existed, and had been finally extinguished by the treaty of 1795.

TH: JEFFERSON.

[TRANSLATION.]

*Extract of a letter from the Baron de Carondelet, dated*

NEW ORLEANS, July 10, 1796.

I suppose, sir, that you are now at the Bluffs, and in possession of a command which requires firmness, vigilance, conciliation, and prudence, as well with regard to the savages as to the Americans; for the evacuation of that important post is not yet so certain as not to admit of doubt; at least so long as the savages remain attached to us. Besides, it is proper to keep in view that the neighboring States, that is to say, Kentucky and Tennessee are interested that it should remain in our power, for political reasons which cannot be trusted to paper. You must, of consequence, keep them in those sentiments, by treating their inhabitants, to whom the liberty of the navigation is granted, with kindness and regard. Let the friendship of the Chickasaws and the satisfaction of the Americans who navigate the river, be the basis of your conduct; as for the rest, I have not yet received any official news from the court concerning the treaty, which we know nothing of but through the American gazettes.

All the appearances of an approaching peace in Europe have vanished; but it is probable that we shall not have war with the English. Fourteen French ships of the line, with ten thousand men, are actually to take possession of the Spanish part of St. Domingo; and France and Spain appear more united than ever. The Spanish inhabitants have lost their slaves.

[TRANSLATION.]

*Extract of a letter from the Baron de Carondelet, dated*

NEW ORLEANS, September 12, 1796.

In answer, sir, to your private letter of the 10th of last month, I will acknowledge to you that I was under the belief that the Fort of St. Ferdinand was badly constructed, but not to the degree that you point out to me. You must, however, without augmenting the expenses which its evacuation would render useless, put it in a state to maintain yourself there until I receive new instructions from the court. Should the court think proper, as may very well happen, not to evacuate our posts on the Mississippi, I will despatch a courier to you in all haste, that you may change the situation of the fort, which ought to be done with all diligence, and so as that it be again sufficiently entrenched to prevent its being surprised or attacked before it is in a state of defence; for this purpose I will send immediate and secret orders to New-Madrid and to St. Genevieve, that carpenters, masons, &c. should instantly be sent to you, and you may also count on a reinforcement of troops, which I will send to you by the galley Philapa, which I am causing to be rebuilt without noise; all these dispositions, I repeat to you, ought to be prompt and secret. I expect the answer of the court in ———.

If His Majesty, on the contrary, should persist in it that the evacuation of the forts must take place, it will be done in the most simple mode, towards the commencement of January. In the mean time you must prepare the minds of the Chickasaws, and of the inhabitants of Kentucky and Tennessee, for one or the other of these events. You ought to make the latter understand that their natural interest leading them to separate at some day (un jour) from the Atlantic States, the occupation of our posts on the Mississippi by the troops of the latter could not but be disastrous to them, since they would cut off all communication between them and us, from whom alone they could, in that case, hope to receive assistance.

*Extract of a letter from Daniel Clark to the Secretary of State, dated*

NEW ORLEANS, March 8, 1803.

As a proof that expectations of assistance from ourselves against our own Government have been always relied on by the Spaniards, and that they have constantly looked to a divulsion of our Western States from the General Government, I now forward you an order to receive from Washington Morton, Esq. of New York, a sealed packet which I left in his possession when I set out for Europe, and which I then mentioned I would show you at my return, not thinking, at that time, that circumstances would occur so soon as to render the disclosure a measure of immediate necessity. Among other papers of less importance in this packet, is a small part of the correspondence of the Baron de Carondelet with the officer commanding Fort St. Ferdinand, at the Chickasaw Bluffs, in which he suffers his plans and views to be clearly perceived, and which were solely aimed at our destruction; the remainder are, as well as I recollect, copies of talks and letters to and from the Chickasaw Indians; and, by the Baron de Carondelet's letter to the officer, you will perceive that the fact I advised you of respecting the annual pension of five hundred dollars to Uguluycabé cannot be disputed.

Should you think these documents of sufficient importance to require my presence in Washington to elucidate any part of them, I shall immediately sacrifice all private business of my own, and hasten there; and, in the mean time, will endeavor to collect, from undoubted sources, such other information relative to this subject as may be acceptable.

Although for four or five years past I had a perfect conviction that the intrigues of the Spaniards with the Western country were not for the time dangerous, on account of the incapacity of the governors of this province, and their want of pecuniary means; yet, fearful of what might happen in future, should more enlightened and ambitious chiefs preside over it, I could not last year resist the temptation of hinting my suspicions of what had been formerly done in this way to the President at an interview with which he honored me, and I even went so far as to assert that a person supposed to be an agent from the State of Kentucky had been here in the end of 1795 and beginning of 1796, to negotiate on the part of that State, independent of the General Government, for the navigation of the Mississippi, before the result of the treaty of St. Lorenzo was known, wishing that this hint might induce the President to cause inquiry to be made into the circumstance, which he could easily find the means of investigating; but as he made no other inquiry of me respecting it than merely in what year the thing happened, it struck me that he must have had other information on the subject, and that he thought it needless to hear any thing more about it. By great accident I have lately learned something which induces me to suppose that any information he may have received respecting the measure alluded to, has been incorrect, and given with the view of misleading him, and I request you will mention the subject anew to him, that you may know how far I am right in my suspicions. The information I possessed on the subject could not, from the way in which it was obtained, be accompanied with what would be proof to convict the person concerned, or I should have openly accused him in the face of the world; but to me it amounts to a moral certainty of his guilt, and my conduct to him showed, on all occasions, how much I detested his object and his person. The same want of proof positive, sufficient to convict him, prevents me at present from naming him; but if inquiry is diligently made about the influential character from Kentucky, who at that period was so long in Natchez, and afterwards here, what his business was, and what was the idea entertained of him, enough will doubtless be discovered to put our Government on its guard against him and others of his stamp, and against all foreign machinations in that quarter in future.

10th CONGRESS.]

No. 242.

[1st SESSION.]

REIMBURSEMENT TO PURCHASERS OF REAL ESTATE SOLD UNDER EXECUTION FOR THE BENEFIT OF THE UNITED STATES, THE TITLE TO WHICH AFTERWARDS PROVED DEFECTIVE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 5, 1808.

SIR:

TREASURY DEPARTMENT, December 4, 1807.

I have the honor to enclose a copy of the Attorney General's opinion on the claim of Matthew Smith & Darius Gates. I also enclose a copy of the letter of the District Attorney to this Department on which the transaction was authorized. You will observe a variance between this and the special verdict; the letter stating that Smith & Gates had agreed that the United States should convey to them only *their title*; whilst the verdict expressly states the condition to be, that the United States should make out to them *a good and sufficient conveyance of said land in fee simple*. The last-mentioned condition having been accordingly inserted in the contract, I coincide in opinion with the Attorney General, that the United States ought to refund the money, since it appears that they have failed in their agreement to make such conveyance: but as the money has been paid into the Treasury, a repayment cannot now be made without Legislative authorization.

I am, very respectfully, sir, your obedient servant,

ALBERT GALLATIN.

HON. JONATHAN O. MOSELEY, *in Congress*.

DEAR SIR:

DECEMBER 1, 1807.

I have read and considered your letter of the 11th of February last, and the papers therewith transmitted, which I now return.

In answer to your first question, I am of opinion that the United States ought not to appeal from the decision to which you refer. And to the second, that the facts stated in the special verdict furnish an equitable claim on the United States.

I proceed further to observe, in obedience to your desire, it has been decided by the Supreme Court, in the case of the United States *vs.* Fisher and others, assignees of Blight (2 Cranch's reports 358,) that the United States are entitled to a priority of payment for all debts due them, whether by bond or otherwise. But this priority attaches only in cases of notorious insolvency, such as bankruptcy, attachments in the nature of a commission of bankruptcy, insolvent acts and assignments of the debtor's effects for the benefit of his creditors, and then upon the fund which may or ought legally to come into the hands of the assignees.

I have the honor to be, yours very respectfully,

C. A. RODNEY.

SIR:

NEW HAVEN, *April 16, 1802.*

Three executions in favor of the United States, for custom-house debts, have been levied on lands which the debtor, Jonah Gates, owned at the time the debt became due, but which he, Jonah Gates, had sold to one Matthew Smith & Darius Gates, before the bonds were put in suit. The levy, however, was made under a written contract with Matthew Smith & Darius Gates that they would buy the lands of the United States, at their appraised value on the execution, and pay for them with interest on the amount, till paid, provided the United States would convey them their title within four months from the 23d of last month.

By this process, the United States have been enabled to save the amount of those executions out of the wreck of the estate of Jonah Gates and his sureties. I request, therefore, that you will immediately authorize the marshal of this district to convey the lands thus levied upon to Matthew Smith & Darius Gates, who, on receipt of the deed, will pay the money to the marshal.

I am, very respectfully, your obedient servant,

PIERPONT EDWARDS.

HON. ALBERT GALLATIN.

10th CONGRESS.]

No. 243.

[1st SESSION.]

CUMBERLAND ROAD.

COMMUNICATED TO CONGRESS, FEBRUARY 19, 1808.

*To the Senate and House of Representatives of the United States:*

The States of Pennsylvania, Maryland, and Virginia, having by their several acts consented that the road from Cumberland to the State of Ohio, authorized by the act of Congress of March 29, 1806, should pass through those States, and the report of the commissioners communicated to Congress with my message of January 31, 1807, having been duly considered, I have approved of the route therein proposed for the said road as far as Brownsville, with a single deviation since located, which carries it through Uniontown.

From thence the course to the Ohio, and the point within the legal limits at which it shall strike that river, is still to be decided. In forming this decision, I shall pay material regard to the interests and wishes of the populous parts of the State of Ohio, and to a future and convenient connexion with the road which is to lead from the Indian boundary near Cincinnati by Vincennes to the Mississippi at St. Louis, under authority of the act of April 21, 1806. In this way we may accomplish a continued and advantageous line of communication from the seat of the General Government to St. Louis, passing through several very interesting points of the Western country.

I have thought it advisable also to secure from obliteration the trace of the road so far as it has been approved, which has been executed at such considerable expense, by opening one-half of its breadth through its whole length.

The report of the commissioners, herewith transmitted, will give particular information of their proceedings under the act of March 29, 1806, since the date of my message of January 31, 1807, and will enable Congress to adopt such further measures relative thereto as they may deem proper under existing circumstances.

TH: JEFFERSON.

FEBRUARY 19, 1808.

The undersigned, commissioners appointed under the law of the United States, entitled "An act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio" in addition to the communications heretofore made, beg leave further to report to the President of the United States that, by the delay of the answer of the Legislature of Pennsylvania to the application for permission to pass the road through that State, the commissioners could not proceed to the business of the road in the spring before vegetation had so far advanced as to render the work of exploring and surveying difficult and tedious, from which circumstance it was postponed till the last autumn, when the business was again resumed. That in obedience to the special instructions given them, the route heretofore reported has been so changed as to pass through Uniontown, and that they have completed the location, gradation, and marking of the route from Cumberland to Brownsville, Bridgeport, and the Monongahela river, agreeably to a plat of the courses, distances, and grades in which is described the marks and monuments by which the route is designated, and which is herewith exhibited; that by this plat and measurement it will appear (when compared with the road now travelled) there is a saving of four miles of distance between Cumberland and Brownsville on the new route.

In the gradation of the surface of the route (which became necessary to confine it within the limits prescribed by the law) is ascertained the comparative elevation and depression of different points on the route, and taking a point ten feet above the surface of low water in the Potomac river at Cumberland as the horizon, the most prominent points are found to be elevated as follows, *viz*:

	feet. 10ths.
Summit of Will's Mountain, - - - - -	581 3
Western foot of same, - - - - -	304 4
Summit of Savage Mountain, - - - - -	2022 24
Savage River, - - - - -	1741 6
Summit Little Savage Mountain, - - - - -	1900 4
Branch Pine Run, first Western water, - - - - -	1699 9
Summit of Red Hill, - - - - -	1914 3
Summit Little Meadow Mountain, - - - - -	2026 16
Little Youghiogana River, - - - - -	1322 6
East fork of Shade Run, - - - - -	1558 92
Summit of Negro Mountain, highest point, - - - - -	2328 12
Middle branch of White's Creek, at the west foot of Negro Mountain, - - - - -	1360 5
White's Creek, - - - - -	1195 5
Big Youghiogana River, - - - - -	645 5
Summit of a ridge between Youghiogana River and Beaver waters, - - - - -	1514 5
Beaver Run, - - - - -	1123 8
Summit of Laurel Hill, - - - - -	1550 16
Court House in Uniontown, - - - - -	274 65
A point ten feet above the surface of low water in the Monongahela River, at the mouth of Dunlap's Creek, - - - - -	119 26

The law requiring the commissioners to report those parts of the route as are laid on the old road as well as those on new grounds, and to state those parts which require the most immediate attention and amelioration, the probable expense of making the same *passable* in the most difficult parts, and through the whole distance, they have to state that, from the crooked and hilly course of the road now travelled, the new route could not be made to occupy any part of it (except an intersection on Will's Mountain, another at Jesse Tomlinson's, and a third near Big Youghiogana, embracing not a mile of distance in the whole,) without unnecessary sacrifices of distance and expense. That, therefore, an estimate must be made on the route as passing wholly through new grounds. In doing this the commissioners feel great difficulty, as they cannot, with any degree of precision, estimate the expense of making it merely *passable*; nor can they allow themselves to suppose that a less breadth than that mentioned in the law was to be taken into the calculation. The rugged deformity of the grounds rendered it impossible to lay a route within the grade limited by law otherwise than by ascending and descending the hills obliquely, by which circumstance a great proportion of the route occupies the sides of hills which cannot be safely passed on a road of common breadth, and where it will, in the opinion of the commissioners, be necessary, by digging, to give the proper form to thirty feet, at least in the breadth of the road, to afford suitable security in passing on a way to be frequently crowded with wagons moving in opposite directions with transports of emigrant families, and droves of cattle, hogs, &c. on the way to market. Considering, therefore, that a road on those grounds must have sufficient breadth to afford ways and water courses, and satisfied that nothing short of well constructed and completely finished conduits can insure it against injuries which must otherwise render it impassable at every change of the seasons, by heavy falls of rain or melting of the beds of snow, with which the country is frequently covered; the commissioners beg leave to say, that in a former report they estimated the expense of a road on these grounds, when properly shaped, made and finished in the style of a stone covered turnpike, at \$6,000 per mile, exclusive of bridges over the principal streams on the way; and that with all the information they have since been able to collect, they have no reason to make any alteration in that estimate.

The contracts authorized by and which have been taken under the superintendence of the commissioner, Thomas Moore, (duplicates of which accompany this report) will show what has been undertaken relative to clearing the timber and brush from part of the breadth of the road. The performance of these contracts was in such forwardness on the 1st instant as leaves no doubt of their being completely fulfilled by the 1st of March.

The commissioners further state, that to aid them in the extension of their route, they run and marked a straight line from the crossing place on the Monongahela to Wheeling, and had progressed twenty miles with their usual and necessary lines of experiment in ascertaining the shortest and best connexion of practicable grounds when the approach of winter and the shortness of the days afforded no expectation that they could complete the location without a needless expense in the most inclement season of the year. And presuming that the postponement of the remaining part till the ensuing Spring would produce no delay in the business of making the road, they were induced to retire from it for the present.

The great length of time already employed in this business makes it proper for the commissioners to observe that in order to connect the best grounds with that circumspection which the importance of the duties confided to them demanded, it became indispensably necessary to run lines of experiment and reference in various directions, which exceed an average of four times the distance located for the route, and that through a country so irregularly broken, and crowded with very thick underwood in many places, the work has been found so incalculably tedious, that without an adequate idea of the difficulty it is not easy to reconcile the delay.

It is proper to mention that an imperious call from the private concerns of commissioner Joseph Kerr compelled him to return home on the 29th of November, which will account for the want of his signature to this report.

All which is, with due deference, submitted this 15th day of January, 1808.

ELIE WILLIAMS,  
THOMAS MOORE.

10th CONGRESS.]

No. 244.

[1st SESSION.]

## SLAVE TRADE.

COMMUNICATED TO THE SENATE, FEBRUARY 23, 1808.

Whereas it is declared by the first section of the bill of rights of the constitution of this commonwealth, that "all men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness." The principles contained in this declaration, founded upon sound reason and the immutable laws of justice, have, by the laws of this State, been in a good measure realized. By recurring to the ninth section of the first article of the constitution of the United States, it appears that Congress have the power to prohibit the importation of such persons, as any of the States now existing may think proper; yet, by the section aforesaid, Congress have the power to permit the several States to import slaves, a power which it is conceived is incompatible with reason and justice, and ought not to be vested in any Government on earth, more especially in a Government professedly founded on the equal rights of man. Therefore,

*Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania,* That the senators from this State in the Congress of the United States be instructed, and the members from this State in the House of Representatives, be earnestly requested to use their influence to obtain such an amendment to the constitution of the United States as thereafter to prevent the Congress of the United States and the Legislature of any State in the Union from authorizing the importation of slaves.

G. C. LANE, *Speaker of the Senate.*

Attest: GEORGE BRYAN, C. S.

## IN THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA.

Whereas it is declared by the first section of the bill of rights of the constitution of this commonwealth, that "all men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness." The principles contained in this declaration, founded upon sound reason and the immutable laws of justice, have, by the laws of this State, been in a good measure realized. By recurring to the ninth section of the first article of the constitution of the United States, it appears that Congress have the power to prohibit the importation of such persons as any of the States now existing may think proper; yet, by the section aforesaid, Congress have the power to permit the several States to import slaves, a power which it is conceived is incompatible with reason and justice, and ought not to be vested in any Government on earth, more especially in a Government professedly founded on the equal rights of man. Therefore,

*Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania,* That the senators from this State in the Congress of the United States be instructed, and the members from this State in the House of Representatives, be earnestly requested to use their influence to obtain such an amendment to the constitution of the United States as thereafter to prevent the Congress of the United States and the Legislature of any State in the Union from authorizing the importation of slaves.

SIMON SNYDER,

*Speaker of the House of Representatives.*

## IN THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PENNSYLVANIA, February 13, 1808.

*Resolved,* That the Speaker of this House sign and transmit to the Senators and to the members of the House of Representatives from this State in the Congress of the United States each one copy of the resolution adopted by the Legislature, relative to an amendment of the constitution of the United States for the purpose of preventing the importation of slaves.

Extract from the journal.

JAMES THACKARA, *Clerk of the House of Representatives.*

## IN SENATE, SATURDAY, February 13, 1808.

*Resolved,* That the resolution instructing the senators and requesting the representatives from this State in the Congress of the United States to endeavor to procure an amendment to the constitution of the United States to prevent the importation of slaves into the said States or the Territories thereof, be signed by the Speaker of the Senate, and that one copy thereof be by him transmitted to the senators from this State, and one copy to the representatives therefrom in the Congress of the United States.

Extract from the journal.

GEORGE BRYAN, C. S.

10th CONGRESS.]

No. 245.

[1st SESSION.]

CONTESTED ELECTION OF PHILIP BARTON KEY, A REPRESENTATIVE FROM  
MARYLAND.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 24, 1808.

Mr. FINDLEY, from the committee to whom was re-committed the subject of Mr. Key's election, on the suggestion of his being a pensioner or half-pay officer of the King of Great Britain, reported the following facts:

That, after the declaration of independence, the said Philip B. Key joined the British army, and, in the year 1778, he accepted a commission in a provincial regiment in their service. In November, 1778, he embarked with his regiment for Jamaica; after remaining there some time, the regiment was ordered for Pensacola; at the surrender of that place to the Spaniards, he was made prisoner; sent to the Havannah; from thence he went to England on parole, and never was exchanged until the general peace in 1783.

When peace took place, the corps he served in was disbanded without rank, and the officers placed on half pay. In 1785 he returned to Maryland, being entitled to draw his half pay; in 1790 he settled in Annapolis; and, in 1794, he was elected as a representative to the General Assembly of Maryland, and continued to be elected to, and served in, said Assembly for several succeeding years. That, previous to his first election, (viz. in said year, 1794,) he sold his half pay to General Forest, his brother-in-law, and mutual bonds were passed; and, under this contract, General Forest regularly received it till just preceding his bankruptcy in July, 1802; at which period, General Forest owing Mr. Key large sums of money, the contract was rescinded, and the two bonds were cancelled and destroyed; notwithstanding which, Mr. Key, from friendship to General Forest, (his family being much embarrassed from his bankruptcy,) permitted him to receive his half pay until his death, which happened in July, 1805. Mr. Key received six months of his half pay in December, 1805; since which he has received none.

In January, 1806, Mr. Key wrote to his agent, James Brooks, Esq., (then residing in London,) directing him, formally, in his name, to go to the War Office, and Provincial Pay Office, and resign all his right and claim to half pay, and also to rank, if any could be supposed to exist. It does not appear to your committee, whether Mr. Brooks ever received this letter from Mr. Key, or whether any thing was ever done by him, in consequence thereof; as no answer, or any information, has since been received by Mr. Key from Mr. Brooks upon the subject.

On the 24th of October, 1807, Mr. Key addressed a letter to his excellency Mr. Erskine, His Britannic Majesty's ambassador at Washington, referring to his former resignation by his agent, Mr. Brooks; in which letter he states the object of his letter is, in the most formal manner, to repeat his resignation; and requests him to notify His Majesty and his Government of his resignation of all half pay, rank, annuity, or claim of every nature and kind, that might attach to him in virtue of having been heretofore an officer in the British service. This letter was delivered to Mr. Erskine by a notary public of this district, employed by Mr. Key for that purpose, on the 23th or 29th of October, 1807.

It does not appear to your committee that Mr. Key ever took an oath of allegiance to the King of Great Britain; but, since his entering into public service in the State of Maryland, has taken those oaths which the laws of that State require to be taken of their public servants.

The committee are of opinion that nothing in the evidence laid before them, so far as respects the suggestion of Mr. Key being a pensioner or half-pay officer to the King of Great Britain, authorizes them to alter the opinion or the resolution submitted with their former report.

[NOTE.—See No. 233.]

10th CONGRESS.]

No. 246.

[1st SESSION.]

PUNISHMENT OF CONSPIRATORS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 2, 1808.

SIR:

DECEMBER 2, 1807.

The questions proposed in your letter of the 24th ultimo embrace an important and delicate subject. I have given them that consideration they justly merit, and respectfully submit the result of my reflections.

The sentiment expressed by an able and enlightened writer, that every punishment which is not absolutely necessary for the peace or safety of society is unjust, I believe to be perfectly correct. When revising any part of the penal code, for the purpose of discovering its defects, and of enlarging the sphere of criminality, we should proceed with caution and prudence; and we should not add to the catalogue of offences unless on sufficient grounds.

Feeling the just influence of these remarks, and, reluctant as I am to increase the list of crimes, I think experience has evinced the necessity of some further provisions to preserve the peace of the United States against the enterprises of designing and ambitious men.

The next question imposes a task more difficult—the mode in which the deficiency may be effectually remedied. This subject opens a wide field for discussion, and admits of great diversity of opinion.

It is with no personal satisfaction that I propose to the consideration of the committee the propriety of punishing combinations and conspiracies for the purpose of committing treason against the United States. The constitution has wisely defined the crime of treason. But it must be obvious, that, before this crime is consummated by an overt act of levying war, the public peace may be disturbed, and the public safety endangered by the previous

preparations for such an event. Though, in various parts of the Union, conspirators, who intend the destruction of our Government, are preparing the means to accomplish their object, by providing arms, ammunition, and warlike stores, they are subject to no punishment by the existing laws, unless war has been actually levied by them against the United States. It would seem, therefore, essential to the preservation of the public peace, that a conspiracy to commit treason against the United States should be punished in such manner as will be most likely to reform the criminal, and to deter others from the commission of the same offence. Perhaps a proper part of the judgment would be, to render offenders incapable of holding any office of honor, profit, or trust, under that Government which they conspired to destroy.

The law relative to enterprises began or set on foot within the bosom of our country, against a nation with whom we are at peace, merits revision, and will require some amendments. The object of this law is a salutary one; but its language not defining, with sufficient accuracy and certainty, the offences, has given birth to much dispute, as to its legal and proper construction. Enterprises against nations at peace with us have been too frequently projected not to call the serious attention of the Legislature to this interesting subject.

Let me also recommend "the employment of means for the benevolent purpose of preventing crimes," to use the language of Judge Wilson.

The only law of the United States on this subject will be found in the fourth volume of the Acts of Congress, page 231. This is conceived in very general terms, and authorizes security of the peace, or for good behaviour, to be taken in cases arising under the constitution and laws of the United States, in the same manner as under the laws of the several States. In some respects, the provision may, in practice, be incompatible with the constitution of the United States. By one of the amendments which now form a part of that instrument, no person can be arrested or committed, unless upon oath. In some of the States, whose constitutions have not a similar provision, and where the common law is in force, an oath may not be considered as absolutely necessary.

An act of Congress specifically providing in all cases where it should be made appear, on oath, that there were just grounds and probable cause to believe that any person was about to commit a crime against the United States, he should be compelled to give security of the peace, or for his good behavior, would be a prudent measure, calculated to secure the public tranquillity. The law might be so guarded as to prevent its being used to the oppression of individuals.

I have the honor to be, yours, very respectfully,

C. A. RODNEY.

10th CONGRESS.]

No. 247.

[1st SESSION.

CUMBERLAND ROAD.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 8, 1808.

SIR: TREASURY DEPARTMENT, *March 3, 1808.*

In answer to your letter of the 1st instant, I have the honor to state:

1st. That the 5 per cent. reserved by the act of 30th April, 1802, on the nett moneys received for public lands in the State of Ohio, sold since 1st July, 1802, has amounted to the following sums, viz:

From 1st July, 1802, to 30th June, 1803, - - - -	\$6,220 00
From 1st July, 1803, to 30th June, 1804, - - - -	8,810 17
From 1st July, 1804, to 30th June, 1805, - - - -	13,994 30
From 1st July, 1805, to 30th June, 1806, - - - -	31,442 20
From 1st July, 1806, to 30th June, 1807, - - - -	28,327 92
From 1st July, 1807, to 31st December, 1807, estimated - - - -	15,000 00
	<u>\$104,294 59</u>

And that the said 5 per cent. will henceforth probably amount to \$30,000 a year.

2d. That, of the \$30,000 appropriated by act of 29th March, 1806, there has been expended, in laying out the Cumberland road from Cumberland to Brownsville, about - - - - \$10,000  
That there may be wanted, to complete the location, about - - - - 5,000

\$15,000

3d. That contracts have been made for opening one-half of the breadth of said road, which, as verbally informed by one of the commissioners, will require about \$3,000, leaving, probably, about \$12,000 of the appropriation for the further improvement of the road.

4th. That the portion of the road actually located and confirmed, no part of which exceeds an angle of five degrees, extends from the navigable waters of the Potomac at Cumberland to the navigable waters of the Monongahela at Brownsville, (Red Stone Old Fort,) and it is stated, though no official report has been made to me, at about seventy miles.

5. That that road can be considered as a national object only if completed as a turnpike, whereby all the flour and other produce of the western adjacent counties may be brought to a market on the Atlantic shores; and the transportation of all the salt and other commodities and merchandise whatever, imported from the Atlantic ports to the Western country, generally, may be reduced probably one dollar per cwt.

And, lastly, that the expense of completing that part of the road in such manner is estimated at \$400,000.

I have the honor to be, respectfully, sir, your obedient servant,

ALBERT GALLATIN.

Hon. JOHN MONTGOMERY, of Maryland, Chairman, &c. in Congress.



[10th CONGRESS.]

No. 248.

[1st SESSION.]

COMPENSATION TO THE PERSONS ENGAGED IN THE SEVERAL EXPLORING  
EXPEDITIONS UNDER CAPTAIN PIKE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 10, 1808.

Mr. JOHN MONTGOMERY, from the committee to whom was referred the resolution to inquire if any, and what, compensation ought to be made to Captain Pike and his companions for their services in exploring the Mississippi river, and in their expedition to the sources of the Osage, Arkansas, and La Plate rivers, together with their tour through New Spain, made the following report:

That they examined Colonel John Ballenger, who stated that, in a conversation which passed between his brother Joseph and himself, the said Joseph informed him that he was in company with Captain Pike in his last exploring tour; that, having left Captain Pike somewhere on the head waters of the Arkansas, he returned to Louisiana; that very shortly after his return, he went into the Spanish provinces; that during all this time he was employed in furtherance of a Spanish project, but did not intimate that Captain Pike had any knowledge, or was at all privy to the said project, or to his being engaged therein, and spoke in high terms of Captain Pike. The nature of the project in which the said Joseph was employed, or by whom he was employed, is foreign, (as your committee believe) from the subject consigned to them, and, of course, its detail is omitted in this report. Your committee further report: That in what manner these exploring expeditions were undertaken at the instance of the War Department, and the conduct of Captain Pike approved by the President of the United States, and the information which was obtained and communicated to the Executive, and to what extent, and how far the same has been considered highly interesting in a political, geographical, and historical view, appear by a letter from the Secretary of War, accompanying this report; and that nothing has appeared before the committee derogatory to the merits of Captain Pike, as detailed in the above-mentioned letter from the Secretary of War.

SIR:

WAR DEPARTMENT, *February 24, 1808.*

In answer to your letter of the 22d instant, I can with pleasure observe, that, although the two exploring expeditions you have performed were not previously ordered by the President of the United States, there were frequent communications on the subject of each, between General Wilkinson and this Department, of which the President of the United States was, from time to time, acquainted, and it will be no more than what justice requires to say, that your conduct in each of those expeditions met the approbation of the President, and that the information you obtained and communicated to the Executive, in relation to the source of the Mississippi and the natives in that quarter, and the country generally, as well on the Upper Mississippi as that between the Arkansas and the Missouri, and on the borders of the latter extensive river to its source, and the country adjacent, has been considered highly interesting in a political, geographical, and historical view, and you may rest assured that your services are held in high estimation by the President of the United States; and if any opinion of my own can afford you any satisfaction, I very frankly declare that I consider the public much indebted to you for the enterprising, persevering, and judicious manner in which you have performed them.

I am, very respectfully, sir, your obedient servant,

H. DEARBORN.

Captain ZEBULON M. PIKE.

[NOTE. See further report, No. 259.]

[10th CONGRESS.]

No. 249.

[1st SESSION.]

CITY OF WASHINGTON—PUBLIC BUILDINGS.

COMMUNICATED TO CONGRESS, MARCH 25, 1808.

*To the Senate and House of Representatives of the United States:*

MARCH 25, 1808.

I transmit to both Houses of Congress a report from the surveyor of the public buildings of the progress made on them during the last season, of their present state, and of that of the funds appropriated to them. These have been much exceeded by the cost of the work done, a fact not known to me till the close of the season. The circumstances from which it arose are stated in the report of the surveyor.

TH: JEFFERSON.

*Report of the surveyor of the public buildings of the United States at Washington: March 23, 1808.*

My report on the progress and state of the public buildings of the United States in the city of Washington during the year 1807 has been delayed until all the work performed at the capitol and President's house could be measured, and the accounts closed as nearly to the present time as possible; and also until those additions and alterations could be made in the south wing of the Capitol which have been pointed out as necessary by the experience of the first part of the present session.

There remain now very few (and those small) accounts in any department of the public buildings which have not been ultimately settled; and the statement which I shall annex to this report may be considered as comprising all the demands against them of every kind up to the present time. Ever since the year 1803, when the work on the south wing of the capitol was commenced, accounts of particular parts of the building have necessarily been in

an open state, although partial settlements, at as short periods as possible, have always been made. But until the work had arrived at its present state, no complete admeasurement and valuation of the whole was practicable. The accumulated balances of settled accounts form a very considerable total, which has been increased by the stock of particular kinds of materials on hand, the purchase of which appeared highly prudent, if not absolutely necessary, should Congress think proper to proceed further with the public works.

I now beg leave to report on each of the public buildings, separately:

### 1. *South wing of the Capitol.*

At the close of the year 1806, the framing of the roof of the south wing was put on, and during the winter it was covered in. The greatest exertions were then used to finish the interior; and, notwithstanding the early meeting of the Legislature in October last, the building was so far completed as to be occupied by the House of Representatives; and at the present moment this wing of the Capitol may be considered as finished, excepting in the following particulars:

1. All the wood-work and walls require to be painted. The wood-work is only primed.
2. Of the 24 Corinthian columns of the Hall of Representatives, the capitals of only two are entirely finished; eight are in a state of forwardness; and fourteen are only rough-hewn or bosted.
3. Only part of the moulding of the cornice is finished.
4. The sculpture over the entrance is incomplete.
5. The enclosure of the lobbies is not yet finished.
6. All the chimney pieces of the principal story, and two of the vestibules, ten in number, are wanting.
7. Two small capitals in the circular vestibule are still to be carved.
8. The platform on the south front, giving access to the galleries, is erected upon the old scaffolding, which, having been some years in use, is weak and decayed. It is required by the nature of the ground that a permanent platform on arches should be extended along this front.

In respect to these deficiencies, I beg leave to submit the following remarks:

To preserve the wood-work, the painting should be performed in the ensuing season; the walls are not yet sufficiently dry to admit it; but the painting of the ceiling of the Hall of Representatives ought not to be postponed. Its present state constitutes the only defect which remains to be corrected in that room, as I shall endeavor to explain, in speaking of the very just complaints that were made at the commencement of the session of the difficulty of hearing and speaking in it.

The sculpture, which is still deficient, can only be completed in the course of time. There are at present in the service of the United States two very skilful Italian sculptors, Messrs. Andrei and Franzoni, whose talents are evident in their works. They and their pupil, Somerville, one of our own citizens, will make very considerable progress during the next season; and much other assistance can be obtained in the less difficult parts of the work.

The chimney pieces have been ordered, and may soon be put up; and the platform on the south front is not a work of great expense.

But, besides completing the south wing in these particulars, it appears equally necessary to erect during the present year that part of the west front which is opposite to the eastern entrance of the house, and projects westward from the northwest corner of the present building. In this part of the work it is intended to provide a dwelling for the doorkeeper of the House, in the height of the office story, and above to have committee rooms for the House of Representatives. The necessity of the work arises from two causes, which I beg leave to state to you.

1. In my former reports, and especially in a printed letter to the members of the Legislature, which I have had the honor to communicate to you, I explained the reasons which obliged me to carry up the external north wall of the house independently of those internal walls with which it is connected, and upon which it depends for the principal resistance against the lateral pressure of the arches and roof of the house. This very bold undertaking succeeded in enabling us to get much more forward with the work than would have been otherwise possible; and, by the erection of the entrance and its communications, this wall is now firmly supported as far as they extend. But the western end of the wall still remains without any counterpoise against the pressure outwards but what arises from its own weight. The cellars, which were formerly sunk at the northwest angle of the south wing, and which for many years have been the receptacle of rain water, will, until covered, remain a source of injury to this part of the building. Every feasible step has been taken to prevent the lodging of the water in them, but much mischief was done before this could be effected; and a gradual settlement of the northwest part of the wall has been going on from the commencement, and still increases, though very slowly. It may be observed in the lobby of the House, and, though not immediately dangerous, it ought to be stopped as soon as possible.

2. There is another consideration which is perhaps of equal importance in another point of view.

On the removal of the National Legislature to this city, an act was passed appropriating forever to the use of the doorkeepers of the two Houses of Congress the buildings erected for the temporary accommodation of the workmen while employed on the Capitol. It was, perhaps, not observed that these buildings stand actually in the street which passes on the south side of the Capitol square and in the Jersey avenue, and thus destroy not only the appearance and regularity of the square and streets, but, being placed high above their level, are a dangerous obstruction to the intercourse around the Capitol. They are, besides, so badly built, and already so rotten, as scarcely to be habitable; and, from being placed on the surface of the vegetable mould, having no cellars, and having a very bad aspect, they are so unhealthy that, of the families who have inhabited them, many have died, and all have been afflicted with severe sickness. Provision will require to be made to carry the intention of the Legislature to provide dwellings for their doorkeepers into effect; and a slight observation of the necessity of a more close attention to the domestic arrangements and expenses, and the better government of the servants of the House than at present can possibly be had, would point out a powerful reason for the speedy erection of this part of the building, even if it were not necessary to the support of what is already carried up.

Before I close my account of the south wing of the Capitol, I most respectfully beg permission to notice in this report the two objections to the Hall of Congress, which were discovered immediately on the opening of the session—the difficulty of hearing and speaking in it, and the unpleasant effect of the mode adopted to warm the house upon the air of the room. These objections have been forcibly stated and permanently recorded in the speeches of the members, and the appointment of committees for the purpose of inquiry into their cause and remedy; and I crave this permission, not only for the purpose of personal exculpation, but with the hope that the explanation I shall give will prove of public utility in similar cases.

In every large room the great average distance of the speaker from the hearer is a cause of difficulty of hearing and speaking which cannot be removed; but the effect of this cause bears no proportion to that indistinctness which arises from the innumerable echoes that are reverberated from the walls and arched ceiling of such a room as the Hall of Representatives. These surfaces give back to the ear echoes, not only of the voice of the speaker,

at a perceptible distance of time from the original sound, but also distinct echoes of every accidental noise and separate conversation in the house and lobbies, and renders debate very laborious to the speaker and almost useless to the hearers. This defect was foreseen; and, in furnishing the house, the curtains and draperies of the windows were made as ample as propriety would admit; draperies were hung in other proper situations, and a large curtain closed the opening of the columns behind the speaker's chair. But all this drapery bore a small proportion to the extent of uncovered surface, though it rendered those particular situations of the hearer, thus freed from echo, superior to all others.

If the dimensions of a room, erected for the purpose of debate, were so moderate that the echoes of the voice of the speaker could reach the ear of the hearer, without the intervention of a perceptible distance of time, then the echo would strengthen and support the voice; and we find that this is actually the case in small lecture rooms, expressly constructed to produce innumerable echoes. But there is a circumstance attending halls of debate which distinguishes them from rooms intended for the lectures of one speaker; the impossibility of preserving perfect silence, and of confining persons to their seats, so as to prevent all sound but that of the speaker's voice; for it is evident that sounds from all quarters and of all kinds will be re-echoed with perfect impartiality.

The Hall of Representatives is one hundred and ten feet long from east to west, and fifty-five feet high; therefore, before the echo of a sound, issuing from the centre of the floor, can return to its place it must travel one hundred and ten feet, a distance very perceptible to the ear in the return of echo. The distance will be still greater if the speaker be placed at a distance from the hearer. And as the walls, in their various breaks, return each a separate echo, their confusion must necessarily render it almost impossible to understand what is spoken.

From these plain facts it is evident that the walls of every large hall of debate should be covered with tapestry, or other material which does not reverberate sound. On reference to the original drawing it will be seen that this was intended, but neither the time nor the extent of the appropriation for furniture, which proved insufficient for the indispensable articles of carpeting, tables, chairs, desks, and curtains, would admit it.

A committee being appointed by the House to inquire into the causes and remedy of the difficulty of hearing and speaking, the foregoing facts and reasonings were laid before them; and it was proposed to suspend curtains between the columns round the whole internal area of the house, and others behind the seats of the galleries, and to paint the ceiling in flock. The proposal was approved, and has been executed as far as it could be done by hanging all the curtains; the painting of the ceiling must be postponed until the house rises. The fullest success attended this measure; and, although the echoes of the ceiling produce in the centre of the house some confusion of sound, it is a small inconvenience, which will be removed. When the size of this room is considered, it may be safely asserted that it is now as little liable to objection as any other hall of debate in the United States; that it is in all respects superior to most others, and that, when the proposed improvements, which are of comparatively small import, are made, it will be second to none in every legislative convenience. Another inconvenience has been felt, especially by some of the members, from the effect of the stoves by which the hall is warmed upon the air of the room, especially when the house and galleries have been crowded. The mouths of these stoves are in the office story below the hall, and a cavity being contrived of from three to five feet deep, below the platforms on which the seats are placed, the flues in this cavity wind to the extent of two hundred feet before they pass into the chimney. When the session was first opened the flues and walls were damp; the fire was injudiciously forced by the servants of the house, and the heat and steam was not only unpleasant, but highly injurious to the health of many of the members; part of this inconvenience diminished as the flues became drier, and less fire was made. But, in order to renew the air of the house, the external air has been freely admitted into the cavity of the flues, and a ventilator is made in the roof. The principle on which these stoves are constructed is not new, and it has been so often and so successfully put into practice that, when every proposed improvement is made, and the building has become dry, there can be little, if any, doubt of its being productive of no inconvenience whatever to any individual member of the house.

## 2. *North wing of the Capitol.*

The appropriation made at the last session of Congress had, for its principal object, such a repair of the house, and especially of the roof and gutters, as should keep out the weather and prevent the danger arising from the frequent falling down of the plastering of the ceilings. It was late in the season before the weather permitted any part of the roof to be stripped for examination, and, when this was done in the centre of the building, all the timbers were found in such a state of decay that no part of them could be suffered to remain in their place. The decay was not, however, confined to the timbers of the roof; the floors down to the ground-floor were discovered to be in the same state. The floors and ceiling of the Senate chamber and library being also rotten, it was judged most prudent and necessary to begin with a thorough repair of the centre from the foundation, and not to disturb these apartments, the use of which could not be dispensed with the ensuing session; for, had the roof of the Senate chamber been opened, no exertions could have completed the repairs in proper time, while the south wing called for all the workmen which by any means we could collect. Besides, the permanent repairs and alterations proposed for the centre of the house were of such a nature as to stop the leakage of every other part of the house; and it was, therefore, executed in the most permanent manner, and on the principles on which the south wing has been built. All the timber floors, and galleries of the centre lobbies were taken up, and the work carried up by solid vaulting in brick from the foundation of the house to the top of the dome; a staircase, much wanted, was made to lead into the fuel cellars; and arched galleries constructed, giving access into the rooms in the third story, which have never been finished, but which will be highly useful apartments whenever the wing shall be completed.

In the great staircase the old wooden skylight and cove was entirely taken down, and a solid brick cupola turned over this large area of forty-five by thirty-five feet, and crowned by a lantern light. The stairs themselves remain in the same dangerous and decayed state in which they were found, but they have been properly secured for the present.

All that could be done with the rest of the roof was to put it in the best repair that was practicable without stripping it. But it cannot be denied that all the timbers of the house, especially those parts that are inserted into the walls, are in a state of the most dangerous decay; and, as far as the ceilings and floor have been opened, the dry rot is found to have possession, and to be making progress. It appears, therefore, unavoidable that a thorough repair of the whole house, upon the permanent construction of the work of the last season, should be pursued, more especially as the accommodation of the Senate and of the courts is very far from being convenient to the despatch of public business. On this head I beg leave to refer to my report of last year, and will now only state once more my opinion that the present chamber of the Senate cannot be considered as altogether safe, either as to the plastering, of which the columns and entablature consist, or as to its floor and ceiling.

3. Besides the work executed in the buildings themselves, a large sum has been expended in rendering them safe from injury, and accessible to the members. The quantity of earth to be removed in front of the south wing, and the ground to be raised to the southward and eastward, was considerable. A permanent drain was required to

prevent the wash of the hill on which the building stands to the south of the circular road, and the road leading to the house was to be raised and covered with gravel.

On the north the main drain was carried away by the heavy rains of the season. This drain has, for some years past, been an annual source of expense and inconvenience; it is now durably constructed. Nothing has been done which did not appear unavoidable, or done in a manner to require further alteration and expense; and although all the work which does not properly belong to the building itself has been expensive, the objects of the expense have been permanently effected.

#### 4. Highways.

The sum of \$3000, appropriated to the use of the roads, has been expended in widening the carriage way of the Pennsylvania avenue, in substituting permanent for temporary drains, in general repairs and improvements, and principally in making a permanent road south of the President's square. Several of the drains on the Pennsylvania avenue still require to be more permanently built; and a large permanent sewer is required across the new road opposite to the President's house, without which that road, now the proper and permanent means of reaching the offices from the Capitol, will never be passable in winter. This road, without which the enclosure of the President's ground could not be at all undertaken, has been executed in the most economical manner that could be devised, by laying it out so as to make that part in which earth was greatly deficient out of the spoils of the hill which was to be cut through; it is still required to be covered with gravel.

#### President's House.

The work performed at the President's house has consisted of the covered way in front of the offices on each wing; of the erection of one-half of the wall of enclosure and one of the gates; of the levelling of the greatest part of the enclosed grounds, and of minor repairs and improvements of the house itself. Neither the wall of enclosure nor the levelling of the ground could be completed by the appropriation, but as much has been done as was practicable, and the ground is now partially enclosed and ready to be planted.

The state of the south wing of the capitol has enabled me to make a complete measurement of all the work of every kind performed, at the principal object of expenditure since the year 1803, and not only in respect to that work, but in every other department of the buildings; I have obtained settlements of accounts and measurements up to the present period, and also correct valuations of all the work lying contiguous to the buildings in a state of greater or less preparation. From hence, by favor of the superintendent of the city, I am enabled to lay before you a statement of all the expenditures and outstanding claims up to the present time, which may be considered as correct; the unascertained and unsettled accounts being of very small amount and importance, and capable of tolerably correct estimation. From this statement it will appear that the outstanding claims are of very considerable amount in the aggregate; an amount which could only have been reduced by leaving the works in an unfinished and useless state. In respect to the south wing of the capitol, no consideration of the risk of future appropriation operated with the workmen who have so long and so faithfully labored at the public buildings, to induce them to stop when it was known that the appropriation was exhausted, and by this means very large sums have become due to two of the principal and most respectable persons engaged in the work. Another increase of expenditure, not as yet properly chargeable to any branch of the work, has been incurred by the very evident utility, if not absolute necessity, of supplying the public with particular kinds of ironmongery and glass, of which it was evident that no supply on reasonable terms would shortly be attainable. This swells the amount of the deficit very greatly, although the value of the materials on hand would be greater than is stated if sold at the market price. I have, in the first instance, charged all deficiencies not specially stated to its proper appropriation to the south wing of the capitol, and, in the general account current, which I subjoin, I have given the proper credits for materials on hand, and moneys advanced to collateral uses.

#### 1. South wing of the Capitol.

Appropriation for 1807,	-	-	-	-	\$25,000
Amount of all outstanding claims not specially stated below,	-	-	-	\$40,598 19	
From which deduct this sum in hand,	-	-	-	\$2,167 00	
Due from the contingent funds of the offices of State, War, Navy, and the Post Office,*	-	-	-	3,218 65	
Deficit on the south wing and on general charges,	-	-	-	35,212 54	\$ 35,212 54
				\$40,598 19	

#### 2. North wing of the Capitol.

Appropriation of 1807,	-	-	-	-	\$25,000
Expenditures in 1808.—Settled accounts,	-	-	-	\$22,388 49	
Unsettled accounts,	-	-	-	402 01	
Proportion of salaries of the surveyor of public buildings and clerk of the works, charged to the south wing heretofore,	-	-	-	2,050 00	
				\$24,840 50	
Cash in hand,	-	-	-	159 50	
				\$25,000 00	

#### 3. President's House.

Appropriation, 1807,	-	-	-	-	\$15,000 00
Expenditures on all objects above mentioned,	-	-	-	\$18,919 46	

\* This sum was laid out in the year 1806, when, by the falling in of the old drains, and the filling of the cellars with water, the offices became unhealthy; and it was absolutely necessary to remedy the evil or desert the buildings. I have stated it below as a deficit, as it has not yet been repaid.

Deficit of the appropriation, 1807,	-	-	-	\$3,919 46
To this must be added the amount of the claims which were incurred prior to the appropriation,	-	-	-	1,737 44
				<u>\$5,656 90</u>

4. *Public Highways.*

Appropriation, 1807,	-	-	-	<u>\$3,000 00</u>
Expenditures on the roads, highways, drains, and making the new road south of the President's square,	-	-	-	\$6,644 79
				<u>Deficit, \$3,644 79</u>

5. *Furniture of the south wing of the Capitol.*

In my former report I stated the sum required to furnish the House to be \$20,000. This estimate did not include the expense of new desks, because, from the best information I could obtain, the old desks were supposed applicable to the new House. But the frequent removals of the platforms, and the erroneous opinions of those who had made them, led into error; and, when the session was closed and the desks removed, it was found utterly impracticable either to place the desks on the new platforms, or to accommodate the platforms to the desks, without destroying all convenience within the House. New desks have therefore been made. In other respects, the estimate was founded on very simple data, as the numbers of tables, curtains, blinds, chairs, and bookcases, and the quality and quantity of the carpeting, and of the ironmongery, could not be so varied as to make any material difference in the expense; and on inspection, I trust it will be found that no unnecessary furniture has been introduced into the House or committee rooms.

The amount of appropriation was,	-	-	-	<u>\$17,000</u>
Expenditure on new desks,	-	-	-	\$ 2,164 66
On all the articles included in the estimate,	-	-	-	19,051 68
				<u>\$21,216 34</u>
				<u>Deficit, \$4,216 34</u>

## RECAPITULATION.

1. South wing of the capitol,	-	-	-	\$35,212 54
2. To make good the sum loaned to the public offices,	-	-	-	3,218 65
3. President's house,	-	-	-	\$3,919 46
Prior claims to 1807, on President's house,	-	-	-	1,737 44
				<u>5,656 90</u>
4. Public highways,	-	-	-	3,644 79
5. Furniture fund,	-	-	-	4,216 34
				<u>\$51,949 22</u>

*Estimate for the year 1808.*

To make good the deficit of 1807, including the debt due from the public offices,	-	-	-	\$51,500 00
To execute the work deficient in the south wing,	-	-	-	11,500 00
To carry up that part of the west front which is necessary to secure the northwest angle of the south wing,	-	-	-	15,000 00
To carry up, in solid work, the interior of the wing, comprising the Senate chamber,	-	-	-	25,000 00
To complete the wall of the President's house; plant the ground, so as to close this branch of expenditure; build a solid flight of steps to the principal door, and minor expenses,	-	-	-	15,000 00
To repair the highways and build drains,	-	-	-	5,000 00
				<u>Total, \$123,000 00</u>

I now beg leave to add a statement of the actual expenditures on the north and south wings of the capitol, up to the present time.

1. *South wing of the Capitol.*

Expended from April, 1803, up to January 1st, 1807, including the pulling down and rebuilding the work formerly erected,	-	-	-	\$216,061 47½
Cash on hand, 1807,	-	-	-	\$11,000 00
Appropriation, 1807,	-	-	-	25,000 00
Deficit, 1808,	-	-	-	35,212 54
				<u>71,212 54</u>

*Per contra.*

Materials on hand, Crown glass,	-	-	-	\$1,000
Plate glass and ironmongery,	-	-	-	2,000
Sheet iron, for roofing,	-	-	-	3,000
Scaffolding and utensils,	-	-	-	1,500
Freestone,	-	-	-	1,500
Glass and lead used in other parts of the works, not yet charged to their account,	-	-	-	1,383
Proportion of salaries chargeable to the north wing,	-	-	-	2,050
				<u>12,433 00</u>

Actual cost of the south wing, - - - \$274,841 01½

2.—*North wing of the Capitol.*

Expended on the north wing of the capitol, prior to 1803, including the foundations of the south wing and centre,	-	-	\$337,735 38
From this sum deduct the full value of the above foundations,	-	-	30,000 00
			307,735 38
Expended in 1803,	-	-	3,301 75
Expended in 1807,	-	-	24,840 50
			335,877 63
Total cost of the north wing,			\$335,877 63

All which is most respectfully submitted, by your faithful humble servant,

B. HENRY LATROBE,

*Surveyor of the public buildings of the United States.*

To the PRESIDENT OF THE UNITED STATES.

10th CONGRESS.]

No. 250.

[1st SESSION.]

## ROADS AND CANALS.

COMMUNICATED TO THE SENATE, APRIL 6, 1808.

SIR:

TREASURY DEPARTMENT, *April 4, 1808.*

I have the honor to transmit a report respecting roads and canals, prepared in obedience to the resolution of the Senate of the 2d of March, 1807. It has been unavoidably delayed much later than was desirable, or had been expected. Although early steps had been taken for obtaining the necessary information, the most important documents were not received till long after the commencement of the session, some, indeed, within the last ten days. To analyze the whole, to select, arrange, and condense, the most interesting facts, was also a work of some labor. Time has not permitted to present the report in a more satisfactory form; but the mass of facts which has been collected will, it is hoped, be of some public utility.

I have the honor to be, with great respect, sir, your most obedient servant,

ALBERT GALLATIN.

Hon. GEORGE CLINTON, *President of the Senate.*

The SECRETARY OF THE TREASURY, in obedience to the resolution of the Senate of the 2d March, 1807, respectfully submits the following report on roads and canals:

The general utility of artificial roads and canals is at this time so universally admitted, as hardly to require any additional proofs. It is sufficiently evident that, whenever the annual expense of transportation on a certain route, in its natural state, exceeds the interest on the capital employed in improving the communication, and the annual expense of transportation (exclusively of the tolls,) by the improved route, the difference is an annual additional income to the nation. Nor does in that case the general result vary, although the tolls may not have been fixed at a rate sufficient to pay to the undertakers the interest on the capital laid out. They, indeed, when that happens, lose; but the community is nevertheless benefited by the undertaking. The general gain is not confined to the difference between the expense of the transportation of those articles which had been formerly conveyed by that route, but many which were brought to market by other channels will then find a new and more advantageous direction; and those which on account of their distance or weight could not be transported in any manner whatever, will acquire a value, and become a clear addition to the national wealth. Those and many other advantages have become so obvious, that in countries possessed of a large capital, where property is sufficiently secure to induce individuals to lay out that capital on permanent undertakings, and where a compact population creates an extensive commercial intercourse, within short distances, those improvements may often, in ordinary cases, be left to individual exertion, without any direct aid from Government.

There are, however, some circumstances, which, whilst they render the facility of communications throughout the United States an object of primary importance, naturally check the application of private capital and enterprise to improvements on a large scale.

The price of labor is not considered as a formidable obstacle, because whatever it may be, it equally affects the expense of transportation, which is saved by the improvement, and that of effecting the improvement itself. The want of practical knowledge is no longer felt; and the occasional influence of mistaken local interests, in sometimes thwarting or giving an improper direction to public improvements, arises from the nature of man, and is common to all countries. The great demand for capital in the United States, and the extent of territory compared with the population, are, it is believed, the true causes which prevent new undertakings, and render those already accomplished less profitable than had been expected.

1. Notwithstanding the great increase of capital during the last fifteen years, the objects for which it is required continue to be more numerous, and its application is generally more profitable than in Europe. A small portion therefore is applied to objects which offer only the prospect of remote and moderate profit. And it also happens that a less sum being subscribed at first than is actually requisite for completing the work, this proceeds slowly; the capital applied remains unproductive for a much longer time than was necessary, and the interest accruing during that period becomes, in fact, an injurious addition to the real expense of the undertaking.

2. The present population of the United States, compared with the extent of territory over which it is spread, does not, except in the vicinity of the seaports, admit that extensive commercial intercourse within short distances,

which, in England and some other countries, forms the principal support of artificial roads and canals. With a few exceptions, canals particularly cannot, in America, be undertaken with a view solely to the intercourse between the two extremes of, and along the intermediate ground which they occupy. It is necessary, in order to be productive, that the canal should open a communication with a natural extensive navigation which will flow through that new channel. It follows that whenever that navigation requires to be improved, or when it might at some distance be connected by another canal to another navigation, the first canal will remain comparatively unproductive until the other improvements are effected, until the other canal is also completed. Thus the intended canal between the Chesapeake and Delaware, will be deprived of the additional benefit arising from the intercourse between New York and the Chesapeake, until an inland navigation shall have been opened between the Delaware and New York. Thus the expensive canals completed around the falls of Potomac will become more and more productive in proportion to the improvement, first, of the navigation of the upper branches of the river, and then of its communication with the Western waters. Some works already executed are unprofitable; many more remain unattempted, because their ultimate productiveness depends on other improvements, too extensive or too distant to be embraced by the same individuals.

The General Government can alone remove these obstacles.

With resources amply sufficient for the completion of every practicable improvement, it will always supply the capital wanted for any work which it may undertake, as fast as the work itself can progress; avoiding thereby the ruinous loss of interest on a dormant capital, and reducing the real expense to its lowest rate.

With these resources, and embracing the whole Union, it will complete on any given line all the improvements, however distant, which may be necessary to render the whole productive, and eminently beneficial.

The early and efficient aid of the *Federal* Government is recommended by still more important considerations. The inconveniences, complaints, and perhaps dangers, which may result from a vast extent of territory, can no otherwise be radically removed or prevented than by opening speedy and easy communications through all its parts. Good roads and canals will shorten distances, facilitate commercial and personal intercourse, and unite, by a still more intimate community of interests, the most remote quarters of the United States. No other single operation, within the power of Government, can more effectually tend to strengthen and perpetuate that Union which secures external independence, domestic peace, and internal liberty.

With that view of the subject the facts respecting canals, which have been collected in pursuance of the resolution of the Senate, have been arranged under the following heads:

1. Great canals, from north to south, along the Atlantic seacoast.
2. Communications between the Atlantic and Western waters.
3. Communications between the Atlantic waters, and those of the great lakes, and river St. Lawrence.
4. Interior canals.

#### GREAT CANALS ALONG THE ATLANTIC SEACOAST.

The map of the United States will show that they possess a tide water inland navigation, secure from storms and enemies; and which, from Massachusetts to the southern extremity of Georgia, is principally, if not solely, interrupted by four necks of land. These are, the isthmus of Barnstable; that part of New Jersey which extends from the Raritan to the Delaware; the peninsula between the Delaware and the Chesapeake; and that low and marshy tract which divides the Chesapeake from Albemarle sound. It is ascertained that a navigation for sea vessels, drawing eight feet of water, may be effected across the three last; and a canal is also believed to be practicable, not, perhaps, across the isthmus of Barnstable, but from the harbor of Boston to that of Rhode Island. The Massachusetts canal would be about twenty-six, the New Jersey about twenty-eight, and each of the two southern about twenty-two miles in length, making altogether less than one hundred miles.

Should this great work, the expense of which, as will hereafter be shown, is estimated at about three millions of dollars, be accomplished, a sea vessel entering the first canal in the harbor of Boston would, through the bay of Rhode Island, Long Island sound, and the harbor of New York, reach Brunswick on the Raritan; thence pass through the second canal to Trenton on the Delaware, down that river to Christiana or Newcastle, and through the third canal to Elk river and the Chesapeake; whence, sailing down that bay and up Elizabeth river, it would, through the fourth canal, enter the Albemarle sound, and by Pamlico, Core, and Bogue sounds, reach Beaufort and Swansborough in North Carolina. From the last mentioned place, the inland navigation, through Stumpy and Toomer's sounds, is continued with a diminished draught of water, and by cutting two low and narrow necks, not exceeding three miles together, to Cape Fear river; and thence by an open but short and direct run along the coast is reached that chain of islands between which and the main the inland navigation is continued to St Mary's along the coast of South Carolina and Georgia. It is unnecessary to add any comments on the utility of the work, in peace or war, for the transportation of merchandise, or the conveyance of persons.

The several papers under the letter A, herewith transmitted, contain the information which has been received on those several intended communications. The substance will now be stated.

#### I. MASSACHUSETTS CANAL.

1. Sandwich isthmus between Barnstable bay on the north, and Buzzard's bay on the south, had first attracted the public attention. Surveys and levels were taken, for the purpose of ascertaining the practicability of opening a cross cut to be supplied by the sea itself, from the mouth of Back river in Buzzard's bay, to the mouth of Scusset river in Barnstable bay.

The distance was found to exceed seven miles; the elevation of the highest intermediate ground is forty feet above low water mark in Barnstable bay; the depth of water at the mouth of Black river does not, at low water, exceed seven feet and a half; and the channel to that spot through Buzzard's bay is obstructed by shoals. The tide which rises but three feet and a half in that bay, rises three hours and a half later, and more than eighteen feet in that of Barnstable. The shore on which that formidable tide would operate, is an open beach, without any harbor or shelter whatever. Independent of other obstacles, it was apprehended that the same natural causes which had formed the isthmus, might fill the canal, or make a bar at its entrance; and the project seems to have been abandoned.

2. The ground was also examined between Barnstable harbor on the north, and Hyanus harbor on the south, at some distance east of Sandwich. The breadth of the peninsula does not exceed here four miles and a half, and there would be a harbor at each end of the canal. The same difference exists in the tides which rise four feet in Hyanus, and sixteen feet in Barnstable harbor. The entrance of this is obstructed by shoals; but the great obstacle to a cross cut is the elevation of the intermediate ground, estimated at eighty feet above tide water. Navigable ponds on that high ground might, perhaps, form part of a lock canal, and supply the remainder with water. But a canal, frozen in winter, would not have effected the great object in view, which was to enable ves-

sels from sea to proceed in winter from Martha's Vineyard to Boston, without sailing around Cape Cod. Although the difficulty of the navigation from Boston to Barnstable diminishes the utility of this communication, as one of the great links in this line of inland navigation, it may be resorted to should that which will be next mentioned prove impracticable for sea vessels.

3. The attention of the Legislature of Massachusetts, under whose authority the grounds at Sandwich and Barnstable had been examined, has lately been turned to a direct communication between Weymouth landing, within the harbor of Boston and Taunton river, which empties into the bay of Rhode Island. A favorable report has been made during the last session, of which a copy has lately been obtained. The distance from tide water to tide water is twenty-six miles by one route, and twenty-three and a quarter miles by another. The highest intermediate ground is one hundred and thirty-three feet above tide water, but may be reduced ten feet by digging to that depth the length of a mile. Two ponds known by the name of Weymouth and Cranberry, the largest and least elevated of which covers five hundred acres, and is fourteen feet higher than the summit of the proposed canal, will supply the upper locks with water by feeders four miles long. Whether the quantity of water contained in those ponds, and estimated equal to a daily supply of 450,000 cubic feet, will be sufficient for a sloop navigation, and whether any other ponds or streams may be brought in aid, does not seem to be fully ascertained. After descending twenty feet towards Weymouth, and seventy towards Taunton, an ample supply for the lower locks will be derived from other large ponds, the principal of which are known by the names of Braintree and Nippinitic. The expense may, on a supposition that the route is partly through a rocky soil, be estimated as follows:

Digging twenty-six miles, at \$30,000 a mile,	-	-	-	\$780,000 00
Lockage two hundred and sixty feet, at \$1,250 a foot,	-	-	-	325,000 00
Feeders, purchase of land, &c.	-	-	-	145,000 00
				1,250,000 00

## II. NEW JERSEY CANAL.

A company was incorporated some years ago by the Legislature of New Jersey for opening a canal between the Raritan and Delaware. Acting under the erroneous opinion that the navigation of small rivers might be improved and used as a canal, the company intended to have united, by a cross cut of one mile, the Assampink or Trenton creek with Stony brook, a branch of Millstone river, and to have descended Trenton creek to the Delaware and Stony brook, and Millstone river to the Raritan. The capital, which was inadequate, was not paid; but their survey of the intended route has shown the practicability of a canal for sea vessels on a proper plan. The distance from Brunswick to Trenton is twenty-six miles; and the only obstacle on the way is the "sand hills," some distance west of Brunswick. These may, it is said, be avoided by a deviation which would not increase the distance more than two miles; and they may, at all events, be perforated as has been done by the turnpike company, who have opened a road on a straight line between the two towns without having in any place an angle of ascent of more than three degrees. The highest intermediate ground between Assampink and Stony brook is only fifty feet above tide water; and it is suggested that the summit level may be taken seven feet lower, cutting seven miles through a level meadow between the confluence of the Assampink and Shippetankin creeks and Rowley's mill, near the confluence of Stony brook and Millstone river.

An adequate supply of water will be drawn by short feeders from Philip's springs, Trenton creek, Stony brook, and Millstone river; all of which are more elevated than the route of the canal, the "sand hills" excepted.

The depth of water at the two extremities of the canal taken at low water are — feet at Brunswick, and ten feet at Lambertton, one mile below Trenton.

The expenses may be estimated as follows:

Digging twenty-eight miles, at \$20,000 per mile,	-	-	-	\$560,000 00
Lockage, one hundred feet, (probably less,) at \$1,250 per foot,	-	-	-	125,000 00
Feeders, purchase of land and water rights,	-	-	-	115,000 00
				800,000 00

## III. DELAWARE AND CHESAPEAKE CANAL.

A company incorporated by the States of Delaware and Maryland for opening this canal has commenced its operations; now suspended for want of funds.

The canal will commence at Welsh point, on Elk river, an arm of the Chesapeake, and terminate at a distance of twenty-two miles on Christiana creek, a branch of the Delaware. At low water the depth of water in Christiana is nine feet, and in Elk twelve feet, within one hundred feet from the shore. The tide rises four feet in both rivers. The canal might, without increasing the distance, be conducted to Newcastle on the Delaware itself, instead of ending on Christiana creek.

The highest intermediate ground over which the canal will be carried on a level of thirteen miles in length, is seventy-four feet above tide water, the descent being effected by nine locks on each side. The digging is generally easy; no expensive aqueducts or bridges, nor any other obstacle but those which have already been overcome in digging the feeder through a very rocky soil.

The supply of water drawn from Elk river by a feeder six miles in length, already completed, which is itself a boat canal three feet and a half deep, united by a lock of ten feet lift with the main canal, is calculated to fill daily one hundred and forty-four locks; a quantity sufficient on an average for the daily passage of twenty-four vessels. A reservoir covering thirty, and which may be increased to one hundred and fifty acres will supply occasional deficiencies. Other reservoirs may be added, and Christiana, White, and Clay creeks may hereafter be brought in aid of Elk river, if the supply should prove too scanty for an increased navigation.

The canal twenty-six feet wide at the bottom, and fifty at the top on the water line, being dug at the depth of eight feet, is intended for vessels of forty to seventy tons, drawing seven and a half feet water; but the banks, twenty feet wide for towing paths, and one of which may be converted into a turnpike road, being raised three feet above the level of the water, will, by increasing the height of the lock gates one foot, admit a depth of nine feet of water in the canal; at which depth it would perhaps be eligible to dig at once. The locks, eighty feet long, eighteen feet wide, and eight or nine feet deep over the gate-sills, containing each eleven thousand five hundred to thirteen thousand cubic feet of water, and with a lift of eight to nine feet each, will be constructed of hewn stone laid in tarras. Those dimensions, both of the canal and locks recommended by Mr. Latrobe, the engineer of the canal, may be adopted in all the other canals for sea vessels on this line of communication.

The present annual carriage across the peninsula, which would be drawn through the canal, is estimated at forty-two thousand tons, exclusively of passengers. This will be greatly increased by the facility which the canal itself



will afford to the commercial intercourse between the two bays, and to the conveyance of articles now carried through other channels, or too heavy for transportation at the present expense of carriage. The coals wanted for Philadelphia, and which, brought down from the sources of the Susquehanna and Potomac, but principally from the vicinity of Richmond, would naturally pass through the canal, have been alone estimated at more than one hundred thousand tons a year. The annual carriage of all articles may, in the present state of population, be fairly estimated at one hundred and fifty thousand tons, and the direct annual saving to the community at \$300,000; being at the rate of two dollars a ton for the difference between land and water carriage across the peninsula, after paying the tolls. These, at the rate of fifty cents a ton, will give to the undertakers a revenue of \$75,000, leaving, after a deduction of \$10,000 for annual repairs, and of \$10,000 more for attendance and contingencies, a nett income of \$55,000.

The expenses of the whole work are estimated as follows:

Digging twenty-two miles, at \$20,000 a mile,	-	-	-	-	\$440,000 00
Eighteen locks, at \$10,000 each,	-	-	-	-	180,000 00
(The whole lockage, being one hundred and forty-eight feet, would, at \$1250 a foot, amount to \$185,000 00.)					
Feeder, (nearly completed) reservoirs, lock at the feeder, purchase of water rights and land, including a debt of _____ dollars, due by the company,	-	-	-	-	230,000 00
					<u>850,000 00</u>

The interest on which sum at 6 per cent. is \$51,000.

The capital originally subscribed amounted to \$400,000, divided into two thousand shares of two hundred dollars each. One-half of these has been forfeited, after a small payment of five dollars on each share; \$100,000 paid by the other stockholders have been expended in preparatory measures in the purchase of water rights, and in digging the feeder, which was considered as the most difficult part of the work; \$750,000 are still wanted to complete the work, of which sum \$100,000 are payable by the stockholders, and the deficiency of \$650,000 must be drawn from other sources.

#### IV. CHESAPEAKE AND ALBEMARLE.

1. The shortest communication between the Chesapeake and Albemarle sound is from North Landing, at the head of the tide of Northwest river, which empties into Currituck inlet, the easternmost arm of Albemarle to either Kempsville or Great Bridge, at the head of the tide of two different branches of the south branch of Elizabeth river, which, passing by Norfolk, unites at Hampton Roads with James river and the Chesapeake. The distance is stated at seven miles, and the levels said to be favorable. It is believed that the principal reason why this communication has not been attempted is, a bar in Currituck inlet, which does not admit the passage of vessels drawing five feet water.

2. A company incorporated by the States of Virginia and North Carolina, for opening a canal through the Dismal Swamp, has made considerable progress in the work.

The canal extends twenty-two miles in length from Deep creek, a branch of the south branch of Elizabeth river, seven miles above Norfolk to Joyce's creek, a branch of Pasquotank river, a northern arm of Albemarle sound. Vessels drawing eight to nine feet water may ascend both creeks to each extremity of the canal.

The intervening ground along the eastern margin of the Dismal Swamp is almost level; the rise towards the middle not exceeding two feet above the two extremities, which are only eighteen feet and nine inches above tide water. The digging is very easy; the only obstacles arise from the stumps and roots of trees, and are nearly overcome; and a single aqueduct, or rather culvert, over a small run emptying into the Northwest river, is necessary.

The swamp itself supplies, at the depth at which the canal is cut, the water which has heretofore been wanted, and a sufficient supply may be drawn by a feeder of three miles and a half in length, cut through a perfect level from Lake Drummond, a natural reservoir in the centre of the swamp, of fifteen miles in circumference, and about six feet higher than the water in the canal.

The canal, as cut by the company, is twenty-four feet wide, and six feet deep, with one bank on the west side for a towing path, eighteen feet broad. The whole digging, with the exception of two miles, which must be deepened three feet, and of three-quarters of a mile in another place not entirely finished, has been completed. The locks at the two extremities of the canal are not built, but two have been erected at some distance from each extremity, probably in order to save some digging in the intervening space; they are made of square Juniper logs, and have cost only three hundred dollars each.

The expense of digging has not exceeded four thousand dollars a mile; the whole capital expended amounts to one hundred thousand dollars, of which the State of Virginia has furnished seventeen thousand five hundred; and it is stated that the whole work may be completed in one year, and will not, including the locks and the payment of some debts contracted by the company, exceed twenty-five thousand dollars. But the canal which, by the original act of incorporation, was to be thirty-two feet wide and eight feet deep, can, on its present plan, be considered only as a local object, the principal utility of which consists in bringing to market the otherwise useless lumber of the swamp. The only boats which navigate it are flats, forty feet long, six feet wide, drawing two feet of water, and carrying eight thousand shingles.

It must, in order to become a national object, be capable of receiving vessels which navigate Albemarle sound, and for that purpose be restored to its first intended dimensions, or rather be widened and deepened on the plan adopted for the Chesapeake and Delaware canal. The expense would be as follows:

Digging, viz: deepening to 8 feet, preserving the same level the whole way, and widening to a proper breadth, 22 miles, at eight thousand dollars a mile,	-	-	-	-	176,000 00
Four stone locks, at ten thousand dollars,	-	-	-	-	40,000 00
Feeder to Lake Drummond, aqueduct, and contingencies,	-	-	-	-	34,000 00
					<u>\$250,000 00</u>

3. The last mentioned canal is in the most direct line of the communication through Albemarle to Pamlico sound, and the adjacent southern sounds. It has been objected that the navigation of Pasquotank river was intricate, and that it would be more advantageous to open a communication with Chowan river, which, passing by Edenton, and then uniting with the Roanoke, forms Albemarle sound.

A company was incorporated for that purpose, but the capital was not filled, and no other operation performed but surveying the ground. The intended canal on that route would commence at Suffolk on Nansemond

river, which empties into James river, a few miles above and west of the mouth of Elizabeth river, and passing along the western margin of the Dismal Swamp would reach, at a computed distance of thirty miles, Gates' court house on Bennet's creek, a branch of Chowan river, which vessels-drawing ten feet of water may ascend to that spot.

The highest intermediate ground is twenty-eight feet above tide water, and, consequently, higher than the surface of Lake Drummond. But Bennet's creek and Curripeake swamp were considered as affording a sufficient supply of water. Should this prove adequate the principal objection to this route will be, that the canal lands at Suffolk instead of Norfolk. This consideration, and the capital already expended on the canal from Elizabeth river to Pasquotank, seem to give a preference to this course. To which may be added, that if it be preferable to strike the waters of Chowan river, a lateral canal may be hereafter opened along the southern margin of the Dismal Swamp, from the southern extremity of the Elizabeth and Pasquotank canal, to Bennet's creek or Edenton. Whatever route may, after a critical examination of the ground, be thought the most eligible, the opening of this communication will be more easy and less expensive than either of the three northern canals.

The following table is a recapitulation of the distance to be cut on the whole line, and of the estimated expense:

Canals.	Direction.	Distance.	Lockage.	Expense.
		Miles.	Feet.	
Massachusetts canal, - - -	Weymouth to Taunton, -	26	260	\$1,250,000 00
New Jersey canal, - - -	Bruaswick to Trenton, -	28	100	800,000 00
Delaware and Chesapeake canal, -	Christiana to Elk, -	22	148	750,000 00
Chesapeake and Albemarle canal, -	Eliz. river to Pasquotank,	22	40	250,000 00
Total, - - -	- - -	98	548	\$3,050,000 00

#### COMMUNICATIONS BETWEEN THE ATLANTIC AND WESTERN WATERS.

The Appalachian mountains, to use an ancient generic denomination, extend in a direction west of south, from the 42d to the 34th degree of north latitude, approaching the sea, and even washed by the tide in the State of New York, and thence in their southerly course gradually receding from the sea-shore. Viewed as a whole, their breadth may be estimated at one hundred and ten miles, and they consist of a succession of parallel ridges, following nearly the direction of the seacoast, irregularly intersected by rivers, and divided by narrow valleys. The ridge which divides the Atlantic rivers from the western waters, generally known by the name of Alleghany, preserves throughout a nearly equal distance of two hundred and fifty miles from the Atlantic Ocean, and a nearly uniform elevation of three thousand feet above the level of the sea.

Those mountains may, however, be perhaps considered as consisting of two principal chains; between these lies the fertile limestone valley, which, although occasionally interrupted by transversal ridges, and, in one place, by the dividing or Alleghany ridge, may be traced from Newburgh and Esopus on the Hudson river to Knoxville on the Tennessee.

The eastern and narrowest chain is the Blue Ridge of Virginia, which, in its northeast course, traverses, under various names, the States of Maryland, Pennsylvania, and New Jersey, forms the high lands broken at West Point by the tide of the Hudson, and then uniting with the Green mountains, assumes a northerly direction, and divides the waters of the Hudson and Lake Champlain from those of Connecticut river. On the borders of Virginia and North Carolina, the Blue Ridge is united by an inferior mountain with the great western chain, and thence, to its southern extremity, becomes the principal or dividing mountain, discharging eastwardly the rivers Roanoke, Pedee, Santee, and Savannah into the Atlantic Ocean; southwardly, the Chatahoocbee and the Alabama into the Gulf of Mexico; and westwardly, the New river and the Tennessee. The New river, taking a northwardly course, breaks through all the ridges of the great western chain, and, at a short distance beyond it, unites, under the name of Kanhawa, with the Ohio. The Tennessee pursues at first a southwest direction between the two chains, until having reached, and in a westwardly course turned, the southern extremity of the great western chain, it assumes a northwardly direction, and joins its waters with those of the Ohio, a few miles above the confluence of that river with the Mississippi.

The western chain, much broader, and generally more elevated, is known under the name of Cumberland and Gauley mountains, from its southern extremity near the great bend of the Tennessee river, until it becomes in Virginia the principal or dividing mountain; thence, in its northerly course, towards the State of New York, it discharges westwardly the Green Briar river, which, by its junction with the New river, forms the Kanhawa, and the rivers Monongahela and Alleghany, which, from their confluence at Pittsburg, assume the name of Ohio. Eastwardly it pours into the Atlantic Ocean James river, the Potomac, and the Susquehannah. From the northernmost and less elevated spurs of the chain, the Genesee flows into Lake Ontario; and in that quarter, the northerly branches of the Susquehannah seem to take their source from amongst inferior ridges, and, in their course to the Chesapeake, to break through all the mountains. From the Susquehannah the principal chain assumes a more eastwardly direction, and washed on the north by the lateral valley of the river Mohawk, whilst it gives rise southwardly to the Delaware, it terminates under the name of Catskill mountain, in view of the tide water of the Hudson.

This description has been introduced for the double purpose of pointing out all the rivers which can afford the means of communication, and of showing the impracticability, in the present state of science, of effecting a canal navigation across the mountains.

The most elevated lock canal, of which a correct description has been given, is that of Languedoc; and the highest ground over which it is carried is only six hundred feet above the sea. It is not believed that any canal has been undertaken, or at least completed in England, of an elevation exceeding four hundred and thirty feet above the waters united by it. The Alleghany mountain is generally, and from observations made in several places, about three thousand feet above the level of the sea. The precise height of the dividing ridge was ascertained by the commissioners who laid out the United States road from Cumberland on the Potomac, to Brownsville on the Monongahela, at two thousand two hundred and sixty feet above the first, and at two thousand one hundred and fifty feet above the last river. Cumberland, from the levels taken by the Potomac company, is itself seven hundred and thirty-five feet above tide water. Although some more advantageous and less elevated places may be found, particularly amongst the ridges which divide some of the upper branches of the Susquehannah from the corresponding streams emptying into the river Alleghany, there is none which is not of an elevation much beyond what has ever been overcome by canals in any other country. The impracticability arises from the principle of lock navigation, which, in order to effect the ascent, requires a greater supply of water in proportion to the height to be ascended,

whilst the supply of water becomes less in the same proportion. Nor does the chain of mountains, through the whole extent where it divides the Atlantic from the western rivers, afford a single pond, lake, or natural reservoir. It may be added, as a general feature of American geography, that except in the swamps along the southern seacoast, no lake is to be found in the United States south of 41° north latitude; and that almost every river north of 42° issues from a lake or pond.

The works necessary in order to facilitate the communications from the sea-ports across the mountains to the western waters, must, therefore, consist either of artificial roads extending the whole way from tide water to the nearest and most convenient navigable western waters; or of improvements in the navigation of the leading Atlantic rivers, to the highest practicable points, connected by artificial roads across the mountains, with the nearest points from which a permanent navigation can be relied on down the western rivers.

The principal considerations in selecting proper directions for those communications are the distance from the navigable western waters, both to tide water, and to the nearest navigable Atlantic river, and the extent of navigation, either natural or susceptible of improvement, which may be afforded by the rivers; distance alone is mentioned, so far as relates to roads, because the mountains, however insuperable for canals, offer no important impediment to land communications. So far from being an insurmountable barrier to commercial intercourse between the two great sections of the Union, it is now ascertained that those mountains may, almost in every direction, be crossed by artificial roads as permanent, as easy, and less expensive than similar works in the lower country; for Congress having, contrary to current opinion, directed that the road from Cumberland to Brownsville should be laid out so that its ascent should not in any place exceed an angle of five degrees with the horizon, no difficulty has been experienced in effecting the object without cutting through hills; and, although the road thus laid out be, in a distance of seventy-two miles, two or three miles shorter than that heretofore in use.

Although the distance from the sea to the principal dividing mountain, through its whole length, between the western sources of the Susquehannah and those of the Savannah, be nearly the same, yet the Atlantic bays penetrating the coast at different depths and in different directions, the distance from the sea-ports to the nearest western navigable waters varies considerably. Taken in straight lines from each port to the nearest branch, beyond all the mountains of each of the four great western rivers, they may be stated as follows:

From Philadelphia to the confluence of Conemaugh and Loyalhannon, branches of the Allegany, -	miles, 220
From the city of Washington to the confluence of the rivers Monongahela and Cheat, -	150
From Richmond to Morris's on the Kanhawa, below all the falls of that river, -	210
From Savannah or Charleston to any navigable branch of the Tennessee, the distance exceeds -	300

The distance from the same western points to the upper navigation of the corresponding Atlantic rivers cannot be stated with precision, as the upper points, to which the navigation of these rivers may be improved, are not yet ascertained. The shortest portage between the waters of the Potomac and those of the Monongahela, in their natural state, from West Point on the Potomac to Cheat river below the falls, is about fifty miles in a straight line; but, in order to secure a tolerable navigation, particularly on the Potomac, the route from Cumberland to Brownsville (Red Stone Old Fort) has been preferred, and the distance by the road lately laid out is seventy-two miles. The portage between the north fork of the Juniata, a branch of the Susquehannah, and the corresponding waters of the river Allegany is somewhat shorter. That between Pattonborough, on James river, and the falls of the Kanhawa, exceeds one hundred miles.

The most prominent, though not perhaps the most insuperable obstacle in the navigation of the Atlantic rivers, consists in their lower falls, which are ascribed to a presumed continuous granite ridge, rising about one hundred and thirty feet above tide water. That ridge from New York to James river inclusively arrests the ascent of the tide; the falls of every river within that space being precisely at the head of the tide; pursuing thence southwardly a direction nearly parallel to the mountains, it recedes from the sea, leaving in each southern river an extent of good navigation between the tide and the falls. Other falls of less magnitude are found at the gaps of the Blue Ridge, through which the rivers have forced their passage. Higher up, the rapidity of the northern rivers, which penetrates through the inferior ridges of the great western chain, increases as they approach the dividing or Allegany mountain, and their sources being nearly at the same elevation, their rapidity increases in proportion to the shortness of their course. For that reason the navigation of the Susquehannah, above the Blue Ridge, is better than that of the Potomac, which affords, as has been stated, the shortest communication from tide water to the nearest western river. The levels of the last mentioned river having been taken by the Potomac company, the general result is annexed, as giving a more correct idea of the navigation of the Atlantic rivers than could be conveyed in any other manner:

	Distance.	Fall.	Rate of Fall.
From the mouth of Savage river down to Cumberland, - - - - -	31 miles,	445 feet,	14½ feet per mile.
Thence to the Blue ridge, - - - - -	130½ do.	490 do.	4 do.
Harper's Ferry or Shenandoah Falls, - - - - -	5½ do.	43 do.	
Thence to Great Falls, - - - - -	40 do.	39 do.	1 do.
Great and Little Falls to tide water, - - - - -	12 do.	143 do.	
Total, -	219 miles,	1,160 feet.	

The papers, marked C; contain the information which has been collected respecting the works executed or contemplated on the great rivers already enumerated. It has not been understood that any improvements of importance had been yet attempted on the Savannah and Pedee, nor on any of the tributary streams of the Ohio; and the communications received under this head relate only to the Santee, Roanoke, James river, Potomac, Susquehannah, and Ohio.

#### I. SANTEE.

The Santee or Catawba is said to be occasionally navigable for near three hundred miles as high up as Morgantown, in North Carolina. Two companies have been incorporated by that State and the State of South Carolina, for the purpose of improving its navigation. The Lower Falls are above Camden, and not far from the arsenal of the United States at Mount Rock. A canal had been commenced there, but, either from want of success in the

commencement, or from want of funds, the work appears to be suspended. The market for the produce brought down that river is Charleston; and the river boats were obliged, at the mouth of the river, to enter the sea, and to reach that port by a navigation along the sea-shore for which they were not calculated. To remedy that inconvenience, and to ensure a permanent navigation, a canal has been opened by another company, uniting the Santee with Cooper river, which empties into the harbor of Charleston.

The distance between the points united is twenty-two miles; the highest intervening ground was fifty-two feet above the Santee, and eighty-five feet above the river Cooper; but it has been reduced seventeen feet by digging. The descent to Santee being thirty-five feet, effected by four locks, and that to Cooper sixty-eight feet, effected by nine locks.

The principal supply of water is afforded by springs arising from the marshy ground at the bottom of the canal, and by several drains which collect and bring from an adjacent swamp the sources of the river Cooper. The quantity is said to be seldom deficient; yet a steam engine has been contemplated as perhaps necessary in order to raise from the Santee an adequate supply.

The canal was carried over some small streams by means of aqueducts; inconsiderable ravines have been filled, and the ground was dug in some places to the depth of sixteen feet in order to preserve the level. But it appears that the roots of trees were the greatest obstacle encountered in digging the canal. Its breadth is twenty feet at the bottom, and thirty-five feet at top; the depth of the water is four feet, and it admits boats of twenty tons. The locks made of brick, faced with marble, are sixty feet long and ten feet wide.

The capital expended is stated at \$650,667, including sixty negroes and some tracts of land belonging to the company. The canal has been completed six years; the annual tolls had never exceeded \$13,000 before the year 1807, and the annual expenses are stated at \$7,000. The want of success in this undertaking, which, though completed is very unprofitable, may be ascribed to several causes. The expense, compared with the work, is much greater than might have been expected, and probably than was necessary. The locks are too small for large boats, which are therefore obliged to pursue the former route down the Santee, and by sea to Charleston; and the want of water is alleged as a sufficient reason for the size of the locks. But a canal in that situation cannot, in America, be profitable, unless the navigation of the main river with which it communicates is rendered safe and permanent; and whenever that of the Santee itself shall have been improved, the utility and profits of the canal will be considerably increased.

## II. THE LOWER OR GREAT FALLS OF ROANOKE,

Consist in a succession of rapids, which, in a distance of fifteen miles, have a fall of ninety-three feet. This obstruction is such that almost all the tobacco of that river is transported by land to Petersburg, on the Appomatox branch of James river. A canal has been contemplated from the upper end of the falls to Murfreesborough, situated on the tide water of a branch of Chowan river, twenty-five miles above the mouth of Bennet's creek, which has been before mentioned as one of the lines of communication between Albemarle sound and the Chesapeake. The level is said to be favorable without any obstructions or valleys in the way. The distance is thirty-eight miles, and the expense of a small canal for boats drawing two feet and a half of water may be estimated as follows:

Digging thirty-eight miles, at \$6,000 a mile,	-	-	-	\$228,000
Lockage ninety-three feet, at \$800 a foot	-	-	-	74,400
Feeder, land, &c.	-	-	-	47,600
				<hr/>
				\$350,000

The capital for this canal has never been subscribed, and it has been suggested that it would be practicable to open one to Petersburg. It is not believed that any hills intervene in that course; and the greatest obstacle will be found in crossing the branches of Chowan river.

## III. JAMES RIVER.

A company, incorporated by the State of Virginia for the improvement of the navigation of the river generally, has removed some obstructions in the upper part of the river, and is bound by the charter to render it so far navigable that there may never be less than twelve inches of water over any of the shoals or rapids, from the upper end of the Lower or Great Falls to Pattonborough, a distance of two hundred and twenty miles. The natural navigation of the river through that extent is considered as better than that of any other Atlantic river above the falls.

A communication has been opened by the company from Westham, at the upper end of the Great Falls, to Shockoe hill, in the city of Richmond, in the following manner: The water is drawn at Westham from the river into a canal two hundred yards in length, at the end of which boats descending thirty-four feet through three locks re-enter the river, and, after using its natural navigation three miles, are brought by a canal three miles and a half in length to a basin on Shockoe hill, where the navigation terminates.

That basin is about eighty feet above tide water, and one mile and a half from Rockets, the port of Richmond. The whole fall from the upper end of the canal at Westham to the basin may be stated at forty-eight feet, and the distance at six miles and a half. The canal is twenty-five feet wide, and admits boats of eight tons drawing three feet water. The locks, eighty feet long and sixteen feet wide, are of solid masonry; but the cement is defective. The aqueducts have been thrown across valleys intervening in the course of the canal, and some difficult digging was necessary on the side of the hills and through ledges of rocks.

The canal, according to the charter, was intended to have been brought down to tide water. The performance of that condition is now suspended by an act of the Legislature of Virginia, and there seems to be a considerable diversity of opinion on that subject. In a national point of view, the plan which will, at the least expense, put coals on board vessels lying at Rocket's, deserves the preference. For coal is in no other parts of the United States found in abundance in the vicinity of tide water. At present the expense of transportation by the canal is already reduced to one-third of the land carriage.

The original capital of the company amounted to \$140,000, of which the State of Virginia owns \$50,000, and \$91,000 arising from the proceeds of tolls had, before the 1st January, 1805, been applied to the work, making together an expenditure of \$231,000. The annual tolls raised on fourteen thousand tons of country produce, and on two thousand coal boats, have amounted to \$16,750; and the annual repairs and expenses are estimated at \$5,000. But as the company draw also a revenue from the rent of water, applied to mills and other water-works erected along the canal, they have been able in some years to make dividends of \$16,800, being at the rate of twelve per cent. on the original capital, but of only about seven per cent. if calculated on the sum of \$244,000, the amount of capital expended, and interest accrued before any dividend was made.

## IV. POTOMAC.

The company incorporated by the States of Maryland and Virginia for improving the navigation of that river has executed the following works:

1. At a distance of twelve miles above the head of the tide which ascends about three miles above the city of Washington, the river is one hundred and forty-three feet higher than tide water. At that place, designated by the name of *Great Falls*, the boats passing through a canal one mile in length, six feet deep, and twenty-five feet wide, descends seventy-six feet by five locks, one hundred feet long, and twelve feet wide each, and re-entering the river, follow its natural bed eight miles and a half. Another canal, of the same dimensions, and two miles and a half in length, brings them then through three locks, and by a descent of thirty-seven feet to tide water. This last fall is distinguished by the name of *Little Falls*. The two lower locks of the *Great Falls*, excavated out of the solid rock, have each a lift of eighteen feet: the three upper locks of solid masonry are of unequal height, and have, together, a lift of forty feet. The three locks of the *Little Falls* are each one hundred feet in length, and eighteen feet wide. That breadth is unnecessary, and consumes too much water, a defect which will be remedied when stone locks will be substituted to those now in use, which, being of wood, will soon be decayed.

Three other canals without locks have been opened around three distinct falls: the principal at the *Shenandoah Falls*, below *Harper's Ferry*; and at the place where the *Potomac* breaks through the *Blue Ridge* is one mile in length around a fall of fifteen feet. Between this and the *Great Falls* another canal three-fourths of a mile in length is opened around the *Seneca Falls*. The third, fifty yards in length, has been cut around *Houres Falls*, five miles above the *Shenandoah Falls*. Above this place the navigation has been improved by deepening occasionally the channel, raising the water in shallow places by small dams, and opening sluices along the shore. It is believed that, by multiplying the number of those low dams, by throwing the channel along the shore, and when necessary opening canals with or without locks around the principal rapids, the navigation may be improved perhaps as high up as *Cumberland*, one hundred and eighty-eight miles above tide water, to such a degree as to render the river passable for boats the greater part of the year. And if this be found practicable on the *Potomac*, which is the most rapid of the great *Atlantic* rivers, the same improvements may, with greater facility, be effected on any of the others. It will be indispensable in order to attain that object on the *Potomac*, that additional canals with locks should be opened at the *Shenandoah* or *Blue Ridge Falls*, which, as has already been stated, fall forty-three feet in the distance of five miles.

2. The *Shenandoah*, a river nearly as large as the *Potomac* itself, after a course of two hundred and fifty miles through the great *Limestone* valley, unites its waters with those of the *Potomac* at *Harper's Ferry*, just above the *Blue Ridge*. From *Port Republic*, till within eight miles of the *Potomac*, a distance of near two hundred miles, it affords a good navigation, the fall of the river being at the rate of less than two feet a mile. In the last eight miles it falls eighty feet, and was impassable before the improvements, completed last year by the *Potomac* company. Six different canals twenty feet wide, four feet and a half deep, and extending altogether two thousand four hundred yards, have been opened around the most difficult falls. Through those and five stone locks one hundred feet long and twelve feet wide each, and effecting together a descent of near fifty feet, the communication is now opened, and will render the undertaking much more productive than heretofore. The water in all those canals and locks, as well as in those executed on the *Potomac*, is uniformly supplied by the river itself.

The capital originally subscribed amounted to \$311,560, divided into seven hundred and one shares, of which the State of *Maryland* owns two hundred and twenty, and the State of *Virginia* seventy. The total amount expended, including an additional payment received from late subscribers, \$38,000, arising from tolls which have been applied to the work, and a debt of about \$67,000 contracted by the company, amounts to \$444,652. The annual tolls raised on eight thousand tons of sundry articles, valued at more than half a million of dollars, have not before the opening of the *Shenandoah* exceeded \$15,000; and the annual expenses and repairs are stated at \$5,000. One hundred shares of £145 sterling each remain open for subscription.

## V. SUSQUEHANNAH.

This river has no perpendicular or altogether impassable falls; but, from the head of the tide up to the *Pennsylvania* line, a distance of ten miles, the navigation is impeded by a succession of dangerous rapids; and these, though occasionally separated by sheets of smooth water, continue forty miles higher up, at least as far as *Columbia*; the whole fall from this place to the head of the tide being estimated at about one hundred and forty feet. The navigation, through that distance, at all times dangerous, is practicable only during the high freshets, when rafts and flat bottomed boats, eighty feet long and seventeen feet wide, may descend from the several widely extended upper branches of the river. Less dangerous falls are found at the place where it breaks through the *Blue Ridge*; above which the natural navigation from *Middletown* upwards, whether up the *Juniata*, the west branch, or the east branch, is much better than that of the *Potomac*, and has been improved in several places at the expense of the State of *Pennsylvania*. A canal one mile long and four feet deep, with two brick locks, has also been opened around the *Conewago Falls* in the gap of the *Blue Ridge*, \$14,000 having been paid for that object by the same State. Its entrance is difficult, and it is used for water works, being free for navigation, though private property. From *Columbia* down to the *Maryland* line considerable improvements in the bed of the river have also been made at the expense of the two States, and the descending navigation has, on the whole, been improved: but few boats ever attempt to ascend. Nor is it believed that the natural advantages of the most considerable *Atlantic* river will ever be fully enjoyed until a canal shall have been opened the whole way from *Columbia*, either to tide water or to the *Delaware* and *Chesapeake Canal*.

A company incorporated by the State of *Maryland* for opening a canal around the falls in that part of the river which extends from the *Pennsylvania* line to tide water, has completed that part of the work, the utility of which is but very partially felt, whilst the bed of the river remains the only communication from its upper extremity up to *Columbia*.

The canal, thirty feet wide and three feet deep, and admitting boats of twenty tons, is nine miles in length, with a fall of fifty-nine feet. The descent is effected by eight stone locks, each of which is one hundred feet in length and twelve feet wide. The water is supplied by the river itself; and, in order to cross the rivers *Conawingo* and *Octorara*, these, by means of dams, have been raised ten and twelve feet to the level of the canal.

Its defects consist in the want of sufficient breadth of the locks, which do not admit the rafts and wide flat bottomed boats generally used in bringing down the country produce, and in want of water at the lower end of the canal. This last defect may be remedied by extending the canal seven hundred yards lower down along the edge of the river; and it is probable that as timber will become more scarce and valuable in the upper branches of the *Susquehanna*, boats of a different construction will be used. In the mean time the annual tolls have not yet amounted to \$1,000, whilst the annual expenses are stated at \$1200, and the capital expended at \$250,000.

The attempts made to open a communication from Middletown, in the Limestone valley, to Philadelphia, partly by canals, and partly by means of the Schuylkill, will be noticed under the head of "Interior Canals."

VI. OHIO.

The navigation of the Kanhawa and of the eastern branches of the Tennessee, Monongahela, and Allegany, in their course through the mountains, may at a future period be improved. But, from the foot of the mountains, all those rivers, and particularly the Ohio, flow with a much gentler current than the Atlantic rivers, a circumstance easily accounted for when it is recollected that Brownsville, on the Monongahela, and at a distance of two thousand miles by water from the sea, is only one hundred and fifteen feet more elevated than Cumberland, on the Potomac; whilst this river, with all its meanders, reaches tide water within less than two hundred miles. All those rivers at the annual melting of the snows rise to the height of more than forty feet, affording from the upper points to which they are navigable a safe navigation to the sea for any ship that can pass over the bar at the mouth of the Mississippi. As early as the year 1793, a schooner, built on the Monongahela, between Brownsville and Pittsburg, reached New Orleans by that extraordinary inland navigation, and arrived safely at Philadelphia. This first essay stimulated the spirit of enterprise so conspicuous in the American character, and numerous vessels, from one hundred to three hundred and fifty tons burden, are now annually built at several shipyards on the Ohio, even as high up as Pittsburg, and bringing down to New Orleans the produce of the upper country consumed there, carry to Europe and to the Atlantic ports of the United States the cotton, the sugar, and the tobacco of Louisiana and of the States of Tennessee and Kentucky.

That branch of national industry gives value to the immense forests of the Ohio and of its numerous branches, and will soon make a considerable, and perhaps necessary accession to the shipping of the United States, and has a tendency to diminish the price of freights from New Orleans to the other American and to foreign ports. The importance of this last consideration will be duly felt, if the magnitude of the exports of which New Orleans is destined to be the emporium, be contrasted with the probable amount of its importations; for such are the labor, time, and expense necessary to ascend the rapid stream of the Mississippi, (and the nature of its banks, annually overflowed on a breadth of several miles, precludes the possibility of towing paths,) that, whilst the greater part of the produce of the immense country, watered by that river and its tributary streams, must necessarily be exported through its channel, the importations of a considerable portion of that country will continue to be supplied from the Atlantic seaports, by water and land communications, susceptible of considerable improvement; and thus, unless another outlet be found for a portion of the exports, or unless the upper country can supply vessels, those exports must necessarily pay a double freight.

The only impediments to that navigation are on the Tennessee, "the Muscle shoals," of which no particular account has been received, and on the Ohio, the falls of Louisville. Ordinary boats can with difficulty pass these in summer, and the navigation is, even during the freshets, dangerous for the large vessels. The attention of the Legislature of Kentucky, and of the inhabitants of the Western country, generally, has, therefore, been particularly drawn to the opening of a canal at that place. A company has been lately incorporated by the State of Kentucky for that purpose, with a capital which may amount to \$500,000, but a small portion of which has yet been subscribed. The expense, however, is estimated at a sum less than the nominal capital.

The proposed canal would be near two miles in length, and must be dug, in some places, to a depth of twenty-seven, but generally about sixteen feet. The breadth at the bottom being twenty feet, with the necessary slope, would make it, generally, sixty-eight feet wide at top, and, in particular places, not less than one hundred. The fall at low water is about twenty-two feet, and would require three locks, of dimensions sufficient to pass ships of four hundred tons, and drawing fourteen feet of water. The greatest expense will be that of digging, and removing the earth, which may be estimated at four hundred thousand cubic yards, and, according to the representation made of the nature of the ground, will not probably cost more than \$200,000. To this may be added \$100,000 for the locks and other necessary works, making, altogether, \$300,000. The greatest difficulty seems to be the protection of the locks and canals against the rise of the river, which sometimes overflows the whole ground through which the canal must be opened.

The expense of the improvements suggested in the communications between the Atlantic and Western waters may be stated as follows:

1st. Four artificial roads from the four great Western rivers, the Allegany, Monongahela, Kanhawa, and Tennessee, to the nearest corresponding Atlantic rivers, the Susquehannah or Juniata, the Potomac, James river, and either the Santee or Savannah, leaving to the several States the continuation of those roads eastwardly to the nearest seaports. Those roads should unite on each river points from which a permanent and safe navigation downwards could, except during the driest season, be relied on; and will, therefore, on each route, be estimated at one hundred miles, making, altogether, four hundred miles, which, at \$7,000 a mile, the materials being generally on the spot, would cost	\$2,800,000
2dly. The improvement of the navigation of the four Atlantic rivers, from tide water to the highest practicable point, effected, principally, by canals around the falls wherever practicable, and by locks wherever necessary. The most expensive of these would be the proposed canal from Columbia, on the Susquehannah, either to tide water or to the Delaware and Chesapeake canal; and, considering how much has been effected already, and may still be done on the other rivers, by the several incorporated companies, it is believed that every useful improvement might be completed by a public expenditure not exceeding	1,500,000
3dly. The canal at the falls of the Ohio, estimated at	300,000
	\$4,600,000

Although a canal navigation, uniting the Atlantic and Western waters in a direct course across the mountains, appears impracticable, yet those mountains may be turned either on the north, by means of the Mohawk valley and of Lake Ontario, or on the south, through Georgia and the Mississippi Territory. The first communication will be noticed under the head of "the river St. Lawrence and Great Lakes." Of the second it will be sufficient to observe that the country lying between the sources of the rivers Chatahoochee and Mobile, and the Gulf of Mexico, is an inclined plane, regularly descending towards the sea, and that, by following the proper levels, it presents no natural obstacle to the opening of a canal, fed by the waters of the two last-mentioned rivers, and extending from the tide water on the coast of Georgia to the Mississippi. The distance, in a direct line, is about five hundred and fifty miles, and, to be overcome, requires only time, perseverance, and labor. When it is recollected that such an undertaking would discharge the Mississippi into the Atlantic, the remarks already made on the trade of

that river, and other obvious considerations, will sufficiently point out its immense importance. Nor should the plan, on account of its magnitude, be thought chimerical; for the elevation and other natural obstacles of intervening ground, or want of a sufficient supply of water, and not distance, are the only insuperable impediments to an artificial navigation.

This work, which is presented, not as an immediate, but as a distant object, worthy of consideration, would probably require ten millions of dollars and thirty years for its completion. The annual sales of the public lands in the Mississippi Territory, which are estimated at fifty millions of acres, would, after paying the debt due to the State of Georgia, afford sufficient funds; and the increased value of the residue would alone more than compensate the expense.

It is proper to add that an inland navigation, even for open boats, already exists from New Orleans, by the canal Carondelet, to the lake Pontchartrain, thence, between the coast and the adjacent islands, to the bay of Mobile, and up its two principal rivers, the Alabama and the Tombigbee, to the head of the tide, within the acknowledged boundaries of the United States. The current of these two rivers being much less rapid than that of the Mississippi, they have long been contemplated, particularly the Tombigbee, as affording a better communication to the ascending or returning trade from New Orleans to the waters of the Tennessee, from which they are separated by short portages.

#### COMMUNICATIONS BETWEEN THE ATLANTIC RIVERS AND THE RIVER ST. LAWRENCE AND GREAT LAKES.

Vessels ascend the river St. Lawrence from the sea to Montreal. The river Sorel discharges at some distance below that town the waters of Lake George and Lake Champlain, which penetrate southwardly within the United States. From Montreal to Lake Ontario, the ascent of the river St. Lawrence is estimated at about two hundred feet. From the eastern extremity of Lake Ontario, an inland navigation for vessels of more than one hundred tons burthen, is continued for more than one thousand miles, through Lakes Erie, St. Clair, and Huron, to the western and southern extremities of Lake Michigan, without any other interruption than that of the falls and rapids of Niagara, between Lake Erie and Lake Ontario. The descent from Fort Schlosser to Devil's Hole, a distance of four miles, which includes the perpendicular falls of Niagara, has, by correct measurement, been ascertained at three hundred and seventy-five feet. The whole fall from Lake Erie to Lake Ontario is estimated at four hundred and fifty feet, making the elevation of Lake Erie above tide-water six hundred and fifty feet.

Lake Superior, the largest of those inland seas, communicates with the northern extremity of Lake Huron, by the river and rapids of St. Mary's. The fall of these is not ascertained; but it is said that a small canal has been opened around the most difficult part by the Northwest Fur Company.

Five of the Atlantic rivers approach the waters of the St. Lawrence; viz: The Penobscot, Kennebeck, Connecticut, the North or Hudson river, and the Tioga branch of the Susquehannah. This last river will afford a useful communication with the rivers Seneca and Genesee, which empty into Lake Ontario. The length of the portage has not been precisely stated; and the general navigation of the Susquehannah has already been noticed. It may, however, be observed, that it is the only Atlantic river whose sources approach both the Western waters and those of the St. Lawrence.

The three Eastern rivers afford convenient communications with the province of Lower Canada, but not with that extensive inland navigation which penetrates through the United States, within two hundred miles of the Mississippi. No statement has been received of any improvement having yet been made on the Penobscot or Kennebeck; and a very imperfect account has been obtained of some short canals opened around the several falls of the river Connecticut. One at Bellows' Falls, in the State of Vermont, has been particularly mentioned, and is the highest improvement on the river.

What is called the North river is a narrow and long bay, which in its northwardly course from the harbor of New York breaks through or turns all the mountains, affording a tide navigation for vessels of eighty tons to Albany and Troy, one hundred and sixty miles above New York. This peculiarity distinguishes the North river from all the other bays and rivers of the United States. The tide in no other ascends higher than the granite ridge, or comes within thirty miles of the Blue Ridge, or Eastern chain of mountains. In the North river it breaks through the Blue Ridge at West Point, and ascends above the Eastern termination of the Catskill, or great Western chain.

A few miles above Troy, and the head of the tide, the Hudson from the north, and the Mohawk from the west, unite their waters, and form the North river. The Hudson, in its course upwards, approaches the waters of Lake Champlain, and the Mohawk those of Lake Ontario.

#### I. HUDSON AND CHAMPLAIN, OR NORTHERN NAVIGATION.

A company was incorporated several years ago by the State of New York, for the purpose of opening this communication, and a survey taken by Mr. Weston, a copy of which has not yet been obtained. From collateral information, it appears that it was proposed to open a canal twelve miles long, with a lockage of one hundred and six feet, from Waterford, at the confluence of the Hudson and Mohawk, to the upper end of the great falls of Stillwater. This was considered as the most difficult part of the whole route, and the expense estimated at \$275,000. Another canal and lock would be necessary around the falls of Fort Miller; but the remainder of the navigation up the Hudson to Fort Edward does not require any material improvement.

At some distance above Fort Edward, it was intended to connect, by a canal and locks, the Hudson with the North Wood creek, at Fort Ann. The navigation down the creek to Skeensborough is used, but requires to be improved. At this place, where falls render another canal necessary, North Wood creek empties into the south bay of Lake Champlain, and thence is a natural sloop navigation through the whole extent of the lake. The expense of the works from Fort Edward to Skeensborough had been estimated at \$200,000.

The funds of the company were insufficient, and have, it is said, been expended without much permanent utility at Stillwater and Skeensborough.

The distance in a straight line from Waterford to Skeensborough is fifty miles; and the expense of opening a permanent boat navigation on a proper plan through the whole line is, from imperfect materials, estimated at about \$800,000. This communication would divert to a port of the United States the trade of one-half of the State of Vermont, and of a part of that of New York, which is now principally carried through the channel of the St. Lawrence, and of the province of Canada.



## II. MOHAWK AND ONTARIO, OR WESTERN NAVIGATION.

A company incorporated by the State of New York, for the improvement of this navigation, has made considerable progress, and an accurate survey having been taken of the distances and levels of the greater part of the route, the result will, in the first place, be stated.

	<i>Dist.</i>	<i>Fall.</i>
	Miles.	Feet.
From the tide water at Troy to Lansing mills on the Mohawk, is found the greatest impediment to the navigation of that river, consisting of the Cohoes falls, which are seventy feet perpendicular, and of a succession of other falls, which continue to the North river, -	4 $\frac{3}{8}$	140
From Lansing mills up the Mohawk to Schenectady, the height of the river, at the time when the survey was taken, prevented Mr. Weston from correctly ascertaining the levels. The fall for that distance is therefore estimated at -	12 $\frac{1}{8}$	28 $\frac{1}{2}$
From Schenectady to the Little Falls, -	57 $\frac{1}{2}$	110 $\frac{1}{2}$
The Little Falls, which before the improvements made by the company, interrupted altogether the navigation, -	$\frac{3}{4}$	42
From the Little Falls to Fort Stanwix, now Rome, -	48	59 $\frac{1}{2}$
This is the head of the navigation, and the summit level between it and West Wood creek, a branch of Lake Ontario, is nine feet and three quarters above that part of the river Mohawk, where the navigation ceases, -	1 $\frac{3}{4}$	9 $\frac{3}{4}$
	<u>125</u>	<u>390</u>

The whole course of the Mohawk is therefore one hundred and twenty-five miles in length, and the fall through that distance from the summit level to tide water is three hundred and ninety feet.

At the distance of one mile and three quarters is Wood creek, the bed of which is used to its entrance into Lake Oneida, the distance along its meanders being twenty-three miles, but in the line in which a canal might be cut, only fourteen miles, and the fall sixty feet, -	14	60
The Oneida forms a natural canal of twenty miles in length, and communicates by the Onondago and Oswego rivers with Lake Ontario. The distance by water down those two rivers to Oswego, on Lake Ontario, is sixty-three miles. The upper part of the navigation is generally good, but the last twelve miles from the Oswego falls, which are not passable, to Lake Ontario, are a continued rapid. The fall from Lake Oneida to Lake Ontario has not been ascertained by actual measurement, but is estimated at one hundred and thirty feet. From Rotterdam, on Lake Oneida, to the mouth of Salmon creek on Lake Ontario, a few miles east of Oswego, the distance is twenty-two miles; and the ground being favorable, it is expected that the line of canal would not exceed twenty-six miles, -	20	130
	<u>60</u>	<u>190</u>

The elevation of the summit level between the Mohawk and the waters of Lake Ontario, being only three hundred and ninety feet above the tide water at Troy, and one hundred and ninety feet above Lake Ontario, a canal navigation is practicable the whole distance. Whether this should be attempted for a sloop or boat navigation, must depend principally, if not altogether, on the supply of water. It is stated that the canal from the summit level to Troy must necessarily follow the valley of the Mohawk, and perhaps occasionally enter and cross the river. Calculated for a boat navigation the expense may be estimated as follows:

Mr. Weston estimated the expense of a canal, from Lansing mills to tide water at Troy, around the Cohoes falls, at -	\$250,000
The distance from the summit level to Lansing mill is 120 miles, and to Lake Ontario, deducting the twenty miles occupied by Lake Oneida, forty miles, together one hundred and sixty miles of canal, the digging of which, at \$8000 a mile, is -	1,280,000
The fall from the summit level to Lansing mills is two hundred and fifty feet, and to Lake Ontario, one hundred and ninety feet, together four hundred and forty feet lockage, which will require fifty-five locks of eight feet lift each. These at \$7,500, the cost of the stone locks erected by the company at the Little Falls, will cost about -	420,000
Feeders and aqueducts may be estimated at -	250,000
Making altogether two millions two hundred thousand dollars, -	<u>2,200,000</u>

It is not believed that a sloop navigation, if practicable, could be effected for a less sum than five millions of dollars. The following works have already been completed by the company:

At the Little Falls a canal, three-quarters of a mile in length, has been opened, and a descent of 42 feet effected by six locks of solid masonry, each of which is 70 feet long, and 12 feet wide. At the German flats, four miles above the Little Falls, another canal, one mile in length, with two stone locks of the same materials and dimensions, effects a descent of ten feet.

On the summit level a canal one mile and three quarters in length, and supplied with water from the river Mohawk by a short feeder, unites that river and Wood creek by means of two locks of the same dimensions and materials, one at each extremity of the canal. All those canals are two feet and a half deep, twenty-four wide at bottom, and thirty-two at top, and admit boats of ten tons. It is proper to state, that at first wooden locks had been erected at the Little Falls, and brick locks on the summit canal. At both places, they had become totally unfit for service at the end of seven years, and it was necessary to replace them by stone locks—a circumstance which increased considerably the expense of the undertaking.

Several minor improvements have been made on the Mohawk, and the navigation of Wood creek, of which the principal defect is want of water, has been improved by raising dams, and by the erection of four temporary wooden locks; but until a canal shall have been opened the whole distance from the summit level to Lake Oneida, the navigation will be imperfect and the profits inconsiderable.

The funds of the company do not enable them to undertake the necessary improvements at the two extremities of the line, a canal around the Cohoes Falls to tide water, and another canal from Lake Oneida to Lake Ontario. The usual portage at the first place is from Schenectady to Albany, and a very good and expensive artificial road of sixteen miles, made by another company, unites the two towns. Another company has lately been incorporated



for the purpose of making an artificial road at the other extremity of the line from Rotterdam, on Lake Oneida, to Salmon Creek, on Lake Ontario.

The capital of the company is two hundred and thirty-two thousand dollars, of which the State of New York owns ninety-two thousand. But, with the exception of one dividend of three per cent., all the tolls have been applied to the works; and, including these, and a debt of twenty thousand dollars due by the company, the whole expenditure amounts to three hundred and seventy thousand dollars. The annual tolls do not yet exceed thirteen thousand dollars.

### III. NIAGARA.

The fall from Lake Erie to Lake Ontario has already been stated at four hundred and fifty feet. A company had also been incorporated by the State of New York for the purpose of opening a canal at this place; but it does not appear that any thing ever was attempted after the survey had been made. The intention seems to have been to open a canal navigation for boats only from Fort Schlosser to Devil's Hole; the lake itself and Giles's creek would have supplied the water, and the expense was estimated at four hundred and thirty-seven thousand dollars.

It is, however, evident that the canal, in order to be as eminently useful as the nature of the undertaking seems to require, should be on such scale as to admit vessels which can navigate both lakes. Considering the distance which in that case must be extended to about ten miles, and the lockage of four hundred and fifty feet, it is not believed that the expense can be estimated at less than one million of dollars.

The works necessary to effect water communications between the tide water of the North river, the St. Lawrence, and all the lakes, (Lake Superior only excepted,) are, therefore, estimated at four millions of dollars, viz:

Northern navigation to Lake Champlain,	-	-	-	-	\$800,000
Western navigation to Lake Ontario,	-	-	-	-	2,200,000
Falls of Niagara for a sloop navigation,	-	-	-	-	1,000,000
					<hr/>
					\$4,000,000

The papers relative to these communications will be found under the letter B. But their utility will not be confined to the extensive navigation of the lakes themselves: for the mountains being completely turned when arrived into Lake Erie, the ridge which separates the waters emptying into that and into Lake Michigan, from the northern branches of the Ohio, and from the waters of the Mississippi, is of a moderate elevation, and is gradually depressed in its course westwardly. There is no doubt of the practicability of opening canals, at a future period, between several of those waters, either by selecting proper levels, or by means of short tunnels across favorable parts of the ridge. It will at present be sufficient to point out the principal communications now in use.

The distance from Lake Erie to Lake Chetoughe, an extensive and important and elevated reservoir which is the source of the Canowango, a branch of the Allegany, is seven miles by a continual ascent, the elevation of which is not ascertained.

From Presque Isle, on Lake Erie, to Le Bœuf, on French creek, another branch of the Allegany, the distance is sixteen miles, and a company is incorporated by the State of Pennsylvania for making an artificial road across that portage.

The navigation from Lake Chetoughe and from Le Bœuf to Pittsburg offers no impediment whenever the waters are high; and the greater part of the salt now consumed in the northwest counties of Pennsylvania, as far as Pittsburg, and some distance down the Ohio, is brought from the salt springs of New York by Oswego, through Lake Ontario; thence across the portage of Niagara to Lake Erie; and thence, by either of the two last mentioned portages, to the waters of the river Allegany.

The distance from the place where the Cayuga, a river emptying into Lake Erie, ceases to be navigable, to the navigable waters of the Muskingum, which empties into the Ohio one hundred and seventy miles below Pittsburg, is only six miles; and a company is said to be formed for the improvement of that communication.

Sandusky river and the Scioto take their sources in the same swamp. The navigation of the Miami of Lake Erie is interrupted by some falls; but its upper branches approach those of the Miami of the Ohio, and of the Wabash, and are stated as being nearly on the same level.

The Illinois river, which empties into the Mississippi above St. Louis, rises in a swamp, which, when the waters are high, affords a natural canoe navigation to the sources of Chicago creek, a short stream, which falls into Lake Michigan at its southern extremity.

Another communication generally used by the Indian traders is that from Green bay, also in Lake Michigan, to the Mississippi by Fox river and the Wisconsin. Nor is there any doubt that, if the inland navigation between the North river and the lakes was completely opened, the whole Indian trade either of the Mississippi by Lake Michigan, or of the northwest by Lake Superior, must necessarily centre in an Atlantic port of the United States—a consideration of minor importance as a commercial object, when compared with the other advantages of that great communication, but of great weight in its relation to the political intercourse of the United States with the Indians.

### Interior Canals.

Under this denomination will be included all the canals of which any knowledge has been obtained, and which are not immediately on the rivers opening communications with the Western waters or with those of the St. Lawrence, although some of them may be considered as extending those communications to more remote sea-ports. The documents, from which the information is extracted, will be found under the letters C c.

#### I. MERRIMACK.

The navigation of that river, which, rising in the State of New Hampshire, falls into the sea at Newburyport, after a course of one hundred and eighty miles, is interrupted by several falls. A canal, called Blodget's canal, has been opened around Asmôskeag falls; lower down, and about forty miles from the sea, the Essex canal, four miles in length, and admitting boats drawing three feet and a half, will open a communication around the Patucket falls, effecting, through three locks, a descent of thirty-four feet. From the lower extremity of the canal, the river is navigable to the head of the tide at Haverhill, although the fall be forty-five feet within that distance. No particular account has been received of the capital expended, but it is believed that the work will be profitable to the undertakers.

The Middlesex canal, uniting the waters of that river with the harbor of Boston, is, however, the greatest work of the kind which has been completed in the United States.

That canal, 12 feet wide and  $3\frac{1}{2}$  feet deep, draws its supply of water from Sudbury or Concord river, a branch of the Merrimack, and, from the summit ground, extends six miles, with a descent of 28 feet, to the Merrimack above the Patucket falls, and 22 miles, with a descent of 107 feet, to the tide water of the harbor of Boston. The descent to the Merrimack is effected by three, and that to the tide water, by nineteen locks: They are all 90 feet long, 12 feet wide, of solid masonry and excellent workmanship.

In order to open that canal, it was necessary to dig in some places at the depth of 20 feet, to cut through ledges of rocks, to fill some valleys and morasses, and to throw several aqueducts across the intervening rivers. One of these across the river Shawshine, is 280 feet long, and 22 feet above the river. All those obstacles have been overcome, and boats of 24 tons, 75 feet long, and 11 feet wide, can navigate the canal. Those in most general use are of smaller dimensions, and are drawn by two horses at the rate of three miles an hour. A raft of one mile in length, and containing 800 tons of timber, has been drawn by two oxen, part of the way, at the rate of one mile an hour. Common boats pass from one end of the canal to the other in twelve hours. The capital expended on the work is stated at \$478,000, and the water-rights and necessary land cost a further sum of \$58,000; the total expense has exceeded \$550,000. The tolls have never yet exceeded \$17,000 a year, but are increasing.

Several other canals have been contemplated in the State of Massachusetts, intended to unite the waters of Providence or Pawtucket river, with those of Charles river, which falls into the harbor of Boston, and of the river Connecticut. The grounds have been surveyed, but no particular description has been obtained, and the works have not yet been commenced.

## II. SCHUYLKILL AND DELAWARE.

A company was incorporated several years ago, by the State of Pennsylvania, for opening a canal from Norristown, on the river Schuylkill, to the tide water of the Delaware at Philadelphia. The distance is 16 miles, the fall 53 feet, and the canal, deriving its water from the Schuylkill, would have been carried on a level to Philadelphia, and, in its descent to the Delaware, supplied the city with water, and the shipping with docks. The expense had been estimated at \$533,000; the work was commenced, one-third part of the digging effected, and a considerable sum expended; but, either from want of funds, or from an improper selection of the ground, or from other causes, not fully understood, the undertaking, if not altogether abandoned, has been suspended for several years.

This canal was intended as the first link of an extensive western communication. The Schuylkill from Norristown to Reading, 46 miles higher up the river, being navigable a great portion of the year, was considered as the next link.

## III. SCHUYLKILL AND SUSQUEHANNAH.

Another company was incorporated for the purpose of opening an inland navigation between Reading, on the Schuylkill, to Middletown on the Susquehanna. Both towns are in the great limestone valley, beyond the Blue Ridge, and the distance is 70 miles. It had been at first supposed that it would be sufficient to cut a canal four miles in length, on the summit level, between the two rivers, and thereby to unite the Tulpehocken, which falls into the Schuylkill, with the Quitapahilla, a branch of the Swatara, which empties into the Susquehanna. But it was soon ascertained that the original plan of improving, by a succession of dams, the navigation of those small rivers was erroneous, and that it would be necessary to cut a canal the whole way.

The summit level is at an elevation of 310 feet above the Schuylkill, and of 308 feet above the Susquehanna. Adjacent springs are considered sufficient for the upper locks, and the creeks would, after a short descent, afford an abundant supply. The proposed dimensions of the canal were, a breadth of 20 feet at the bottom, and a depth of  $3\frac{1}{2}$  feet, and the expense was estimated at near \$1,500,000.

The work was commenced; the canal has been cut the whole distance of four miles on the summit level; five locks, made of brick, have been constructed; land and water-rights have been purchased, and a considerable capital has been expended. But although the State of Pennsylvania has permitted the company to raise \$266,000, by lottery, and is bound to pay to them \$300,000 whenever the work shall have been completed, it remains suspended for want of funds.

The great lockage necessary for this canal is the principal objection to that line of communication; and it has been suggested that a canal from Columbia, on the Susquehanna, to tide water, or to the great Delaware and Chesapeake canal, would be much less expensive, and equally beneficial, both to the interior country and to Philadelphia. This question, as many others suggested in this report, cannot be decided by any but practical and skilful engineers.

## IV. APPOMATTOX.

A company has been incorporated for opening a canal from the upper end of the falls of that river, which is the south branch of James river, to Petersburg on the head of the tide. The distance is five miles, and the descent more than 30 feet, to a basin about 60 feet above the tide, in which the canal will terminate. The water is drawn from the river; and the canal, 16 feet wide, 3 feet deep, and admitting boats of 6 tons, is nearly completed. The capital already expended amounts to \$60,000; but the company own thirty negroes, and suppose that their labor, and a further sum of \$10,000, will be sufficient to build the locks, and to dig about half a mile, which remains to be cut in order to open the communication between the river and the basin. This work, which has been carried on with much zeal, and at a small expense, will open an important navigation of near 100 miles.

## V. NEUSE AND BEAUFORT.

The harbor of Beaufort, in North Carolina, and which must not be confounded with that of the same name in South Carolina, admits vessels drawing 18 feet of water. Ocracoke inlet, the only navigable entrance into the Pamlico and Albemarle sounds, that extensive estuary of the rivers Chowan, Roanoke, Tar, and Neuse, has less water, and is seventy miles from Newbern, on the last mentioned river. The distance between Newport or Beaufort river and the Neuse being only three miles, and the elevation of the highest intervening ground no more than seven feet above tide water, a canal, uniting the two rivers, was undertaken by a company incorporated for that purpose by the State of North Carolina. All the shares have, from particular circumstances, become the property of one individual; and the work, which had been commenced some years ago, is now suspended.

## VI. CAPE FEAR RIVER.

A company, incorporated by the same State for improving the navigation of this river, after having exhausted a portion of their funds, which did not exceed \$12,000, in fruitless attempts to improve the natural navigation of the river, have opened a canal with a lock, which opens a safe passage around the Buckhorn or Great Falls, seven

miles below the junction of the Deep and Haw rivers. Another canal, six miles in length, with two locks, is necessary, around Smilie's falls. Nearly half that distance has been completed; but the work is now suspended for want of funds. The Legislature has lately authorized the company to increase their capital.

#### VII. NEW ORLEANS.

The canal Carondelet, which has already been mentioned, extends from Bayou St. John to the fortifications or ditch of the city, and thereby opens an inland communication with Lake Pontchartrain. A company is incorporated by the Territorial Legislature, for the purpose of repairing and improving that work, and of uniting the canal, by locks, with the Mississippi. Independent of other advantages, this undertaking would enable Government to transport with facility, and use the same naval force for the defence of both the Mississippi and Lake Pontchartrain, the two great avenues by which New Orleans may be approached from the sea.

#### TURNPIKE, OR ARTIFICIAL ROADS.

A great number of artificial roads have been completed in the eastern and middle States, at an expense varying from less than \$1,000 to \$14,000 a mile. The labor bestowed on the least expensive species consists in shortening the distance, diminishing the ascent of hills, removing rocks, levelling, raising, and giving a proper shape to the bed of the roads, draining them by ditches, and erecting bridges over the intervening streams. But the natural soil of the road is used, instead of covering it with a stratum of gravel or pounded stones.

It appears, by one of the papers marked D., under which letter will be found all the information which has been obtained respecting roads, that fifty turnpike companies have been incorporated since the year 1803, in the State of Connecticut alone; and that the roads undertaken by those companies are all of that description. Thirty-nine of those roads, extending together 770 miles, are completed. The most expensive is that from New Haven to Hartford, which has cost \$79,261; or, the distance being 34½ miles, at the rate of \$2,280 a mile; but about \$18,000 of the capital have been expended in the purchase of the land through which the road is carried. The nett income on this road, deducting the annual repairs and expenses, from the annual tolls, does not exceed \$3,000. Of six of the roads which, together, extend 120 miles, no account has been received. The other thirty-two extend, together, 615 miles, and have cost only \$340,000; or, on an average, at the rate of \$550 a mile; and it seems that the aggregate of annual tolls on the whole is \$86,000; from which, deducting the annual repairs and expenses, amounting to \$48,000, leaves a nett income of \$38,000, or of about 11 per cent. on the capital expended.

No particular account has been received of the roads in the other eastern States, but it is known that besides some of a similar description with those of the State of Connecticut, several of a more expensive kind have been completed, particularly in Massachusetts. The cost has varied from \$3,000 to \$14,000 a mile, and amongst artificial roads of the first grade may be mentioned those from Boston to Providence, to Salem and to Newburyport. These are all covered with an artificial stratum of gravel or pounded stones, and finished in the most substantial manner. Great expense has also been incurred, in order to shorten the distance without exceeding the angle of ascent, which is fixed at five degrees; and it is stated that the road to Newburyport, thirty-two miles in length, and in which marshes and rocks presented considerable obstacles, has cost \$400,000, or at the rate of \$12,500 a mile. Those expensive roads, however useful and permanent, appear to be much less profitable than those of Connecticut. The Salem road is said to yield six per cent.; another road has been stated as yielding eight per cent. The income of all the others in the State of Massachusetts is said not to exceed on an average three per cent.; and that of the road from Boston to Newburyport amounts to no more than two per cent.

A greater capital has been vested in turnpike roads in the State of New York than in any other. In less than seven years sixty-seven companies have been incorporated, with a nominal capital of near \$5,000,000, for the purpose of making more than three thousand miles of artificial roads; and twenty-one other companies have also been incorporated with a capital of \$400,000, for the purpose of erecting twenty-one toll-bridges. Although no particular account has been received either of the capital actually expended of the annual amount of tolls, or of the materials of the roads, it is known that great progress has been made; and it has been stated that nine hundred miles of road were already completed by twenty-eight companies, whose capital amounted to \$1,800,000, and who had two hundred miles more of road to finish.

Those roads extend in every direction, but particularly from every town or village on the North river, westwardly and northwestwardly towards the waters of the Susquehanna and those of the great lakes. The most expensive is that from Albany to Schenectady, fourteen miles long, and which has cost at the rate of \$10,000 a mile. Near one hundred and forty miles of roads extending westwardly from Albany and Schenectady, appear to have cost at the rate of \$2,500 or \$3,000 a mile. The expense of all the others does not seem, on an average, to exceed \$1,250 a mile.

More detailed information has been obtained respecting the roads in New Jersey, Pennsylvania, and Maryland.

In New Jersey a turnpike road has lately been completed from Trenton to Brunswick. The distance is twenty-five miles; the greatest angle of ascent, three degrees; and the road is nearly in a straight line, the only considerable obstruction being the "sand hills," through which it was necessary to dig at the depth of thirty feet, in order not to exceed the angle of ascent. The road is thirty-six feet wide, fifteen feet of which are covered with about six inches of gravel. A few wooden bridges, with stone abutments, and piers have been erected across the intervening streams. The whole expense is stated at \$2,500 a mile. From Brunswick the road will be extended to Elizabethtown, and the work is now progressing. Another road has been undertaken in the same State from Brunswick to Easton on the river Delaware. The distance is forty-three miles, of which eleven have been completed at an expense of \$40,000. This road will be more expensive than the preceding, both on account of the ground, the bridges being more numerous, and the Blue Ridge (Musconong mountain) intervening, and because a more substantial facing or greater thickness of gravel is requisite. The funds of the company are exhausted.

In Pennsylvania artificial roads of the most substantial kind have been completed or are progressing from Philadelphia in sundry directions.

The principal are to Bristol and Trenton, twelve miles of which are completed; to Germantown and Perkioman, with two branches to Willow Grove and to Chesnut Hill; and to Lancaster and Columbia, with a branch to Harrisburg.

The distance from Philadelphia to Perkioman is twenty-five miles and a quarter; the two branches extend one ten miles, and the other seven miles and a half; making together near forty-three miles. The angle of ascent is our degrees; the breadth of the road fifty feet, of which twenty-eight feet, having a convexity of fifteen inches, are

covered with a stratum either of gravel eighteen inches thick, or of pounded stones twelve inches thick. One-half of the stones forming the lower part of the stratum are broken into pieces not more than five inches in diameter; the other half, or upper part of the stratum consists of stones broken into pieces not more than two inches and a half in diameter, and this difference in the size of the stones is represented as a considerable defect. Side or summer roads extend on each side of the gravel or stone road. The five miles next to Philadelphia have cost at the rate of \$14,517 a mile; the other twenty miles and a half at the rate of \$10,490 a mile. Yet there were no natural impediments, and only small bridges or culverts were necessary. The capital expended on these twenty-five miles and a half is \$285,000; the tolls amount to \$19,000; the annual repairs and expenses to \$10,000; the nett income to about \$9,000, or little more than 3 per cent. on the capital expended.

The distance from the Schuylkill at Philadelphia to Lancaster is sixty-two miles and a quarter; exclusively of the side or summer roads twenty-four feet of the bed of the road are covered with a stratum of pounded stones, eighteen inches thick in the middle of the road, and decreasing each way to twelve inches. The valley hills are the most elevated and steep on the road; but the angle of ascent no where exceeds four degrees. Stone bridges have been erected across all the intervening streams. That across the river Conestogo, consisting of nine arches, is private property; and the most expensive built by the company is that across the Brandywine, consisting of three arches of solid masonry, and which cost \$12,000. The capital of the company amounted to \$360,000; but this being insufficient, it became necessary to apply a considerable portion of the tolls to the completion of the work. The whole expense amounts to \$465,000, or at the rate of about \$7,500 a mile. The annual tolls have not yet exceeded \$25,000, and the annual repairs and expenses are estimated at \$13,000, leaving a nett income of about \$12,000. The prospect of an increased profit, derived from the proposed extension of the road has, however, raised the price of that stock nearly to par.

The Lancaster road, the first extensive turnpike that was completed in the United States is the first link of the great Western communication from Philadelphia. It has been extended ten miles westwardly to Columbia on the Susquehannah, and another branch is now progressing northwestwardly to Harrisburg, also on the Susquehannah, and thirty-six miles from Lancaster. The State of Pennsylvania has also incorporated two companies in order to extend the road by two different routes as far as Pittsburg on the Ohio, and near three hundred miles from Philadelphia. The southern route following the main post road passes by Bedford and Somerset. The northern route passes by Huntingdon and Frankstown, the highest point to which the Juniata branch of the Susquehannah is navigable. To this route the State has authorized a subscription of \$100,000.

Other roads in a northwest direction from Philadelphia towards the Genesee, and Presque Isle on Lake Erie, are also progressing, and have been encouraged by the subscriptions or donations of the Legislature. They are generally on a much less expensive plan than those in the direction of Pittsburg. A section of thirty miles from Lausanne on the Lehigh to Nescopeck on the Susquehannah has been completed at the expense of \$36,000 by a company; and it is intended to extend it seventy miles further to Newton on the Tioga branch of the Susquehannah.

In Maryland, roads extending from Baltimore in various directions have lately been undertaken by several companies, and are rapidly progressing. On the falls turnpike, which extends, in a northerly direction, about four miles of a road twenty-two feet wide, covered with a stratum of pounded stones ten inches thick, and having an ascent not exceeding four degrees, have been completed at the rate of \$7,500 a mile.

The "Reistertown" turnpike, in a northwestwardly direction, extends sixteen miles to that village, whence two branches, extending one nineteen, and the other twenty-nine miles further, will enter Pennsylvania at two different places. The road, twenty-four feet wide, is covered with a stratum twelve inches thick of pounded stones not more than three inches in diameter. The angle of ascent does not exceed three degrees and a half. Ten miles have been completed at the expense of \$10,000 a mile, and the work is progressing. The capital of the company amounts to \$420,000.

The capital of the "Fredericktown" turnpike company amounts to \$500,000, and the company is authorized to open the great western road as far as Boonsborough, beyond the Blue Ridge, and sixty-two miles from Baltimore. The angle of ascent will not exceed four degrees; the road has a convexity of nine inches; and on a breadth of twenty-two feet is covered with a stratum ten inches thick of pounded stones not exceeding three inches in diameter, over which are spread two inches of gravel or coarse sand. The first twenty miles next to Baltimore have cost at the rate of \$9,000, and the next seventeen miles are contracted for at the rate of \$7,000 a mile.

The distance from Boonsborough to Cumberland, at the foot of the Allegany mountains, following the present road, is seventy-three miles; and, although the company is not yet authorized to extend the turnpike to that place, the ground has been surveyed, and it is ascertained that the road may be continued with an angle of ascent not exceeding four degrees. The ascent of the road laid out by the United States from Cumberland to Brownsville on the Monongahela does not exceed five degrees, and the distance is seventy-two miles; making the whole distance of a turnpike road from Baltimore to the navigable waters of the Ohio two hundred and seven miles. ¶

The distance from the city of Washington to the same spot on the Monongahela is some miles shorter, being, as has already been stated, the shortest communication between tide water and the navigable Western waters.

South of the Potomac, few artificial roads have been undertaken. From Alexandria one is now progressing, in a northwestwardly direction, towards Middleburg. Another has lately been commenced from Richmond to Ross's coal mine; but the only one which, so far as any accounts have been received, is completed, extends twelve miles from Manchester, opposite to Richmond, in a westwardly direction, to the coal mines of Falling creek. This road, thirty-six feet wide, is gravelled, and has cost \$50,000; but the last four miles did not cost more than at the rate of \$3,000 a mile. Yet it is sufficiently substantial, the route being very level, to admit wagons carrying four tons.

The greater progress made in the improvement of roads in the northern parts of the Union must be principally ascribed to a more compact population, which renders those improvements more necessary, and at the same time supplies with greater facility the means of effecting them. The same difference is perceptible in the number of bridges erected in the several States.

In the Eastern States, and particularly Massachusetts, wooden bridges, uniting boldness to elegance, and having no defect but want of durability, have been erected over the broadest and deepest rivers. In the lower counties of Pennsylvania, stone bridges are generally found across all the small streams. Both in that State and at some distance eastwardly, bridges with stone piers and abutments, and a wooden superstructure, are common over wide rivers. Of these, the most expensive, and which may be considered as the first in the United States, is the permanent Schuylkill bridge near Philadelphia, erected by a company at an expense of \$300,000. Its length, including the abutments, does not exceed 750 feet, and it is supported only by two piers and the abutments; but those piers, 195 feet apart, are of the most solid workmanship, and one of them was sunk at a depth of more than 24 feet below low water. The bridge is 42 feet wide, and the wooden superstructure is enclosed and covered with a shingle roof.

The want of bridges south of Pennsylvania, even on the main post road, is sensibly felt. One lately thrown across the Potomac, three miles above the city of Washington, and which, without any intervening piers, is wholly suspended to iron chains, extending from bank to bank, deserves notice on account of the boldness of its construc-

tion, and of its comparative cheapness. The principle of this new plan, derived from the tenacity of iron, seems applicable to all rapid streams of a moderate breadth.

The general principles of improved roads seem to be, 1st, the reduction of hills by diminishing the angle of ascent, which ought not to exceed, whenever practicable, three and a half degrees, and, under no circumstances, five degrees; 2dly, a sufficient convexity in the bed of the road, together with ditches and drains, all which are intended to prevent the injury caused by standing water or freshets; 3dly, an artificial bed of pounded stones or gravel, sufficiently substantial to support the weight of the carriages in general use on the road, either for the conveyance of persons or for the transportation of merchandise.

On the last point, it appears, from the facts already stated or scattered in the communications received on that subject, 1st, that the stones ought to be similar in quality and reduced to the same size, should not exceed three inches in diameter; 2d, that the preferable qualities of stone rank in the following order: hard black stone, granite, flint or quartz, blue limestone, white limestone; 3d, that the stratum may be either of pounded stones, 12 inches thick, or of pounded stones, 10 inches thick, with 2 inches of gravel spread over the stones, or entirely of gravel, 18 inches thick; 4th, that, when the materials are equally convenient, the expense of those three modes will not materially differ, but that the rate of expense depends principally on the number of hills and bridges, distance of materials, breadth of the road, and price of labor; and, 5th, that the general adoption of broad wheels for the transportation of heavy loads is necessary to the full enjoyment of the advantages expected from the most substantial artificial roads. On the degree of convexity, and on the proper shape to be given to the natural bed of the road under the artificial stratum, a diversity of opinions seems to prevail.

The roads heretofore made may be divided into three general classes:

1. Those where the only improvement consists in the reduction of hills, and in the convexity and ditches of the road, whereby the angle of ascent is rendered more easy, and standing water excluded; but where the natural soil is used without any artificial stratum. The expense of these roads may vary according to local circumstances, and the perfection of the work, from five hundred to one thousand dollars per mile. They are most generally in use in the Eastern States, and may be introduced with advantage in all those districts of country where wealth does not admit more expensive improvements, or where the materials of an artificial stratum are altogether wanting. It is only in the last case that they may be considered as a national object; and no other improvement, besides bridges and causeways, is perhaps practicable in the lower country of the southern States. Iron, and even timber rail-roads may, however, be sometimes substituted in those level parts of the country where stones and gravel are not to be found.

2. Roads prepared as above, of a reduced breadth, and covered with a thin coat of gravel not more than six or nine inches thick; such as the turnpike lately made between Trenton and Brunswick. These roads, the expense of which may be estimated at about three thousand dollars a mile, may be used wherever the frost does not materially affect them, and in every climate where they are intended principally for the conveyance of persons, and not for the transportation of heavy loads.

3. The artificial roads of the best construction, such as have been already described. These, when not exceeding twenty-two feet in breadth, and except in the vicinity of large cities, will cost at the rate of seven thousand dollars a mile, exclusively of bridges over large rivers; and they must be resorted to whenever a *commercial* road for heavy transportation is intended, particularly in the Middle States, or rather in the United States, between 41 and 36 degrees of north latitude. North of the 41st degree, the snow lies generally during the whole winter; and the great bulk of heavy transportation is effected in sleighs during that season. There is, therefore, less necessity for using the roads in the spring; and they are also better protected against the effects of the frost by the snow. South of the 36th degree, which in the Atlantic States may be considered as the boundary of the great cotton cultivation, the frost does not materially injure the roads. It is between those two extremes that the most substantial are required; and it also happens that the great land communications with the western country, which considerably increase the amount of transportation, are principally within the same limits.

The same principles which have directed the arrangement adopted in this report in relation to canals, will also point out those roads which seem, in the first instance, to claim the patronage of the General Government.

Those which appear most necessary for the communications between the Atlantic and western rivers have already been mentioned under that head; and the improvement of the water communication between the North river and the great lakes ought to take the precedence of any other in that direction.

That road which, therefore, seems exclusively to claim public attention, is a great turnpike extending from Maine to Georgia in the general direction of the seacoast and main post road, passing through all the principal seaports. The general convenience and importance of such a work, are too obvious to require any comments; and the expense seems to be the primary object of consideration.

The distance will be roughly estimated at one thousand six hundred miles; and from what has been stated on the subject of roads generally, it may be inferred that the greater part of the road being intended almost exclusively for travelling, and not for transportation of heavy articles, the expense cannot exceed the rate of three thousand dollars a mile. For although some detached portions of the route being commercial roads, must be improved as such, and at a greater expense; an equivalent reduction in other parts will result from those portions which are already improved by private companies, and from the impossibility, for want of materials for an artificial stratum, of going in some places beyond what has been described as the first or cheapest species of turnpike. The whole expense may, therefore, be estimated at \$4,800,000. A secondary object, but of more importance to Government than to individuals, would be the improvement, on a much less expensive scale; of certain portions of roads leading to some points on the extremes of the Union, intended principally for the purpose of accelerating the progress of the mail, and the prompt transmission of information of a public nature. The points contemplated are Detroit, St. Louis in Upper Louisiana, and New Orleans. The portions of road which, traversing a wilderness cannot be improved without the aid of the United States, are, from the Tuscarora branch of the Muskingum to Detroit; from Cincinnati, by Vincennes, to St. Louis; and from Nashville in Tennessee, or Athens in Georgia, to Natchez. The expense necessary to enable the mail and even stages to proceed at the rate of eighty miles a day, may, at the rate of about two hundred dollars a mile, including bridges over all the small streams, be estimated, for those three roads, at two hundred thousand dollars.

#### RECAPITULATION AND RESOURCES.

The improvements which have been respectfully suggested as most important in order to facilitate the communication between the great geographical divisions of the United States, will now be recapitulated; and their expense compared with the resources applicable to that object.

I. From north to south, in a direction parallel to the seacoast.		
1. Canals opening an inland navigation for sea vessels from Massachusetts to North Carolina, being more than two-thirds of the Atlantic seacoast of the United States, and across all the principal capes, Cape Fear excepted, - - -	\$3,000,000	
2. A great turnpike road from Maine to Georgia along the whole extent of the Atlantic seacoast, - - -	4,800,000	\$7,800,000
II. From east to west, forming communications across the mountains between the Atlantic and western rivers.		
1. Improvement of the navigation of four great Atlantic rivers, including canals parallel to them, - - -	1,500,000	
2. Four first-rate turnpike roads from those rivers across the mountains, to the four corresponding western rivers, - - -	2,800,000	
3. Canal around the falls of the Ohio, - - -	300,000	
4. Improvement of roads to Detroit, St. Louis and New Orleans, - - -	200,000	4,800,000
III. In a northern and northwardly direction, forming inland navigations between the Atlantic seacoast, and the great lakes and the St. Lawrence.		
1. Inland navigation between the North river and Lake Champlain, - - -	800,000	
2. Great inland navigation opened the whole way by canals from the North river to Lake Ontario, - - -	2,200,000	
3. Canal around the falls and rapids of Niagara, opening a sloop navigation from Lake Ontario to the upper lakes as far as the extremities of Lake Michigan, - - -	1,000,000	4,000,000
Making, together, - - -		<u>\$16,600,000</u>

IV. The great geographical features of the country have been solely adhered to in pointing out those lines of communication; and these appear to embrace all the great interests of the Union, and to be calculated to diffuse and increase the national wealth in a very general way, by opening an intercourse between the remotest extremes of the United States. Yet it must necessarily result from an adherence to that principle, that those parts of the Atlantic States through which the great western and northwest communications will be carried, must, in addition to the general advantages in which they will participate, receive from those communications greater local and immediate benefits than the Eastern and perhaps Southern States. As the expense must be defrayed from the general funds of the Union, justice, and, perhaps, policy not less than justice, seems to require that a number of local improvements, sufficient to equalize the advantages, should also be undertaken in those States, parts of States, or districts which are less immediately interested in those inland communications. Arithmetical precision cannot, indeed, be attained in objects of that kind; nor would an apportionment of the moneys applied according to the population of each State be either just or practicable, since roads and particularly canals are often of greater utility to the States which they unite, than to those through which they pass. But a sufficient number of local improvements, consisting either of roads or canals may, without any material difficulty, be selected, so as to do substantial justice and give general satisfaction. Without pretending to suggest what would be the additional sum necessary for that object, it will, for the sake of round numbers, be estimated at - - - \$3,400,000

Which, added to the sum estimated for general improvements, - - - 16,600,000

Would make an aggregate of - - - \$20,000,000

An annual appropriation of two millions of dollars would accomplish all those great objects in ten years, and may, without inconvenience, be supplied in time of peace by the existing revenues and resources of the United States. This may be exemplified in several ways.

The annual appropriation, on account of the principal and interest of the public debt, has, during the last six years, amounted to eight millions of dollars. After the present year, or, at furthest, after the ensuing year, the sum which, on account of the irredeemable nature of the remaining debt, may be applied to that object cannot, in any one year, exceed four million six hundred thousand dollars; leaving, therefore, from that source alone, an annual surplus of three million four hundred thousand dollars applicable to any other object.

From the 1st January, 1801, to the 1st January, 1809, a period of eight years, the United States shall have discharged about thirty-four millions of the principal of the old debt, or deducting the Louisiana debt incurred during the same period and not yet discharged, about twenty-three millions of dollars. They may, with equal facility, apply, in a period of ten years, a sum of twenty millions of dollars to internal improvements.

The annual permanent revenue of the United States, calculated on a state of general peace, and on the most moderate estimate, was, in a report made to Congress on the 6th day of December, 1806, computed for the years 1809, 1815, at fourteen millions of dollars. The annual expenses on the peace establishment, and including the four million six hundred thousand dollars on account of the debt, and four hundred thousand dollars for contingencies, do not exceed eight millions and a half, leaving an annual surplus of five millions and a half of dollars. To provide for the protection and defence of the country is undoubtedly the object to which the resources of the United States must, in the first instance, be applied, and to the exclusion of all others, if the times shall require it. But it is believed that, in times of peace, and to such period only are these remarks applicable; the surplus will be amply sufficient to defray the expenses of all the preparatory measures of a permanent nature which prudence may suggest, and to pay the sum destined for internal improvements. Three millions annually applied during the same period of ten years, would arm every man in the United States, fill the public arsenals and magazines, erect every battery and fortification which could be manned, and even, if thought eligible, build a navy. That the whole surplus would be inadequate to the support of any considerable increase of the land or naval force kept in actual service in time of peace, will be readily admitted. But such a system is not contemplated; if ever adopted, the objects of this report must probably be abandoned; for it has not heretofore been found an easy task for any Government to indulge in that species of expense, which, leaving no trace behind it, adds nothing to the real strength of the country, and, at the same time, to provide for either its permanent defence or improvement.

It must not be omitted that the facility of communications constitutes, particularly in the United States, an important branch of national defence. Their extensive territory opposes a powerful obstacle to the progress of an enemy; but, on the other hand, the number of regular forces which may be raised, necessarily limited by the

population, will, for many years, be inconsiderable when compared with that extent of territory. That defect cannot otherwise be supplied than by those great national improvements, which will afford the means of a rapid concentration of that regular force, and of a formidable body of militia on any given point.

Amongst the resources of the Union, there is one which, from its nature, seems more particularly applicable to internal improvements. Exclusively of Louisiana, the General Government possesses, in trust for the people of the United States, about one hundred millions of acres fit for cultivation, north of the river Ohio, and near fifty millions south of the State of Tennessee. For the disposition of these lands a plan has been adopted, calculated to enable every industrious citizen to become a freeholder, to secure indisputable titles to the purchasers, to obtain a national revenue, and, above all, to suppress monopoly. Its success has surpassed that of every former attempt, and exceeded the expectations of its authors. But a higher price than had usually been paid for waste lands by the first inhabitants of the frontier became an unavoidable ingredient of a system intended for general benefit, and was necessary, in order to prevent the public lands being engrossed by individuals possessing greater wealth, activity, and local advantages. It is believed that nothing could be more gratifying to the purchasers, and to the inhabitants of the Western States generally, or better calculated to remove popular objections, and to defeat insidious efforts, than the application of the proceeds of the sales to improvements conferring general advantages on the nation, and an immediate benefit on the purchasers and inhabitants themselves. It may be added, that the United States, considered merely as owners of the soil, are also deeply interested in the opening of those communications which must necessarily enhance the value of their property. Thus the opening an inland navigation from tide water to the great lakes, would immediately give to the great body of lands bordering on those lakes as great value as if they were situated at the distance of one hundred miles by land from the seacoast. And if the proceeds of the first ten millions of acres which may be sold were applied to such improvements, the United States would be amply repaid in the sale of the other ninety millions.

The annual appropriation of two millions of dollars drawn from the general revenues of the Union, which has been suggested, could operate to its full extent only in times of peace and under prosperous circumstances. The application of the proceeds of the sales of the public lands, might, perhaps, be made permanent until it had amounted to a certain sum, and until the most important improvements had been effected. The fund created by those improvements, the expense of which has been estimated at twenty millions of dollars, would afterwards become itself a perpetual resource for further improvements. Although some of those first communications should not become immediately productive; and although the same liberal policy, which dictated the measure, would consider them less as objects of revenue to Government, than of increased wealth and general convenience to the nation, yet they would all, sooner or later, acquire, as productive property, their par value. Whenever that had taken place in relation to any of them, the stock might be sold to individuals or companies, and the proceeds applied to a new improvement. And by persevering in that plan, a succession of improvements would be effected until every portion of the United States should enjoy all the advantages of inland navigation and improved roads, of which it was susceptible. To effect that great object, a disbursement of twenty millions of dollars, applied with more or less rapidity, according to the circumstances of the United States, would be amply sufficient.

The manner in which the public moneys may be applied to such objects remains to be considered.

It is evident that the United States cannot, under the constitution, open any road or canal, without the consent of the State through which such road or canal must pass. In order, therefore, to remove every impediment to a national plan of internal improvements, an amendment to the constitution was suggested by the Executive when the subject was recommended to the consideration of Congress. Until this be obtained, the assent of the States being necessary for each improvement, the modifications under which that assent may be given, will necessarily control the manner of applying the money. It may be, however, observed that in relation to the specific improvements which have been suggested, there is hardly any which is not either already authorized by the States respectively, or so immediately beneficial to them, as to render it highly probable that no material difficulty will be experienced in that respect.

The moneys may be applied in two different manners. The United States may, with the assent of the States, undertake some of the works at their sole expense, or they may subscribe a certain number of shares of the stock of companies incorporated for the purpose. Loans might also, in some instances, be made to such companies. The first mode would, perhaps, by effectually controlling local interests, give the most proper general direction to the work. Its details would probably be executed on a more economical plan by private companies. Both modes may, perhaps, be blended together so as to obtain the advantages pertaining to each. But the modifications of which the plan is susceptible must vary according to the nature of the work, and of the charters, and seem to belong to that class of details which are not the immediate subject of consideration.

At present the only work undertaken by the United States at their sole expense, and to which the assent of the States has been obtained, is the road from Cumberland to Brownsville; an appropriation may, for that purpose, be made at any time. In relation to all other works, the United States have nothing at this time in their power but to assist those already authorized, either by loans, or by becoming stockholders; and the last mode appears the most eligible. The only companies incorporated for effecting some of the improvements, considered in this report as of national and first-rate importance, which have applied for such assistance, are the Chesapeake and Delaware Canal, the Susquehanna Canal, and the Dismal Swamp companies; and authority might be given to subscribe a certain number of shares to each on condition that the plan of the work to be executed should be approved by the General Government. A subscription to the Ohio Canal, to the Pittsburg Road, and perhaps to some other objects not fully ascertained, is also practicable at this time. As an important basis of the general system, an immediate authority might also be given to take the surveys and levels of the routes of the most important roads and canals which are contemplated: a work always useful, and by which the practicability and expense of the undertakings would be ascertained with much more correctness than in this report. A moderate appropriation would be sufficient for those several objects.

In the selection of the objects submitted in obedience to the order of the Senate, as claiming, in the first instance, the aid of the General Government, general principles have been adhered to as best calculated to suppress every bias of partiality to particular objects. Yet some such bias, of which no individual is perfectly free, may, without being felt, have operated on this report. The National Legislature alone, embracing every local interest, and superior to every local consideration, is competent to the selection of such national objects. The materials contained in the papers, herewith transmitted, and the information to be derived from surveys taken under the authority of the General Government, will furnish the facts necessary for a correct decision. Two communications by Mr. B. H. Latrobe, and by Mr. Robert Fulton, (marked E and F,) are, in the mean while, respectfully referred to as containing much interesting practical information, connected with observations of a general nature on the subject.

All which is most respectfully submitted.

ALBERT GALLATIN, *Secretary of the Treasury.*



*Queries respecting canals.*

1. Points united by canal, and their distance by said canal.
2. Elevation of the highest ground through which canal passes; descent thence to the two extremities; and number of miles where canal is level.
3. Number, dimensions, contents, construction, and situation of locks.
4. Supply of water; whence obtained; its amount reduced to cubic feet per minute, hour, or day; its elevation above the highest point of the canal; length of feeders; situation and contents of reservoirs; what additional resources may be resorted to if the present supply should fall short of the quantity wanted.
5. Designation of such parts of the route where the natural or improved bed of rivers is used.
6. Depth and breadth of canal; burden of vessels; breadth of towing paths.
7. Aqueducts across valleys or rivers; tunnels through hills; bridges across the canal.
8. Particular obstructions and difficulties surmounted or to be encountered.
9. Defects either in the plan or execution, and the proposed remedies.
10. Estimate of the tonnage of vessels; species, weight, and value of the articles annually conveyed by the canal; expense of carriage by canal, compared with land or river carriage before canal was made; time employed in navigating through the whole canal.
11. Capital already expended, vested, or wanted for completing the work.
12. Expenses per mile, and in the whole, and, as far as practicable, of every component part of the work in all its details.
13. Rate and gross amount of tolls; annual expenses of repairs and contingencies; annual nett income.
14. Substance of charters, and acts of Legislature on the subject.

*Queries respecting artificial roads.*

1. Points united, and their distance.
2. Elevation of the hills over which the road passes; greatest angle of ascent which has been allowed.
3. Breadth, form, materials of the artificial road.
4. Bridges; their dimensions, materials, construction.
5. Particular obstructions and difficulties surmounted or to be encountered.
6. Expenses per mile, and in the whole, and, as far as practicable; of every component part of the work in all its details, viz: forming the bed of the road, cutting hills, quarrying, transporting, breaking, laying stones or gravel, &c.
7. Capital already expended, vested, or wanted for completing the work.
8. Rate, and gross amount of tolls; annual expenses of repairs and contingencies; annual nett income.
9. Substance of charters, and acts of Legislature on the subject.

## A. No. 1.

## MASSACHUSETTS CANAL.

1. *Back river, in Buzzard's bay, to Scusset river, in Barnstable bay; and, 2. Hyannus harbor, south of cape, to Barnstable town, north of cape.*

SIR:

CAMBRIDGE, June 29, 1791.

In obedience to your excellency's commands, dated 5th May, 1791, I have visited Sandwich and Buzzard's bay, and beg leave to lay before you the following report of my proceedings, and of the state of the isthmus and bay relative to the proposed canal.

On the 12th of May I set out from home, carrying with me the necessary apparatus; but two or three rainy days prevented my getting to Sandwich till the 16th of the month. As soon as I arrived, I applied to Brigadier Freeman for information respecting the proposed course; and he, with Abraham Williams, Esq., very politely spent the two next days in showing me the ground, and procuring the necessary assistants for the survey. On the 19th, I began at a place called Agawam point, near the southern side of the mouth of Monimet river, proceeded along the shore of Buzzard's bay to the Back river; then up the Back river, and through the Monimet village, to the bridge over the Monimet river; then down the river to comprehend the whole neck lying between those two rivers, which discharge, as your excellency will see by the annexed plan, into Buzzard's bay. We then began at the Monimet bridge, and measured the distance and the course to the head of the Monimet river, or rather Herring brook, as it is called, above where it is usually influenced by the tide. Having ascertained the whole course of this river, we next proceeded along the valley leading to the head of Scusset river, which falls into Barnstable bay, and pursued that valley and the adjacent marsh down to the shore, ascertaining at the same time the course of the river. Bad weather prevented this part of the business from being finished till the 27th of May. Having, on the 28th, completed a plan of the ground and the river, as the spring tides had begun to set in, I endeavored to procure a boat to take the soundings in Buzzard's bay, but could not obtain one till the 31st, when a severe storm prevented me from using it; but a part of the day, notwithstanding the rain, was spent in making the necessary observations for determining the elevations of the ground between Plymouth road and Barnstable bay. The first of June being a fair day, I made the observations necessary for completing the series of elevations over to Buzzard's bay, and took the soundings in the bay as far as the point of Wenormuck neck, which is about a league from the head of the bay, and forms a part of the southern shore. The elevations and soundings are marked upon the plan. The latter are from low water at spring tides, and are measured by feet. The elevations are above the half flood, which is always considered as the level of the sea, or that height at which the water would stand if the tides were to cease.

It being necessary, in order for ascertaining the navigability of the bay, and collecting all those facts and observations, arising from the nature of the country, which are necessary to enable the committee to form a judgment of the practicability and utility of the proposed canal, that intelligence should be obtained near the mouth of the bay, I went to Falmouth on the 2d of June, and returned to Sandwich on the 7th, having, as I supposed, finished all the needful inquiries.

The Monimet neck is generally upland, and gently undulated: Dry ground may be had for the laborers to work upon all the way from the Back river to the Monimet bridge. There are, however, marshes and swamps which accompany the northern branch of this river to its source, which is a mile and a quarter from its mouth. The distance would be shortened by keeping to the upland, but there would be more earth to be removed; while the inconvenience of working in the wet ground, and an exposure to the tides, would be avoided. Whichever course is taken, when we get to the northern head of the Back river, there is no avoiding the hill on which the Monimet village stands. This hill rises about twenty-nine feet from the level of the sea, and the distance from the head of



the Back river to the Monimet bridge is one hundred and forty-five rods, or nearly half a mile. From the Monimet bridge, travelling three furlongs up the river brings us to a small creek, which unites a very extensive swamp to the river. Though the bank of the river rises immediately after passing this creek, yet the swamp occupies the bulk of the space between the river and the road for the length of half a mile. The bottom of the swamp is a black loam, and, like the small marshes on this side of the river, so exceedingly soft as to render it dangerous walking. Even in the upland the inhabitants agree that they are not obliged to sink their wells below the level of the high water mark. In the low land and woods the brush was exceedingly thick, as the leaves were then out, which made it necessary for a man to proceed with an axe, and clear the course for the chain. A considerable stream, by the name of Piggsville creek, runs from this swamp into Monimet river. Half a mile from the end of the swamp, over cleared land, brings us to a wood, which reaches nearly a mile, to the open ground before Dr. Bourne's, where the Herring brook descends from the north, and turns westwardly towards Buzzard's bay. We pursued the course of it a mile, to where it issues from Herring pond. The country is rough and broken, and generally wooded. The stream is rapid, and is about a rod wide, and a foot deep, where it leaves the pond. The supply of water is sufficient for a mill, while the channel for the waste water furnishes a constant passage for the fish. This large pond is described by the neighboring inhabitants to be two miles and a half long, and from a half to three-quarters of a mile broad. Its magnitude in the plan is taken from their verbal accounts, and its position from my own inspection. The ground about it is so high that there is no idea of running a canal through the pond; but the suggestion that a close canal would be most expedient made it necessary to know whether a sufficiency of water can be had for such a purpose. After the river gets into the valley, and turns westward, it keeps close under the hills on the northern side of the vale, till it comes down to Monimet bridge; and the only ground where it is practicable to make the canal is on the southern side of the river. To begin near the mouth of the Back river is most eligible, on account of the greater depth of water there than off Monimet river. Before coming out of the woods, in our course of survey, the hills come quite to the road, pretty steep, and from the road slope gently to the river, where the bank is high. The road turns to the right, over a sharp hill, to avoid another swamp, which lies detached, and is between the Herring and Scusset rivers. The valley is here only thirty rods wide, and the hills on the southern side of it are connected with the high ranges which fill all this country for several miles, and render it impracticable to turn a canal to the southward of them. Crossing this narrow vale, we took the Wareham road, and pursued it through the woods, steep hills being on the north, and a swamp on the south side of the road, for more than half a mile. After this, the ground was so well cleared, that, from any part of the road to Sandwich, we could command a view of the low grounds and of objects on the other side of the valley quite to the Plymouth road, till the two roads meet, soon after the latter has crossed Scusset river, at a mile and a half from Barnstable bay. This river is accompanied in its whole extent by low, spongy lands, covered with brush, till it comes to the marsh, which is of the same soft texture as the other low ground that we have mentioned, and shakes for several feet round a person walking on it. The bottom of this river is in general muddy, and the stream is small and shallow. At the bridge in Plymouth road, it is a little more than a rod wide, and is six inches deep. Where it crosses the beach it is, indeed, wider, but we found no difficulty in riding through it without a guide; the bottom being there gravel, and the water not more than twelve or fourteen inches deep. The direct course from the bridge to the shore is about a mile and a half, and crosses a high ground distinguished in this neighborhood by the name of Plymouth neck. This hill is joined to the rest of the upland by a low neck, covered with brush, and under no cultivation, as the tide flows over it in severe storms. Though it is above the usual elevation of the spring tides, it would not be sufficient to secure a canal, granting it to be otherwise defended, from being filled by the sea before the workmen could finish it. But the difficulty from the tides is much greater on the other side of the hill, where the river runs through a marsh a quarter of a mile wide, which is bounded on one side by Plymouth neck, and on the other by the beach. The bank is of loose sand, and rises in some places to the height of thirty feet above the level of the sea. On the side towards the marsh it bears a scattering beach grass, not enough to bind the surface, or to conceal the poverty of the soil from the eye of a spectator at a considerable distance. When we rode along the shore previous to the survey, the horses sunk to the fetlock at every step in the dry sand, for two or three miles together. The bank towards the sea is very steep, and without any appearance of vegetation. In several places the violence of the sea has broken the bank, but it is only at the mouth of the river that I observed any opening for the regular tides to overflow the marshes.

After leaving the Plymouth road, the way to the Back river, as commonly travelled, is pretty level. Though the fields at the sides of the road are covered with grass, yet, where the ground has been ploughed, the sand is turned up, and the road itself is generally sandy. The heavy timber has been cut off, and is supplied by a growth of small trees. In some parts of the way are many loose stones proper for building of fences; but I did not observe any large beds of rock. It is said, however, that there are some in the neighboring hills. In two places the narrowness of the vale and the extent of the swamps have occasioned the road to be turned over very steep hills, where the ground rises to the height of thirty-one feet. In the middle of the valley, however, between the Monimet and Scusset rivers, the land is low, rising only five and one-third feet high in the road above the half tide. The elevation of the vale near Dr. Bourne's is greater, the foot of the hills extending there quite to the bank of the river. The elevation of the road opposite to Rose's house, after descending from the steep of the hill, is thirteen feet ten inches; that of the bank of Herring river, eleven feet nine inches; and the surface of the water by Dr. Bourne's, six feet one inch above the level of the sea. The intervals continue, rising gradually, till we come to Monimet village, near Captain Elisha Bourne's house; the elevation of the road, four hundred and twenty-two feet five inches; the middle of the field, eighteen feet one inch; and the nearest part of the swamp, thirteen feet ten inches. When we come to the Monimet village, the road rises to twenty-eight feet ten inches; the ground just before going into Back river swamp, twenty-six feet eight inches; and the head of the swamp, thirteen feet ten inches above the level of the sea. The same height of thirteen feet ten inches is that of the high bank of Buzzard's bay above the same standard.

The high winds, according to the account of the inhabitants, occasioned an uncommon variation of the tides, which gave, at the time of this observation, by my measures, six feet three inches. This a little exceeds one-third of the variation on the other side of the isthmus; that being, from the same cause, at the great difference of eighteen feet six inches between high and low water mark. This was the only time when I measured, but all the accounts agree that the neap tides in Buzzard's bay are four feet, and those in Barnstable bay, at the Scusset shore, twelve feet, which makes the latter to be usually three times the height of the former, and subject to variation three times as great. It is high water on the Monimet three hours and a half sooner than on the Scusset side of the isthmus.

The next operation was to take the sounding, in order to ascertain the shoals which might obstruct the navigation in Buzzard's bay. About half way from Rocky point to Mashnee Island is a bar running quite across the harbor, on which we found seven feet and a half depth at low water, and a clay bottom. Within the bar the general depth is from seven to eight feet in the line from the mouth of the Back river to Rocky point, but east of that line it is from nine to twelve feet; and just without Rocky point eleven and a half and thirteen feet. After pass-

ing the bar, the channel deepens to sixteen feet, and, in the line from the southwest point of Toby's island to that of Mashnee, to eighteen. We steered from the east point of Mashnee, for the Wenormuck point, over a middle piece of ground that runs off from Wareham great hill. The small channel, north of the middle ground, nobody pretends to be useful for the purpose of large vessels. In our course the water shoaled gradually to  $11\frac{1}{2}$ , 11, 10,  $9\frac{1}{2}$ , 9,  $8\frac{1}{2}$ , 8, and  $7\frac{1}{2}$  feet, then varied to 8,  $8\frac{1}{2}$ , 9, and  $7\frac{3}{4}$ ; after which we came into the channel, about a quarter of a mile from the shore, where it deepens suddenly to 9, 12, and 24 feet: the channel lies nearest the point of Wenormuck, which is nearly southwest from Rocky point. Coming into the bay when a vessel is off Wenormuck point, Rocky point, at the head of the bay, is seen between Mashnee and Toby's islands. The channel inclines to the south of the direct course until we come off Mashnee, when Rocky point is just clear of Toby's island. After that the course is directly for Rocky point. But it cannot make any considerable difference, as the direct course over the middle ground affords the same depth of water as over the bar. This depth, at the half tide, is ten feet and a half; and, added to the different elevation of the ground, will give the various depths which will be necessary to be dug for an open canal. That it may more readily be seen at one view, I have framed the following table, in which the comparative heights are placed in parallel columns. The numbers marked on the plan being measured from the level of the sea, I suppose that it would avoid confusion to adopt this method. The channel is marked in a plan of part of Buzzard's bay, which I copied, and magnified, from one already printed in Thomas's Magazine, comprehending the whole cape; Back river is added from my own observation.

Table of Elevations.

Places.	Level of sea.	Monimet low water.	Scusset low water.	Monimet bar.
	feet. inches.	feet. inches.	feet. inches.	feet. inches.
Scusset high water, - - - -	9 3	12 4	18 6	19 9
Scusset low water, - - - -	9 3	6 2	- -	1 3
Height of sea bank, - - - -	29 11	33 0	39 2	40 5
Foot height towards marsh, - - - -	2 2	5 3	11 5	12 8
Scusset bridge, - - - -	2 1	5 2	11 4	12 7
Fork of Plymouth and Back river roads, south of bridge, - - - -	17 9	20 10	27 0	28 3
Jabez Gibbs's barn, north of the Scusset bridge, - - - -	13 6	16 7	22 9	24 0
Benjamin Ellis's house, on road to Back river, - - - -	16 0	19 1	25 3	26 6
Dr. Well, north of road, - - - -	13 11	17 0	23 2	24 5
Cut hill in the road, - - - -	30 11	34 0	40 2	41 5
Cut in the swamp, north of road, - - - -	9 7	12 8	18 10	20 1
Cut in the summit, south of road, - - - -	60 10	63 11	70 1	71 4
Valley, west of T. Burgess, - - - -	5 4	8 5	14 7	15 10
Hill near Dr. Bourne's, in the road, - - - -	30 11	34 0	40 2	41 5
Road near Ross's house, - - - -	13 10	16 11	23 1	24 4
Herring brook at Dr. Bourne's, - - - -	3 1	6 2	12 4	13 7
Bank of ditto, - - - -	11 9	14 10	21 0	22 3
Road near Captain Elisha Bourne's, - - - -	22 5	25 6	31 8	33 11
Middle of field near do. - - - -	18 2	21 3	27 5	28 8
Edge of swamp near do. - - - -	13 10	16 11	23 1	24 4
Road at Captain Perry's, in Monimet villages, - - - -	28 10	31 11	38 1	39 4
Field near Back river swamp, - - - -	26 8	29 9	35 11	37 2
Summit of the hill, south of our course, - - - -	43 9	46 10	47 0	54 3
Head of the swamp, - - - -	13 10	16 11	23 1	24 4
Bank of Buzzard's bay, - - - -	13 10	16 11	23 1	24 4
High water in Buzzard's bay, - - - -	3 $1\frac{1}{2}$	6 3	12 $4\frac{1}{2}$	10 8
Low water in Buzzard's bay, - - - -	3 $1\frac{1}{2}$	- -	6 $1\frac{1}{2}$	7 6

The three hills mentioned south of our course are noted to show the difficulty of straitening the canal by inclining to the south. As the land rises gradually from Barnstable bay to Monimet village, and is there nearly twenty-nine feet high, the mean rise above the level may be stated at fourteen feet and a half, and twenty-five feet above the Monimet bar.

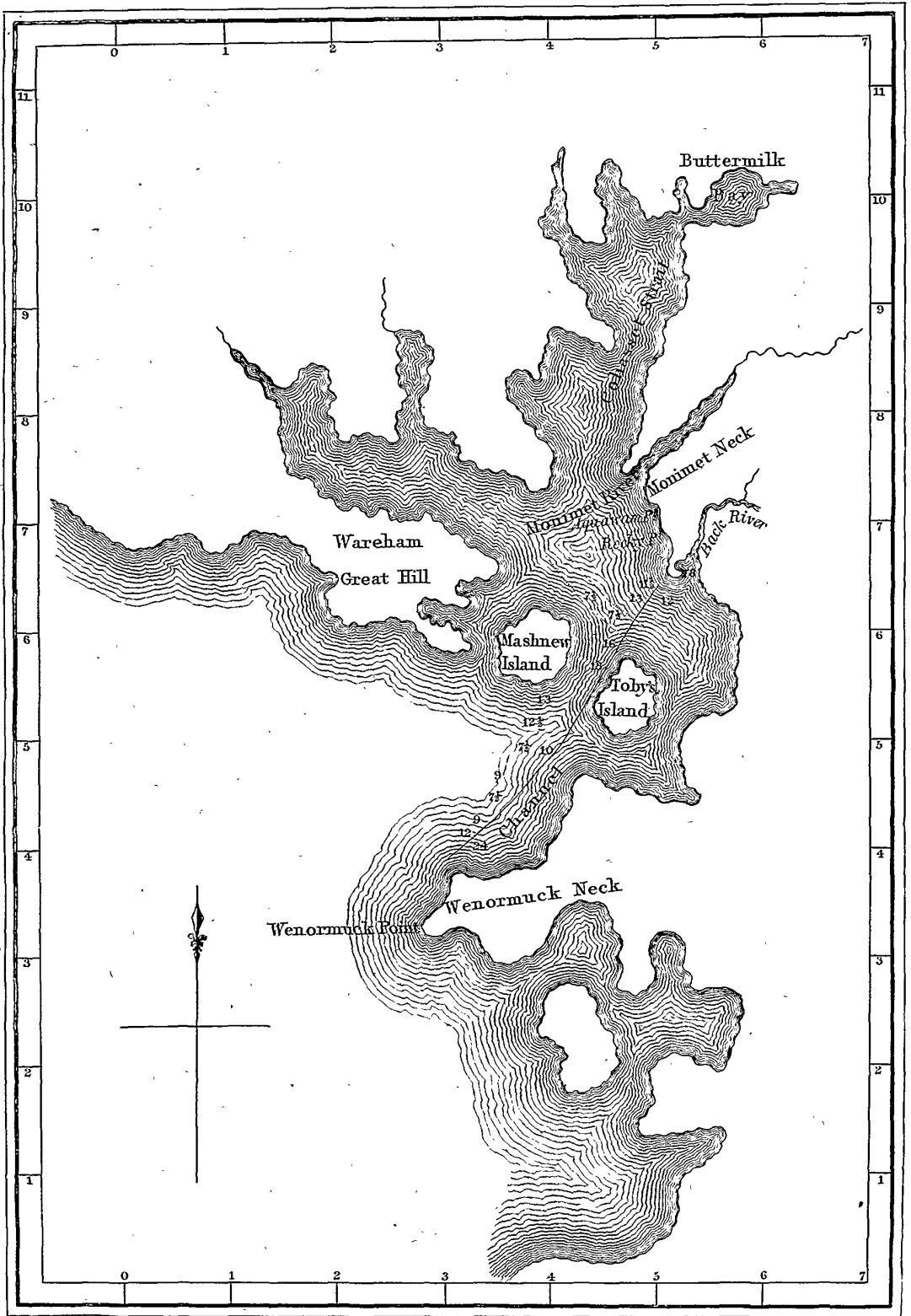
In pursuance of that part of your excellency's instructions which directed me to ascertain the navigability of the bay, I made such inquiries as appeared to me to reach the question. In the direct course from Rhode Island up the middle of Buzzard's bay there does not appear to be any difficulty beyond a mile from either shore. But in passing from the Vineyard sound, between the Elizabeth islands, the channels are rocky and dangerous; and the current between six and seven miles in an hour. The tide rises from the southwest. In the Vineyard sound the current is four miles an hour, and at the head of Buzzard's bay hardly one. The rate at which the tide sets through the natural channel between the islands will furnish a probable estimate of the current in the canal, if the isthmus should be cut off, after making necessary allowance for the width of the passage.

In moderate winters, like those which begun in 1787 and 1788, I cannot find that Buzzard's bay freezes; but it is sometimes encumbered with ice, formed in the rivers and creeks which open into it. In severe winters, like those which begun in 1786 and 1790, the whole bay freezes; and in the former of them a loaded sleigh passed from New Bedford to Falmouth, a distance of five leagues, on the ice. The last winter, though no sleighs passed, no water was to be seen from Falmouth in the course for New Bedford. Along the shores of the Vineyard sound the ice frequently obstructs the passage for boats from the cape to the island, though the sound never freezes over. The tides along both shores of the sound are between three and four feet high, and on the shoals about two feet. On Scusset side of the isthmus I do not find that the water ever has a solid crust of ice, though it is sometimes granulated. This is probably to be accounted for by the greatness of the tides.

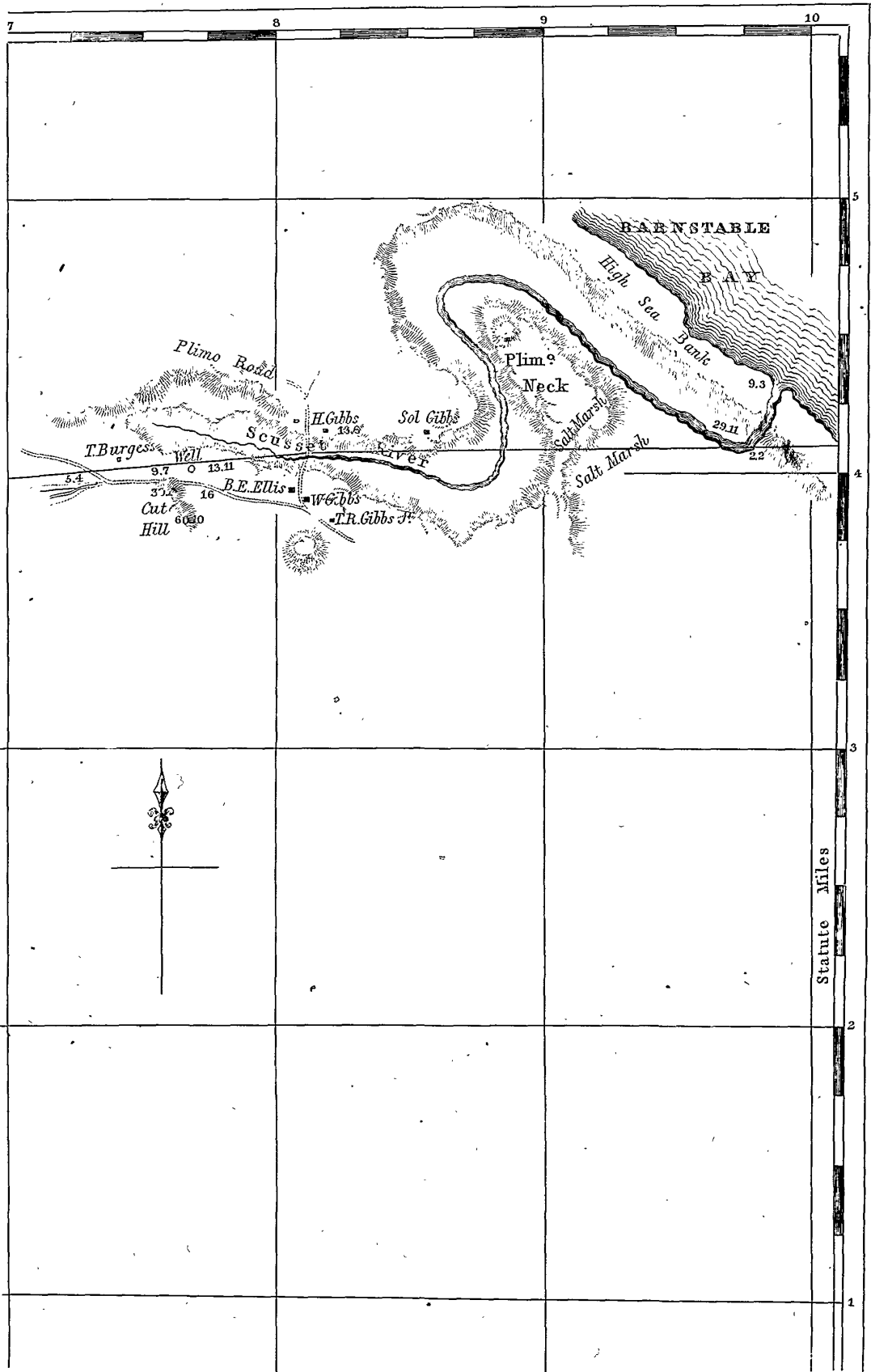
Where Scusset river falls into Barnstable bay is an open coast, without any appearance of a harbor for several miles. The idea was suggested in conversation at Sandwich, of making a harbor by extending a mole into the sea. The only case which I found in that neighborhood that may be supposed to furnish an analogy to this proposition, as it is short, I beg leave to present to your excellency's consideration.

About five miles northerly from the mouth of Scusset river is a harbor for boats. The account which is given to me is this: It was formerly upland, as appears from the stumps of trees still existing in it, though none of the neighbors can remember its being in that state. Thirty years ago there was an open passage between two hummocks which lie near the shore, and at high water are islands. For about twenty years the inhabitants were









obliged, by digging, to clear the inlet of the sand collected there as often as eight or ten times in a year. At last a violent storm choked the mouth of the harbor, and made a new inlet about a quarter of a mile from it toward the southwest. The people endeavor to keep this passage open by wharfing the sides of it, and as the sands accumulated, they continued their wharves for about twenty rods on each side, and dug a canal from it to the little creek that winds through the marsh in the harbor. After about six years from the opening of this inlet by the sea, the wharves were so broken by storms that a great tempest filled the mouth of it, and opened a third channel near the upland on the northeast side of the harbor. This was made commodious for boats, but now in the fifth year's use is so choked that the salt water stagnates upon the marsh. The low water of spring tides is at the inlet about ancle deep; and at neap tides not higher than a man's knee. At high water in spring tides the entrance is about four feet deep; but the low water mark without the harbor is said to be twelve or thirteen below that of high water. The beach is of the same kind as that of Scusset. The harbor extends quite to the Plymouth road, and is a proper salt marsh; the whole of it except a small creek having been mowed the last year.

The different accounts that are given of the width of the isthmus, according to the different views of the parties derive their coloring from the various extent of the tide. They who reckon the whole distance along the valley to be between seven and eight miles, reckon from the low water mark on each side. They who reckon it only two or three miles, leave out the extensive marshes of Scusset river, and that part of Monimet river which is usually affected by the spring tides. Some go so far as to reckon the tides to extend to the head of Scusset river one way, and to Dr. Bourne's the other; which would reduce the remainder below one mile. But neither of the rivers will be of use unless for filling a close canal.

I have now laid before your excellency a very particular account of the isthmus and of Buzzard's bay, with the tides and shoals, and hope it will meet your approbation and that of the committee.

On my return from Falmouth I met Mr. Davis at Sandwich with the resolve of the general court, granting additional power to the committee. As the resolve specified no particular part of the cape to be surveyed, and there had been no meeting of the committee, we agreed to view, but not, without further orders, to survey between Barnstable and Hyannus harbor. We accordingly went there on the 8th of June, and the situation was pointed out to us by Brigadier Otis and Rev. Mr. Mellen, who politely accompanied us across the cape. The highest ground comes into the first mile from the sea, and is estimated by Mr. Mellen at eighty feet high for a quarter of a mile; but no observations have been made with a direct view to determine the precise elevation. After riding a mile and a quarter from the shore, we came to a line of ponds in the direction of Oyster island rather than of Hyannus, which extended about two miles and a half further; and if they can be adopted, will save much labor in forming the canal. It is necessary not only to know their depth, but also their elevation above the sea, for determining this point. Several of them are small. But two of them are of very considerable extent. Since my return Mr. Mellen has favored me with an account of the soundings in the two largest, which are West's and Great Ponds. The latter is estimated at three leagues in circuit. The soundings in the course of the proposed canal are in West's pond 8, 10, 11, 7, 6 feet; in Great Pond 8, 18, 14, 16, 6, 15, 20, 24, 10, 6, 5. Whether any of these depths go to the low water mark is impossible to be determined without comparing the surface of the pond with that of the sea. The whole line of ponds is separated between every two of them by only a few rods distance. The elevation does not appear to be great, as the ground slopes gradually from the foot of the ridge in the first mile to the sea on the south sides. That the ponds are not in any considerable degree fed by springs, appears from this circumstance: About fifty years ago, a small canal was made from the Great Pond through Long Pond to a creek which discharges near Oyster island. It was designed to open a passage for herring. But the water continued to run till the surface of the ponds sunk to the level of the bottom of the canal, when it ceased running. The canal has been partly filled since, and is at present not more than fifteen feet deep in any part, which makes it probable that some of the depths are below the low water mark. The distance from Great Pond over to Hyannus harbor is two miles and a half nearly by estimation, and the land level. On the bar is said to be nine feet depth at low water, and thirteen at high water. Mr. Mellen informs me in his letter that during the war the shortest road was measured from Stetson's wharf, in Barnstable harbor, to Homer's wharf, in that part of Hyannus harbor that bears the name of Lewis's Bay, and found to be four miles and a half. It is all dry sandy land, and covered with wood. The country rises gradually and imperceptibly from Hyannus to the foot of the ridge. The ascent is not sharp on that side, though it is steep toward the town of Barnstable. From a part of the ridge called Kidd's Hill both seas are visible. The tide rises four times as much in Barnstable harbor as in Hyannus. These circumstances we supposed it necessary to lay before your excellency and the committee previous to the passing any order on the subject. The advantages proposed at Barnstable are, that the canal even through the ponds will be shorter than at Sandwich, and will terminate at each end in a harbor. The objection arises from being obliged to pass a part of the shoals before vessels coming in can get to the canal.

I have the honor to be, with perfect respect,

Your excellency's most obedient and most humble servant,

JAMES WINTHROP.

True copy. Attest: JON. L. AUSTIN, *Secretary*.

No. 3. *Weymouth and Taunton.*

SIR:

TAUNTON, August 17, 1807.

Your favor of the 8th instant came to me the 11th following. I showed the same to Doctor J. Godfrey, of this place, a member of our Legislature, and requested him to inform me what progress had been made by Colonel Baldwin and others, a committee of our Legislature, in surveying and exploring the lands, rivers, and ponds between our Taunton river and Boston bay, and wished him either to give me the particulars, or write you on the subject; he having preferred the latter, herewith you will receive his letter; the committee have been over the ground twice, and were to complete the survey this month, and report to the Legislature next winter. In conversation with Colonel Baldwin, when last at Taunton, he appeared to have no doubt on his mind of the practicability of uniting the waters of Rhode Island bay with Massachusetts bay; that the most feasible route would be up Taunton river to Williams's landing, and then to proceed through the towns of Raynham, Bridgewater, Abington, and Weymouth; that a supply of water could be taken from Nipancikut pond, in Bridgewater, and the Weymouth pond, so called, for boats and rafts; the former pond is about sixty feet higher than the tide waters of Taunton river, and the latter nearly two hundred feet higher than the tide water of Boston bay. What obstructions or remarkable places the committee met with on their route, I am, at present, not possessed of. There is no question of this route being the most favorable for a canal, and attended with the least expense, and of the greatest public utility, than any other: the distance is the shortest, and a supply of water the most easily obtained. As there can be no reasonable doubt of success in such a project, I hope the United States will enter into it with spirit. The advantages of such a canal to the towns of Newport and Boston, and the country through which it may pass, as well as to the United States, are incalculable.

I am, sir, with respect, your humble servant,

SAMUEL I. FALES.

SIR:

TAUNTON, August 19, 1807.

A few days since Judge Fales showed me a letter, dated August 8, 1807, Collector's Office, Port of Newport, relative to a water communication from Narraganset bay, in your State of Rhode Island, by Providence, Rahoboth, or Taunton river, to Boston bay, in this commonwealth. The distance from tide water, in Providence or Rahoboth river, to tide water in Charles river, Cambridge, or Boston bay, is much further than from tide water in Taunton river to tide water in Weymouth river, which water is discharged at Nantasket road, and I think the only supply of water for a canal to discharge part of its water at Providence or Pawtucket, must be the Mashapog pond in Sharon, a pond but little more than an average mile in diameter; and water in this pond would much sooner find the tide at Taunton than either of the other routes, and pass through lands much more feasible for a canal. The quantity of water in this pond I think doubtful, though I think it sufficiently elevated, as it now discharges all its water, by the Neponset river, at Boston bay; though formerly, in seasons of inundation, a small part passed through our village to Taunton river. The shortest, and I think the most feasible and proper route is one contained in a resolution I laid before the Legislature of this commonwealth in February, 1806, viz: by Weymouth, Abington, Bridgewater, Raynham, and Taunton rivers, &c. to Narraganset bay, &c. This so far called the attention of the Legislature, that they appointed a committee to explore, survey, and report, &c. The committee have been twice over the ground, and would have completed their survey about this time, had it not been for the uncommonly frequent rains; and as Colonel Baldwin, of Woburn, is one of this committee, an accurate surveyor, and a gentleman as well acquainted with projects of this kind as any in this country, I have this day directed a letter to him, requesting him to state such facts as he has collected from his survey, and direct the same to William Ellery, Esq., Newport, R. I., as soon as convenient.

From yours, &amp;c.

JONES GODFREY.

BOSTON, February 1, 1808.

The COMMITTEE appointed by the resolve of the honorable Legislature, dated March, 1806, to explore and survey a route for a water communication from the harbor of Boston, through the towns of Weymouth, Abington, Bridgewater, Raynham, by Taunton river, and Narraganset Bay, to Long Island Sound, beg leave to report:

That they commenced the survey at high water mark, Weymouth, Fore river landing, and passed over the most suitable land for making a water communication through the towns described in their commission, taking the course, distance, and difference of level at every station. The distance on this route from the commencement of the survey, to the tide water at Williams's landing place, Taunton river, is twenty-six miles; the highest land they passed over is at Howard's meadow, in Bridgewater, which is 132 feet 10 inches 4-10ths above the tide-waters. This height we should have considered an insurmountable impediment, and have abandoned any further survey, but from the elevated situation of the ponds in its vicinity, viz: Weymouth great pond is about four miles from the landing place, the height of which is 147 feet 5 inches 4-10ths above the tide water, and 14 feet 7 inches above the highest land on this route. The surface of this pond contains 507 acres 16 rods; its depth varies from 10 to 18 feet. The overflowing of this pond formerly was in two directions, one running to the south, into Taunton river, the other north, into Weymouth river; but the late improvement for the erection of mills on the northern outlet has so lowered the pond, that the water now passes through this outlet only, on which stream there are five mills, which in some years, as in the last, were kept constantly in use during the driest seasons. The banks of this pond are well calculated to raise its waters at a very small expense. Cramberry pond is situate in Braintree, about four miles from the summit height in Howard's meadow, which is well calculated for a reservoir, being surrounded with high land on every part, except one natural outlet at the northerly end, of fifty feet in breadth, across which there are the remains of an ancient mill dam, which might be easily rebuilt, and raised eight or ten feet; its surface is 160 feet 9 inches 6-10ths higher than the tide water, making it 27 feet 11 inches 2-10ths above the summit height; there is also a stream which empties itself rapidly into this pond at the southerly end. The communication of Weymouth great pond with the summit height must unavoidably pass by the outlet of Cramberry pond, by which it can be connected, or not, as occasion may require. This communication will intersect several small streams which would serve as auxiliaries to supply any loss of water in its passing from the ponds to the summit level. There are also several streams at the west end of the summit, which, if requisite, might easily be led as feeders for the canal at the upper level; the most noted of them are, one from the Bear swamp, the other from Curtis's pool. Of the ponds adjacent, there are two in Braintree, one called the Great and the other the Little Pond. The Great Pond is situated about five miles from the summit height, and is 109 feet 5 inches 2-10ths above tide water; this can be conveyed to a third level if needed, on the northerly part of the canal. The largest pond on this route is situated partly in Bridgewater, and partly in Raynham, called Nippimicket pond; is reputed to contain about 1000 acres, and



its surface is 49 feet 1 inch 4-10ths above the tide water. This pond alone is sufficient to supply the whole of the canal below its level on the southerly part of it, till it meets Taunton river at Williams's landing; from whence the river is navigable to Narraganset bay, and Long Island sound. We passed, also, (on this route,) by Furnace and Forge ponds, which could easily be conveyed to the canal, if an additional supply is wanted in the lower levels.

We observed, throughout this survey, that the streams generally inclined towards the east, and the land appearing more favorable for a canal, induced us to survey a more eastern route, commencing at Weymouth Back landing, and passing through the towns described in our commission, as far as Titicut bridge, which is over the principal branch of Taunton river, the distance about 23½ miles, noting, in the same manner, the course, distance, and level of each station, as in our former route, both of which are described on the plan. The summit height on this route is at Curtis's meadow, where, as on the other route, the waters divide themselves and take different directions, one part running southerly towards Taunton river, the other northerly to Weymouth river; its height, 131 feet 10 inches above tide water. The Weymouth great pond can be led to this summit with much less expense than to the summit of the former route; the distance is about 3½ miles, and is 15 feet 7 inches 4-10ths lower than the pond. Cramberry pond can also be led into it, if more water is needed. The first pond we pass on this route is Whitman's pond in Weymouth, about three quarters of a mile from Back river landing, and is 54 feet 10 inches 9-10ths above tide water, and can be conducted to the fifth level. This pond is sufficient to supply all the locks below its level on the north part of the canal. The next pond is called Burrill's mill-pond, which is 90 feet 2 inches 5-10ths above tide water; this will serve for a reservoir for the third level. On the north part of the canal, in Abington, we pass by Nash's mill-pond, which is 82 feet 5 inches 7-10ths above tide water, which will furnish water for the fourth level; this route can be fed with many small streams which we intersect, as also some small rivers. After crossing John's river in Bridgewater, which leads into Taunton river in a very circuitous route, and bordered with swamps, we avoided following the course of the river, and crossing over the high lands, we intersect the same water at Titicut bridge, where we finished this survey.

In both those routes, more favorable ground for a canal might be selected than is represented on the plan. Such a correct survey would require much time, and, consequently, create great expense; your committee considering that the information of the practicability of such an object was all that the honorable court required of them. From the quantity of water which is above the summit height, we readily formed an opinion that a canal might be made to connect Taunton great river with the harbor of Boston; but the calculation of the size and draught of water we agreed to defer until the survey was completed; but by the dispensation of Providence, in the death of Colonel Baldwin, your committee, as well as the public, are deprived of the talents and abilities he possessed in this particular branch of his profession. We should have discontinued our survey, and made a particular report of the progress made at the time of his decease; but considering that through the whole course of our survey there were but a few instances of a difference of opinion, and those not so material as to affect the principle.

As canals wholly depend on an ample supply of water at their summit height, to enable us to form a more correct judgment, we took an accurate survey of the Weymouth great pond, from which we make the following calculation:

1st. That the surface of the pond contains 507 acres and 16 rods, equal to 22,089,276 cubic feet.

By raising the waters of the pond three feet will give the command of five feet depth, making 110,446,380 cubic feet.

Admitting a canal to be built sufficient to receive a vessel from 75 to 100 tons burthen, drawing 8 feet of water, such as the coasting vessels which trade between Boston and New York; those employed in the southern trade draw less water being of the same burthen; the locks in this case must be in length, 80 feet, breadth 22, depth 10; making, for each lock, 17,690 cubic feet.

At this upper level there will be a loss of two locks of water for each vessel=35,200 cubic feet.

Supposing 12 passages each day=422,400 cubic feet.

For 8 months, or 244 days, are cubic feet,	-	-	-	-	103,065,600
Leaving for waste by leakage, evaporation, &c.,	-	-	-	-	7,380,780

110,446,380

Exclusive of Cramberry pond, which, at five feet deep, affords	-	-	-	-	6,534,000
With the above surplus,	-	-	-	-	7,380,780

13,914,780

Which allows one-eighth part for loss,

Without considering the flow from springs, inlets and rains, this pond is 13 feet 4 inches 2-10ths higher than Weymouth pond.

The upper level on either route may be reduced ten feet for one mile in length, in which the water will accumulate sufficient to supply any loss by exhalation, and not being so exposed to leakage, will, at the same time, be a saving of two locks.

2d. The second level from the summit height must receive its whole supply from the same source with the upper level, excepting some small streams it intersects, which may be used as feeders for this level.

3d. The third level, on the northerly part of the canal, can receive aid from the Braintree great pond, which lies about eight feet higher than this level; its surface is equal to Weymouth pond, and empties itself into Fore river; it will furnish water for all the locks below this level.

4th. The seven upper locks on the southerly part of the canal must also receive their principal supply from the same source with the upper level. There are several streams at a short distance from this part of the canal, from which could be formed reservoirs to supply any deficiency.

5th. The eighth level passes by the side of Nipitick pond, which is the largest pond on either route, and will afford all the water necessary for the canal till it meets the tide water in Taunton great river.

6th. On the Eastern route, the highest ground is at Curtis's meadow in Abington, which can receive its water from the same source as the other route, with much more ease, as before stated. The seven upper levels on the northerly part of this canal must also receive its supply of water from Weymouth great pond.

7th. The eighth level passes by Whitman's pond, which is before described, empties itself in Weymouth Back river, and contains water sufficient for all the locks below it.

8th. The southerly part of this canal, in addition to the water from the upper level, can receive a full supply from Blanchard's, Nash's, Bicknell's, Hobart's, and the furnace ponds, till it meets the main branch of Taunton river at Titicut bridge, from whence, to Taunton landing, the distance of seven miles, the river navigation would be preferable to continuing the canal, if the bed of the river be lowered in some places.

The locks and levels described on the plan are of the equal height of ten feet each; the different situations and number of locks cannot be ascertained with certainty until the canal is properly located. The survey was taken with the spirit level, without any deduction for the curvature of the earth.

There are many other large ponds between the harbor of Boston and Taunton river, but not being within the limits of the resolve, were not included in the survey. On the west, in the towns of Canton, Stoughton, Sharon, Norton, &c. which, perhaps, might be connected with Neponset (or Milton) river; and on the east, in Middleborough, Pembroke, Halifax, &c. which probably might better connect Taunton river with the North river, in Scituate harbor.

Many great advantages will be received by the towns through which this canal passes, by a water communication for the great quantity of timber, plank, &c. for ship building, with which this part of the country abounds. The number of iron works will be accommodated by an easy conveyance of the heavy articles of their different manufactories of their furnaces, forges, and slitting mills, while the great object of facilitating the trade between this and the Southern States is accomplished by avoiding the great delay and danger in passing around Cape Cod, which causes the loss of many lives, as well as property, annually, added to the superior advantages of an inland communication by water between the capitals of New York and Massachusetts in a time of war.

Which is respectfully submitted by

WILLIAM TAYLOR, }  
ELIPHALET LOUD. } *Committee.*

The committee to whom was referred "the report of a committee appointed to explore and survey a route for a water communication from the harbor of Boston through the towns of Weymouth, Abington, Bridgewater, Raynham, by Taunton river, and Narraganset bay to Long Island sound," report:

That the committee appear to have executed the duties of their commission with great accuracy and fidelity, and that their report and plan contains much valuable information, and demonstrates the union of the harbor and sound to be practicable in the course surveyed.

Your committee are destitute of the documents and information which would enable them to decide whether the proposed route be the most eligible of any that may be discovered, and are not prepared to recommend the undertaking of this project at the public expense. They, however, indulge a hope that the survey now made will invite the attention of the public and of enterprising citizens to this useful employment; and, for this purpose, they recommend the following resolve, which is submitted:

Per order,

H. G. OTIS.

*Resolved*, That the report of William Taylor and Eliphalet Loud, who were appointed, by a resolve of the general court in March, 1806, "to explore and survey a route for a water communication from the harbor of Boston to Long Island sound," be printed in the Independent Chronicle and Columbian Centinel, and all the other newspapers in which the laws of the commonwealth are published; and that said report, and the plan accompanying the same, be carefully preserved on the files of the general court; and that the committee who performed said service, present their accounts to the Committee of Accounts for allowance.

In Senate; February 18, 1808. Read and passed, sent down for concurrence.

SAMUEL DANA, *President.*

In the House of Representatives, February 22, 1808. Read and concurred.

PEREZ MORTON, *Speaker.*

February 28, 1808. Approved.

JAMES SULLIVAN.

True copy: Attest, JONATHAN L. AUSTIN, *Secretary.*

A. No. 2.

#### RARITON AND DELAWARE CANAL.

*Extract of a letter from James Ewing, Esq. to the Secretary of the Treasury, dated*

TRENTON, November 11, 1807.

About the beginning of the year 1796, a company was formed and incorporated for the purpose of opening the navigation of the Assampink creek from this place through a large tract of timber land lying from eight to sixteen miles distant. In this scheme I was pretty deeply interested; it was the object of the promoters of it, if they should succeed, to turn their views from the mouth of Shippetankin across the great meadows towards, and in due time to, the Rariton. The scheme, however, was frustrated, principally by the directors having injudiciously expended the money of the company in clearing out the obstructions in the bed of the creek, instead of digging a canal and turning the waters of the creek into it; for whenever the waters were high enough, the stream was too rapid for the boats, and more particularly rafts, to pass. This was the first attempt made in this State.

About the beginning of the year 1803 a scheme was set on foot for forming a company to open an inland navigation from the tide waters of the Delaware to the tide waters of the Rariton. Several meetings were had, and a committee was appointed to take the level, &c., of the country between these two points. An act of incorporation was procured, and several attempts made to procure subscriptions, but very few, if any, were procured, and no company has ever been, and none probably ever will be, formed under this act. The committee, however, proceeded, and actually took the level of the country. A copy of their report I have, with much difficulty, procured, and do myself the honor to enclose.

By this report it will be seen that the object of the committee and of their employers was to follow the course of the creeks generally, and, by removing obstructions, &c., to make their beds navigable. The utility of this plan will be immediately evident to the scientific mind, it being now perfectly understood that the only use rivers and creeks can be of, is to fill canals; yet this report, with the table of elevation and depression made by the said committee, will afford much useful information.

As this is a canal of the most public consequence of any which can be set on foot in this State, and one which would open an inland navigation between the cities of Philadelphia and New York, my attention has been wholly directed to it; and I shall endeavor to answer the queries with respect to it as fully as my information will enable me.

1st. The tide waters on the Delaware and Rariton are twenty-six miles distant from each other in a direct line,

and it is believed that the necessary deviations from a direct line would not require the canal to be more than half a mile longer.

2d. It appears, from the table of elevation and depression, which I enclose, that the highest ground between those points, viz: Phillips's spring, is about fifty feet above the tide waters in those rivers. It will also be observed that the mouth of the Shippetakank on the Assanpink, and the Stony brook at the bridge near Rowley's mill, distant about seven miles from each other, are upon a level, and about seven feet below Phillips's spring. A canal, therefore, of seven feet deep on the highest ground would bring the bottom of it to a level for rather more than seven miles from one of these points to the other. The ground between them is one continued meadow, very retentive of water, and remarkably easy digging.

3d. This must be left to the judgment of the engineer, probably six, or perhaps eight on each side. Materials of every kind for these are in great plenty at very short distances.

4th. A quantity of water may be had from Phillips's spring, from two or three other springs along the meadow, and from some brooks which fall into the meadow. If these should be found insufficient, the whole of Stony brook may be turned into the canal by a feeder of very inconsiderable length, and should these fail, the whole of the waters of the Assanpink creek, from Hutchinson's mill, may be brought into the highest part of the canal by a feeder of one mile and a half in length; this is a considerable stream, and believed to afford water more than sufficient for every purpose of the canal in the driest seasons; but I know of no person capable of reducing the quantity of water afforded by these streams to time and measure.

5th. I am of opinion that no part of the beds of any of the creeks or rivers can be improved to advantage; you will, however, see what the committee say on that subject in their report.

6th. This must be left to the judgment of the directors and engineers.

7th. There are perhaps three or four streams in the course which, in my opinion, the canal will be most likely to take, over which it may be necessary to construct aqueducts. None of these are more than a few yards across, and I am induced to suspect that an able engineer may find means to avoid that expense, but I am not a sufficient judge. There are no hills which it will be found necessary to tunnel. If the sand hills, a few miles on this side the Raritan, cannot be avoided, it will be necessary to dig through them to the depth of perhaps thirty-five feet in the highest place.

8th. There are no obstructions except what are mentioned in the preceding article. I am assured that by a small deviation in the course of the canal, the sand hills may be entirely avoided, and that a fine valley of easy digging will present itself through the remainder of the course; but I am not sufficiently acquainted with that part of the country to say that my information is correct, if it be the canal, for almost the whole of its course will pass through a level, light land, free from rocks, and where the digging will be easy, and the banks good.

10th & 11th. On these I can form no satisfactory estimate; the opinions of others, which I have heard, are so different, that they do not deserve the mention; certain it is, that great quantities of merchandise are now transported by land on the new turnpike as well as by other routes.

Sir:

TRENTON, *November 18, 1807.*

Since I wrote you last, I have obtained a sight of a map of the country through the middle part of this State, said to be from actual survey. As, upon examination, it appears to me the most correct of any thing I have seen, I got leave to copy it; though neither my time nor abilities as a draughtsman would enable me to offer you any thing elegant, yet, as correctness is the object of most consequence, I think I may venture to assure you it is the most correct of any thing of the kind that can be procured. Although, as I have said, my opinion is decidedly against making use of the streams for any purpose but that of filling the canal, yet, as others differ from me in opinion, I do not wish to withhold any information. I have laid down the whole course of the streams the committee have thought proper to pursue, and have marked the points referred to by them in their report.

I have laid down the course which I suppose would be the most advantageous for the canal; I have also laid down the turnpike road from this place to New Brunswick.

I am, with respect, sir, your most obedient servant,

JAMES EWING.

ALBERT GALLATIN, Esq. *Secretary of State.*

The COMMITTEE appointed to cause a survey and level to be taken of the waters of the Assanpink, Stonybrook, Millstone, and Raritan, beg leave to report to the general committees:

That, pursuant to their appointment, the committee met at Trenton, on Monday, the 23d day of May, 1808, and having provided a theodolite, and employed a surveyor and chain bearers, proceeded to the purposes of their appointments; but the instrument for taking the level being out of order, they were delayed for several days at Trenton. Having, at length, procured instruments properly adjusted, they ran a line of level from the water in the mill-pond, at Trenton, to the tide water of the Delaware, at Lamberton, and found a fall of sixteen feet six inches from the surface of the water in the mill-pond, to the surface of the water at Lamberton, in ordinary tides. Some difficulty presents itself in devising the most eligible mode of opening the communication between those two points. About one hundred and fifty yards below the mill, on the Burlington side of the bank, there is a gut or hollow which leads quite to Lamberton, nearly on a level for the whole distance; and a canal may be easily opened through it with small expense. From the mill-pond to the hollow, there must be a canal, which may be taken on either side of the creek. If taken on the lower or Burlington side, the canal will be from fifteen to twenty feet below the surface of the street where it crosses it, and must be supported on the side next the water, from those to the mouth of the hollow, by a stone wall of at least twelve or fifteen feet in height, and one hundred and fifty yards in length. The soil through which the canal must pass is a bed of gravel and porous earth, and will require that the canal be puddled with clay, for the whole length of it, until it meets with the hollow leading to Lamberton. If the canal be taken on the side of the creek next Trenton, it must cross the street a short distance above the house of James Ewing, Esquire, about four feet below the present surface of the street, and continuing around the edge of Mr. Ewing's meadow, and along the street leading parallel to the creek, until it comes to the new street lately opened; thence, pursuing the line of the new street till it comes to the creek across which it must be taken on arches, to the mouth of the gut or hollow above spoken of. The surface of the water in the canal, where it must cross the creek, will be twelve feet and some inches above the water in the creek. There is also a third mode of communication between the waters of the Assanpink and the Delaware at Lamberton, which will be spoken of hereafter.

In the afternoon of Thursday, 26th of May, we proceeded up the Assanpink, two of the committee and an assistant going in the boat, and the rest with the surveyors, &c. on foot. From the mill dam at Trenton, we found a fine level sheet of water, from eight to forty-two feet in depth, to the old iron works at Grammount's, of sufficient width, and with no obstruction in it; from the old iron works to the mill of Mr. Burrows, distance — from Trenton, there is a pretty strong current, and an elevation of seven feet nine inches; the water of various depths, from three feet to eighteen inches. Here it will be necessary either to raise a dam, or to cut a canal from the foot of Burrows's dam to the old iron works, or head of the Trenton mill-pond. The ground on both sides very practicable digging, and particularly so on the north side, where there is meadow ground with a gentle descent to the creek, and a perfect level can be run. The locks to be here erected will be seven feet nine inches in height, the distance of the canal. At Burrows's mill dam there must be a lock five feet eight inches in height.

Friday, the 27th, we began at Burrows's mill, and proceeded upwards. The mill-pond, until you come within one hundred and fifty yards of Phillips's, or the Burnt mill, is two feet in the shallowest places, and, in most, from two to eight feet in depth. At the Burnt mill there is a canal leading from the mill-pond to the foot of the tail water, or nearly to the head of Burrows's pond, and also a lock, badly constructed and out of order. There is a fall of six feet and nine inches at the Burnt mill.

About half a mile above the Burnt mill, Shabbacurick, on one side, and a large bold creek called Miry run, set into the Assanpink. Many places towards the head of the Burnt mill pond will require clearing, some straightening, and enlarging in width. The depth of water, about three and a half feet in the shallowest places, when the pond is full, to the head of the pond, which is about a mile in distance; from the head of the mill-pond to Coleman's, the current is strong; and the creek, which forms a large bend between Coleman's and Mershon's, the depth from two feet six inches to eighteen inches, with a fall from Coleman's to the head of the pond of three feet and half an inch. Here it may be advisable to cut a canal across from Coleman's to the head of the Burnt mill pond. The soil is a fine meadow, easy digging.

From Coleman's we proceeded on Monday, 30th, to Hutchinson's mill-pond; the water all the way of a pretty strong current, and from two to three feet in depth; the creek narrow and extremely crooked, and the bends so short as to require that it be straightened, to fit it for the purpose of navigation. The ground on both sides, a low meadow, very easy digging, and the fall from Hutchinson's mill tail to Coleman's is two feet four inches. The water in Hutchinson's pond is five feet one inch and a quarter above the water below the mill. There is a lock in the dam in pretty good order. About — distance below Hutchinson's mill, Shippetankin creek, (formed by the junction of Eight Mile run and Sandy run) sets into the Assanpink.

Tuesday afternoon (having been detained by rain in the forenoon) we proceeded to run a level across the Great Meadows, from Assanpink to Stony brook; we found the highest points between the two creeks, to be near Phillips's spring, where the water in the great ditch is about seven feet above the water in the Assanpink, at the mouth of the Shippetankin; and within a few inches of being on a level with the water in Hutchinson's mill-pond; the intervening ground between Hutchinson's pond and the Stony brook, at the Duck pond, being nearly a level, and of the easiest digging. The water of the Stony brook, at the Duck pond, is about two feet below the Crown water or Phillips's spring; from the Duck pond we proceeded on Wednesday, down the Stony brook to the foot of the Long Reach, the water about three feet deep, distance about —; some obstructions are to be found in the Long Reach, by logs, &c., which must be removed. A dam thrown across, at the foot of the Long Reach, of about two feet and a half to three feet high, will raise the water of Stony brook to a level with the water of Phillips's spring, and Hutchinson's mill-pond. The banks along the Long Reach are sufficiently high to admit of such a dam without endangering the adjacent lands, or exposing them to the inconvenience of being overflowed; from the foot of the Long Reach, we left the Stony brook, and run a line of level through the meadows, to Schenck's woods, where we again proposed to use the bed of the brook for some distance, the water sufficiently deep at the lowest times; from the lowest side of Schenck's woods there must be a canal cut to the Millstone, as no other part of the bed of Stony brook can be used with advantage; from the foot of the Long Reach, we found a fall of about four feet eleven and a half inches to the water at Stony brook bridge, near Rowley's; so that from the Crown water to this place, there is a fall of about seven feet, and Rowley's mill-pond we found to be seven feet one and a half inches above the water at Stony brook bridge. Hence it is found that the water in Hutchinson's mill-pond, at the Crown level, and Rowley's mill-pond, are within a few inches of being on a level.

On Thursday, the — of June, we proceeded down the Millstone from Rowley's to Gulick's, and found the water upon a dead level from the foot of Rowley's tail race; about three and a half to six feet in depth, wide and perfectly straight for nearly the whole distance, about two and a half miles; at Gulick's, we ran a level from his mill-pond across through his meadow to the foot of the falls at the head of Cruzet's pond, and found the fall to be five feet seven and a half inches. Here it will be necessary to cut a canal, as the water from the mill dam to this place is shoal and rapid.

From the falls to Cruzet's, the water is on a level, and from four to ten feet in depth; and a fall at his dam of five feet eight inches. Below this, to Vandoren's mill, the water is from three feet to six and eight feet; many obstructions are to be found from logs and trees fallen in, and large quantities of brush, mud, &c., formed thereby. The fall at Vandoren's mill-dam is three feet five and a half inches; from thence to the head of Sythoff's mill-pond near Major John Baird's, it may be necessary to cut a canal across Skilliman's and Simonson's meadow, to avoid a great bend in the river, and a considerable shoal; the fall from the dam at Vandoren's to the head of Sythoff's pond is about three feet; from thence to Sythoff's, the water is about four feet in depth, and no obstructions; at Sythoff's the fall is three feet four and a half inches. For about one hundred and fifty yards below Sythoff's, the water is about two feet deep; after which is a fine, still, straight sheet of water, about three and a half feet to five feet deep, to Bayard's mill. There the fall is three feet ten inches; from thence the water is shoal, not above twenty inches to two and a half feet deep, for about two hundred yards; after which, it is about three and a half feet deep, until within about two hundred yards from the mouth of Millstone, where it is very shoal and rapid, as is also the Raritan for a quarter of a mile below the mouth; from thence to Middlebrook, the Raritan is sufficiently deep, but between Middlebrook and Roundbrook it is rapid, and there is a fall of three feet seven inches; from thence, for a mile, it is again deep and still; the remainder of the Raritan to tide water, and for some distance below the landing bridge, the water is shoal, and the banks mostly high, of a red shell. The total fall from the mouth of Millstone to the level of the tide at ordinary times, is thirteen feet. Three strong dams thrown across the Raritan at suitable distances between the mouth of Millstone and the tide water, of five feet in height, would, in the opinion of your committee, render the navigation of the Raritan as easy as that of the Millstone.

It has been observed above that there was a third practicable mode of opening a communication between the Assanpink and the Delaware at Lamberton; this is, by cutting a straight canal from Burrows's mill to Lamberton. The ground intervening is tolerably level and of very practicable digging, and the distance is —.

If this mode should be adopted, the fall at Lamberton, or between the two points, will be 24.3, and will require at least three locks.

Your committee conceive it their duty to point out in their report the several modes which suggest them-

selves to us without coming to any decision on the subject, or giving the preference to one over another; but they hope to be indulged in a few general remarks on the whole subject, which present themselves to your committee, and could only result from an actual survey of the whole ground.

It is with pleasure your committee have to observe, that from the review they have been enabled to take of all the circumstances connected with the great object of their appointment, the facility of the undertaking exceeds the most sanguine expectations which have been formed of it. The Assanpink is a stream which, at all seasons of the year, affords so bountiful a supply of water, and, in consequence of the several dams erected on it, presents so level a surface, as to assure a safe and easy navigation for vessels of any size requisite in an inland navigation of this kind. The Crown waters, consisting of Phillips's spring and Eight Mile run, are fully sufficient to supply a canal between the waters of the Assanpink and Stony brook. The relative situation of the three important points, viz: the water of Hutchinson's pond, the Crown level, and the Stony brook, at the Duck pond, if the proposed dam is made, assuring a supply from the Assanpink, if necessary to be resorted to, leave no room to doubt of the efficiency of the canal of communication for all the purposes required. The Stony brook also, as far as the same is proposed to be used, is, in the opinion of your committee, amply sufficient, and the Millstone and Raritan, with small expense, may be made one of the best inland navigations perhaps in existence.

Upon the whole, your committee are of opinion that, with the aid of persons of professional skill to direct the operations of the proposed company, and superintend the execution of those plans which a scientific mind may suggest, a communication may be opened between the tide waters of the Delaware and Raritan, of at least three feet and a half in depth, which, with boats properly constructed, may be sufficient for all useful purposes.

ALEXANDER ANDERSON,  
JOSEPH BREARLY,  
JOSEPH STOUT,  
THOMAS P. JOHNSON.

A correct copy from the original, examined.

MAY, 1803.

*A table of distances from the tide waters of the Delaware to the tide waters of the river Raritan, agreeable to the survey taken by Messrs. Johnson & Anderson.*

	chains.	links.
From Lamberton, up the hollow, to the new bridge, on the Assanpink,	90	44
From the new bridge to Burrows's mills,	164	50
From Burrows's to Burnt mills,	105	44
From Burnt mills to Coleman's bridge,	151	00
From Coleman's bridge to the mouth of the Shippetankin,	31	34
From the mouth of the Shippetankin to Hutchinson's mills,	69	62
From Hutchinson's mills to Cranberry pond,	32	11
From the mouth of Shippetankin to opposite S. Brearley's,	79	49
From thence to the lane leading across the meadows,	66	96
From thence to Duck pond,	130	68
From thence down Stony brook to the old saw-mill bridge,	119	86
From old bridge to a log opposite J. Stout's,	114	42
From said plan to a bridge on the road leading from Princeton to Rowley's,	115	45
From said bridge to Stony brook and Rowley's mill race,	53	09
From thence down Millstone river to Major Gulick's mills,	156	87
From Gulick's to the Falls of Millstone,	85	31
From said Falls to Cruzer's mills,	74	85
From Cruzer's mills to Oppies Cove,	154	60
From Oppies Cove to Vandoren's mills,	89	03
From Vandoren's mills to Greggston bridge,	47	77
From Greggston bridge to Sythoff's or Merser's mills,	276	26
From said mills to the bridge at Millstone village	167	77
From said bridge to Bayard's mills,	194	43
From Bayard's mills to the mouth of the Millstone,	132	08
From the mouth of Millstone to Bound brook,	188	70
From Bound brook to the bridge at the landing,	416	61
	<u>3206</u>	<u>68</u>

3206 chains 68 links reduced to miles, are 40 and a small fraction.

*Table of elevation.*

	feet.	inches.
From Lamberton to the water in Walls's mill-pond,	16	6
To the head of the rapids at the old iron works,	1	0
To Conal's mill-house,	2	6½
To foot of Burrows's mill-pond,	4	6
To the water in Burrows's mill-pond,	5	7½
From the head of Burrows's to the waters of Burrel's mill-pond,	6	7¾
To the head of the pond,	2	0
To Henry Mershon's,	1	3
Round the pond to J. Coleman's,	3	1½
To Coleman's bridge,	0	3
To the mouth of Shippetankin,	0	5

43 10

From Shippetankin mouth to the foot of Hutchinson's dam,	-	-	feet. inches.
To the water in the pond,	-	-	1 8
From Shippetankin mouth to S. Brearley's,	-	-	5 11 $\frac{1}{2}$
From thence to Philips's spring,	-	-	1 8
			5 4 $\frac{1}{2}$

13 9 $\frac{3}{4}$

*Table of depression.*

From Philips's spring to Duck pond,	-	-	feet. inches.
To Stony brook bridge by Rowley's,	-	-	1 8
From thence to the foot of Rowley's mill-race,	-	-	5 3 $\frac{3}{8}$
From Gulick's pond to the falls in Cruzer's pond,	-	-	0 6
Draught of Cruzer's pond,	-	-	5 7 $\frac{1}{8}$
Cruzer's head and fall,	-	-	0 6
Head and fall of Vandoren's pond,	-	-	5 8
Vandoren's head and fall,	-	-	1 6
From his dam to the rapids below Baird's,	-	-	3 5 $\frac{1}{2}$
Draught of Sythoff or Merser's pond,	-	-	2 2
Draught of Sythoff's head and fall,	-	-	0 6
Draught of Bayard's pond,	-	-	3 4 $\frac{1}{2}$
Draught of Bayard's head and fall,	-	-	0 6
From his dam to the mouth of the Millstone,	-	-	3 9 $\frac{1}{8}$
From the mouth of Millstone to the landing bridge on the Raritan,	-	-	1 6
			12 7 $\frac{1}{2}$

50 11 $\frac{1}{8}$

A. 3.

CHESAPEAKE AND DELAWARE CANAL.

Sir: PHILADELPHIA, January 4, 1808.

I had the honor to receive your letter of the 17th September, enclosing a printed circular, with sundry queries to be answered, so far as they apply to the Chesapeake and Delaware canal, and must apologize for delaying my reply to the present period; this delay has arisen from a desire to procure sundry documents relative to the present land carriage over the peninsula, which have not been furnished me till very lately, and from the distant situation of two other directors of the company, who compose with me a committee appointed on this subject. I could not easily obtain from them an earlier communication of their sentiments; they have, however, at length given me the necessary information, and committed to me the duty of replying to your letters, under an impression that, as the board of directors have heretofore allotted to me the business of preparing their papers, the subject of them may be more fresh to my recollection.

From the commencement of the important work in question, the president and directors have been extremely solicitous to furnish the public with a correct account of their proceedings; hence have arisen the very ample reports made to the annual meetings of the stockholders; of these, together with the memorials to Congress, and other papers which have been printed, I transmit you copies, collected together in one small volume; and sensible that they will furnish you with nearly the whole history of the work, from its commencement, I beg leave to offer only a few observations upon them before I proceed to answer your queries.

You will perceive, how early the near approach of the head waters of the Chesapeake and Delaware attracted the attention of the inhabitants, and induced many public spirited individuals to attempt the establishment of a canal navigation between them; I am now possessed of nearly twenty surveys, made by my father Mr. Thomas Gilpin, at different portages on the peninsula, some of them so early as the year 1765. From the causes mentioned in the reports, however, no effectual measures were adopted for the purpose, until the acts of Maryland, Pennsylvania, and Delaware, incorporated the present company in the years 1799 and 1801.

You will also perceive, the attention with which the president and directors laid the foundation of the work, by prosecuting during the first year an extensive and minute survey of the whole area of the country, and waters, which appeared in any measure suitable for the canal; and that these surveys were made by professional men of the best talents and information on the subject in the United States, particularly Mr. Latrobe, as principal engineer; the result of these surveys was as follows:

1st. Charts and soundings of Christiana creek, and of the shores of the Delaware, at the positions appearing proper to form the Eastern termination of the canal.

2dly. Similar charts and soundings of Elk river, Back creek, and Bohemia, on the side of the Chesapeake.

3dly. A complete map of the whole area of the country, and of those passes over it, where a route for the canal appeared practicable.

These papers are now mostly in the possession of Mr. Latrobe, whom I have requested to lay them before you, in order that you may fully comprehend this part of the subject, aided by his observations. From the fact they established as to the situation, general level, and soil of the country, the following important measures obviously resulted:

1st. That as the streams of either bay were little more than estuaries, or arms of those bays, much obstructed in their navigation, and furnishing no supplies adequate to the purposes of the canal, it could be furnished with water in sufficient quantity, only from the streams at the upper extremity of the Peninsula, which rising among the hills of Pennsylvania, were different in their character from those below; these streams were Elk, Christiana, and White Clay creek, from whence it was obvious an abundant supply of water could be obtained.

2dly. The sources of supply being thus fixed, the route for the canal became necessarily established as near them as possible, all other circumstances being duly considered.

3dly. These circumstances all united to confirm the same conclusion; first by the distance being shorter, and secondly, the ground more practicable than on any other route.

4thly. The supply of water being found sufficient for a canal of large dimensions, capable of conveying the vessels usually employed in the trade of the two bays, the construction of the canal of that size became an obvious result.

5thly. The canal requiring to be filled with water before it could be used, and also large supplies of stone, timber, lime and other materials, which were found on the course of the projected feeder or canal of supply, the construction of that work appeared the most beneficial mode of commencing the operations of the board.

An additional reason influenced the board in making their commencement; which was to collect by degrees the necessary workmen, tools, implements, machinery, and outfit of the work; to reduce the operations to system upon a smaller scale, and to gain experience in all their proceedings before they began the most extended parts of the undertaking.

Upon these principles the route of the canal was decided, and a more minute survey of it, as well as the feeder formed, and the execution of the latter begun, and carried on from the 1st of May, 1804, until the board were compelled to discontinue it early in 1806.

In order to assist your information as to the nature of the country over which the route is established, I shall transmit you herewith the section of the canal itself from which you will perceive the easy, level, and practicable appearance of its whole course.

The time which has been employed on the works of the feeder, is, as you will perceive, about two years; the extent of work executed four miles, and the sum expended on the work about \$90,000.

In drawing any conclusions from these premises, applicable to the future operations of the canal, I must beg leave to suggest the following observations:

1st. The very difficult nature of the ground on the course of the feeder, which winding among hills, rocky ground, morasses, &c. presented numerous obstacles and greatly extended both time and expense.

2dly. The first season was principally occupied in collecting workmen, building houses for their accommodation, and drawing from distant courses almost every thing requisite for the work; and these desultory operations continued to consume a large proportion of the whole time it was in progress.

3dly. A large proportion of the sum expended was also consumed in the houses, tools, machinery, &c. which may be properly termed the outfit of the work, so formed, however, as to be applicable to all its future operations.

4thly. Not only this outfit, but a large quantity of materials, particularly of hewn stone, was procured towards the main canal.

Hence, in the opinion of the board, as well as of the engineer, the work thus executed cannot be considered as more than equal to one year of fair unimpeded operation; and deducting the outfit and materials procured towards the future work, it has not actually cost more, if as much, than \$10,000 per mile.

The advantages which the board experienced may be classed under the following heads:

1st. The number of workmen collected and reduced to system; artists formed on various parts of the work; great experience acquired by them, as well as by the directors themselves, and the general outfit accomplished.

2dly. The water rights on which the canal must depend for a supply were obtained, and in a great degree brought into actual possession.

3dly. The supply of stone and various other materials was secured for the main canal.

4thly. The feeder was commenced within a short distance of the line between Pennsylvania and Maryland; contiguous to the southern counties of Pennsylvania, so as to form a ready conveyance for the produce of those counties to the canal, and to offer a very obvious mode of communication with the interior parts of that State, even to the Susquehannah itself, whenever its Legislature might choose to adopt it, as you will find mentioned in the memorial of the board to the Assembly of Pennsylvania.

5thly. The supply of the main canal with water so as to facilitate the removal of earth and materials, and to render every part of it navigable as fast as it was finished.

6thly. Great confidence was given to the directors by actual execution of a large portion of work, in a manner equal to any European canal, and the success of their future operations confirmed, by the part they had completed; especially as that part abounded in almost every variety of operations which occur in the general formation of canal.

7thly. Very important data for estimating the future progress and cost of the work were furnished by actual experience, on which far greater reliance could be placed than on any estimate founded on calculation only.

By actual measurement, and the sums paid on the feeder, it was found that one mile, the most difficult of all others, from its being nearly altogether formed through hard rocky ground, cost \$13,000: and one other mile, perfectly level, and without any particular impediment, cost \$2,300; from hence the general average would be reduced to \$7,650 per mile. The estimate of the remainder did not appear to increase this average; but as parts of the outfit were almost inseparably connected with the cost of actual execution, and an allowance ought to be made for wear and tear of tools, &c. the board placed the average, as I have before mentioned, at \$10,000 per mile, from a conviction that this sum was fully sufficient.

In applying the experience of the board thus obtained to an estimate of the main canal they justly considered the following circumstances:

1st. The entire change of country over which the main canal will pass, the very practicable nature of the soil, and its furnishing no rocky ground, morasses, steep hills, nor any obstruction whatever which can materially extend either time or expense.

2dly. The provision already made for it in point of outfit, stone, and other materials, and the great saving of labor by the water carriage of the feeder as I have already mentioned.

They deem themselves, therefore, fully justified in fixing the cost of the whole main canal, when completed, at \$20,000 per mile; exclusive, however, of the locks, and such detached expenditures as I shall hereafter mention.

The first impediment which the president and directors experienced arose from the want of funds; at its first commencement the public and private zeal which appeared to support the work were so flattering that the board had no idea but the sum originally subscribed would be cheerfully paid, and whatever should be further required furnished them either by public donation or private subscription; so that they proceeded with ardor to fulfil the sanguine expectations formed of the work, sensible that it was necessary to avail themselves of the general impulse felt on the occasion, without suffering it to languish by neglect, and that if so much of it was executed as the existing subscriptions would admit, it must then be too interesting not to command the further sums necessary for its completion.

But though a considerable part of the subscriptions were paid, it soon became evident that a work of this kind, which required the toil and attention of several years to repay those who engaged in it, bore an unfavorable comparison with the banks, moneyed institutions, and private commerce of the United States, which gave immediate and large returns to capital employed in them. Hence the ardor of the subscribers was soon perceived to cool, excuses were formed for the delay of payment, and a large portion of those in the State of Delaware availed themselves of a supposed permission in the act of that State to delay their engagements. The opinion of six eminent counsels in the three States leave the board little room to doubt of the recovery of all the delinquencies, but it was in vain, under such circumstances, to proceed in a work which required immediate supplies of money. A general fear, originating partly in the failure of other similar works, and partly in the wishes of those who were desirous to be released from their subscriptions operated on the public, that as this work had not received the basis of public support it could not be carried into effect. To silence as much as possible these clamors, and regain the public



confidence, applications were made to Congress and the Legislature of the three States who had united to incorporate the company; but though a reception at first very flattering to their hopes was given to several of their applications, the ultimate delay of them all increased the despondence of the subscribers, and compelled the board to discontinue the work, under the full conviction that, without the patronage of Government, extended in some way to the institution, its operations cannot, for a long period, if ever, be resumed.

The experience obtained in making these applications leaves the board with little hope of obtaining any support but from Congress. Unhappily, though the canal is highly interesting to all the three, contiguous States, yet it touches so much on their remote boundaries as to create but little local interest in the greater part of their representatives, and is viewed by all more as a national than a municipal undertaking. The city of Philadelphia has zealously supported, and still remains highly interested in its progress, but the representatives of Pennsylvania have so many local objects of the kind in the interior counties, that these are constantly brought into competition with it, so as to prevent its obtaining any aid from thence. The State of Delaware is too feeble in its resources to grant supplies for any work of the kind; and in the State of Maryland, although the interest of the counties contiguous to the Chesapeake are partial to the canal, the city of Baltimore and other parts of the State view it with no little jealousy.

You will perceive, sir, the various reasons on which the board have founded their applications to Congress in their memorials, and a paper annexed thereto, entitled "Observations on the Canal," printed for the perusal of the members when the application was made. These reasons rank themselves under three heads: 1st, The universal adoption of canal navigation by every great nation, both ancient and modern, and the immense influence they have had on individual happiness and public prosperity; 2d, The extensive benefit which they will confer on the people and Government of the United States; and 3d, The immediate benefit of the Delaware and Chesapeake canal, both as to its own actual effect, and as the foundation of similar works to great extent.

I am sensible, sir, that your own observation and knowledge of the canal navigation of Europe, and the prodigious assistance it has given to agriculture, manufactures, interior economy, and public revenue, will render it unnecessary for me to add any thing further on its history and general effects than merely to request your perusal of what has been offered on the subject in the papers I allude to, which may recall some facts to your recollection, nor am I less sensible of your disposition and superior intelligence in applying the experience and improvements of other nations to our own. But I shall beg leave to mention a few of the most prominent advantages canal navigation, and this canal in particular, offer to the United States, which have impressed themselves so forcibly on the president and directors, that they are induced to believe they cannot be too highly appreciated, and will impress an equal attention on the minds of others.

1st. The period when canal navigation is most useful to a country is in its infant or progressive state, when every improvement which can lighten expense or labor applies more beneficially than when it has already become wealthy and populous.

2d. Canal navigation is of peculiar importance when a country is verging to manufactures, or has commenced them, especially where mineral productions abound, and require exertion to connect them together so as to become useful.

3d. It is also of the first importance where a country of various climates and productions requires an interchange of those productions for support or the occupation of industry; especially where one district furnishes population, and others the means of employment.

4th. It is peculiarly useful when the increase of population and settlement of a country depends on the ready sale of agricultural produce, and that sale on commerce, to ensure conveyances to market by the easiest and cheapest means.

5th. Where countries are furnished by nature with numerous waters or streams which afford partial communications, canals are of the utmost value to connect them together, and complete those advantages which nature has furnished.

6th. The self-dependence of a nation is an object of the utmost value, that is, to create the same interchange among its various parts or provinces, as those parts must otherwise enjoy with other nations: by these means it becomes independent of the jealousy and hostility of foreign countries; it is fed, clothed, and supplied by means within its own command; the labor and industry paid for by one part enriches another; its people are kept at home; its minerals are opened, instead of paying other nations for them by purchasing their manufactures; and the general wealth and strength of a country furnishes resources to the Government which cannot be affected by foreign politics or hostility.

7th. It is a circumstance of no small consequence to the happiness of society for people of various and distant districts under one Government to be constantly and extensively mingled together for the purpose of traffic and interchange of their respective arts and productions, so as to polish the local habits or prejudices of different parts, and unite them in one general sentiment of respect and affection for each other, and for the Government under which they live.

In applying these observations to the present situation of the United States, I am sensible, sir, you will justly estimate their influence on the present moderate though increasing population of our country; the rapidity with which our manufactures may be extended by a ready communication between the several States, particularly the Southern States, which produce cotton and other raw materials, with the middle and Eastern States, which possess greater population, iron, and other manufactures; how material a ready and certain market for agricultural produce has become to the progress of settlement and population; how easily numerous streams, which furnish interior communications, may be connected together; and how great the importance, amid the injuries we are receiving from other nations, of increasing, by all possible means, our own interior resources and self-dependence, the intercourse of our citizens with each other, and their confidence in our General Government.

With respect to the immediate advantages of the Chesapeake and Delaware canal, I must beg leave to call your attention to the following facts:

1st. A line drawn from the city of Washington northeastwardly to Boston will nearly touch the cities of Baltimore, the course of the present canal, Philadelphia, the course of a canal from the Delaware to the Raritan, and the city of New York; hence it is obviously the most direct route through all the middle States.

2d. The first object accomplished by the canal will be to open a free intercourse between the Delaware and the Chesapeake bays and all their waters, the extent of which, and the immense traffic furnished by their produce, you will justly discern.

3d. The extension of the canal southward may be formed to embrace the trade of the Southern States.

4th. The extension northward by a canal from the Delaware to the Raritan connects the vast trade of New York, the Hudson, and Long Island Sound, with Philadelphia, Baltimore, and the Southern States.

5th. The most direct communications of the Atlantic coast of the United States with the lakes of Canada are from the head of the Hudson. One communication of this kind with Lake Ontario is now partially completed, and



another with Lake Champlain has been contemplated and found practicable. If they should be finished, (as no doubt they will be at a future period,) the vast trade of the northern boundary of the United States will be opened to their own ports on the ocean, and turned from the St. Lawrence which now forms its natural outlet.

6th. The line I have described extends nearly along the base of the first hills or rising ground from the ocean; from which it is greatly distant, so far as it crosses Maryland, Delaware, Pennsylvania, and Jersey; these hills also form the first line of country which abounds in streams of water for manufactures and in minerals. With the union, therefore, of machinery and raw materials, which may be formed by the canal, its whole course will probably become a seat of manufactures capable of being extended to an immense degree in the interior countries. Thus the produce of the coast will naturally be drawn to the interior, by numerous advantages beyond that of direct and safe conveyance only; and the communications of all the inland parts of the middle States, whether by canals or roads, will be directed to this canal and its extensions as a general route of traffic and conveyance.

7th. The produce exclusively furnished by the Southern States are cotton, rice, naval stores, and tobacco, to which for the present may be added coal. The middle States furnish in common with some of those to the southward corn, wheat, iron, and a variety of lesser and manufactured articles; and the Eastern States oil, fish, lumber, plaster, salt provisions, barley, &c. Of these the exchange is already immense, under the two unfavorable circumstances, 1st, Of a long and dangerous coasting navigation; and 2d, Of a direct conveyance between principal towns and rivers only, where they must be landed and conveyed to the interior country. How much, therefore, this interchange may be increased by the canal navigation, which at once offers a direct route free from the dangers of the ocean, and communicates directly with a large portion of interior, will, I am sensible, meet your consideration.

I shall beg leave to mention one object more which renders the canal of great and increasing importance; that is, as a military work during the revolutionary war this importance was severely felt, as it must again in any hostile contest with any other nation. There are many people now living who were employed in the conveyances across the Peninsula, particularly from Elk to Christiana, who describe the sufferings and inconveniences which the public experienced for want of a canal; when the coasting navigation became interrupted, and in fact destroyed by the British cruisers; the sources of supply, which in time of peace appear inexhaustible, became extremely limited; and the army, which was chiefly stationed in the middle States, from the ravaged and exhausted situation to which they were soon reduced, became almost wholly dependent on Maryland and Virginia for their provisions; added to which, nearly all the merchandise which eluded the vigilance of the enemy was landed in the ports of those States. The chief, and, indeed, the only safe conveyance for them was by the route I have mentioned, where it often occurred that the want of wagons and badness of the roads occasioned such delays as reduced the army to great distress. These delays were also severely felt on the march of the army southward, particularly on that to Yorktown, and must be again felt in similar circumstances.

Should a war occur with any European Power, the first means of annoyance it would adopt would doubtless be a blockade of our ports, particularly New York, and the bays of Delaware and Chesapeake. The intercourse of the Southern and middle States then again becomes reduced to the passes from Elk to Christiana, and from Trenton to Brunswick. These were seldom shut up during the late war, except when the enemy was in actual possession of the country; nor is it probable that any regular stations would be fixed by these cruisers so far from the ocean, or any thing attempted against them beyond desultory attacks, from which they might be completely defended. On this head I shall beg leave to offer the following remarks:

1st. Vessels attempting to form stations so high up the bays of Chesapeake or Delaware, would be subject to great inconveniences for the want of water and provisions, from the difficulties of navigation, and from the constant annoyance of gun-boats and other means of defence.

2d. The extremities or debouches of the canal might be fortified so as to resist any attack by sea or land.

3d. A powerful fleet of gun-boats might be kept to pass through the canal from one bay to the other, and to assist in the defence of the two extremities, or of any part which should be attacked.

4th. The two eminences of Gray's Hill and Iron Hill form strong military positions, and the hills on the northern side are admirably calculated for an army of defence to operate on the whole line of the canal.

5th. The canal itself offers a strong military work, and with the assistance of batteries on its northern bank gun-boats and an army of moderate numbers would repel any attack.

6th. An army stationed in its vicinity would be easily and directly conveyed by boats to almost any position in the middle or Southern States where its service would be required.

Respecting the finances of the present company, the sum necessary to complete the canal, the extent of aid, and the manner of furnishing it, if Congress should be pleased to grant it, I beg leave to offer the following observations:

The amount of the original subscriptions is two thousand shares at \$200 each, or \$400,000; the sums already collected and expended \$103,000; leaving a balance of \$297,000 for the future progress of the work.

The estimate for the full completion of the work, as I shall hereafter explain to you, is	\$741,000
From which deduct the above balance of	297,000

It leaves the amount to be provided,	\$444,000
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What part of this sum Congress may be pleased to furnish will undoubtedly depend on their wisdom, and on the interest with which they may view the work. Should it appear to them of sufficient magnitude, doubtless its execution would be the most effectually secured by their furnishing the necessary amount; but in the papers I submit you will perceive the great stress which the board has placed upon the patronage, confidence, and support which would be afforded even by a more moderate aid, and that the success of the work would be ensured by its becoming an object of the care and assistance of the National Legislature. On this head the board place reliance on the following result:

1st. By a moderate aid from Congress the confidence of the subscribers would be restored, and no doubt their desire to complete their payments would become as great as their former disposition to delay them.

2d. New subscriptions for a further amount may be obtained, as a large portion of the public, especially in Philadelphia, view the work as of so much importance as only to delay engaging in it until it shall have received some public support.

3d. If any of the present subscribers remain delinquents, their shares would be forfeited and supplied by others.

4th. So soon as the public confidence is restored, a recommencement of the work made, and especially if any material part of it is effected, the board would be able to raise further funds, either by new subscriptions by loan, or by the various means authorized by the acts of incorporation.

5th. By first completing the western or Chesapeake end of the canal, and continuing it towards the Delaware, which is the most advantageous mode of procedure, every part of it will become productive as soon as it is finished.

The portage from Elk to Christiana and Newcastle being so much shorter as it is executed, vessels would of course enter, and proceed on the canal as far as practicable, and there unload, instead of unloading, as they now do, on the Elk river. This circumstance would undoubtedly confirm the confidence of the public in the work, by the appearance of business, and an early return of interest on the capital.

The manner of bestowing the public aid will, no doubt, claim your consideration; so that I shall confine myself merely to mention how it appears to the board that it may most beneficially operate.

This mode would, in their opinion, be in a loan, or in a subscription of a number of shares to the present company.

The present organization, and the powers given by the acts of incorporation, appear amply sufficient for the conduct and completion of the work.

A number of subscribers, so as to form a very important object, are engaged in this organization, a considerable part of their subscriptions paid, and expended, and the system of operations formed under it.

From various existing jealousies between the three States, it was not easy, originally, to obtain their union in forming the company. These jealousies still exist, and any new organization would be attended with material difficulties, where there are so many parties interested; nor, indeed, would it be safe to commit the institution to that variation of sentiment which generally prevails on such occasions, both in public bodies and among individual subscribers.

The present company is modelled upon those which have been universally adopted in England and other Governments, where canals have been carried into the most complete effect, by committing them to institutions made perpetual for the express purpose, in which public duty is united with private energy and interest.

The duty of the directors of this work has been, and must continue to be, an arduous one. The purchases of land, water, and numerous negotiations, always occurring in the neighborhood of the canal; the conduct of the work so as to produce the most local and general advantage; the system of employ for a large number of persons; and the administration of the finances, form a large portion of duty, distinct, in a great degree, from the operations of the engineer, and require a board, which unites men of knowledge and influence in the country itself, with others, who may prevent the effect of local influence, and guard the distant and general interests; or, from their knowledge or experience, may unite and assist in the execution by their advice and co-operation with the engineer. Such a board can, perhaps, always be best selected by the stockholders, of whom they are the proper representatives, and who will preserve a great degree of vigilance over their operations; and Congress would undoubtedly claim a proper share in the choice of these representatives by their subscriptions.

Such alterations as it may be useful to obtain in any of the acts, and particularly some modification of that of the State of Delaware respecting the tolls, may be applied for and obtained, at favorable periods, without hazarding the general structure of the act itself.

The following circumstances appear highly favorable to a resumption of the work at this moment:

1st. The fear of our being engaged in war, and the great importance of this canal in such a state, renders it a subject of much conversation, interest, and anxiety at present.

2d. The embarrassed state of our commerce, and of the moneyed institutions depending on it, leaves a greater sum of private capital unemployed than at any other period; and the fear of a war creates a solicitude to place it in funds which are likely to ensure its security.

3d. If our present embarrassed situation continues, a great number of laborers and poor people must become idle; and such a work would afford an excellent opportunity of employ, at a considerable reduction of the present price of labor.

4th. By affording assistance to one work already begun, and which appears to be the basis of a most useful and more extensive system, the wishes and anxiety of a large portion of the people of the United States to see a part of the public funds devoted to internal improvements would be highly gratified; and such assistance by the public at this juncture would probably create a disposition to convert the money and attention of the country, generally, to such purposes; in lieu of other speculations.

I shall here close the general observations I have taken the liberty to make, and reply to the queries in your printed circular.

1st. The points united by the canal are Welch point, at the junction of Back creek with the Elk, on the side of the Chesapeake, and Christiana creek, about three miles above Wilmington, on the side of the Delaware; the distance, by the line of the canal, is nearly 22 miles; the depth of water, nine feet, at low tide, in the Christiana, and more at Welch point, where the canal terminates.

The feeder begins on Elk river, about four miles south of the Pennsylvania line, and ends on the summit level of the canal, about ten miles from its western extremity. The length of the feeder is nearly six miles, and is a navigable canal, of nearly three and a half feet draught of water.

2d. The canal rises from Welch point in one mile to the elevation of sixty-eight feet above the tide, and continues of this elevation seven miles; it then rises six feet more, (altogether seventy-four feet,) and continues thirteen miles further, to within one mile of its termination on the Christiana; in which mile it obtains its whole descent. The feeder commences on Elk river, at an elevation of ten feet above the highest level of the canal, consequently, eighty-four feet above the tide, and continues on this level to a lock at the main canal formed to supply it.

3d. The number and positions of the locks are not yet positively determined; but it is most probable the board will adopt Mr. Latrobe's plan, which consists of eight locks on the western descent, near Welch point, one lock on the summit level, and nine on the eastern descent to Christiana; these locks to be placed in tiers or clusters, of two or three together, as the ground may suit; the locks to be eighty feet long, eighteen feet wide, and eight feet of water over the sills of the gates; the descent of them, altogether, being seventy-four feet, will be divided on each side, as the ground may best suit, more or less in some of the locks, but on an average eight to nine feet descent in each; the locks to be constructed of hewn stone, laid in tarras; the contents of each lock will be eleven thousand five hundred and twenty cubic feet of water, and the number of them, altogether, eighteen, besides the one on the feeder.

4th. The supply of water is obtained from Elk river, and there appears no doubt of its being amply sufficient for a large lockage. The reduction of large streams of running water to actual cubical measurement is one of those operations which has baffled the best mathematicians in Europe, and has not yet been satisfactorily accomplished. Mr. Latrobe, however, has ascertained (perhaps as accurately as can be done) a quantity in Elk river equal to a daily supply of one hundred and forty-four locks full, or to the passage of about twenty-five boats per day at each end. To his measurement may be added a large quantity of waste water which may be obtained, but could not be measured. The elevation of the feeder and its length I have already given in answers Nos. 1 and 2. From the ample quantity and free passage of the water, no reservoir has been deemed necessary, except one near the lock on the feeder, intended to hold a sufficient supply in case of accident or repairs on that part of the work. This reservoir contains about thirty acres, and may be extended to one hundred and fifty acres. Other reservoirs

to a large extent may also be formed; and the two streams of Christiana and White Clay creeks may, if necessary, hereafter, be brought to the canal by feeders similar to that of the Elk. Altogether, these form a resource which can leave no doubt of a supply for the canal with as much water as it can ever require.

5th. No part of the route depends on the natural or improved bed of any stream whatever, except as to the supply of water.

6th. The dimensions of the canal have not been positively determined, but the plan which will probably be adopted is as follows:

50 feet, width on the water line; 26 feet, width at bottom; 59 feet, width from bank to bank; 8 feet, depth of water; 3 feet, rise of banks above the water; 20 feet, width of banks on each side, for towing paths, footway, &c. Thus the whole width of the canal and banks would be about 100 feet, and its depth from the top of the bank about 11½ feet.

It has also occurred to the board that, in forming the canal, they might at the same time construct on one of its banks, independent of the towing path, a turnpike road, which would be accomplished and attended with the following advantages:

1st. This road would secure the passage on the route of the canal by wagons and carriages, whenever the canal should be shut by ice, accident, or repairs.

2d. As the road would be perfectly level, and directly across the peninsula, it would become the customary route for all travellers; and the toll on the road would greatly assist the revenue of the canal.

3d. In forming the banks of the canal, the road would be constructed in many places at little or no expense; and throughout at no expense additional, compared to its use or the customary cost of such roads elsewhere.

4th. The canal itself would keep the road perfectly drained.

5th. The easy transportation of stone, gravel, and all materials by water on the canal, would render the repair of the road very cheap.

6th. No particular size or construction of vessels is fixed for the use or navigation of the canal; but the canal itself is formed for the passage of all vessels under the draught of seven and a half feet of water, which depth will accommodate the greater part of the craft or common trading vessels used in both bays, as that is the depth of water most usual at the landings on the rivers and creeks where produce is embarked. This depth is also sufficient for vessels of forty to seventy, and even one hundred tons, as it is probable that, when the canal is completed, most vessels will be constructed in their dimensions so as to pass through it.

7th. There are no aqueducts on the whole work of a large or expensive kind. The streams which are to be crossed are in general small. There can be no tunnels nor permanent bridges, as the construction of the canal is for vessels with masts. The bridges will all be either swivel or drawbridges; and the great public roads will, wherever it is possible, be passed under the canal by road aqueducts, which are the chief kind that occur, except those of small size, such as culverts and drains.

8th. There are no particular difficulties to be encountered in any part of the work; all that exist are in the course of the feeder, and have been already overcome; the whole country of the main canal has one uniform soil of loam, more or less inclining to sand, such as is general throughout the peninsula below the hills.

9th. The plan of the canal has been formed upon the well-known structure and plan of similar canals in Europe, without attempting new experiments which might not succeed. This work being for the passage of vessels navigating larger waters, from one bay to another, differs, of course, in size and construction, from small interior canals; but there are several works affording models and principles precisely suitable to it, particularly—

1st. The canal of Languedoc, the great parent of the canals in Europe, though executed one hundred and thirty years, exhibits, at this day, excellent specimens for construction, in far the greater part of its detail.

2d. The canal of Scotland, from the Frith of Forth to the Clyde, on the same principles as the canal of Languedoc, and with some improvements in its locks.

These, as well as the structure of other European canals, are comprised in the knowledge and education of a regular scientific engineer, and form the basis of the present plans, without limiting the genius of the engineer too closely in its application. Such as the plan is, the board believe it as perfect as can be adopted, nor have they yet discovered any points on which it can be advantageously altered, except as to a few objects on which, from the outset, they have reserved their ultimate decision. The first of these consists in some partial deviations of the line, as matters of practice and calculation, of which they wish to acquire some further experience. The second is, the termination of the eastern extremity or debouche at Newcastle or Christiana; this question respects only the last five miles to be executed; and, sensible that their present decision would admit of a future review, under much better circumstances, the board thought proper to lay it at rest, (as a subject which was rapidly generating local dissensions and parties in the country,) by deciding what now appeared to them, under all circumstances, the most eligible course for the canal.

10. This and the thirteenth query have a strong connexion, the object of them appearing to be an exact view of the present carriage across the peninsula; the amount of articles carried; their actual and comparative expense; and the probable amount of tolls or revenue arising from the canal, when executed.

The mode of estimating the general profit or result of any work of the kind, as a turnpike road or canal, where they are contemplated in Europe, naturally divides itself into two distinct heads:

First. When the proposed improvement is founded upon any other established carriage already in practice.

Second. Where it is founded for the purpose of a new conveyance altogether, not used before, or for new articles on an existing conveyance.

The first of these principles is the basis of calculation on turnpike roads, which generally take up an existing carriage, and contemplate their revenue by tolls for improving the conveyance.

But the calculation of revenue on canals is chiefly founded on the second principle, that is, of actually creating a new carriage where none existed before.

The canal of Languedoc opens a communication from Certe, on the Mediterranean, to Toulouse, and from thence by the river Garonne to Bordeaux, and the Bay of Biscay. On this route, it was before utterly impossible to convey the wines, oil, and other articles, which now form the trade of the canal, by any land conveyance; they either passed round by sea, or were not conveyed at all.

The canal of the Duke of Bridgewater (the first executed in England,) was not founded on any existing carriage, but to convey coal from his estates at Worsley to Manchester and Liverpool.

The canal from the Frith of Forth to the Clyde was intended to open a communication from the Eastern ocean to the Irish sea, where no land carriage of consequence before existed.

A new canal, now in execution, from the Eastern to the Western seas, through the upper lakes of Scotland, intended for the passage of the British fleet, in place of going round the island, is still more new in its principles, as no sort of land carriage could ever accomplish the same object.

It is true that canals generally take up all the land carriage in their vicinity; but the calculations of them are never formed in the outset upon that carriage, and this for very obvious reasons:

1st. That land carriage is in itself confined to very few objects comparatively, consisting of passengers and articles of value, or of little weight or bulk.

2d. On all heavy or bulky articles, such as coal, iron, and other mineral productions, lumber, and heavy merchandise, canals, in a great degree, create their own revenue, by conveying them where they were very partially or not at all carried before.

3d. Where canals open a passage from sea to sea, for the conveyance of large vessels, they are wholly independent of any comparison with land carriage, but depend on a calculation of the time, expense, and danger of coasting navigation. If, for instance, a canal was formed across the isthmus of Darien, it could be compared with no circumstance but that of the navigation around Cape Horn or the Cape of Good Hope.

In examining the probable result of the Chesapeake and Delaware Canal, it appeared so obvious that, from the present carriage across the isthmus, and what must arise from its execution, of a kind altogether new, the revenue produced would so fully repay a large interest on its cost, that it was thought unnecessary minutely to examine the amount of the present carriage.

Since, however, it appears proper to collect data from every just source, and the queries you have formed demand it, I have endeavored to obtain information, and shall submit to you the amount of the present land carriage, its actual and comparative cost, with that of the canal, and the probable extent and sources of future increase, when the canal is formed.

The present land carriage is performed at a number of passes from that of the Christiana, southward, through the whole extremity of the peninsula.

The first port which is an object of attention is Newport, on the Christiana.

The carriage from this port to Philadelphia is now performed by two vessels, in constant employ, of about forty-five tons each. These vessels convey, annually, to Philadelphia forty-five thousand barrels of flour, of which, however, a large part comes from Columbia, Lancaster, and Chester counties, not within reach of the canal, except by its extension into Pennsylvania. On an examination with the consignees of the flour, they estimate one-third of the above amount as derived from sources so near the canal, as in future to be conveyed by it; that is, fifteen thousand barrels, and the cost of conveyance, at five cents per barrel, is seven hundred and fifty dollars.

The next port is Christiana bridge, which was formerly the greatest of all the waters across the peninsula; the carriage here has, however, lessened within a few years from causes which a canal would restore: 1st. from the numerous mills on Elk river and its vicinity, transmitting their produce to Baltimore, rather than pay the land carriage across to Christiana; 2d. a large part of the supplies of wheat, formerly brought to the Brandywine and Delaware mills, now remain on the Chesapeake, owing to the price of land carriage; 3d. a number of passages below are more used than formerly.

There are now four vessels in constant trade from Christiana to Philadelphia, which convey annually twenty thousand barrels of flour, one thousand hogsheads of meal, and one hundred and fifty tons of iron; and their return freight from Philadelphia is equal to one-third of this amount. In addition to this, there has been, for many years, conveyed across two hundred and fifty thousand bushels of wheat, and two thousand hogsheads of tobacco annually.

The estimate of all the carriage across is, therefore, as follows:

Flour—20,000 barrels, at 20 cents,	-	-	-	\$4,000
Meal—1,000 hogsheads, equal to 5,000 pounds, at 20 cents per pound,	-	-	-	1,000
Iron—150 tons, at \$2 per ton,	-	-	-	300
Wheat—250,000 bushels, at 6 cents per bushel,	-	-	-	15,000
Tobacco—2,000 hogsheads, at \$2 per hogshead,	-	-	-	4,000
Back freight,	-	-	-	1,766
				\$26,066

The next carriage is from Newcastle to Elk, which has been lately adopted by the stages between Philadelphia and Baltimore, and is used both for passengers and goods; the latter, however, consist chiefly of merchandise, of light and valuable kinds, exchanged between the markets of the two cities.

Of these stages there are two distinct establishments, one called the old line from Newcastle to Frenchtown, on the Elk, above the intended termination of the canal; this line employs three packets on the Delaware, and four on the Chesapeake; the other is the new line which runs to Old Court-house point; this employs also three packets on the Delaware, and four on the Chesapeake. Each line has one packet, arriving and departing six days in every week, except when prevented by ice, and both passengers and goods are conveyed directly across by land, the one in land stages, and the other in wagons. Thus there are two packets on the Delaware, and two on the Chesapeake, which arrive daily, and the number of days they have plied yearly has been from two hundred to two hundred and fifty; taking the lowest number, the aggregate of four packets is eight hundred passages per annum.

The amount of carriage received by the old line, before the other was established, for the entire freight and passage of one year, was upwards of \$30,000, of which one-half, or \$15,000, was paid for the land carriage.

The proprietors of the new line have not favored me with the amount of their receipts, owing, perhaps, to some jealousy arising from their recent establishment; but both of the lines are conducted with spirit, and appear to increase in business, and I am informed by persons well qualified to judge, that, although neither of the two establishments receive quite as much separately as one did formerly, yet both of them united are considerably more, especially as, from a competition in the business and some reduction of prices, the carriage has increased. I am, therefore, justified in placing the whole sum now received at least at \$50,000, or the land carriage only at \$25,000.

The mode of ascertaining the freight on merchandise is *pro rata* on a variety of different packages, which are not weighed, and, therefore, the number of tons is not exactly attainable. On each line there are, however, from five to eight wagons; the employ of the old line alone required constantly eight wagons, but the two together may now be estimated at six each, or twelve altogether. These wagons carry about two tons each, and the hire of them \$4 per day; they give, therefore, pretty accurately, the tonnage of the goods and price per ton.

Twelve wagons, of two tons each, give twenty-four tons per day, carried each way, which is forty-eight tons, for two hundred days, or nine thousand six hundred tons per annum, at \$2 per ton, is \$19,200.

The number of passengers are not given me, but they employ four stages constantly, and sometimes more, and from the receipt and thriving state of both lines, cannot be less than five passengers in each, or twenty altogether per day, making four thousand per annum; the price of passage for the distance by land is fixed at \$1 25 cents: so that the gross amount may be fixed at \$5,000, which, added to the whole produce of the land carriage at this pass, amounts to \$24,200.

The next route in order is that from Appoquinimink creek to Sassafras river. Here also a line of stages is employed between Philadelphia and Baltimore, which employs two vessels on the Delaware, and two on the Chesapeake. This line being shorter by land, and a greater proportion of its distance by water is more used for goods, though less for passengers, than that of Newcastle, its actual amount I am not furnished with, but, from the estimate of intelligent persons, well acquainted with it, I am authorized in placing its gross amount, at least, at one-half of that of the Newcastle route, or \$12,100.

Appoquinimink is also a great port for the factorage and deposite of wheat and corn for the Philadelphia market and Brandywine mills, as well as other produce, a large part of which is brought over, by land, from the waters of Bohemia, Back creek, and Sassafras, on which it would be embarked, and pass by the canal, if established; the amount of this produce is well ascertained to amount to sixty thousand bushels of wheat, and eighty thousand bushels of corn, making one hundred and forty thousand bushels, of which at least one-half comes from Maryland, or seventy thousand bushels; and the price of carriage is seven cents per bushel, making \$4,900, which, added to that of the stages, makes the gross amount at this pass \$17,000 per annum.

From Duck creek or Smyrna to the head of Chester is the next pass. The former place is, like Appoquinimink, chiefly a depôt for the produce collected for Philadelphia and the Delaware Mills. The produce is ascertained to be as follows: eighty thousand bushels of wheat; one hundred thousand bushels of corn, one-half of which also is brought from Maryland, at the expense of nine cents per bushel, and amounts to \$8,100.

Jones's creek or Camden, in the same manner, collects and furnishes about thirty thousand bushels of wheat, of which one half is brought from Maryland, at a carriage of ten cents per bushel, making altogether \$1,500.

Below this portage, the width between the two bays becomes more extended, and the carriage too great to be borne on produce from one water to the other, until the peninsula is crossed by the line of Virginia, when it becomes again very narrow; in all this space, however, it is well known that considerable quantities of produce are brought to the Delaware landings, which would be laden with more ease on those of the Chesapeake, but not wishing to enter into calculations where no just estimates are furnished, I shall omit them, and make a brief summary of what is already stated:

At Newport, - - - - -	\$750
At Christiana, - - - - -	26,066
At Newcastle, - - - - -	24,200
At Appoquinimink, - - - - -	17,000
At Duck creek, - - - - -	8,100
At Jones's creek, - - - - -	1,500
	\$77,616

In calculating the number of tons from hence, as but a small proportion of the amount is paid for passengers, and the carriage on the greater part of the articles is taken *pro rata*, the number of tons may be safely estimated at forty thousand.

In drawing deductions from these premises, they appear to be properly considered under three distinct heads:

1st. That of the present carriage, as relative to the country and amount of saving, which may otherwise be more beneficially employed.

2d. The relative saving of cost on produce on articles conveyed.

3d. The comparative benefit as to the canal, and the amount of revenue thereon.

In considering the first of these heads, I shall endeavor to form an estimate of the capital employed in the present carriage.

To transport forty thousand tons of goods across the peninsula, I shall take the number of days in which the Newcastle stages are known to be employed, viz: 200; and this will be a fair one for all the others, after making allowance for bad weather, harvest, and other usual occupations of the country. To convey forty thousand tons, therefore, in two hundred days, will require two hundred wagons; each of which may be estimated at \$500, equal altogether to \$100,000 capital.

In the calculation of the present land carriage, there are sundry additions which may be made, actually sustained by goods, the amount of which is very considerable, although not easily estimated; they are as follows:

1st. The delay of vessels at each end in unloading and loading again.

2d. The expense of such relading.

3d. The loading and unloading in stores at each end, and the storage, to which may be added waste and damage.

All these unavoidably occur in discharging cargoes of vessels, carrying them in an intermediate speed by wagons and lading them again; and the amount of this additional expense will equal, if not far exceed, the whole cost of passing them by the canal.

Hence it is obvious that an annual saving in capital of \$100,000, and of labor, to the amount of \$77,616, will be gained by the canal, immediately applicable to agriculture, as both capital, horses, and men, may be more beneficially employed in cultivation, especially as the peninsula is by no means populous, and would derive vast advantages from its situation in an extension and improvement of its agriculture.

Under the second head, viz: the benefit to produce and articles transported, it is obvious that the saving of \$77,616 operate in the following manner:

First. As to the produce of the country, it will lighten the expense on wheat, corn, and other articles, to the amount of six to ten cents per bushel, or from six to ten per cent., and other articles in proportion.

Second. As to goods conveyed across the peninsula, it will lighten them at least to the amount of \$2 per ton, besides other great advantages I shall mention, in the comparative estimate; and this saving, it will be seen, is not only an object of importance on all articles, but constitutes a profit on those which are bulky.

On coals it is equal to seven cents per bushel, or 25 per cent.

On salt it is equal to five cents per bushel, or 10 per cent.

On wheat and corn, from six to ten cents per bushel, or from 6 to 10 per cent.

With respect to the third head, or comparative saving by the canal, it may be considered on two principles:

1st. The well-known and established difference between land and canal carriage, as given in a variety of authorities and calculations carried into effect in Europe.

2d. The actual saving on the present canal, which is shown as follows:

The cost of transporting a cargo of fifty tons from Newcastle to Frenchtown.

Fifty tons in twenty-five wagons, at \$2 a ton is, - - - - -	\$100 00
Delay of the vessel in loading and unloading at the extremities of the canal, one day each, - - - - -	10 00
Cost of loading and unloading fifty tons, - - - - -	10 00
	\$120 00

*Cost for the Canal.*

One vessel of fifty tons, requiring one man and two horses, at the rate of three miles per hour, or seven hours,	\$ 3 00
Tolls on fifty tons at fifty cents each,	25 00
	<u>\$28 00</u>

To which may be added as follows:

1st. The great saving of storage, waste, and damage, which, upon heavy goods, such as coals, salt, grain, liquors, &c., is highly material.

2d. Pilfer or robbery where articles go through a number of hands, has been found so material in England, as actually to constitute in itself a preference to that kind of carriage where the transfer by one conveyance gives an immediate responsibility from one party to the other direct as in vessels by sea.

3d. Despatch and the certainty of conveyance may be reckoned equal to the saving of expense. In speculations between the markets of Philadelphia and Baltimore, for the purchase of articles abounding in one, and wanted in another, the principle on which they are founded is more the certainty of bringing them to the place required in a short time, than the expense of it. A vessel, for instance, may commence loading in one of those ports, and depend for part of her cargo to be purchased and brought from the other. In these cases the articles wanted would be brought with certainty in three or four days, and of course would enable a purchase or speculation to be made. But by the present route, independent of expense, the delay of transportation by two water passages, and one intermediate land carriage, is such as to prevent all business of this kind, or to limit it to a few articles, and small amount.

4th. The difference between a single freight and a double one forms an immense saving. We daily see how far articles once embarked are conveyed with a very small addition of freight; goods from Europe are brought for twenty cents per cubic foot, whereas the price from Philadelphia to Baltimore is equal to twelve cents on measured goods, not above one-twentieth part of the distance. Coals have been brought from James river to Philadelphia upwards of three hundred miles, for eight cents; whereas the freight thirty miles on the Delaware is four cents, and the whole freight from James river by sea would not pay the land carriage, waste, &c., across the isthmus.

If a vessel was thus loaded at James river, or any water on the Chesapeake, she would probably proceed the whole distance to Philadelphia by the canal, for the same or a very small additional freight to that which she obtains to the head of the bay, because at Philadelphia she would secure a ready market, more despatch, and a return freight. A vessel from Philadelphia to Baltimore would, in the same manner, proceed through with little additional freight, and for the same reason; hence it is obvious that the canal would produce a saving not only of the present land carriage, but a material one on the whole transport by water.

Having thus examined the probable product of the canal so far as founded on the present carriage, I shall examine the sources of revenue of a new kind, formed by the execution of the canal itself.

The first is that arising between the cities of Philadelphia and Baltimore.

In these markets it almost continually occurs, that many articles are cheaper or in greater plenty in one than in the other; hence would arise an immense interchange upon the common principles of commerce, of all sorts of articles from the ease, cheapness, and certainty of communication.

2d. The produce of the Chesapeake would most probably be attracted from all its landings towards the head of the bay by the advantage of the two markets of Baltimore and Philadelphia being nearly at equal distances from the entrance of the canal on Elk, where it is also probable that factors for both those cities would ensure a constant market.

3d. I have already mentioned, and it would be tedious to repeat, the number of productions on each bay, which would form articles of traffic; but there are some of so much importance as to be worthy examination, and in particular the article of coals.

The only place where this production is now found so near the Atlantic waters as to be capable of immediate transport is on James river; the quality is excellent for all manufacturing purposes, and, if properly selected, equal to any foreign coal for domestic uses. The increasing price of fuel in all the maritime cities must soon create a dependence on it for both purposes, and it is daily so much increasing in use, that it must command an immense carriage in which a minute saving of expense will be of the utmost consequence.

I shall indulge a calculation on this article, which may serve for many others. There is now brought to the city of Philadelphia nearly five hundred thousand bushels per annum, great part of which is from Europe. I have already mentioned the increase of manufactures, and the probability of their being greatly extended, both there and in the country on the north bank of the canal, from the numerous mill streams, iron, and other advantages with which it abounds; I shall, therefore, suppose a demand for coals from all these sources, equal only to the quantity necessary for the domestic use of Philadelphia.

This city is ascertained to contain upwards of thirteen thousand houses, whose supply of fuel cannot be estimated at a less average than fifteen cords of wood per annum, which is one hundred and ninety-five thousand cords, independent of manufactures. Taking it, however, at two hundred thousand cords of wood, (and it has been ascertained to be still greater,) and then equal to twenty bushels of coal per cord, it will produce four millions of bushels, which, at thirty bushels per ton, (the weight of the best English coal,) is one hundred and thirty-three thousand three hundred and thirty-three tons; this would require two thousand six hundred and sixty-seven cargoes of fifty tons each, and two hundred vessels of that burthen making thirteen passages per annum. The revenue to the canal from this carriage only, at fifty cents per ton, would be \$66,666; besides a large return freight by the same vessels.

Having stated this estimate, you will, sir, make such use of it as you think proper; in order, however, to show that it may be relied on to a great extent, I shall state the causes from whence this source will probably claim a preference for the supply of Philadelphia, and the district I have mentioned, to any other.

1st. The coal of James river was regularly supplied at Philadelphia before the present advance of labor, arising from the war in Europe, in large quantities by vessels regularly employed in the trade, at twenty cents per bushel, at which price the carriers made a decent profit.

Coals cost in Liverpool eighteen cents per bushel, and pay a duty of five cents, so that, including freight, they are sold to a loss under thirty cents per bushel.

There are no coals yet discovered on the navigable waters of the Delaware, and all the country contiguous to them, in which they appear, is so distant, that even by improved carriage they cannot be brought to Philadelphia cheaper than those of James river. Indeed, the price of twenty cents, equal to 10*d.* sterling, is not deemed high, even in England, except in the neighborhood of the coal pits. It is allowed, also, that an improvement in the conveyance at James river, which will no doubt be effected, will lessen the price there.

I shall but barely mention the limestone in the vicinity of the canal, which is wanted on all the ports of the Chesapeake, the iron with which the southern counties of Pennsylvania abounds, the extension of the canal into Pennsylvania, for the produce of the Susquehannah, Lancaster county, &c., and the great accession of revenue, if the same system of canals should be extended through Jersey and the Hudson.

In order to form an ultimate conclusion of the revenue of the canal from these actual and probable sources, I shall beg leave first to answer the eleventh and twelfth queries.

11th. The capital contemplated by the acts of incorporation was two thousand five hundred shares of \$200 each, or \$500,000; with liberty, however, to raise any further sums necessary.

The amount subscribed is two thousand shares, at \$200	-	-	-	-	\$400,000 00
Of which there has been expended	-	-	-	-	103,000 00
Leaving the present unexpended capital of					<u>297,000 00</u>

And the further requisite capital to complete it, \$444,000.

12th. The following is the estimate of the future work from the best opinion of the directors and engineers:

To complete the payment of the water rights on Elk river, and land on the feeder,	-	-	-	-	\$40,000 00
To complete the whole work on the feeder,	-	-	-	-	30,000 00
To purchase the land on the course of the main canal, four thousand two hundred and fifty acres at \$12	-	-	-	-	51,000 00
To complete the whole extent of the canal, fit for actual operation, (except locks) \$20,000 per mile for twenty-two miles,	-	-	-	-	444,000 00
To complete eighteen locks, at \$10,000 each,	-	-	-	-	180,000 00
Total,					<u>745,000 00</u>

I must beg leave, respecting this estimate, to mention, that being aware of the frequent fallacy of previous estimates, the eagerness, however, with which they are required, and the disposition to doubt and exaggerate them, the present one is formed so as to contemplate the most extended expense of the work, subject only to those casualties which will attend previous estimates of any work whatever.

13th. I shall now offer a summary of the foregoing statements in order to show the revenue necessary on the canal, and what may be expected from it.

There being already expended,	-	-	-	-	\$103,000 00
And the estimate of future work,	-	-	-	-	745,000 00
Forms a total of					848,000 00
Or, to use even numbers,	-	-	-	-	<u>850,000 00</u>
The interest of this sum, at six per cent, is,	-	-	-	-	\$51,000 00
Repairs, estimated by the engineer,	-	-	-	-	10,000 00
Attendance on the locks, clerks, &c.,	-	-	-	-	10,000 00
					<u>71,000 00</u>

To defray this expense one hundred and forty-two thousand tons at fifty cents must annually pass through the canal, which would require about one hundred and forty vessels of fifty tons to pass twenty times each way in the year; that is, an employ equal to one hundred and forty vessels, making voyages of about three weeks each all the navigable part of the season.

In order to judge how far this revenue may be expected, before I mention any other circumstances, I shall take a brief view of the number of vessels employed in the navigation of the two bays.

It has been ascertained in some late calculations of the trade of New York, that there are eighteen hundred craft employed in it. This I mention as applicable here, no further than to give probability to the calculations on the Delaware and Chesapeake.

I have examined the enrolment of licensed vessels at the port of Philadelphia, where there are few coasters, but those of the bay and river, and it gives an amount of 10,000 tons, divisible into 383 vessels of various dimensions, equal to 200 vessels of 50 tons each.

But the licences at Philadelphia exhibit a small proportion of the Delaware navigation. The eastern shore of the Delaware is wholly in the State of New Jersey, and employs a number of craft, known, from the exhibition of their licences at the Philadelphia custom house, to be greater than those of Pennsylvania. Two-thirds of the western coast, from whence nearly all the great transport of produce exists, is in the State of Delaware. The vessels are nearly all owned and registered in the States which comprise the ports or landings from which they sail; hence it cannot appear exaggerated to fix the number of vessels in Jersey and in Delaware, each, equal to that of Philadelphia, or 600 vessels altogether.

The estimate of the Chesapeake, I am unable to make from any other source than a view of the number of ports and landings on the waters of that bay; from hence I place them at 1,200, forming a total of the two bays equal to that of New-York, or 1,800 vessels.

Your information and opportunity will enable you, sir, to form a more complete view of this estimate, if correct, as I am induced to believe it. The result is, that less than one-twelfth part only of the vessels now employed on the two bays will be necessary for the trade of the canal, in order to raise the revenue I have mentioned.

On this head I shall mention a few other facts:

1st. The revenue contemplates an increase only of  $3\frac{1}{2}$  times the present land carriage.

2d. The capital employed will be little or no addition to that already vested in the present navigation.

3d. The tolls, on which the revenue is calculated, are very low. On most of the canals in England a toll is taken on coals, limestone, and such articles, of  $2\frac{1}{2}d.$  on entrance, and  $1\frac{1}{2}d.$  per mile per ton, which would be equal to 70 cents per ton on this canal; 50 cents per ton is equal only to  $1\frac{2}{3}$  cents on coals; but the principles on which all canals are established are, to bring articles of small cost cheaply to market, rising, in some proportion, to their value; thus manure, gravel, sand, and stone for roads, are often exempted from toll altogether, and coal, lime, &c., placed far below a medium toll. A ton of tobacco, worth \$120 to \$150, will very properly pay more than a ton of coals, worth \$6. These principles are also established by the acts incorporating the present company; and from



the variety of sources I have adduced to show the saving of expense, they will be justly carried into effect; so that the average toll will be far more than I have mentioned, and, of course, render a less amount of tonnage necessary.

4th. Passengers will form a great source of revenue when packets are established to run, without interruption, from so large a number of ports on the Chesapeake to Philadelphia; this may be verified from the cheapness and number which now pass from Baltimore to Philadelphia.

5th. The future extension of canals offers itself pointedly on this head, as well as every other; in fact the probable amount of passage on the canal may be better conceived than estimated, by an idea of the vast commerce of the two bays being thrown into one common mass, as they would be, if a natural communication existed.

14. Your last query will be so much better explained by the acts of incorporation, than any abstract I could form of them, that I shall transmit, and beg leave to refer you to, the acts themselves.

If, in addition to these observations, you will have the goodness, sir, to peruse the printed papers, it will furnish you with all the ideas which have occurred to the board or the committee. In the numerous calculations I have offered, you will justly discern those which are, in themselves, of a speculative kind, founded on opinion, and those for which just or probable data was obtainable. Of such as respect the execution of the work, you will, I presume, obtain a more detailed account from Mr. Latrobe, with whom I have compared most of those I offer on that head; and such as apply to the present land carriage, and other facts I have obtained, either from actual documents, where I could procure them, or from men of the best information and judgment; nor am I conscious, in any, of having placed them before you more favorably to the interest of the work than they merit.

I must now, sir, most sincerely beg your indulgence for the length of this letter; it has arisen solely from a desire of placing the subject fully before you, sensible that its most important features would be best selected by your own judgment. Having formed, in early life, a high idea of the advantage derived from public works of this kind, and indulged a desire to see the one in question effected, I availed myself of the opportunity afforded by seven years' residence in Europe to visit almost every canal in operation, not with an intention to assume a professional character, but to gain such knowledge of the principles, construction, and effect of these works, as might enable me to assist in applying them to my country. These facts I mention from no motives of personal vanity, but solely to impress upon you, that the observations I have made are not founded on hasty or speculative opinion, but are the result of opportunity, inquiry, and attention. Among the directors, with whom I have the honor to act, are several gentlemen who possess similar advantages, and others who unite the best knowledge of the country and attachment to its interests. In the short space to which their labors have thus far been confined, the work has received from them as fair a portion of disinterested application as its importance demands; and, in committing its interests to your care, I am sensible, sir, they all feel that no one can discern more fully than yourself, its advantages to our country, and the character it will impress on the Government, under whose auspices it is revived.

I have the honor to be, with high respect, your obedient humble servant,

JOS. GILPIN.

The Hon. ALBERT GALLATIN, *Secretary of the Treasury.*

A. No. 4.

*Answers to queries respecting the Dismal Swamp Canal.*

NORFOLK, November 17, 1807.

To the 1st. From Deep creek, a branch of the Southern branch of Elizabeth river, about seven miles above Portsmouth, is the commencement of the canal; from thence it runs to Joyce's creek, a branch of Pasquotank river in North Carolina, where it ends; the distance is twenty-two miles, agreeable to the plan herewith exhibited.

2d. The swamp, through which the canal passes, from Deep creek to the Northwest river run, is nine miles, and is nearly on a level, a little highest about half-way, and the elevation in this distance cannot exceed two feet, and it is not perceivable by the eye; about the same on the other end.

3d. At present there are only two locks on the canal, one of which is three and a half miles from Deep creek, the other, six miles from the south end of the canal; there will require another to be erected about half a mile from the south side of the Northwest river run, and one at each end of the canal to communicate with the Creeks; these will be very sufficient. Those now built are about seventy-five feet long, nine feet wide, and six feet deep, the sides are built of square juniper timber, which is considered much more substantial than framed ones, they cost about three hundred dollars each; those to be built at the ends of the canal will require to be more substantial, to communicate with the Creeks.

4th. From the low flat country the canal passes through, and its wet spongy nature, being mostly a juniper swamp, a sufficiency of water is always in it for the shingle flats; but if there should be a scarcity in very dry times, the cross canal intended to be cut into Drummond's lake, from which the distance is only three and a quarter miles, will always afford an abundant supply. The way or track has been cleared to the pond from the canal thirty feet wide. (See A, on the plan.)

5th. There is no river or water course that the canal passes through, except the head of the Northwest river run, and that is only a small drain flowing from towards the lake.

6th. The laws of Virginia and of North Carolina first enacted for cutting the canal, passed in December, 1787, they required the canal to be cut thirty-two feet wide, eight feet deep, and the locks to be ninety feet long, and thirty-two feet wide; a subsequent law passed in November, 1790, authorizing the directors to cut the canal only sufficiently wide for vessels fifteen feet wide, and drawing three feet water, in consequence of which, the president and directors, then acting, altered the canal to twenty-four feet wide, and six feet deep, which is the dimension it has been cut since this act was passed; the road is made on the west side eighteen feet wide the whole extent of the canal, it is well wooded, and the mud and clay thrown out of the canal on it when dried makes a good road. The vessels at present used on the canal are flats from thirty to forty feet long, and from four to six feet wide, drawing not more than from eighteen to twenty-four inches water when loaded, and will carry from four to eight thousand long shingles.

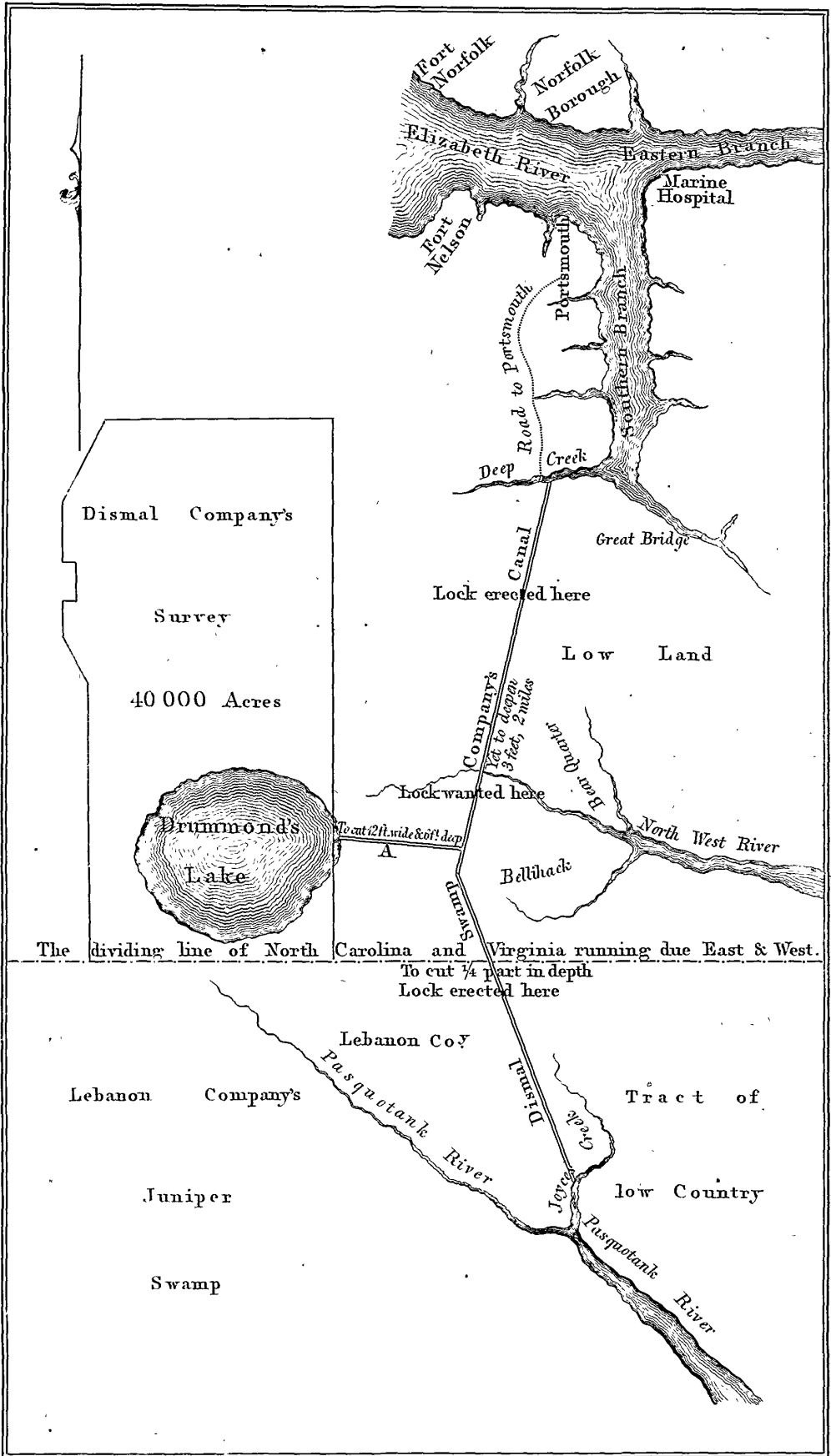
7th. No objections of those kinds.

8th. None.

9th. No defect in the plan; nothing now required but money to complete the work on the present system.

10th. The articles at present brought down the canal are chiefly juniper shingles, three feet long and six inches wide, some two feet long, and others from eighteen to twenty-two inches long, the short shingles sell from four to five dollars, and the long from ten to twelve dollars per thousand; the estimate for the last few years has been about one million of short, and two millions of three feet, the latter are mostly shipped to the northward. Before the canal was cut the expense of getting the shingles out of the swamp was great, and only to be done by making roads





laid with wood, and those generally five or six miles in length. A shingle flat will pass the canal as fast as a man or horse can walk on the bank towing it along.

11th. The capital first authorized by law for cutting the canal, was \$80,000, divided into shares of \$250 each, of which the State of Virginia subscribed for 50; a subsequent act passed in 1799, authorizing a further subscription of \$20,000 more, of which the State took 20 shares, making, in the whole, 400 shares, of which the State holds 70, and private individuals the remainder. This capital of \$100,000 has been expended in carrying on the works since its commencement, and the only funds now for carrying on the work is what tolls are collected, and the loan of a few thousand dollars from the subscribers in the neighborhood, which, at present, do not admit of the employment of from twenty to thirty hands in the summer months, or half that number in winter.

12th. The contracts made for cutting part of the canal soon after the law passed was at the rate of \$4,000 per mile; about half the distance may have been cut this way, the remainder has been done by hiring negroes by the month and year, and employing an overseer to superintend them, and the works, for the last three or four years this method has been adopted, found to be the cheapest, and work done much better.

13th. The rates of tolls now collected are as follow: for 18 and 22 inch shingles, 25 cents; 2 feet, 33 cents; 3 feet, 50 cents per thousand; barrel staves, 50 cents; hoghead staves, 75 cents; pipe staves, \$1 per thousand; timber or logs, 6 cents each; wood, 25 cents per cord; boards or pales, 50 cents per thousand; inch plank, 50 cents; two inch plank, 75 cents per thousand; carts passing the road, 25 cents; wagons, 50 cents; four wheel carriages, 50 cents; two wheel carriages, 25 cents; man and horse, 12½ cents; every head of cattle, 6 cents; hogs and sheep, 2 cents each. It has not been deemed necessary to fix the rates of tolls on other articles until the canal is completed, and the locks erected to open a free communication betwixt Virginia and North Carolina. The company has six negroes belonging to it; these, with an overseer, may be considered sufficient to keep the works in order after they are completed. With a clerk or toll gatherer at each end of the canal, the whole expense may be about \$1,500 per year; a saw and grist mill is erected by the company at Deep creek across the canal, which has produced a profit of from \$600 to \$800 per year; it must be removed when a lock is built there, to communicate with the tide water.

14th. The act of the Legislature of Virginia for cutting the canal passed 1st December, 1787, and the Legislature of North Carolina, the 13th of December, 1790, for them to be completed in ten years; subsequent acts have been passed, the Legislature extending the time to the 1st of August, 1812.

It may now be necessary to observe, that the canal has been cut its full width and depth from Deep creek to Joyce's creek, except two miles on the north side of the Northwest river run, (marked on the plan with red ink,) which distance requires to be deepened three feet; and the distance of three-quarters of a mile in North Carolina, (also marked with red ink,) is to be cut one-fourth part, the other three-fourths of that distance being done; these, with the cut into Drummond's lake, intended to be twelve feet wide, and six feet deep, is all the cutting to do, and the three locks before described is all that remains to complete the canal, which may all be done next summer and fall, with about fifty hands, should it be a tolerably dry season.

It may be also proper to notice, that if it be found necessary hereafter to widen and deepen the canal so as to admit vessels of fifty or sixty tons to pass through, it may be done with much less expense, in proportion to the present cutting, the bottom being clear of stumps and rocks, and a fine tough pipe clay, and the sides firm and not the least subject to cave in. This canal opens an inland communication from the head of the Chesapeake bay to Beaufort, in North Carolina, and all the adjacent rivers in that State.

In addition to the foregoing it may be necessary to observe, that a sum not less than \$25,000 will be wanted to complete what remains to be done, and to repay what has been loaned by the stockholders.

RICHARD BLOM, *President Dismal Swamp Canal Company.*

#### A. No. 4. (2.)

#### CANAL BETWEEN THE WATERS OF VIRGINIA AND NORTH CAROLINA.

The important advantages that would accrue from an inland navigable communication being formed between the waters of Virginia and those of North Carolina, had attracted the notice of many persons previously to the termination of the American revolutionary war. Various opinions had arisen respecting the most proper place to form such a communication; but owing to the want of an accurate knowledge of the geography of the country, and of the elevation of the ground between the most approximate points of those waters, no correct judgment had been formed upon the subject until very lately.

In 1787, an act was passed in the Virginia and North Carolina Legislatures, authorizing the incorporation of a company, under the title of the Dismal "Swamp Canal Company," whose object was, to open a navigable canal between a branch of Elizabeth river in Virginia, and Pasquotank river in North Carolina. This undertaking was soon after commenced, and is now nearly completed; but although this canal possesses many local advantages, yet, as the width of Albemarle sound is too great to admit the passage of calleaux, or such vessels as are proper for river or canal navigation, it is rendered of no utility to the inhabitants of that extensive and fertile country through which Roanoke, Meherin, Nottoway and Blackwater rivers, and their various branches, flow. A canal placed in a situation exempt from that objection, therefore, became an object of attention; and in 1791 an act of the Virginia Legislature was obtained for cutting one from a branch of Nansemond river to Somerton creek. Upon examining the intermediate ground, however, it was found to be so elevated, so broken, and so destitute of resources of water, that the opening of a navigation that way was judged to be impracticable.

While examining the ground between Nansemond river and Somerton creek, it was discovered that the country a few miles to the eastward, was lower, levelled, and better supplied with water. A survey was made from Bennet's creek (a branch of Chowan river) to Nansemond river at Suffolk; and from the bank of the one to that of the other, a precise level was found, except in one or two places of very small extent. The track marked out by that survey is unquestionably the most proper place for the desired communication. It appeared so to the persons by whom the survey was directed; and, on application to the Virginia and North Carolina Legislatures, laws were passed in 1804-5, authorising a canal to be cut there.

It had previously been proposed to cut a canal from Roanoke river above the falls, to Meherin river at Murfreesborough; and a law authorizing that undertaking was passed in the North Carolina assembly at the same time the law was passed respecting the canal proposed to be cut from Bennet's creek to Nansemond river. At the falls of Roanoke, the waters, in the course of fifteen miles, has a descent of ninety-three perpendicular feet. The distance from the upper part of the falls to Murfreesborough, is about thirty-eight miles. The intermediate ground has been examined by some persons of discernment and information, from whose statement it appears, that a canal might be cut along the highest dividing ridge of ground between the two rivers, on a precise level, in almost a direct line from the falls of Roanoke to Murfreesborough, and at an elevation lower than the level of Roanoke

above the falls, whence an abundant supply of water might, at all times, be obtained. But as this ground has never been examined by any engineer, nor the plan of the proposed undertaking thoroughly digested, it is impossible, at this time, to make a correct report, either upon its practicability, or probable expense.

The funds necessary for carrying on those projected undertakings, not having been raised within the time prescribed by law, they were both consequently abandoned; but although they did not receive that spirited patronage which was requisite to their success, yet, whoever takes a circumspective view of the country which lies between the ocean and the extremity of those rivers that run from the westward and northward into Albemarle sound, must feel an irresistible conviction, that the execution of the proposed canals would be productive of incalculable benefits to a very extensive and prolific district of country, and is an object highly deserving the attention of Government. By opening a direct, safe, cheap, and expeditious communication with the nearest and best seaport, it would give to the inhabitants of the upper country all the advantages of commerce, from which the expensiveness of a distant land carriage now almost entirely excludes them. By facilitating the conveyance of the productions of the country to market, it would encourage agriculture, and greatly enhance the value of real property; and by furnishing a ready passage to vast quantities of the most valuable articles of exportation, and their returns from foreign markets, it would produce a considerable augmentation of the public revenues.

But if, after proper investigation, it should be deemed impracticable or inexpedient to cut a canal from the falls of Roanoke to Meherin, still would the conveyance of heavy articles from and to the upper country be greatly facilitated, were a canal to be opened between Bennet's creek and Nansemond river. Tobacco, grain, &c. might be brought by water to the falls of Roanoke, thence by land carriage to Murfreesborough, or by a shorter portage to Fountain's creek, and thence by water through the contemplated canal to Suffolk or Norfolk, and salt, iron, &c., returned the same way, at half, or perhaps, a third part of the expense of land carriage to or from Petersburg or Fayetteville.

The following description of the proposed navigation from Meherin to Nansemond river, is drawn chiefly from notes furnished by John Barnett, by whom that tract was surveyed in 1803. (See the annexed draught.)

Chowan river runs southeast by east, from the mouth of Meherin to the mouth of Bennet's creek. The distance is sixteen miles. Within this space the river is from four hundred to six hundred yards wide; it is nearly straight, is free from rocks or shallows, and has no current except after extraordinary falls of rain. At the mouth of Bennet's creek it suddenly expands to nearly three miles in width, and grows gradually wider until its entrance into Albemarle sound, which it forms by its junction with Roanoke. Immediately below Bennet's creek, lies Holloday's island, which effectually defends the mouth of the creek from the swells which high winds sometimes occasion in the broad part of the river below. Bennet's creek is navigable as far as the bridge at Gate's court house, for any vessel that can pass Ocracoke bar. The course is north northwest, and the distance 17 miles; but it may be shortened nearly one-half by cutting across some low and narrow necks of land, at which different windings of the creek approach very near to each other. From the bridge to Hinton's landing, the course is east northeast and the distance about ten miles. To this place the creek is navigable for batteaux, and has little or no current except in wet seasons. From Hinton's landing to that part of the creek which is nearest to Powel's mill, on Curripeake swamp, the course is north northeast, and the distance two and a half miles; and thence to Powel's mill, in a direct line across the high land, the course is northeast, and the distance three and a half miles. In this space, the highest elevation of the ground is twenty-eight feet above the common high water mark in Chowan and Nansemond rivers. It is nearly a dead level, being in no place more than three feet above the surface of the water in Powel's mill-pond. The foundation is clay, covered with a thin stratum of sand. Powel's is an undershot mill, and has a fall of water of only three feet; it was intended to have carried the canal below this mill along Curripeake swamp eastwardly, two miles, to the edge of the great Dismal swamp; thence, along the edge of the Dismal swamp, due north, thirteen and a half miles, on a dead level, to within two miles of Suffolk; whence, by making a small curve in the course of the canal, the level might still be preserved to the bank of Nansemond river at Suffolk, where nature has admirably formed the ground for the construction of a basin. The whole length of this intended navigation, from the bank of Nansemond river to the navigable water in Bennet's creek, is twenty-three and a half miles.

It was intended to have erected two or three mills on Bennet's creek, with a lock for the passage of boats at each; the lowest one to have been at the head of the present navigation, and the pond of the highest to have been connected with that of Powel's mill, by means of a canal six feet deep, and eighteen feet wide. At Powel's mill, a lock of three feet descent was to have let vessels into the lower part of the canal, whence the navigation would have been unobstructed to Suffolk.

Bennet's creek is one of the best mill streams in that part of the country, and the value of mills erected at the places proposed, would exceed the expense of erecting both them and the necessary locks. Curripeake swamp is a copious and never failing stream, and is the source on which the canal would principally depend for water in dry seasons. Several canals having been cut in different parts of the Dismal swamp, the ground there is proved to be peculiarly propitious to purposes of that kind, being, particularly in the part through which the canal in question would run, an indurated mud intermixed with gravel, and free from stones or quicksands, or any other obstacle which might render the accomplishment of the work either difficult or precarious.

The following estimate of the expense of opening the proposed navigation between Bennet's creek and Nansemond river having been made by a person experimentally acquainted with works of that kind, it may be depended upon for accuracy, so far as accuracy at this time is attainable.

Clearing Bennet's creek below the last lock,	-	-	-	-	-	\$500
Building two mills and locks	-	-	-	-	-	5,000
Purchase of the sites of the mills, &c.	-	-	-	-	-	300
Clearing the creek from one mill to the other,	-	-	-	-	-	300
Cutting a canal 6 feet deep and 18 feet wide from Bennet's creek, to Curripeake swamp, 6,160 yards,						
at \$1 50 per yard,	-	-	-	-	-	9,240
Building a lock at Powel's mill,	-	-	-	-	-	200
Cutting a canal from Powel's mill to Suffolk, 4 feet deep, and 18 feet wide, 30,800 yards at \$1 50,						46,200
Purchase of the ground through which the canal would run, 21 miles, 100 feet wide, say 180 acres at \$1 00 per acre,	-	-	-	-	-	180
Constructing a basin at Suffolk,	-	-	-	-	-	1,000
Building three bridges across canal, at \$100,	-	-	-	-	-	300
Contingent expenses, in which are included engineer's fees, wages to superintendents, &c.	-	-	-	-	-	5,000
						<hr/>
						\$68,220
Deduct for the probable value of the mills when completed,	-	-	-	-	-	3,000
						<hr/>
						\$65,220



Respecting the rate of tolls intended to have been charged for the passage of articles through this canal, reference may be had to the act of the Virginia or North Carolina Legislatures, passed in the session of 1804-5; but respecting the gross amount of tolls, the annual net income, or the amount in weight or value of the articles which would annually be conveyed by this canal, nothing can now be said with any probability of accuracy. It is not improbable, however, that most of the foreign trade of a third or fourth part of North Carolina, and five or six counties of Virginia, would pass through it in a little time after it were put into operation; and, in the event of a war between this country and England, it would probably afford a passage to a large proportion of all the foreign trade of Virginia, as well as become the principal medium of communication between the Northern and Southern States. The importance of such a communication in the event of our seaports being blockaded by a foreign enemy, is too obvious to need any illustration. When it is considered what immense quantities of lumber, naval stores, pork, tobacco, grain, &c. that portion of country through which Roanoke and Chowan rivers and their branches flow are capable of producing, for which the cheapest, safest, and, in every respect, the best course to market would be through this channel, a doubt cannot be admitted, that the profits of the contemplated navigation would greatly exceed its expense, besides yielding a high interest upon the capital expended in its establishment. Add to this, the vast accession of wealth which the inhabitants of that portion of country would derive from the consequent enhancement of the value of their lands, and the facility of conveying the productions of the country to market, as well as to the merchants of Norfolk, which place is formed by nature as the only proper depot of that trade with foreign nations, and it may appear astonishing that an enterprise of so much private as well as public utility should have received so little encouragement or attention. The cause, however, may be ascribed to that diversity of opinion so apt to be entertained upon subjects not well understood; to that indifference with which each individual usually beholds an object in which every one is equally interested, or, perhaps, to the peculiar circumstances of the inhabitants of the circumjacent country; to their ignorance of the nature and effects of such enterprises; to their possessing but little spare money, and their aversion to risk that little in speculations, the success of which, they consider as doubtful, or the profits distant; or to obstacles thrown in the way by persons residing in places whence the canal in question might divert the current of trade. But be this cause what it may, it is now certain that the work will not be accomplished by any such association of private individuals as was originally had in view. It is hoped, therefore, that an object of such general and important utility will engage the attention of an enlightened and patriotic administration, who will direct such measures in relation thereto as in their wisdom may be deemed proper.

*Extract of a letter from Thomas Eddy to Samuel Osgood, Esq. dated*

*New York, October 29, 1807.*

Of the Northern Company for connecting the waters of Hudson river with Lake Champlain.

The company, about ten years since, expended all their funds in prosecuting the works at Stillwater and Skeensborough; at the former place the whole is lost, and not much advantage would be gained by what has been done at Skeensborough, in case the prosecution of the works there should be recommenced.

The most expensive part of the whole line of communication from the Hudson to Lake Champlain is at Stillwater. The length of the canal, necessary at this place by Swartz's mill-dam, is twelve miles one furlong and seven chains, and the ascending and descending lockage one hundred and six feet; the length of the canal on the eastern route is eleven miles seven furlongs and six chains, and the lockage seventy-four feet. A regular survey, beginning at Swartz's mill, was made by William Weston, the company's engineer, and the expense for completing the canal and locks was estimated by him at \$275,865 74; but it is believed this was overrated.

The improvements of the navigation at the falls near Fort Edward, by means of a canal and lock, would not be difficult, or attended with great expense; and the Hudson above Fort Edward may be connected by a canal and locks with Northern Wood creek, which disembogues into Sloop navigation on Lake Champlain at Skeensborough. No accurate survey has been made, but the expense, it is believed, would not exceed \$200,000; and the whole being completed, would form an excellent, and, indeed, a most perfect internal navigation from Albany to Lake Champlain, which would produce a certain compensation to the company, and incalculable advantages to the State and the General Government.

I will always, with much pleasure, communicate any further information in my power; and am, with great respect and esteem.

B. No. 1.

#### EXAMINATION OF THE HUDSON RIVER.

The committee appointed by the directors of the Northern Inland Lock Navigation Company, in the State of New York, to examine Hudson river, the country between that river and Wood creek, and that creek to where it discharges its waters into Lake Champlain, and to suggest the improvements requisite to accomplish the important object for which the company was incorporated, beg leave to report:

That, on the 21st September, they proceeded to the execution of the duties enjoined them; the result of their observations and surveys is contained in the following detail:

By the act of incorporation, the navigation of Hudson river, from the mouth of the creek, on which the grist mill occupied by Colonel Rensselaer is erected in the town of Troy, to opposite the house of Mr. Tibbets in Lansingburg, is to be rendered navigable for boats drawing four feet water when loaded.

Your committee, therefore, examined the rapid just above the said creek, and that which is half a mile higher up the river, and at the upper end of Whale island, and found, that, although the work contemplated, on the view in August last, would be adequate to the immediate object of affording four feet water, between the points above mentioned, yet they would but very little, if at all, facilitate the navigation to Waterford, and found that such a beneficial alteration of the intended works might be made as to embrace both objects; that is, efficiently to improve the navigation to Waterford as well as to Lansingburg; your committee will hereafter particularize the contemplated improvement in this place.

They then proceeded to the rapid, next beyond the creek above mentioned, which extends about thirty yards; the perpendicular height of the whole fall about two feet, and in the present very great drought, boats drawing one and a half feet water only can be carried over the rapid. Bottom rocky.

On, about half a mile in gentle current; two feet water, to the foot of the rapid at Whale island; this extends about two hundred and fifty yards; the whole fall about three and a half feet; depth of water about one and a half feet, bottom rocky; breadth of the river about four hundred and seventy yards.

On, in gentle current and deep water, about one and a quarter miles to the rapid below, and at Waterford, of these there is succession for half a mile, with small intervals, of deep water; the water on the rapids about one foot; the descent about four feet; through winding channels, with turns too short for large rafts, or even boats of a length to carry four hundred bushels of wheat, except in freshets; the bottom all rock; breadth of the river at Waterford about three hundred and twenty yards.

On, from the head of the rapids last mentioned; two miles to Schonhoven's rapid, water deep, current gentle; this rapid extends near half a mile apparently, about nine feet fall; the water on the rapid shallow, not exceeding one foot in general; the bottom all rock; breadth of the river about three hundred and sixty yards.

On, in deep water about one and a half miles to the Owl rapid; this extends a quarter of a mile, has one sharp pitch, on which great velocity of water then descends, with a diminished fall; the water sufficiently deep on the pitch, but on every other part so shallow, as to be only passable with an empty boat; the bottom all rock; breadth of the river about three hundred and fifty yards.

On, in good water, gentle current, about one and a quarter miles to the foot of the rapids at Fort's; these extend three quarters of a mile, very rapid and totally impassable, except with an empty batteau; whole height of the fall about nine feet; the bottom rock; the bank on the east side high, on the west low, the land a loose soil, and is fifteen chains across to the rising grounds, breadth of the river about four hundred and thirty yards.

On, one and a half miles in deep water, gentle current, to the rapids at Fonda's; here is a continued rapid, and falls for two and a half miles to the deep water above the falls, where Messrs. Palmer and Vandenberg's mills are erected; nothing but empty batteaus can pass, and these not without being drawn over the rapids by hand; the bottom all rock; the river in general about half a mile wide.

On, from the falls at Stillwater, to the mouth of Batten Kill, about twelve miles in perfect good water, current imperceptible; here a small rapid, over which upwards of two feet water may be carried; bottom rocky.

On, one mile to the Little Falls; impassable for loaded boats; bottom all rock; rapids above the falls extending one quarter of a mile, the waters on them shallow; the breadth of the river at the falls about three hundred yards.

On, two and a half miles through deep water, gentle current, to the foot of the Fort Miller Falls; from the deep water below, to the deep water above the falls, the distance on a straight line, is about forty-two chains; height of the whole falls seventeen and a half feet; impassable for boats of any kind, except empty boats descending the river in freshets; breadth of the river at the falls three hundred and fifty yards.

On, one and a half miles in perfectly good water, to the Crooked rapid; here the velocity of the current strong, but great plenty of water; the rapid extends about three hundred yards.

On, in perfectly good water one and a half miles, to a small rapid extending about ten yards; bottom rocky; depth of water nearly four feet.

On, in perfectly good water, five miles, to just above the ferry, below Fort Edward.

From Fort Edward, left the river to explore the creek which falls into Hudson river at Fort Edward; this creek has very little fall in it, and sufficiency of water to supply a canal from the south end of the Great Swamp, which is about four miles from Hudson river. In all the extent between the river and swamp, the ground good for a canal; the fall in this creek has not been ascertained by actual admeasurement, but your committee, from a variety of information, as well as their own inspection, do not suppose the whole fall to exceed eighteen or twenty feet.

The Great Swamp extends about four miles to Wood creek, is apparently a perfect level, part of it well covered with timber, and part entirely without; even in this dry season the ground is so soft, that unless the foot is placed on tufts of grass which grow in the swamp, a man sinks half leg deep in mud and water.

On, four miles, along Wood creek to its junction with Half-way brook.

From the junction above mentioned, your committee descended in a batteau without any obstructions, other than those arising from great quantities of timber fallen or drifted into the creek. A sufficiency of water in every part; the current gentle; at about two miles short of the Falls of Skeensborough, a large pile of timber in the creek prevented the passage of the boat; we had then gone about sixteen or seventeen miles, sent the boat back, which returned to the junction above mentioned, about an hour after sunset.

The committee walked to the falls from where they left the boat; were informed that there was great plenty of water in the intermediate distance; the whole height of the falls about fifteen feet to the deep water in Lake Champlain.

Having thus stated the whole route from the mouth of the creek below Lansingburg to the waters of Lake Champlain, it remains to state the improvements which ought, in the opinion of your committee, to be made.

1st. A dam across Hudson river at the upper end of Whale island, of such height as to back four feet of water both on the rapids in the northernmost branch of the Mohawk river, where is now the usual fording place, and on the rapids at and immediately above Waterford, in Hudson river, it is conceived that a dam of eight feet perpendicular height would be amply sufficient; at this dam, to enter a canal formed by a dike or embankment, to run parallel to the east bank of Hudson river, and of about six feet perpendicular height; the dike or embankment to be made of timber, filled in with loose stones, and to extend from the dam to the mouth of Mill creek, where a lock must also be placed.

From Waterford to Stillwater, there are two modes of improving the navigation; the one by dams, locks, canals, and dikes or embankments in the river, to wit: one dam at the head of the rapid above Waterford, with guard-gates and a canal, embanked like that already described, of about three hundred yards, and a lock at its lower end; two dams, with similar canals, embankments, guard-gates, and locks, at Schonhoven's rapids, each of the embankments to extend about half a mile; one dam, guard-gates, lock, and embankment, at the Owl rapid, the embankment to extend about a quarter of a mile; one dam, guard-gates, lock, and embankment, at Fort's rapid, the embankment to extend nearly one mile; an embankment from the foot of the rapids at Fonda's, parallel to the west bank of the river, and to extend nearly to the foot of the falls near Palmer's mills, distance two and a half miles; four locks will be requisite here; from hence a canal through the land back of Palmer's house, and to enter Hudson river at the ferry above the falls, distance about forty-seven chains.

Your committee have traced the canal last mentioned and the embankments to the deep water below Fonda's, measured the distance from thence to the head of the rapids at Fort's, taken the levels, and traced a canal on the land from thence to Waterford; the field-book of which, together with a section of the levels, are annexed.

But to this mode of improvement your committee state the following objections:

The height of the dikes or embankments in the river to prevent the canal from being overwhelmed in high freshets will be attended with heavy expense; the injury which the guard-gates and lock-gates would be exposed

to from ice when the river breaks up, and from trees which may descend the river in freshets; the length and height of the dams to raise sufficient heads of water; and the perishable quality of the materials with which the dams and dikes or embankments must necessarily be constructed; stones and earth cannot be there obtained without great expense; and because several mills must necessarily be rendered useless, for which although the proprietors might be paid, would still be an inconvenience to the country, and perhaps injurious to the occupants, which ought never to be, unless where the necessity is indispensable to accomplish the object of the institution.

These objections induced your committee to make a critical survey of the country between the deep waters of the Hudson, above the falls at Palmer's mills, and the waters of the Mohawk, in its northern branch at Waterford, in order to discover the possibility of cutting a canal from the former to the latter point. In all this extent nature has so favorably interposed as only to require a moderate share of ingenuity and industry in man to surmount the obstacles which intervene. The plan of the survey will evince what is to be done to render this part of the internal navigation as complete as can be reasonably desired, and not subject to any of those disagreeable contingencies which may be expected from carrying the improvements within the banks of the river. A computation has been made, and is herewith presented, of the expense of these works. It will readily occur to the board that estimates of this kind can only be approximations of the real expense, as the human eye cannot be carried above the surface of the earth, and your committee had neither adequate means nor time to determine the nature of the strata below the surface as accurately as they wished; the means in their power they improved. From these, and a close examination of the surface of the ground through which the canal may be cut, they are tolerably sure that the expense will not vary widely from their estimate.

From what has been said in the detail of the general survey, it will appear that nothing is to be done from the falls at Stillwater to the falls above Batten Kill, other than cutting away an inconsiderable number of trees and brush standing on the banks of the river; that men or horses may with facility draw the craft employed in the transportation of the produce of the country.

At the falls above Batten creek, a dam to be erected across the river, about four feet high, to back the water, that vessels may ascend or descend the falls and the rapids just above this fall; and a lock, to let such vessels ascend and descend the falls and rapids; or a canal from the head of the rapids to the foot of the falls, whichever, on a more critical examination, shall be found most eligible.

The next obstruction is the fall at Fort Miller. A canal, of the length and in the direction designated in the plan, is to be cut here; a section is given of that canal, and an estimate of the expense thereof and of the requisite locks. This, and a dam of about four feet perpendicular height across the river, to deaden the current above, and to forego the necessity of cutting four feet deep through a hard rock in a considerable extent of the canal, will complete the works on Hudson river; for from this fall unto just above the ferry near Fort Edward the navigation is now competent.

The track of a canal from hence to the Great Swamp has not been traced by your committee; but the view taken certainly affords room to conclude that it will not be a difficult operation. To cut a canal directly through the Great Swamp would probably be more operose, as the laborers would have to work in very soft mud, and most probably, in all its extent, continually up to the waist in mud and water. It would, therefore, appear more advisable that the direction of the canal should be on the solid earth adjoining to the swamp, which would probably only increase the length of the canal about half a mile beyond that of a straight course through the swamp. Small cuts must, however, be made in the swamp to communicate with the canal, in order to obtain a supply of water; but, should the water thus collected be inadequate to support the canal and locks, when the produce of the country becomes more extensive than at present, it may be necessary to gain a head of water in those months when it falls in the greatest quantity, to be expended in those when least falls. This may be procured by a dam at each end of the Great Swamp, of about six feet high, which would cover about two thousand five hundred acres of waste ground, which cannot, without a very heavy expense, if at all, be reclaimed for the purpose of agriculture, because of the very little descent of the streams that issue out of the swamp.

The committee have made no estimate of the expense of the canal from Hudson river to Wood creek; it will probably not exceed 15 or £20,000.

From the Great Swamp, Wood creek, in all its extent to Skeensborough, only requires to be straightened in some places, and to have the timber taken out of its bed, except between the swamp and Fort Ann, where it may require to be deepened. A guess can only be made at the expense; we will suppose it to amount to £5,000; it will certainly, in the estimation of your committee, not exceed £6,000.

A canal and two locks at Skeensborough will complete the work. Here the distance to be cut does not exceed eighty-five yards; yet the rock through which it must pass appears hard, and at the same time not favorable for easy blowing. The expense will probably be about £3,000.

The computed expense for improving the navigation in all its extent from the mouth of the creek on which the mill occupied by Colonel Rensselaer is erected to Lake Champlain, stands as follows:

A dam from the east bank of Hudson river to Van Schaick's island, an embanked canal, twenty feet wide, from thence to the mouth of the mill creek, guard-gates and lock at the upper end of this canal, and a lock at its lower end, estimated at	£ 2,500
A canal from Waterford to the ferry at Stillwater, ten feet wide at the base, with eight locks,	34,000
Clearing the banks of trees and brush from Stillwater to the falls above Saratoga,	300
A dam and canal at those falls, with guard-gates and locks,	800
A canal, twenty feet wide, with guard-gates and two locks, at Fort Miller,	8,000
Cutting the trees and brush from the banks between Fort Miller and Fort Edward,	250
A canal, ten feet wide, from Hudson river to Wood creek,	17,500
Clearing and deepening Wood creek to Fort Ann, and clearing Wood creek of the timber and other obstructions in it, and cutting trees from the banks, canal and two locks at Skeensborough,	9,000
Total,	<u>£72,350</u>

The aggregate of the expense estimated for the completion of the whole improvements to be made by the company amounts, as above, to £72,350; but in works of this kind, where many men are employed, worthless characters will introduce themselves, notwithstanding every attention to prevent it; accidents will intervene, tending to retard the business; and contingencies, which the most sagacious cannot foresee, will be interposed, and all inducing to an accumulation of expense. We may, therefore, add the further sum of £7,650, to meet the contingencies already stated, and to defray expenses which may arise, and which cannot be anticipated; and thus the aggregate amount will be £80,000.

The annual interest of this estimated aggregate, computed at seven per cent only, is £5,600; and it is certain that the toll on the produce of the country, until the population shall be more extended, will, after deducting the

charges of collection, not amount to that sum; hence the stockholders will be sufferers. This cannot be either the wish or the interest of the community; to avoid this evil is then an object that must be attended to, and the remedy sought where only it can be found, that is, from the Legislature.

By the act of incorporation, the canals and locks are to carry boats of twenty feet wide, and boats drawing two feet of water are to pass in the driest seasons. But the expense of a canal to carry vessels of twenty feet wide is much more than double of one of ten feet, and the latter may be sufficient for every purpose until the increase of agriculture in the more northern parts of the State shall render more extensive improvements requisite.

If some of the canals, then, in the first instance, were made only ten or twelve feet wide, much expense will be saved, and consequently the produce of the country be charged with a less burthensome toll. Your committee, therefore, recommend that the Legislature should be entreated to leave it optional with the company to make their canals of the dimensions mentioned in the act, or of any other dimensions not less than ten feet at the base; the latter breadth would certainly suffice at present.

The company should also pray the Legislature so to alter the act, that if, in the greater part of the navigable season, the improvements shall be such as that two feet of water can be carried in the shallowest part of the improved navigation, the charter shall not be forfeited.

If in the driest season that quantity of water could not be had, and as the amount of the toll, which, in probability, will be received for several years to come, will not enable the company to divide a sum equal to what they might have made of their capital improved, at the market rate or interest, to compensate for this pecuniary sacrifice of the stockholders, the committee conceive that the company may, with propriety, solicit the Legislature the liberty of using any surplus water beyond what is requisite for the supply of the improved navigation, for the purpose of erecting mills and any other hydraulic works without carrying the profits which may result from such works into account as any part of the percentage which they are permitted to take, and that the land under the water of Hudson river, between the extreme points of the improvements, and between its banks, should be vested in the corporation as a free gift on the part of the people of the State, for the purpose of making the improvements contemplated by the act incorporating the company, or for the purpose of erecting mills, hydraulic, or any other works, for the use and benefit of the corporation, or to sell or let the privilege of erecting mills and such other works to any other person or persons whomsoever, and without carrying the profits of such mills and works, selling or letting, if any shall arise therefrom, in account as part of the percentage as aforesaid, under limitations and restrictions, that if any canal, lock, dam, dike, or embankment shall render useless the mill or mills of any other person or persons, or cover land of any other person or persons with water, that the corporation shall pay and satisfy the damages so caused, either by agreement with the proprietor or proprietors of such mills or such lands so covered with water, or by appraisal in manner directed by the said act.

It is problematical whether the company can oblige persons, through whose lands the improved navigation may run, to sell any more than what is immediately occupied by the canals and locks; but they will want more for houses for their officers, for bays or harbors to receive their boats and rafts, whilst others descending or ascending pass; for roads and other purposes which cannot be enumerated because not foreseen.

The Legislature should be solicited so to alter the act as that the company might take any quantity of land on each side of the canals and locks and other improvements not exceeding two hundred and fifty feet from the exterior of their canals, locks, dams, dikes, or embankments, ponds and water courses, making compensation in manner already mentioned for the damages.

It is not certain that the company can legally make any canal, lock, or other work relative to the object for which they were incorporated on any land, or any land covered with water, until they shall have actually not only local ted it, but until the appraisalment is made. If they are thus restricted, the whole business may be arrested by captious persons, or such as would insist on extravagant compensation, and probably drive the company to comply with most unreasonable terms rather than sustain the damages that would result from delay in obtaining an appraisalment in the manner directed by the law; for before such appraisalment could be obtained, months might elapse. It should, therefore, be entreated of the Legislature so to alter the act, as that the company should have a right to lay out their works, and actually use the lands and waters they may choose to locate, and then, within a given time after such actual occupation, the appraisalment should be made in manner now directed by the law, unless the parties can otherwise agree.

By the act of incorporation the directors are to be annually chosen on the first Monday in May; this is precisely the time when the improvements of the year ought to commence, and great inconveniences may arise from having a new board of directors appointed at that time. Your committee conceive that the Legislature ought to be entreated so to alter the act as that the election should be about the middle of January.

If, with the extent of improvements contemplated and recommended by your committee, the expense of conveying the produce of the interior country to market shall be found considerably less than at present, and the toll, nevertheless, such as to produce an annual income to the company equal to the market rate of interest, an increase of population will be evinced; and a progression to more complete improvements will immediately commence, without any additional burthen on the produce of the country, for it is perfectly evident, if the improvements are such as shall carry vessels of much greater burthen than without such extensive improvement, that the charge of freight must be proportionally diminished, and thus, although the toll must necessarily increase proportionate to the additional expense incurred, yet the aggregate burthen, arising from the toll and freight combined, must necessarily diminish. Unless the population of the interior country should be arrested, a diminution of expense arising from such an operation will clearly indicate such a reciprocity of interest between the company and the community as will impel the former to exertions to promote the weal of the latter, and induce the latter to cherish and extend its aid to the former on every occasion where it can be afforded without prejudice to individuals.

The penetration of the Legislature will readily discover the solidity of this position, and hence the company may reasonably hope for the favors and interference which your committee have recommended to be respectfully solicited of that honorable body.

From what has already been said, it seems hardly necessary to detail the order in which the improvements should be prosecuted, as this will result from keeping the reciprocity of interest above mentioned continually in view, as a leading object to secure success and respectability to the corporation, and clearly points out that the first exertions should be turned to that object which will be most immediately productive of revenue to the company, that is, through which the greatest quantum of produce will be transported; those are indubitably the improvements at Whale island, and the canal from Waterford to Stillwater, for reasons too notorious to require a detail, and those works, in the opinion of your committee, ought to be accomplished in the ensuing year; and indeed, if a sufficiency of laborers can be obtained, the whole of Hudson river, to the point where the canal from Wood creek will intersect that river, and the entire navigation to Lake Champlain completed the next year.

From the estimate, the amount of the digging is £24,688; if we suppose each man to work one hundred and sixty days in the season, it will take seven hundred and seventy men to earn that sum; to publish that such a number of workmen are required, would, for obvious reasons, be imprudent.



The State of Vermont will receive such extensive benefits from the improved navigation, that it is probable its Legislature would take measures to encourage their citizens to enter into the service of the company as laborers if an application was made to them, stating that it is apprehended that a sufficient number cannot be procured here. For, although in the opinion of your committee, the company ought not to solicit, or even accept of any pecuniary aid directly for the emolument of the company, if offered by that or any other State; yet the committee conceive that if the Legislature of Vermont, expressly to induce citizens thereof to enter into the service of the company, should offer such citizens pay in addition to that which the company may give, or to furnish them gratuitously with provisions, the company could not, with propriety, make an objection.

If such a communication to the State of Vermont should be deemed eligible, it would suffice for the present to advertise for three hundred laborers only, (if more offer, they may be engaged,) on the like terms and conditions as are offered by the Western Company. And as a sufficient number of carpenters can at any time be procured, that only two companies of ten each should be engaged on the terms above mentioned, but no positive engagements should be made until the result of the intended application to the Legislature shall be known.

That a master blacksmith with two assistants should be engaged also; and one good miner, who will be able to instruct and direct the common laborers in that business, whenever it shall be found necessary, and that miners by profession cannot then be obtained.

It would, perhaps, not be improper for your committee to suggest the arrangements for the most economical and efficient prosecution of this arduous undertaking committed to the directors, but as the board are advised of what has been recommended on this head, and approved of by the directors of the Western Company, a repetition seems unnecessary.

The committee will, therefore, close this report with a list of articles which ought to be provided before the ensuing spring, in addition to those for which measures have already been taken.

20 tons of hay; 500 bushels of peas; 500 bushels of corn, at or near Stillwater, to be provided at Albany, the whole to be ready by the 1st of April; 16 working oxen with yokes; 12 draught chains; 10 log chains; 4 strong iron bound ox carts; 300 fathoms tarred rope; 40 crow bars; 10 cart hooks; 300 falling axes, helved; 200 broad axes; 200 spades; 200 shovels; 200 pickaxes; 50 stubbing hoes; 10 cross cut saws; 5 whip saws; 100 bill hooks; 2000 pounds nine inch spikes;  $\frac{1}{2}$  ton of iron; 2 blacksmiths' bellows, with tools complete; 20 augers, assorted; 20 chisels assorted; 10 dozen gimlets, assorted; 10 hand saws; 10 large sledge hammers; 10 hand hammers;  $\frac{1}{2}$  dozen iron squares; 200 pounds steel; 4 casks 24d. nails, 200 pounds; 2 casks 20d. nails, 200 pounds; 1 cask shingle nails, 200 pounds; 10 grindstones; 4 reams writing paper; 150 camp kettles; 100 barrels pork; 200 barrels flour; (this can be obtained on the spot); 50 bushels salt; 200 bushels Indian corn; 10 bushels peas.

All which is respectfully submitted.

PHILIP SCHUYLER,  
ABRAHAM TEN BROECK,  
JACOBUS VAN SCHENHOVEN,  
STEPHEN V. RENSSELAER,  
HENRY QUACKENBOSH.

ALBANY, *October 30, 1792.*

B. No. 2.

COMMUNICATIONS BETWEEN ATLANTIC RIVERS AND THE GREAT LAKES.

*Extract of a letter from Thomas Eddy to Samuel Osgood, Esq. dated*

NEW YORK, *October 29, 1807.*

The enclosed reports of the directors of the Western Inland Lock Navigation company, with the subsequent statement of the canals, &c., as far as they are now completed, will, I presume, be sufficient to afford all the information desired by the Secretary of the Treasury.

The locks at the Little Falls, erected in 1795, were of timber, and in 1802 they were entirely decayed, and in that and the following year the whole of them were completed with stone of a most excellent quality, and the workmanship executed in a remarkably handsome and substantial manner, superior, perhaps, to any in America, and said to be equal to any of the kind in Europe.

The locks at the German flats are of stone, and completed in the same manner as those at the Little Falls.

The locks erected at Rome, in 1797, were of brick, and in the course of a few years they were so injured by the frost that it became necessary to remove them, and in 1804 they were replaced with the same kind of stone, and finished in the same complete manner as those at Little Falls.

The navigation of Wood creek has been very much improved in 1803, by means of three substantial well finished wooden locks, but it is yet necessary to make further improvements.

The obstructions in Mohawk river have been considerably removed, but some impediments still remain.

The following improvements must be made in order to complete a good navigation, as contemplated by the act of incorporation:

The obstructions yet remaining in the Mohawk from Schenectady upwards should be removed.

Further improvements in Wood creek should be made.

And a canal and locks should be constructed at the Seneca Falls and Scavayaus.

The sum of \$50,000 would complete the above improvements.

From Three River point down the Onondago river to Oswego, is a difficult navigation for boats, and another line of communication with Lake Ontario probably might be obtained when the country from Rotterdam to Salmon creek is more carefully explored, and a regular survey made.

The company have expended, since they were incorporated, in prosecuting the above improvements, about \$400,000. A want of judgment in prosecuting works so novel in this country produced the immense loss sustained by erecting wooden locks at Little Falls, and a waste of large sums many ways.

The expense of stone locks at the Little Falls, in 1804, was about \$7,500, each lock.

The capital stock of the company consists in—

2280 shares at \$83 $33\frac{1}{3}$ ,	-	-	-	-	-	\$190,000
350 shares at 120,	-	-	-	-	-	42,000
Total,	-	-	-	-	-	<u>\$232,000</u>

The amount expended beyond the capital was made up by the gift of the State, of \$12,500 of the forfeited shares, and the receipts of tolls, as no dividends have been made, except for one year of three per cent.

The company is now in debt \$20,000, so that there is no prospect of making a dividend till after the ensuing year. The stockholders have been deprived of receiving any interest on their advances since the company was established, except one year, and the directors consider themselves not justified in prosecuting further improvements for the present.

Amount of tolls at the German flats, and Little Falls, deducting the agent's commission for collection, has been—

In 1796, - - - \$2,320 82	In 1800, - - - \$5,600 04	In 1804, - - - 9,445 05
1797, - - - 2,871 76	1801, - - - 9,490 34	1805, - - - 10,178 05
1798, - - - \$2,078 47	1802, - - - 11,624 85	1806, - - - 6,835 29
1799, - - - 3,998 10	1803, - - - 10,916 58	1807, to 1st October, 4,453 20

The following are the amounts of tolls at Rome, deducting the charges of collection—

In 1797, - - - \$ 728 80	In 1801, - - - \$1,571 72	In 1805, - - - \$2,832 09
1798, - - - 2,085 85	1802, - - - 1,834 84	1806, - - - 2,710 97
1799, - - - 1,903 72	1803, - - - 1,621 30	1807, to 1st October, 4,340 65
1800, - - - 2,162 24	1804, - - - 3,128 93	

P. S. I find I have omitted mentioning that the directors directed their engineers to survey the ground above and below the Cohoes at the mouth of the Mohawk. I have in my possession the draught of this survey with the estimates amounting to about \$250,000, as may be found in his printed report of 1796.

*To the Honorable the Legislature of the State of New York, in the Senate and Assembly convened: The Directors of the Western and Northern Inland Lock Navigation companies, respectfully report:*

That in the summer and fall, ensuing the incorporation of the subscribers to the said companies, surveys were made on the western route, from Schenectady to Wood creek, and on the northern route, from the head of the tide water of Hudson river to Fort Edward; thence to the Northern Wood creek, and down the same, to its junction with Lake Champlain.

The object of these surveys was to ascertain what improvement the internal navigation on each route was susceptible of, and which, in particular, were the greatest obstructions to the water transportation of the agricultural produce of the interior of the State. The result was perfectly favorable, and followed by a determination on the part of the Western Company, to begin its operations at the falls of the Mohawk river, in Herkimer county, which created a portage, where all boats navigating the Mohawk river, with their cargoes, were transported nearly one mile over land, an operation attended with unavoidable delay, and great expense, as well as with injury to the boats and their cargoes. The work was accordingly commenced in April, 1793, with nearly three hundred laborers, besides a competent number of artificers, but its progress was arrested early in September for want of funds, many of the stockholders having neglected to pay the requisition made by the directors, either because they had not the means to supply such advances, or from an apprehension of the impracticability of succeeding in the operation. In January, 1794, the work was, however, recommenced, although feebly, and some progress made, in hopes that the Legislature would afford aid, by grants, or loans of money, or by taking the unsubscribed shares. Accordingly, the Legislature, sensible of the propriety of relieving the stockholders in one or either of these modes, and appreciating, with that discernment which has invariably characterized the Legislature of this State, the advantages the community at large would derive from the success of the important undertaking, which they had encouraged individuals to attempt, directed a subscription, on the part of the people of the State, of two hundred shares to each company; this measure was attended with the most salutary effects. The hopes and confidence of the companies were revived, and the works recommenced in May last, with a correspondent degree of alacrity; but the very high price of agricultural produce creating a most extensive demand for labor, it was found impossible to obtain such a number of workmen as were requisite to the finishing of the work before the end of the summer. Hence it was the 17th of November before the canal and locks were so far completed as to afford a passage to boats. An account is herewith delivered of the number of boats which passed to the 13th of December, when the frost rendered the navigation in the river no longer practicable; what remains still to be done at that place is trifling, and a full completion of all the work will be effected by a small number of hands employed for a few weeks in the ensuing spring.

As a description of the country through which the canal is carried, a detail of its formation, and delineation of the beneficial effects, which already are, and will hereafter be, experienced from it, may not be uninteresting to the community, and in particular to the Legislature, whose deliberations have the interest of its constituents so constantly in view, we beg leave to exhibit the following summary:

The canal is drawn through the Northern shore of the Mohawk river, about fifty miles beyond Schenectady. Its tract is nearly parallel to the direction of the waters of the fall, and at a mean about forty yards therefrom. Its supply of water is from the river, and the canal commences above the falls in a neat well covered basin of considerable depth of water, and re-enters the river in a spacious bay at the foot of the falls; its length is 4752 feet, in which distance the aggregate fall is forty-four feet seven inches. Five locks, having each nearly nine feet lift, are placed towards the lower end of the canal, and the pits, in which they are placed, have been excavated out of solid rock of the hardest kind; the chamber of each lock is an area of seventy-four feet by twelve in the cleave, and boats drawing three feet and a half of water may enter at all times; the depth of water in all the extent of the canal beyond the rocks is various, but not less than three feet in any place; near the upper end of the canal a guard lock is placed without lift, to prevent a redundancy of water; when the water in the river rises beyond the lowest state, sluices are constructed to discharge the surplus water entering the canal, from the two small rivulets which intersect its course; about 2550 feet of the canal is cut through solid rock, and where the level struck above the natural surface of the earth, or rather rock, strong and well-constructed walls are erected, supported by heavy embankments of earth, to confine the water and to keep the level, hence there is no other current in the canal than an almost imperceptible one, when the summit lock is drawn; three handsome and substantial bridges are thrown over the canal at so many roads which have been intersected by the canal.

The following state of facts will evince the beneficial influence this important work has had on the transportation of the produce of the country beyond the falls, and on that of the necessary supplies for the consumption of our useful hardy husbandmen in that quarter, employed in reducing a wilderness to smiling and fertile fields, promoting their own happiness, and the commerce and respectability of the State.

The falls, previous to the improvements above stated, being impassable, even for empty water crafts, these, with all their cargoes, were transported by land over a road as rough, rocky, and bad as the imagination can conceive; of necessity, therefore, the boats were of such construction as might be transported on a wheel carriage, consequently, of little burthen, seldom exceeding a ton and a half; each boat was navigated by three men, and a voyage from Fort Schuyler to Schenectady, a distance of one hundred and twelve miles, and back to the former place, was made at a mean in nine days. Thus the transportation of a ton of produce, if no back freight offered, was equivalent to one man's wages for eighteen days; the canal and locks can pass boats of thirty-two tons burthen and upwards, but impediments in the river, still to be removed, between Schenectady and the falls, and between the latter place and Fort Schuyler, prevent the use of boats of more burthen than ten or eleven tons, each of these are navigated by five men, and make the same voyage in fourteen days, which, if no back freight offers, is at the rate of seven days' wages of one man for one ton; but, until improvements shall be made in the river below and above the falls, these boats, when the water in the river is in its lowest state, which is usually from the middle of July to the close of September, can only convey about five or six tons in that period, then the transportation of a ton between the places aforesaid is equal to the wages of one man for fourteen days, affording still an important saving. The whole time taken to pass the canal and locks does not exceed three-quarters of an hour; the same burthen transported as heretofore by land, caused a detention at the very least of an entire day and often more; but the advantages above detailed will not be confined to the inhabitants residing in the country on both sides of the Mohawk, between the falls and Fort Schuyler, but extended to those in the more western part of the State; when a canal of little more than a mile and a half in length, through grounds unincumbered with rocks and chiefly cultivated, shall connect the waters of the Mohawk river with those of Wood creek, and when that creek shall be improved, and some trifling obstructions removed in some few places in the Onondaga and Seneca rivers, for then boats of ten tons burthen and more, may, with facility, be navigated to the most remote end of the Cayuga lake. The expense of these improvements, and those requisite between Schenectady and the falls, has been estimated by that able engineer, Mr. William Weston, who has conducted the company's works in the last year, and who has made a critical examination of the whole line which was the object of the act of incorporation. A report of his, with the estimates alluded to, and others to improve the navigation between Schenectady and the sloop navigation of Hudson river, are herewith delivered, the aggregate of which, although amounting to a sum probably beyond the ability of the company, until a more distant period in which by law the works are to be completed, is not only small, but perfectly trifling when put in competition with the incalculable advantages to every part of the community, which must inevitably result from the completion of the work in all the extent of the State.

The directors have already determined to form the canal, between the Mohawk river and Wood creek, at Fort Schuyler, and a proper person is sent to that place to receive proposals for furnishing the requisite materials, and proposals have actually been offered for doing the excavating part of the work by contract, on which the directors will decide with all convenient speed, that the operation may commence early next spring; and they hope its completion in the month of November next, unless accidents, not at present foreseen, should intervene to retard its progress.

It is seriously to be lamented that many of the stockholders are not in conditions to make advances in the present year, sufficiently extensive both for the canal at Fort Schuyler, and also to improve Wood creek, or the rapids between Schenectady and Schoharie creek. The directors will, however, think it incumbent on them to borrow money for those purposes, if it can be obtained by mortgaging the works already completed. The loan of a sum, equal to half of what the canal and locks at the falls have cost, would be amply sufficient for two of those objects, with such addition as it may be in the power of the stockholders to contribute. The account herewith delivered, (marked A,) will show what that cost amounts to, and another, (marked B,) what boats have passed; but as they cannot stipulate reimbursements sooner than at the expiration of five years, it is little probable that a loan can be made from individuals. Their only prospect of aid must therefore be a respectful reliance on the Legislature, which will undoubtedly appreciate the importance of speedily removing the obstructions alluded to, either by a loan, or by an anticipation of the payments on the shares in the stock held by the State. And as the estimate for the removal of all the impediments to the navigation between Schenectady and the carrying place at Fort Schuyler, the canal and locks at that place, the locks and other improvements in Wood creek, and the obstructions in the Onondaga and Seneca river as far as the southern extreme of the Cayuga lake, a distance of more than two hundred and sixty miles, adding ten per cent. on the aggregate for contingencies, amounts to £73,540, the proportion of this sum on the two hundred shares belonging to the State will be only £14,708.

The Legislature will permit us respectfully to observe, that, should assistance be afforded in either shape, the prospect of a speedy reduction of the price of transportation would, doubtless, greatly enhance the value of the property of the people of this State, bordering on the western waters, and recently purchased from the natives, and still unsold.

In the summer of 1793, the directors caused Wood creek to be cleared of the timber which had fallen into it, in such quantity as almost altogether obstructed the navigation; and, as the serpentine course of the creek greatly increased the distance, from its source to its mouth, beyond that of a straight line, thirteen isthmuses were cut, which made a reduction in the distance of more than seven miles. Its banks are, however, so thickly covered with trees of the largest size, and so many of those, either from decay, or by the force of the winds, are annually thrown into the creek, that it will be indispensably necessary to clear the banks of the timber, for the distance of four rods at least, and contracts are proposed to be made for that purpose. The lands on the south side of the creek, from opposite Canada creek to the Oneida lake, appertain to the State; and we humbly suggest the propriety of vesting the lands, to the extent of the distance above mentioned, in the Western Company. Should this favor be conferred on the company, and extended to enable them to obtain the same quantity of land on the northern shore, by an exchange with the present proprietors, for an equal quantity, (part of the small reservations on the Oneida lakes, purchased from the Oneidas,) it is believed the proprietors would be willing to make the exchange.

In the year 1793, the Northern Company commenced a canal in the vicinity of Stillwater, intending to extend it to Waterford. This business, after considerable progress had been made, was also arrested, and for the reasons which prevented the prosecution of the works at the falls. A contract was made in that year for constructing a canal and locks, to open the navigation of the northern Wood creek with Lake Champlain, obstructed by the falls at Skeensborough. The excavation of the canal, through solid rock, is nearly completed, and the locks will be constructed and finished in the present year, if contracts for furnishing the necessary number of bricks can be made, and which is now attempted to be done.

In 1794, the Northern Wood creek was partially cleared of the timber which had fallen into it, and boats are now capable of passing from the falls of the Skeensborough, to near Fort Ann; and, as the road between these two places is exceedingly bad and deep, very considerable advantage has resulted from the operation.

Mr. Weston has examined the direction of the canal commenced in 1793, near Stillwater, and the intermediate grounds to Waterford; the river, from Stillwater to Fort Edward; the country thence to Wood creek; and that

creek to its junction with Lake Champlain; and has given it as his opinion, that in all this line, as in the western, the country is more favorable for works such as are contemplated, than any he knows, or has ever been advised of; that the expense will be trifling, compared with any other of equal extent in any neighboring State which he has visited; but, for want of time, he was not able to take surveys, on which correctly to form estimates of each particular improvement.

Many of the settlers adjoining the waters on both routes, through which the improvements are intended, and by which the internal navigation, in its present imperfect state, is carried on, have very improvidently fallen the timber from the banks into those waters, to such an extent, as in many places renders it difficult to obtain a passage. This evil cannot be effectually remedied without further legislative provision in the premises; and the directors of both companies respectfully entreat the Legislature to afford it.

The valuation of the grounds, through which it has been, and shall hereafter, be necessary to draw canals, in the manner directed by the act of incorporation, has caused serious embarrassment, as well to individuals, whose property is injured by the works, as to the company. An alteration in this respect is humbly entreated, and the directors beg leave respectfully to suggest the propriety of enabling the supreme and circuit courts to appoint appraisers, whose decisions shall be conclusive, under the sanction of an oath, impartially to estimate the damages, or such other mode as the wisdom of the Legislature shall devise.

The several accounts herewith exhibited will show the moneys which have been received by the directors, and how the same has been expended.

The arrestation of the work in 1793, the extravagant increases in the price of labor and materials, the want of experience in persons of every description, employed in works perfectly novel in this country, with the exception of the engineer in the last year, has greatly enhanced the expense, but which, we trust, will in future be avoided, as experience has enabled the directors to systematise their operations, and to introduce as much economy in the several requisite arrangements, as a business of this nature is susceptible of; and the directors have reason to believe, from the detailed manner in which the engineer has formed his estimates, that the future expense will be confined to the aggregate amount of those estimates. The directors will not, however, be deterred from prosecuting the works, committed to the companies respectively, with as much celerity as their funds will permit, persuaded that great and important advantages will result to the community, however small the retribution may be to the subscribers, at least for some years to come.

All which is most respectfully submitted, by order of the directors of both companies,

PH. SCHUYLER, *President.*

NOTE.—From the 17th of November, 1795, to the 18th of December following, eight large boats, and one hundred and two small boats, passed the Little Falls on the Mohawk, and paid a toll, in the aggregate, of £80 10, exclusive of that on nine boats which passed gratis, on the day when the locks were opened. The season being so far advanced, only a small portion of boats were navigated on the river in this month, compared with that usually employed in the navigating season.

*Report of Mr. Weston to the Directors of the Western and Northern Inland Lock Navigation Companies.*

GENTLEMEN:

Agreeable to your instructions of the 16th May, requesting me to examine such works as had been already executed, and such as remained to be done, by the two companies incorporated for the improvement of inland navigation in the State of New York, and to form such plans and estimates as might enable the directors to form an idea of the sums that would be requisite to carry the contemplated works into effect, I proceeded to an examination of the state of the works at the Little Falls, which, being a primary object with the directors, caused me to hasten them, without paying more than a transient attention to the intermediate navigation of that place and Schenectady.

A desire of availing myself of the extensive information and local knowledge possessed by General Schuyler, of the internal navigation of this State, induced me to accompany that gentleman, to the utmost extent of the limits prescribed by the Legislature, as the boundaries of the western inland lock navigation. Though this examination was performed first in point of time, yet I shall defer making any observations at present, deeming it more eligible to lay before the board a regular and connected account, from the eastern extremity, at Hudson river, to the western termination, at Lake Ontario.

The reason before mentioned, having prevented a particular examination of the Mohawk, on my ascending it from Schenectady to the Little Falls, and the necessity that was perceived on my return from the westward, of personally inspecting and hastening the completion of the works, at the last mentioned place, unavoidably postponed my re-examination to such an advanced period, as rendered it impracticable, from the height of water, to form an accurate judgment of the necessary improvements, and, consequently, of the attendant expense, previous to a description of the present state of the navigation of the Mohawk, and the means of connecting it with the waters which disembogue to the westward, in Lake Ontario. It will be proper to premise, that the estimates are formed with a reference to existing circumstances; an increase or diminution in the value of labor will, therefore, necessarily produce a proportionable variation in the amount. Keeping this in view, I trust the estimates will be found to approximate as near the truth as the uncertainty incident to works of this nature will admit. In such parts where the quantities can be ascertained by calculation, the allotted sums will be found as accurate as estimation will allow; but where, from particular circumstances, sufficient data cannot be obtained, much must depend on conjecture. Analogy, on experience in similar situations, can alone enable us to form any tolerable idea of the time and cost of execution; always taking into consideration the difference occasioned by dissimilarity of place and circumstance. In every instance I have wished rather to exceed, than to fall short, in the aggregate amount; in some places too much may have been appropriated, and in others, probably, not sufficient; but the excess of one, by counterbalancing the deficiency of the other, will produce a mean, differing but little from the specified total, provided skill and economy are united in the execution; it being always to be understood that I proceed on the supposition that the different works are all performed by contract. Having premised so much, I shall commence the survey at the Cohoes, proceeding westwardly.

The navigation of the Mohawk, near its junction with the North river, is interrupted by a large fall, known by the name of Cohoes, which descends perpendicularly upwards of seventy feet. This impediment has occasioned the navigation to terminate at Schenectady. The intercourse between that town and Albany, being carried on by wagons, the amount of the produce annually conveyed, the badness of the roads at particular seasons, and the great expense of land carriage, have long since rendered it an object of importance to connect these two places by a lock navigation. The most apparent route, and the easiest to be executed, is doubtless by following the Mo-

hawk in its course eastward to the Cohoes, and then by a canal from the level of the river above Lansing's mill, to form a communication with the Hudson. There are two routes, one of which, on the western shore of the Mohawk, commences at Lansing's mill, and terminates opposite to Troy; the other, on the eastern side, forms a junction with the Hudson at Waterford. To enable the board to decide on the most eligible line, I have surveyed both the plans and sections herewith exhibited; each, respectively, will explain the situation and elevation of the ground much better than can be conveyed by words; a comparative estimate is subjoined, showing the difference of expense that will attend on the execution. That the board may form a just conception of the merits of the two lines, it will be proper to observe, that the first mentioned one, though nearly two miles longer, delivers the boats into sloop navigation at Troy; whereas, the eastern canal, by entering the Hudson at Waterford, obliges the boats to descend that river to the same point, before their cargoes can be shipped on board the trading vessels, unless this difficulty should be obviated, by an improvement in the North river, so as to render it navigable for vessels of burthen to Waterford. From what has been said, the board will be competent to decide which line will best promote the interest of the stockholders individually, and the community at large.

The estimates, when the distance alone is taken into view, will appear very great; but when it is understood that the lockage is upwards of one hundred and forty feet, and that the quality of the ground, through which the canal must be unavoidably connected, is chiefly a slaty rock, removable, in a great degree, only by means of powder; when the price of that article, the high value of labor, and the little progress that can be made in such a material, are also considered, the amount will no longer appear surprising. Though the sum affixed as adequate to the removal of a cubic yard of rock is much less than has been recently given for the excavation of a road at the east end of the Cohoes bridge, yet I have reason to believe, that, by working to the best advantage, the cost will not exceed what I have allowed as competent to the performance. The consumption of powder will unavoidably be great; the exact quantity is not easily to be ascertained. I have calculated the expenditure in proportion to that consumed at the road before mentioned. The price has been fixed at a medium between the present and usual value. On account of the depth of cutting, I have contracted the width of the canal in various places, the slopes forming an angle of forty-five degrees with the horizon. The towing path is also diminished six feet; the benches are as one to two, or three feet horizontal, to six feet perpendicular. The above dimensions admit the passage of one boat only at a time; but as the distance will not in any instance be great, no inconvenience will result from the measure; especially as meeting places may be formed in the valleys on the western line, without additional expense, and the cost of making them on the eastern line will be an object of small importance. Some saving may be made in the execution, by dispensing with the towing path, and contracting the benches; but, as these are intended for permanent works, I do not recommend the adoption of this measure. It is usual in Europe to tunnel, or to form a subterraneous passage, where the depth of cutting exceeds twenty-five or thirty feet. Independent of the accidents these works are subject to, (and which are by no means uncommon,) the increased value of mechanical labor in this country would render this mode nearly, if not quite, as expensive as open cutting; which induced me to prefer the last mentioned method. The canal, in common cutting, is proposed to be twenty-six feet wide at the bottom, and thirty-five at the surface of the water, (which is three feet in depth,) the towing path elevated eighteen inches above it, and twelve feet in width. These dimensions are adapted to the size of the locks, as fixed by the Legislature, in the supplementary act of incorporation. The locks are proposed to be constructed in the best manner, with sound, hard-burnt bricks; the hollow quoins and coping of stone; the chamber capable of receiving a boat of seventy feet in length, and twelve feet in width.

At the time the above survey was performed, the water was so high in the Mohawk as to render a regular examination from the Cohoes to Schenectady useless; but, from a cursory view of the river for six miles above Lansing's mill, and from the information obtained from persons acquainted with the remaining part, it appears that the navigation in general is tolerably good, excepting in three or four places where short canals and locks would be necessary; the worst rapid is at Vanderbergh's, six miles from Lansing's mill. The most effectual mode of improvement will be to cut a short canal from the upper to the lower end of the fall, on the north-eastern shore; the ground is flat, and apparently free from rocks; the length will not exceed five hundred yards, and one lock will suffice for the ascent of boats. A small low dam, from each bank to an island in the middle of the river, would save some digging, and afford an extension and increase of water in the pond above. From hence to Schenectady, there are two more rapids, where it would be necessary to pursue the same plan. From the upper fall to Schenectady, a distance of four miles, the navigation is good; from this place to Schoharie creek (upwards of twenty miles) there are a continued series of falls, of greater or less extent; the number and situation of these are accurately detailed by General Schuyler, in his printed report of 1792, to which I refer the board for further particulars. Judgment and caution must be exerted in the improvement of these rapids, as, though inconvenient in themselves, they are beneficial in their consequences, rendering the intermediate navigation more perfect by preventing a too quick discharge of water in a dry season, thereby making a partial navigation, when otherwise there would be none. An opening sufficient to permit a boat to pass through with facility, and a small low dam, with an oblique wing wall, to collect a greater quantity of water in the channel and pond above, is the least expensive mode of execution. It is evident that this increase of depth, obtained by a contraction of the natural channel of the river, will occasion a proportionate increase of velocity, and a consequent obstruction to the ascending boats; to remedy this inconvenience it will be always prudent to have the opening near the shore, that the boats may avail themselves of the assistance of a towing path to facilitate their ascent—when there is a sufficient depth of water above and below the rapid, and the bed of the river is not a solid rock, the remedy is very easily effected. These instances occur very frequently between the Little Falls and Fort Schuyler, as will be more particularly mentioned hereafter. The state of the river to Schoharie creek is such as to induce me to advise only a partial and temporary improvement, as I am persuaded that, in a very few years, a natural and certain increase of trade will demand an attention which its consequences will doubtless obtain, and that then a canal on the southern bank of the river, to which purpose it is admirably adapted, from Schoharie to Schenectady, will be deemed absolutely necessary. The distance from Schoharie creek to the Little Falls is thirty-six miles, and, although there are several rapids, yet improvements will be neither difficult nor expensive. The particular manner of execution can only be pointed out on the spot, after a minute inspection of each respective rapid.

Passing through the canal at the Little Falls, the river continues navigable, near five miles, to Orendorff's rift; but previous to a further description it may be proper to point out what further steps are necessary to be pursued the ensuing year, to complete the works at the first-mentioned places. The great desire expressed by the board to have the canal opened this year made it necessary to finish partially the different works, in order to effect the desired purpose; the embankments were, therefore, left in an unfinished state. From the settling incident to them, and equality of the soil of which they are composed, and which was unavoidably used, it will be necessary, early in the ensuing spring, to employ one or two boats to raise such parts as shall require it, and to continue strengthening the banks, until it has obtained a proper form. I have given Mr. Usher instructions to attend to this part of the work, at the commencement of the thaw in the spring; and I have no doubt he will take every necessary precaution for its stability.

Recommencing the survey, we ascend, in good water, Orendorff's rift, a very strong rapid, the river being contracted into a narrow deep channel; half a mile above this is the Wolf rift, a wide and shallow rapid, continuing the same to Fort Herkimer. The best manner of improving this part will be to cut a canal from Fort Herkimer to the deep water below Orendorff's rift; the ground is very favorable, being free from rock, and with a regular and gentle descent; the length will be ninety-two chains, and the fall of the lock at the east end ten feet, supposing the fall of the upper gate level with the surface of the water above the Wolf rift. To obtain the requisite depth of water in the canal, I propose to throw a dam across the river to raise it three feet; this will save that depth of extra digging the whole length of the canal, and will also improve the navigation of the two small rapids above Aldridge's. The dam, guard, and river locks may be built with stone, to be obtained, on the south side of the Mohawk, at the Little Falls; the land carriage will not then exceed one mile, and it may then be conveyed in boats to the destined spot: the quality is well adapted for these or any other works, where strength and duration are required; the stones rising in lamina of different thickness; the beds perfectly parallel, and the dimensions as large as may be required. The expense attendant on this part will be found detailed in the estimate annexed hereto. The distance from Aldridge's to Fort Schuyler is nearly fifty miles; the navigation, with few exceptions, is exceeding good. The river, from Post's upwards, is much impeded with trees, which render the passage both difficult and dangerous; in some places accumulated to such a degree as almost to choke up the whole of the channel. The removal of these should be an object of the first attention; but the labor will be fruitless, if a supplementary clause to the act of incorporation is not obtained, affixing such penalties as may effectually deter the commission of acts, producing these consequences. As the few rapids in the last-mentioned district have generally deep waters above and below, and the bottom is either sand or gravel, they will be made navigable at a small expense. From the Mohawk, at Fort Schuyler, to Wood creek, there is a carrying place of one mile. In the spring, there is generally a sufficiency of water to enable the batteaux to descend with their cargoes on board; but, in summer season, it is necessary to convey the lading four miles further by land to Canada creek, and then there is some difficulty to float the empty boat down, though aided by a flush of water collected in the mill-dam during the preceding night. The ground between the two landing places is remarkably favorable for the canal, as the plan and profile, herewith exhibited, will clearly explain. The surface of the water in the Mohawk, at the upper landing, is sixteen inches higher than that of Wood creek, where Newport formerly stood; but the navigation from Colbraith's upwards is very bad, susceptible of improvement only by means of a dam. I have deemed it preferable to conduct the canal about one hundred yards below White's landing into good water. The length of the canal will be one mile, five furlongs, and two chains, and the lift of the lock eight feet, that being the difference of the elevation between the two points above mentioned. The soil through which the canal is carried, being chiefly sand, with a small proportion of gravel, and wholly free from rock, will make the expense of cutting comparatively small. The locks and abutments of the bridges are proposed to be built with brick; for the amount and particulars of expense, I refer to the subjoined estimate. It is to be observed that I suppose the waters of Wood creek, aided by those of a small rivulet, running at the foot of the rising ground on which Fort Schuyler stands, (and which may easily be conducted into the summit level,) will be adequate to the supply of a lock navigation. But should the increase of trade, at a future period, require further resources, they can be obtained by means of a dam thrown across the Mohawk, at the lower landing, so as to raise the waters therein level with those of the canal, which may be effected at an expense not exceeding one thousand pounds, and without causing any alteration in the rest of the works. Wood creek, from Fort Newport to its junction with Canada creek, is circuitous in its course, and the channel to Fort Bull, in general, very narrow; the fall to this last-mentioned place is fourteen feet and a half, and the length near four miles; the fall from thence to Canada creek is eighteen feet six inches, and the length three miles, one furlong, and six chains. The above fall I have divided into six locks, the ground not admitting of more than five or six feet lifts. This part of the creek, at present, is tolerably free from trees; but, unless the banks on each side are cleared twelve or fifteen yards in width, it will not long remain so: this is so necessary an operation that it should be immediately carried into execution from Fort Newport to the Oneida lake. From Canada creek to the royal block-house, (a computed distance of twenty miles,) the channel is much impeded by trees, which, lying across the direction of the stream, collect banks of sand, which choke up the passage, and, by directing the current obliquely against the banks, undermine them, and add fresh obstacles to those before accumulated. The course of the creek is naturally circuitous; the improvements made by Mr. Richardson have been very beneficial; but much yet remains to be done in the same way, which, when effected, will considerably shorten the distance. This operation, and the removal of the trees and banks of sand, by promoting a quicker discharge of water, will produce a decrease in the depths thereof, making it necessary to construct locks and dams, which will then render the navigation of Wood creek complete. The number and situation of these works cannot be ascertained, until a regular survey has been made, which cannot be done conveniently except in the winter season.

From the royal block-house to the outlet of the Oneida lake at Fort Brewerton is twenty-four miles, below which is Coquatanoy rift, about three hundred yards in length; the chief impediment is occasioned by an old Indian eel wear. A wing wall to confine the channel into a narrow compass, removing the loose stones in the bed of the river, and making a towing path on the adjacent shore, will suffice to render this plan navigable. From the outlet of the Oneida lake to the junction of the Seneca with the Onondaga river, at Three River point, (eighteen miles) the navigation is perfect, with a current scarcely perceptible. Proceeding up the Seneca river to the south end of the Cayuga lake, we have a navigation (with one or two exceptions, not worth mentioning) as complete as art or nature could render it.

Indeed, the Seneca, instead of being deemed a river, may, with great propriety, be considered as an extension of the Cayuga lake, the channel being wide and deep, with an imperceptible current; in short, from the east end of the Oneida to the south end of the Cayuga lake, a perfect navigation, extending upwards, of one hundred and twenty miles, in a direct course, may be obtained at an expense not exceeding two thousand pounds, as will be detailed in the annexed estimates. The Cayuga, at the north end, receives the Seneca river, distant from the lake of that name sixteen miles: ascending that river three miles, we come to the falls, where there is a carrying place three-quarters of a mile in length. Whenever the Western Company require this obstacle to be removed, a canal may be conducted on the north side from the upper to the lower landing; the length will be six furlongs, five chains, and the fall twenty-seven feet. Proceeding further up the river, we arrive at the Little Scawyau; the current is rapid, but sufficiently deep; the removal of an eel wear, and the formation of a towing-path, will make the ascent neither difficult nor tedious. From the Little to the Great Scawyau the river is deep, and the current moderate. At this place, a canal is practicable on either side; the length will be six furlongs, nine inches, and the fall fifteen feet, ten inches; from hence the river continues good to the outlet of the lake. It may be proper to observe, that, whenever these canals are carried into execution, great part of the sums expended in their completion may be reimbursed by the disposal of mill-seats, which are very scarce, (and consequently valuable,) in this part of the country.

Returning to Three River point, we proceeded down the Onondaga river to Oswego Falls, (twelve miles;) in this district are three rapids, two of which only are of consequence. At Oswego Falls is a short carrying-place,



but the boats are delivered into very rapid water, extremely difficult of ascent; a canal may be carried through rocky ground on the south side; the length will be sixty-two chains, and fall eighteen feet; from hence to Oswego, where the Onondaga river disembogues itself into Ontario, is a continued rapid for twelve miles. The adjacent shores being very steep and rocky, preclude every idea of conducting a canal along the bank; as the only remedy, recourse must be had to dams and locks. Averse as I am to this mode, yet necessity compels us, however reluctantly, to adopt it. The bed of the river being a solid rock is a circumstance that will undoubtedly contribute much to the stability of the works, and suitable timber, abounding on the adjacent shores, will diminish the cost of erection.

The number of these dams and the quantity of lockage cannot be ascertained, until a regular survey has been made; but, previous to this, or the expenditure of any money below Three River point, it will be advisable to examine attentively every other line of communication with Lake Ontario that has the least appearance of practicability. For this purpose I shall suggest to the board the propriety of exploring the intermediate country between Rotterdam and Salmon creek. From information obtained at Rotterdam, I understand that the distance from Oneida lake to the navigable waters of Salmon creek does not exceed sixteen miles; that the ground is favorable, being free from rock; and that the sources of Salmon creek, and the rivulet which enters the Oneida lake at Rotterdam rise near each other, and may, in all probability, be conducted into the summit level. If these conjectures should be verified by a regular survey, and if the springs that can be obtained are found adequate to the supply of a lock navigation, I shall certainly recommend this route as most preferable, not only on account of its stability, but also for being near thirty miles shorter than the Onondaga river. The expense of execution would probably be greater in the first instance, but I am persuaded would eventually be found cheaper from its permanency. Arrived at Lake Ontario, it is almost superfluous to remark (what is so obvious to every person the least acquainted with the geography of the State) on the immense expanse of internal navigation that opens upon our view; the extent of these lakes (with one obstruction only, that doubtless will be surmounted in a few years) presents to the mind a scene unequalled in any other part of the globe, offering to the enterprising and adventurous sources of trade rapidly advancing to an incalculable amount, ensuring a certain recompense to the individuals who promote, and the State that patronises their important undertakings.

WILLIAM WESTON.

ALBANY, December 23, 1795.

*General view of the expense of improving the internal navigation from the tide water of Hudson river to the Cayuga lake, by means of canals, locks, and removing the obstructions in the rivers, so as to render them competent for the transportation of produce in boats of twenty tons and upwards, drawn from the estimates, made in detail by William Weston, Esq., engineer, after actual survey.*

To connect the waters of the Mohawk river with the Hudson by a canal and locks from above the Cohoes Falls, an option of the two following routes is offered, to wit:

From Lansing's mills, above the said falls, by a canal of four miles and fifty-four chains in length, on the west side of the Mohawk river to the sloop navigation opposite to the town of Troy six miles north of the city of Albany:

	£	s.	d.
Estimated expense,	102,268	4	6
Or from the said mills, by a route on the east side of the Mohawk river, to enter Hudson river, at Waterford, four miles above Troy, a distance of two miles and fifty-one chains:			
Estimated expense,	105,240	13	7
For the canals, locks, towing-paths, and other requisite improvements in the Mohawk river, from Lansing's mill to the town of Schenectady; distance about twelve miles:			
Estimated expense,	15,247	00	0
For like improvements from Schenectady to the mouth of Schoharie creek; distance twenty miles:			
Estimated expense,	15,000	00	0
For like improvements from Schoharie creek to the foot of the falls in the Mohawk river, in Herkimer county; distance thirty-six miles:			
Estimated expense,	4,924	00	0
The works at the falls are completed, and boats pass the canal and locks.			
For like improvements from the head of the said falls to the portage at Fort Schuyler, between the Mohawk river and Wood creek; distance fifty-six miles:			
Estimated expense,	8,914	15	6
For a canal, locks, and towing-path across the said portage; distance one mile and fifty-two chains:			
Estimated expense,	12,266	8	3
From the west end of the said canal, for like improvements, down Wood creek, to render it a complete canal navigation to its junction with the Oneida lake; distance thirty miles:			
Estimated expense,	28,787	00	0
From the east end of the Oneida lake to the outlet of the Cayuga lake little is to be done; the distance is one hundred and one miles, and the estimated expense is	2,090	00	0

From the said outlet to the western extreme of Cayuga lake is about forty miles: hence the total distance, if taken from Hudson river, at Troy, is three hundred and two miles, and the aggregate of the estimate for the whole is

189,497 8 3

Or, if taken from Waterford, the distance is two hundred and ninety-nine miles, and the aggregate of the estimate is

192,769 17 4

The produce of the Western country, conveyed by water carriage, is landed at Schenectady; from whence to Albany there is a land carriage of seventeen miles: hence, if the canals and locks between Schenectady and the Hudson river are not constructed, the estimated expense for all the requisite improvements from that town to the western extreme of the Cayuga lake will be only

72,982 3 9

And the distance about two hundred and eighty-five miles.

To every of the estimates ten per cent. has been added for contingencies.

SIR:

ROME, December 29, 1207.

Your favor of the 15th instant, covering the resolution of the Senate of the United States, and your queries respecting canals, is received. I have enclosed herewith a map of the navigable waters between Hudson river and Lake Ontario, with the tributary streams that may be of most importance in any future improvement. Mohawk river and Wood creek were surveyed in 1803, and the levels taken from Oneida lake to Schenectady. The level was also taken from Schenectady to Hudson river; but I have never seen the returns. The canal at Rome is supplied with water by a feeder from the Mohawk, at such distance above its junction with that stream as to give a fall from the canal to the river—

	Fall.	Distance by water.
Where there is one lock of - - - - -	9.75 feet.	
Thence to the canal at German Flats the fall is - - - - -	47.34 do.	- 43 miles.
Thence canal one mile long, with one lock at each end, - - - - -	10.00 do.	- 1 do.
Thence to the canal at Little Falls, - - - - -	2.10 do.	- 4 do.
Thence canal at Little Falls, six locks, - - - - -	42.00 do.	- 0 $\frac{3}{4}$ do.
Thence to Schoharie creek, - - - - -	47.98 do.	- 36 do.
Thence to Schenectady, - - - - -	62.67 do.	- 21 $\frac{1}{2}$ do.
<hr/>		
Total fall from canal at Rome to Schenectady, - - - - -	221.84 feet,	- 106 $\frac{1}{2}$ miles.
From thence to Hudson river, by estimation, which cannot be far from the truth, - - - - -	200.00 do.	- 15 do.
<hr/>		
Total fall from canal at Rome to tide water, - - - - -	421.84 feet,	- 121 $\frac{1}{2}$ miles.

	Fall.	Distance by land.	Dist. by water.
From canal at Rome to Little Canada creek there is one lock at west end of canal, and four locks and dams in Wood creek, - - - - -	32.00 feet.	- 4 miles.	- 5 miles.
From Little Canada creek to Oneida lake, - - - - -	27.86 do.	- 9 $\frac{3}{4}$ do.	- 17 $\frac{3}{4}$ do.
Oneida lake, - - - - -	-	- 20 do.	- 20 do.
From west end of Oneida lake to Three River point, the fall is estimated, no levels having been taken, - - - - -	13.00 do.	- 7 do.	- 18 $\frac{3}{4}$ do.
Thence to Oswego Falls, estimated, - - - - -	25.00 do.	- 11 do.	- 11 do.
Thence to Lake Ontario, - - - - -	75.00 do.	- 12 do.	- 12 do.
Add the portage at Oswego Falls, - - - - -	18.00 do.	- 1 do.	- 1 do.
<hr/>			
Total fall from canal at Rome to Lake Ontario, - - - - -	190.86 feet.	- 64 $\frac{3}{4}$ miles.	- 85 $\frac{1}{2}$ miles.

Wood creek at this place is a small stream, sufficient to carry a saw-mill in the spring and fall, but not in the driest season of the year. It would be of little use to measure the quantity it will supply per minute at this season, when the streams are full. We know it is not sufficient to supply the contemplated canal, before it receives Little Canada creek, which is something larger; but the feeder from the Mohawk will be the principal reservoir, and it is believed to be amply sufficient for the purpose. The land, generally, on one or the other bank of the Mohawk, is interval, with rising ground back from the river, so that a canal may be carried to the higher ground, or continued on the interval, at pleasure. The canal at Little Falls was cut a part of the distance through limestone rocks, and at great expense. Below the locks the river is deep, and current moderate, as far as the high rocky banks continue, say one mile and a half. The greatest difficulty will be found at the Cohoes falls, where the banks are high, of slaty rock, and a fall of one hundred and forty feet to Hudson river. In December, 1795, William Weston, Esq., engineer of the canal company, estimated the expense of a canal and locks from the head of the falls to the tide water, at about \$260,000. The land between Schenectady and Hudson river is sandy, and it is probable the rocks may be avoided by taking the canal from the river at Schenectady, or a short distance above, and keeping that level until it shall arrive within a short distance of Hudson river. This can easily be ascertained by a survey.

On the route westward from Rome, the land is generally flat on the banks of Wood creek, descending as the water descends; but from Oswego Falls to Lake Ontario the stream is rapid, and the banks high and rocky. I have never viewed the ground, but am informed it will admit of a continued canal from the falls to Fort Oswego. The dotted line on the enclosed map, from a great bend in Onondaga river to Fort Oswego, will probably be an eligible route for a canal. The land is said to descend regularly westward, and the saving in the distance will be considerable. No tunnel will be necessary in the whole route, and very little deep digging. Except the Cohoes falls, the land is well situated for the proposed improvement.

The question respecting the elevation of Lake Erie above Lake Ontario I can only answer, from a general understanding that it is about two hundred and thirty feet, and the banks below the falls high and rocky. A Mr. Prescott, of Northampton, Massachusetts, surveyed the ground some years ago, and a company was incorporated for opening a canal; but the work was not commenced, nor have I heard whether any shares in the stock of the company were taken up.

The Mohawk, below Oriskany creek, is sufficient to supply a canal large enough for an Albany sloop; but I think it too small at this place in a dry season. Those sloops are badly constructed for a canal navigation. Long flat-bottomed boats, from thirty to forty tons, drawn by horses, would be much more useful vessels in a canal of such length. Such boats might answer in North river, but not in the lakes.

The streams that empty into Lake Erie are so much higher than Seneca lake, that a canal is doubtless possible; but, considering the importance of the communication with Lake Ontario, and the great difference in the expense, a canal by Oswego would unquestionably be the most eligible; besides, a canal at Niagara will soon be indispensable; and this must be of sufficient size for vessels that navigate the lakes.

The points united by canals are represented on the enclosed map. Each lock is seventy feet long, and twelve feet wide in the clear, and will admit boats drawing two feet water.

At Little Falls, there are six locks of stone; at German Flats, two stone locks; at Rome, two stone locks; and on Wood creek, four locks of timber, in the bed of the creek; the water obstructed by a dam at each lock. This kind of improvement extends from the canal here to Little Canada creek, and is of much use; but the dams and locks will soon decay. The canals are sufficient for boats that draw two feet water, twenty-four feet wide at bottom, with sloping banks; so that, when there is two and a half or three feet depth of water, it is thirty-two feet wide at the surface of the water. The canal at Little Falls, being cut through rocks, is in some places narrower. Before the canals were cut, the common sized boats were one ton and a half burthen; they are now from three to ten tons burthen.



The Vice President has frequently visited this part of the State, and can give you correct information of the land on the Mohawk, and the facility of making a canal on the low or higher ground, at pleasure; and also of crossing the river when necessary, to avoid great streams, and save the expense of arching. I have lately seen a scheme of lottery granted in the State of Ohio for improving the navigation of Cayahoga and Muskingum rivers. Samuel Huntington, Esq., one of the judges in that State, is a manager, and, I believe, a president of a canal company. One of the agents of the company called on me for information, and represented the Cayahoga to be now navigable for small boats, and that but little more improvement was then contemplated than clearing out the timber, and making a good road six miles from that river to Muskingum.

The improvement of this route, and also from Presque Isle by French creek to Pittsburg, may be considered an object worthy the attention of Government.

I have the honor to be, with great respect, your obedient servant,

GEORGE HUNTINGTON.

Honorable ALBERT GALLATIN.

*To the Honorable the Legislature of the State of New York, in Senate and Assembly convened. The directors of the Western Inland Lock Navigation Company respectfully report:*

That in the summer and fall ensuing the establishment of the said company by the act of March, 1792, surveys were made on the Mohawk river from Schenectady to Fort Schuyler, and on the Wood creek from that place to its termination on the Oneida lake.

The object of those surveys was to ascertain what improvement the navigation was susceptible of, and what, in particular, were the greatest obstructions to the water transportation of the agricultural produce of the interior of the State. The result was an impression favorable to the objects of the institution, and was followed by a determination, on the part of the company, to begin operations at the Little Falls in Herkimer county, which created a portage where all boats navigating the Mohawk river, with their cargoes, were transported nearly one mile over land; an operation attended with unavoidable delay and great expense, as well as with injury to the boats and their cargoes. The work was accordingly commenced in April, 1793, with nearly three hundred laborers, besides a competent number of artificers; but its progress was arrested early in September, for want of funds; many of the stockholders having neglected to pay the requisitions made by the directors, either because they had not the means to supply such advances, or from an apprehension of the impracticability of succeeding in the operation.

In January, 1794, the work was recommenced, although feebly, and some progress made, in hope that the Legislature would afford assistance by grants or loans of money, or by taking unsubscribed shares. Accordingly, the Legislature, sensible of the propriety of relieving the stockholders in one or other of these modes, and appreciating, with that discernment which has invariably characterised the Legislature of this State, the advantages the community at large would derive from the accomplishment of the important undertaking which they had encouraged individuals to attempt, directed a subscription, on the part of the people of the State, of two hundred shares. This measure was attended with the most salutary effects. The hopes and confidence of the company were revived, and the works recommenced in May, 1795, with a correspondent degree of alacrity. But the very high price of agricultural produce creating a most extensive demand for labor it was found impossible to obtain such a number of workmen as were requisite to finish the works before the end of the summer, and it was not until the 17th of November that the canal and locks were so far completed as to afford a passage to boats.

As a description of the country through which the canal is carried, a detail of its foundation, and a delineation of the beneficial effects which already have been, and hereafter will be experienced from it, may not be uninteresting to the community, and in particular to the Legislature, whose deliberations have the interest of their constituents so constantly in view, we beg leave to exhibit the following summary:

The canal is drawn through the northern shore of the Mohawk river, about fifty-six miles beyond Schenectady. Its track is nearly parallel to the direction of the waters of the fall, and at a mean about forty yards therefrom. It is supplied with water from the river above the falls, commencing in a natural basin, whose position secures the guard lock (which is placed at the extremity of the canal) from any injuries which might be apprehended to arise from ice or drift wood in times of freshets. From the basin, extending in an oblique direction across the stream to the opposite shore, a dam has been thrown, which, by creating an additional depth of water of twelve inches, saved the great expense which would have attended the excavation of the canal through the solid rock to procure the same depth of water, and has also materially improved the navigation of the river for a considerable distance upwards. The length of the canal is four thousand seven hundred and fifty-two feet, in which distance the aggregate fall is forty-four feet seven inches. Five locks, having each nearly 9 feet lift, are placed towards the lower end of the canal; and the pits in which they are placed have been excavated out of solid rock of the hardest kind. The chamber of each lock is an area of seventy-four feet by twelve in the clear; and boats drawing three feet of water may enter it at all times. The depth of water in all the extent of the canal is various, but not less than three feet in any place. A waste wear is constructed to discharge the surplus water entering the canal, from two small rivulets which intersect its course. About two thousand five hundred and fifty feet of the canal is cut through solid granite rock, and when the level struck above the natural surface of the earth, or rather rock, strong and well constructed walls were erected, supported by heavy embankments of earth, to confine the earth and keep the level; hence, there is no other current in the canal than an almost imperceptible one when the paddles of the locks are raised. Three handsome and substantial bridges are thrown over the canal, at so many roads which have been intersected by it.

The following state of facts will evince the beneficial influence this important work has had on the transportation to market of the produce of the country beyond the falls; and on the return of the necessary supplies for the consumption of our useful, hardy husbandmen in that quarter, employed in reducing a wilderness to smiling fields, promoting their own happiness, and the commerce and respectability of the State.

The falls, previous to the improvements above stated, being impassable, even for empty water craft, these, with all their cargoes, were transported by land, over a road as rough, rocky, and bad as the imagination can conceive; of necessity, therefore, the boats were of such a construction as might be transported on a wheel carriage, consequently of little burthen, seldom exceeding a ton and a half; each boat was navigated by three men; and a voyage from Schenectady to Fort Schuyler, a distance of one hundred and twelve miles, and back to the former place, was seldom made in less than nine days. Thus, the transportation of a ton of produce, if no back freight offered, was equivalent to one man's wages for eighteen days. The canal and locks will admit the passage of boats of thirty tons burthen with facility; but impediments in the river, still to be removed, between Schenectady and the Little Falls, prevent the use of boats of more burthen than ten or eleven tons; each of these is navigated by five men, and make the same voyage in fourteen days, which is at the rate of seven days' wages of one man for one ton. But until the im-

provements shall be completed, which are contemplated to be made in the river above and below the falls, these boats, when the water in the river is at its lowest state, which is usually from the middle of July to the end of September, can only convey about five or six tons during that period; then the transportation of a ton between the places aforesaid is equal to the wages of one man for fourteen days, affording still an important saving, exclusive of that which arises from the speedy passage of the boats through the canal and locks; the whole time taken up to pass through both not exceeding three quarters of an hour; but transported as heretofore, by land, caused a detention at least of one day, and frequently of a longer time.

Early in the spring of 1796, the directors commenced their operations at Fort Schuyler; their object was to effect a junction of the waters of the Mohawk with those of Wood creek, by means of a canal between the respective landing places; the difficulty of procuring laborers, from the existence of the causes before mentioned, prevented the completion of the work that season; but during the winter of 1796 and 1797 the necessary arrangements having been made, a sufficient number of men were obtained, who recommenced the work in April last; and, although there was a considerable extension of the original plan, yet the whole was opened for the passage of boats on the 3d of October. As the beneficial consequences resulting on these improvements extend much further than the mere removal of the portage, it may not be improper to enter into a detailed account of the former and the present modes of transportation.

Previous to the completion of the canal, the commerce of the western parts of the State was carried on by means of the batteaux before described, carrying, on an average, one ton and a half. On their arrival at the landing place, the boat was unladen, hauled out of the water, and conveyed, together with the cargo, on wagons across the carrying place, to Wood creek, where, if it happened that there was a sufficiency of water, the cargo was taken on board again, and the boat, aided by a *flush* from a mill-dam, descended the creek to the Oneida lake; but if the water was low, (which was generally the case from the beginning of June to October,) the lading was conveyed five miles further to Canada creek, along a road scarcely passable. The delay and consequent expense at this season was very great; the difficulty of ascending was still greater; the boat was unladen at Canada creek, and, as the state of the road would not admit of its conveyance by land, oxen were applied, and by main strength dragged it along the bed of the creek, to the great detriment and injury of the boat.

On the most moderate calculation it may be affirmed, that the delay in passing over the carrying place was, on an average, one day, and frequently much more; while at present the boats, with a greater quantity of goods on board, and without sustaining the smallest injury, pass over the same space in three hours, and the remainder of the voyage to the Oneida lake is much facilitated and expedited by means of the additional quantity of water which is thrown into the creek. Formerly it was the stated custom to collect the waters of Wood creek in the mill dam during the night, and early in the morning to discharge the same, which creating a temporary *flush*, such boats as were in readiness availed themselves thereof. But if they arrived a few minutes after the discharge, they were detained until the following morning, whereas at present the regulations are such that the time of arrival is immaterial, and the voyage is continued without interruption or delay.

The length of the canal from the Mohawk to Wood creek is two miles and three chains, one-third of which distance is cut through a gravelly hill from twelve to eighteen feet in depth. The width is thirty-seven and a half feet, and boats drawing three and a half feet of water may pass freely along it.

A lateral branch is cut from the canal to the Mohawk river, upwards of five hundred yards in length, and from ten to twelve feet deep; by means of this feeder any quantity of water can be taken into the canal and discharged into Wood creek or the Mohawk, as circumstances may require. To regulate the supply, and to prevent the works being injured by the *freshets*, a large regulating waste wear is constructed across the feeder; another of a similar form is erected near Fort Newport, for the purpose of furnishing the necessary supplies of water to Wood creek; and it is found by experience, that these devices fully answer the most sanguine expectations, as now Wood creek is rendered at least equal to any part of the navigation between thence and Schenectady. There is a lock at each extremity of the canal, the one of ten feet lift, and the other of eight feet. Five handsome and substantial bridges are constructed over the canal and feeder.

Wood creek has been considerably improved by cutting through several isthmuses so as to shorten the distance near seven miles, and also by the removal of the timber, which had fallen into it in such quantities as almost altogether to obstruct the navigation.

The channel of the Mohawk below Fort Schuyler being in the same situation, a party of men were employed the last summer in removing these obstacles, and considerable progress was made therein. The most difficult part is cleared, extending from the canal to Six Mile creek; the remaining part from the last-mentioned place to the German Flats will be finished the present year. At the German Flats a canal has been commenced for the purpose of avoiding two bad rapids, known commonly by the names of *Wolf's and Orendorff's rifts*; the cutting is nearly completed, and the whole will be so far advanced as to admit the passage of boats in a few months. At the west end a guard lock will be placed, similar in form, and for the same purpose as that at the Little Falls, before described. At the east end the boats will pass through another lock of twelve feet fall into very good water which continues to the canal at the falls, a distance of nearly five miles. Above the guard lock, and at the head of Wolf rift, a dam will be thrown across the Mohawk, so as to raise the water thereof three feet, which will materially improve the navigation above, by affording a sufficient depth of water over the *shallows* opposite to Aldridge's and Fort Herkimer.

The next object to which the directors mean to bend their attention, is the clearing the bed of the river below the Little Falls, from the *rocks, stones, sandbars, and other obstacles*, which at present so greatly interrupt the navigation. The work commenced late last season, and considerable progress was made in blowing up the large massy rocks, which rendered the passage of the Haycock rapid so dangerous. The work will be resumed as soon as the waters subside, and will progress regularly downwards.

The directors, aware of the difficulty of improving effectually the river from Schoharie to Schenectady, directed their engineer to survey the southern shore to determine the most eligible route for a canal, and to make an estimate of the expense that would attend the execution; and, as an opinion had been entertained that the line might be extended to *Albany* by preserving the level from Schoharie creek to the vicinity of *Schenectady*, (which it was imagined was sufficiently elevated to surmount the intermediate ground between the two places,) the directors, always willing to promote every object that has in view the public good, further directed their engineer to ascertain the practicability of the measure. From his report it appears that the summit ground between Albany and Schenectady is elevated one hundred and forty-five feet above the surface of the Mohawk at Claus Veeles, three miles above the last-mentioned place; and that the rise from thence to Schoharie is only seventy-one feet; consequently the depth to be cut through for some miles would have been nearly seventy-four feet, which sufficiently proves the impracticability of the plan. If even the level from Schoharie creek could be kept, which, on account of rocky mountains and deep ravines would be next to impossible, and although a canal may be drawn along the southern shore of the Mohawk from Schoharie to Schenectady, yet from the length of the line, and the nature of the ground

it must pass through, the expense of execution would be so great, that the directors are of opinion that the present trade of the country would not warrant their undertaking a work of such magnitude. They have, therefore, determined to confine their operations to the bed of the river, and to make such improvements therein as it is susceptible of.

With respect to the improvements to the westward of Fort Schuyler, the directors beg leave to observe, that from the outlet of the Oneida to the south end of the Cayuga Lake, nature has done so much that little is left for art to accomplish. The few obstructions necessary to be removed may be effected in the course of one summer, and at a very moderate expense; which, when completed, would form a navigation from Schenectady westward of near two hundred and eighty miles in extent, and through a tract of country, perhaps, on the whole, unrivalled in point of fertility. The immense advantages that must result from the accomplishment of this great object, both to the western and southern parts of the State, are too striking to escape the attention of a mind the least informed.

The communication with Lake Ontario by the Onondaga river, although at present so eligible as to need little improvement as far as the falls (twelve miles from Lake Ontario) is from thence to the lake so interrupted by an almost continued series of rapids, and the adjacent shores being high, steep, and chiefly of solid rock, will render the cutting of a canal on the adjacent shore absolutely impracticable. The only mode will therefore be improvements in the bed of the river by means of dams and locks, unless some more eligible route can be discovered for a communication between the Lakes Oneida and Ontario; and it has been suggested that the country intermediate between Rotterdam on Lake Oneida, and that part of Lake Ontario where Salmon river falls into it, is such that a canal may be drawn across. The sources of two rivulets, which discharge themselves in different directions into the respective lakes at the above-mentioned places, are very near to each other; if, on examination, it should appear that when united they are sufficiently copious to supply the summit level, and the ground should prove favorable, there can be little doubt but it would be the most eligible line of communication. If the harbor at the mouth of Salmon river is equally good with that at Oswego for vessels navigating the lake, the length would not probably exceed eighteen miles, which is thirty miles shorter than by the Onondaga river. It is not possible to form any idea of the lockage on either route until an actual survey has been made; which it is the intention of the directors to cause to be done the first convenient opportunity.

The directors would beg leave further to represent to the Legislature that some alterations and amendments to the existing laws in respect to the said company have become necessary or expedient.

From the preceding statement of the exertions of the company, and the progress they have made, it must be obvious that no unnecessary delay is to be imputed to them; and they therefore respectfully solicit an extension of the term of five years, allowed by the act of the 30th March, 1792, for completing the navigation between Schenectady and the Wood creek to the further term of five years, to be computed from the 1st day of January last.

Large sums of money have already been expended by the company in removing trees out of the bed of the river Mohawk and Wood creek, which had either accidentally fallen therein from its banks, or were intentionally cut down and drawn therein for the purpose of clearing the adjacent ground; of the latter an immense number have been brought into the river subsequent to the commencement of the operations for removing those there out, which had previously obstructed the navigation. To remedy this inconvenience in future, the directors respectfully represent that it would conduce to the attainment of the beneficial ends of the establishment if such further legislative provision was made in the premises as would enable them or their agents to cut down the trees on the banks of the Mohawk, Wood creek, and other streams through which their improvement may be carried to the distance of two perches from the banks; and to draw and lay upon the shores such of the water-soaked timber, which, when raised from the bed of those streams, will not float down the same; and either to burn or preserve the timber so cut down or taken out for the use of the respective proprietors of the soil where the same is cut or laid at the option of the latter.

The directors have also found by experience that the mode pointed out by the seventh section of the same act, for ascertaining the value of lands to be taken by the company for the necessary accomplishment of their works, is in some respects extremely injurious and expensive, and that justice requires some amelioration of its provisions. One instance has occurred in which the jury assessed the damages of the individual at *one dollar*, and the costs incurred by the company were *three hundred and seventy-five dollars*. They would, therefore, respectfully submit to the Legislature the propriety of altering the law in such a manner as that the process for ascertaining the damages, when the parties cannot agree, may be more expeditious, less expensive, and equally just in its effects. And the directors respectfully submit, whether a provision similar to that instituted for ascertaining the damages to be paid by the corporation of the city of Albany in prosecuting the works requisite to supply the said city with water would not be an eligible provision.

The company have expended in improving the bed of the Mohawk, in straightening and improving Wood creek, in completing the locks and canals at Fort Schuyler, the canal and locks at the Little Falls, and upon the canal at the German Flats, about \$209,357.

The directors apprehend the expenditures this year will cost about \$50,000.

The requisitions on the stockholders for the year past have not been sufficient to defray all the expenses which have accrued, and the directors have been under the necessity of borrowing \$39,950: besides which sum, they are indebted to the State \$37,500.

About one hundred and fifty shares remain on hand, as forfeited by former stockholders, or unsubscribed, and considering how deeply interested the State at large is in the success of so extensive a plan of inland navigation, the directors apprehend the Legislature would be induced to take the aforesaid shares at the same rate as the shares are held by the present stockholders. The sum required will be sixty pounds each share, and subject to the future requisitions of the directors. This proposal being acceded to by the Legislature, the directors will be enabled to prosecute the works with vigor, but should it be rejected, they apprehend the money that may be required will be difficult to be raised from the stockholders, and in consequence further operations arrested for the present year, whereby the minds of the public and individuals will be much discouraged.

It would be proper to state to the Legislature that the tolls received in 1797 at the Little Falls was \$2,871 49, and that after this year the directors expect to receive at that place for tolls \$6,000, on account of the canal and locks at German Flats, and improvements made in the river; and the canal at Fort Schuyler they expect will produce \$4,000. That, on the whole, they hope, after the present year, the company will be enabled to make a dividend of four per cent. on their capital.

The directors, in justice to their engineer, beg leave to remark that they have the greatest confidence in his abilities, and as a person of such singular qualifications is exceedingly difficult to be obtained, the directors are fearful that if the work should be arrested for want of funds, they may lose the opportunity of availing themselves of his services; a loss they cannot calculate, as years may elapse before, if ever, they may be able to procure a person possessed of such handsome qualifications.

Complaints have prevailed that the toll established for the passage of boats and their cargoes through the canal connecting the waters of the Mohawk with Wood creek was extravagantly high; the directors have therefore deemed it necessary to subjoin to this report a statement comparing the present with the former expense of transportation over the carrying place at Fort Schuyler, with some observations pertinent to the subject.

By order of the Board of Directors of the 16th of February, 1798.

PH. SCHUYLER, *President.*

Previous to the commencement of the operations of the Canal Company, the navigation of the Mohawk river between the German Flats and the landing at Fort Schuyler was so interrupted by trees which had fallen into it, or intentionally cut and thrown into it, as to render the passage even of the smallest boats almost impracticable. Wood creek was in all its extent, at least in an equally unnavigable situation, and from the same cause the latter has been cleared at an expense exceeding one thousand pounds; the operations on the former have already cost a greater sum; and when both shall be completely cleared, a continued annual expense will still accrue by taking out the timber which will subsequently fall into these streams. A reimbursement of the expenses of those improvements which have so greatly facilitated the navigation as that boats of ten or eleven tons already navigate the Mohawk; and boats of equal burthen passing the canal will soon be used in Wood creek, and proceed to and from the Cayuga Lake and Seneca Falls, can only be obtained by adding an additional toll to that formerly passing the canal at Fort Schuyler, as that is the only place of collection beyond the falls; but the statement which will follow will evince that the transportation by the canal, although apparently higher than heretofore, is in reality lower.

Wood creek has generally, from the beginning of June to the close of the navigating season, so little water that the smallest boat cannot pass to and from Canada creek without artificial aid, and this was afforded by means of water collected in Mr. Lynch's mill-dam; and if the boat and cargo was transported from the landing in the Mohawk to that in Wood creek, sufficiently early in the day to have the benefit of the water which had been collected in the night, the boat was enabled, with part of her cargo, to descend the creek, and the remainder of the cargo was conveyed five miles further by land to Canada creek; but lest this should be considered as mere assertion by those to whom the fact is not notorious, the following instance is produced:

The agents appointed to confer with the Oneida, Onondaga, and Cayuga Indians in 1795, arrived at the landing in the Mohawk river nearly at sunset on the 10th of July, with four batteaux, navigated by three men each, and the lading of none of which amounted to one ton and a half; the boats and part of their cargo were transported to Wood creek on the next day. On the 13th, the boats, aided by the waters of the mill-dam, descended to Canada creek, where they arrived at dusk, and about an hour after, the last of the cargo transported by land also arrived; one of the carriages having upset and damaged several of the articles with which it was laden. Thus, two entire days were expended in passing from the landing in the Mohawk, to Canada creek, a distance of about seven miles by land and ten by land and water. The charges as stated by Mr. Bernard, are as follows:

*Philip Schuyler, Esq., to John Bernard, Dr.*

1795. July 12. To seven loads carried to Canada creek, at £1 each,	-	-	-	£7	0	0
To three loads to Wood creek at five shillings,	-	-	-	0	15	0
To four batteaux to Wood creek, at five shillings,	-	-	-	1	0	0
Total of Mr. Bernard's account,				-	-	£8 15 0
Twelve batteauxmen paid for two days at eight shillings each, per day, is				-	-	9 12 0
						<u>£18 7 0</u>

This sum of £18 7s., then, was the expense of transporting less than six tons of cargo from the Mohawk to Canada creek, which is per ton,

But twenty shillings being the then price of conveying a boat and its cargo to Wood creek, and it may, in the spring of the year, when the waters are high, descend fully laden to Canada creek, which it will reach in one day, the pay for the batteauxmen will then be only 24s. making, together, £2 4, or per ton,

To which add the charge when the water is low, as above stated, of,

Then the mean price throughout the navigating season will be

But subsequently to 1795, Mr. Bernard's charge for transporting a boat to Wood creek has been 6s. and the same for a wagon load of the cargo, and from 20s. to 24s., say 22s., for a wagon load to Canada creek; hence, the mean price for transporting a ton will be found to be £2 8 4.

The contrivance for supplying Wood creek with water from the Mohawk, by means of the canal, is such that, when the water which Wood creek affords is so little as not to float down even an empty boat, a plenty is given for the deepest laden one, and boats pass from the Mohawk river to the western country without unloading, and at the following expense, by established tolls:

A batteau navigated by three men, and loaded with a ton and a half,

They can with ease reach Canada creek in less than half a day; hence the wages for detention does not exceed

Which is per ton,

And is 4d. per ton less than Mr. Bernard's charges with the usual detention; exclusive of the damages to the boat and cargo, by unloading, relading, and being transported in wheel carriages.

Hence, it appears that no toll is taken for the improvements in the Mohawk and Wood creek, which have removed obstructions so greatly detrimental to the navigation, as almost entirely to impede it.

But there are still other advantages resulting to the community from the operation of the canal, and the improvements made by the company; for, let it be supposed, that a merchant has eighteen tons of merchandise at the landing in the Mohawk river, to be conveyed to the Cayuga lake, nine of which to go in boats carrying one and a half tons navigated by three men, and the other to be conveyed in a boat carrying nine tons, for such a vessel may descend Wood creek when two or three bents are straightened, which will be in the next year, and then the expense will be as follows:

The mean charge for a ton to Canada creek in batteaux, as above stated, is

And it will go to the Cayuga lake and return to Canada creek in eight days; the wages of the batteauxmen will then be £9 12, or per ton,

Making, together,

£8 16 4

This sum is then the charge for conveying a ton from the Mohawk to the Cayuga lake.	-	£1	12	0
For a vessel carrying nine tons, and navigated by five men, the toll through the canal is	-	14	8	0
The toll on nine tons of lading through the canal is	-	1	0	0
Half a day to go to Canada creek, for five men, is	-			
		£17	0	0
<hr/>				
Which is per ton,	-	£1	17	9 <sup>1</sup> / <sub>2</sub>
The vessel will go to Cayuga lake, and return to Canada creek in twelve days.	-			
Wages of the men £24; which is per ton,	-	2	13	4
<hr/>				
Total charge per ton by the canal,	-	£4	11	1 <sup>1</sup> / <sub>2</sub>

Which deducted from £8 16s. 4d., the charge when carried in the batteaux, produces a saving per ton of £4 5s. 2<sup>1</sup>/<sub>2</sub>d. and evinces, at once, the utility of the canal, and the moderation of the tolls, if, in fact, that was not already evinced by the toll received in the expenditure by the company, which has not yet produced three per cent.

Besides, if the canal had not been so constructed, no supply of water could have been obtained from the Mohawk to aid the navigation of Wood creek; and as it is perfectly evident that so very small a stream as Wood creek is between the landing and Canada creek, it must, in a very few years, have become entirely unnavigable by clearing of the lands adjacent to the spring from whence it issues; and then boats, as well as their entire cargoes must be transported by land to Canada creek in all the dry season of the year, and at a mean price per ton through the year, of upwards of £3; and as, in that case, none but small boats could be employed, the expense of transportation from Schenectady to the western country must, of necessity, be much more than double the expense of transportation by the canal and improvements of the company.

AN ACT for establishing and opening lock navigations within this State, passed the 30th March, 1792.

Whereas a communication by water between the southern, northern, and western parts of this State, will encourage agriculture, promote commerce, and facilitate a general intercourse between the citizens: Therefore,

*Be it enacted by the people of the State of New York, represented in Senate and assembly, and it is hereby enacted by the authority of the same,* That there shall be established two companies of stockholders; one for the purpose of opening a lock navigation from the now navigable part of Hudson river, to be extended to Lake Ontario and to the Seneca lake, and to be called and known by the name of "The President, Directors, and Company, of the Western Inland Lock Navigation, in the State of New York," and one other company for the like purpose, from the now-navigable part of Hudson river to Lake Champlain, and to be called and known by the name of "The President, Directors, and Company, of the Northern Inland Lock Navigation, in the State of New York." That the capital stock of the said western company shall consist of one thousand shares, and the capital stock of the said northern company shall consist of one thousand shares, and that subscriptions for shares in the said companies, respectively, shall be taken in manner following, to wit: Samuel Jones, David Gelston, Comfort Sands, Melancthon Smith, and Nicholas Hoffman, or any three of them, shall be a Board of Commissioners for taking subscriptions in the city of New York; and Abraham Ten Broeck, John Tayler, Philip S. Van Rensselaer, Cornelius Glen, and John Ten Broeck, or any three of them, shall be a Board of Commissioners for the like purpose in the city of Albany. And each board shall provide two books, one for the western and one for the northern navigation, and shall enter in each book as follows: We whose names are hereunto subscribed, do for ourselves and for our legal representatives, promise to pay to the President, Directors, and Company, of the Inland Lock Navigation, in the State of New York, established and incorporated by the act, entitled "An act for the establishing and opening lock navigations within this State," such sums of money for each share, (which we or our legal representatives shall from time to time hold in the said corporation,) and in such proportions, and at such time and times, as the president and directors aforesaid shall direct and require, in addition to the sums which shall have been retained in the hands of the commissioners, appointed by the said act. And the said Boards of Commissioners, respectively, shall open the books for taking in subscriptions for the purposes aforesaid, on the first Tuesday of May next, and shall take the subscriptions of every person who shall offer to become a subscriber, from day to day, (Sunday excepted,) until the last Tuesday of the said month, and the commissioners first above named shall, at least ten days previous to the first Tuesday of May, give notice of the day on which the subscription books shall be opened, and of the day inclusive on which they will close, in the newspaper printed by the printer to this State; and the other commissioners shall give like notice in at least one of the newspapers printed in the city of Albany, and another at Lansingburg, in the county of Rensselaer: *Provided, always,* That every subscriber shall, at the time of subscribing, pay unto the commissioners with whom he or she shall subscribe, the sum of twenty-five dollars in gold or silver, bills of credit of this State, or notes issued by the Bank of the United States, or the Bank of New York, for each share by him or her subscribed; and if any subscriber shall, at the time of subscription, pay for more shares than shall eventually be certified by the said commissioners, then, and in every such case, the commissioners shall retain no more of the subscription money in their hands than will amount to the shares so certified, at the rate of twenty-five dollars for each share, and return the overplus to the subscriber entitled thereto; *And provided further,* That within the period above mentioned, no person or body politic or corporate, shall subscribe more than ten shares. And the commissioners by this act appointed in the city of Albany, or any three of them, shall, on the day next before the last Tuesday of May, or as soon thereafter as may be, certify under their hands and seals, to the commissioners appointed in the city of New York, a true list of the subscribers in their book, with the true number of shares subscribed by each; and if it shall appear to the commissioners appointed in the city of New York, or to any three of them, that one thousand shares have not been subscribed to each company, they shall, by advertisement, be published in the newspaper of the printer to this State, give notice that, on a day certain, which shall not be less than eight days from the first publication of said notice, their books will again be opened, and that they will continue to receive subscriptions from day to day for the space of four days, or until one thousand shares in the whole have been subscribed; and on such last subscription, any person or body politic, or corporate, may subscribe any number of shares at pleasure, not exceeding the deficiency, and if at the end of the said four days one thousand shares shall not be so subscribed, then the books shall be closed; and it shall and may be lawful for each of the said companies, after they shall have become incorporated in manner herein prescribed, to take in subscriptions for the deficient shares or not, as to the stockholders of each of the said corporations shall seem proper; but if it should appear to the said commissioners first herein mentioned, that on

the said last Tuesday of May, the aggregate of all the shares subscribed exceed one thousand, the excess shall be deducted from the respective subscribers to each company in manner following, to wit:

1st. If the whole number of subscribers amount to one thousand, whatever may be the number of shares subscribed, each subscriber shall be entitled to one share.

2d. If the whole number of subscribers exceed one thousand, it shall be determined by lot, by the said commissioners, which of the subscribers shall be entitled to a share, and which not.

3d. If the number of subscribers are less than one thousand, and the number of shares by them subscribed exceed one thousand, then those who have only subscribed one share shall be entitled to such share, and the remaining subscribers shall be classed into nine classes, one class to consist of all those who have subscribed two shares; one class of those who have subscribed three shares; one class of those who have subscribed four shares; one class of those who have subscribed five shares; one class of those who have subscribed six shares; one class of those who have subscribed seven shares; one class of those who have subscribed eight shares; one class of those who have subscribed nine shares; and one class of those who have subscribed ten shares; after which the shares to be deducted from each class shall be determined by the following rule, to wit: As the aggregate of all the shares subscribed by the nine classes is to the excess above one thousand, so is the aggregate of the shares subscribed by any class, to the shares to be deducted from that class. The aggregate deduction to be made from each class being thus determined, if such aggregate is less than one share for each subscriber, it shall be determined by lot which of the subscribers shall hold two shares. If such aggregate is more than one share to each subscriber, it shall be determined by lot which of the subscribers shall hold one share, and the like rule shall be applied to the deduction in each of the other eight classes. And the said commissioners appointed in the city of New York shall then make out full and perfect lists of all the subscribers to the stock of each company, respectively, with the number of shares to which each subscriber is entitled, and having acknowledged the same before the chancellor, or one of the judges of the supreme court, they shall deliver the same to the person administering the Government of this State for the time being, and if it shall appear to him that five hundred shares are subscribed to the company known by the name of "The President, Directors, and Company, of the Western Inland Lock Navigation, in the State of New York," he shall direct the list to be filed and entered of record in the secretary's office of this State. And if it shall appear to him that five hundred shares are subscribed to the company known by the name of "The President, Directors, and Company, of the Northern Inland Lock Navigation, in the State of New York," he shall give like directions to the secretary relative to the list thereof.

*And be it further enacted by the authority aforesaid,* That immediately from and after the filing and recording, in manner aforesaid, the list of subscribers to the western company, the persons therein named as subscribers, whilst they continue stockholders therein, and all others who shall become stockholders therein, shall be, and are hereby, created and made a corporation and body politic, in fact and in name, by the name and style of "The President, Directors, and Company of the Western Inland Lock Navigation, in the State of New York;" and that, by that name, they and their successors forever shall, and may, have perpetual succession; and that, immediately from and after the filing and recording, in manner aforesaid, the list of subscribers to the northern company, the persons therein named as subscribers, whilst they shall continue stockholders therein, and all others who shall become stockholders therein, shall be, and are hereby, created and made a corporation and body politic, in fact and in name, by the name and style of "The President, Directors, and Company of the Northern Inland Lock Navigation, in the State of New York;" and that, by that name, they and their successors forever shall, and may, have perpetual succession; and, by those names, shall be, and hereby are, respectively, made persons able and capable in law, to have, purchase, receive, possess, enjoy, and retain, to them and to their respective successors, lands, tenements, hereditaments, goods, chattels, and effects, of what kind, nature, or quality soever, to the amount of \$300,000 each, and the increase and profits thereof, and of enlarging the same, from time to time, by additional payments of the stockholders in such companies, respectively, and in such manner and form as they shall think proper, if such additional payments shall be found necessary to fulfil the intent of the incorporations hereby created and made, and hereinafter particularly specified and directed, and to no other use, intent, and purpose whatsoever, and the same estate or estates, or any part thereof, to sell, grant, demise, alien, or dispose of; and to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of record, or any other place whatsoever; and also to make, have, and use a common seal, and the same to break, alter, or renew at their pleasure; and also to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of the said corporations, respectively, not being contrary to the law of this State, or to the constitution thereof; and generally to do and execute all and singular acts, matters, and things, which to them it shall or may appertain to do; subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions, herein prescribed and declared.

*And be it further enacted by the authority aforesaid,* That, for the well-ordering of the affairs of the said corporations, respectively, there shall be thirteen directors for each corporation, of whom there shall be an election, after the present year, on the first Monday of May, in every year, by the stockholders and proprietors of the capital stock of each of the said corporations, and by a plurality of votes actually given by such stockholders, in person, or by their legal proxies; and those who shall be duly chosen at any election shall be capable of serving as directors, by virtue of such choice, until the end or expiration of the first Monday of May next ensuing the time of such election, and until others are duly elected in their places; and the said directors, at their first meeting after each election, shall choose one of their number as president: *Provided always,* That out of the following persons in this proviso named, thirteen, and in the order in which they are named, if so many of them shall appear to be stockholders, from the record of the certificate hereinbefore mentioned, shall be, and hereby are, appointed the first directors of the corporation, by virtue of this act, to be instituted by the name of "The President, Directors, and Company of the Western Inland Lock Navigation, in the State of New York," that is to say: Philip Schuyler, Leonard Gansevoort, Jeremiah Van Rensselaer, Elkanah Watson, John Tayler, Jellis A. Fonda, Wm. North, Goldsbrov Banyar, Daniel Hale, John Watts, Walter Livingston, Dominic Lynch, James Watson, Mathew Clarkson, Ezra L'Home-dieu, Melancthon Smith, David Gelston, Stephen Lush, Cornelius Glen, Silas Talbot, John Frey, Douw Fonda, John Sanders, Nicholas I. Roosevelt, Daniel McCormick, Marinus Willet, Jonathan Lawrence, Philip Van Cortlandt, and James Clinton. And that out of the following persons in this proviso named, thirteen, and in the order in which they are named, if so many of them shall appear to be stockholders, from the record of the certificate hereinbefore mentioned, shall be, and hereby are, appointed the first directors of the corporation, by virtue of this act, to be instituted by the name of "The President, Directors, and Company of the Northern Inland Lock Navigation, in the State of New York," that is to say: Philip Schuyler, Abraham Ten Broeck, John Williams, Stephen Van Rensselaer, Jacobus Van Schoonhoven, John Van Rensselaer, Abraham G. Lansing, Cornelius Glen, Henry Quackenbos, Robert R. Livingston, Philip Livingston, James Duane, Alexander McComb, Samuel Jones, Nicholas Low, Dirck Lefferts, William Duer, Peter Van Ness, Barnet Bleecker, Henry Livingston, Peter Gansevoort, Peter B. Tearse, Alexander Webster, George Wray, Thomas Tillotson, Mathew Scott, Zephaniah Platt, John



Thurman, Albert Pawling, and Zina Hitchcock. And if there shall not be thirteen stockholders amongst the persons whose names are mentioned, and out of which directors are to be taken in manner aforesaid, for each of the said corporations, respectively, then the deficiency in each shall be chosen in manner following, that is to say: The said commissioners, first in this act abovementioned, or any three of them, shall, immediately after the filing and recording the certificate hereinbefore mentioned, appoint a time when, and a place where, an election shall be held for electing directors for each company, and shall give at least twenty days' notice of such time and place, by publishing in the newspaper printed in the city of New York by the printer to the State, and in at least one of the newspapers printed in the city of Albany, or at Lansingburg, at which time and place directors shall be chosen in manner above directed, and at which election the said commissioners in the city of New York, or any three of them, shall preside; and a list of the directors of each corporation so chosen, shall be, by them, the said commissioners, published in the newspapers in manner aforesaid, and shall, by the said commissioners, be requested to meet on a day, and at a place, certain to be therein mentioned; and, being so met, they shall choose one of their body to be the president, and the directors and presidents so chosen shall continue in office until the end of the first Monday in May next ensuing such election, and until others are duly elected in their places: *Provided always*, That in case it should at any time happen, that an election of directors should not be made upon any day when, pursuant to this act, it ought to have been made, neither of the said corporations shall, for that cause, be deemed to be dissolved; but it shall be lawful on any other day to hold and make an election of directors, in such manner as shall have been regulated by the laws and ordinances of the said corporations, respectively. *And provided also*, That in case of the death, resignation, absence from the State, or removal of a director by the stockholders, his place may be filled up by a new choice, for the remainder of the year, by election, at a special meeting to be held for that purpose.

*And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the presidents and directors of the said incorporations respectively to convene special meetings of the stockholders, whenever such meetings shall appear necessary, giving at least fifteen days' notice thereof in the newspapers in manner herein before directed.

*And be it further enacted by the authority aforesaid*, That the directors for the time being of each of the said corporations respectively shall have power to appoint such officers, agents, clerks, superintendents, engineers, workmen and others under them as shall be necessary for executing the business of the said corporation, and to allow to them such compensation for their services respectively as the said directors shall deem reasonable and proper; and shall be capable of exercising such other powers and authorities for the well governing and ordering the affairs of the said corporation as shall be described, fixed, and determined by the laws, regulations, and ordinances of the same, not contrary to, or inconsistent with, the constitution and laws of this State.

*And be it further enacted by the authority aforesaid*, That the following rules, restrictions, limitations, and provisions shall form and be fundamental articles of each of the aforesaid corporations, viz:

1st. The number of votes to which each stockholder shall be entitled shall be according to the number of shares he shall hold in the proportions following; that is to say, for one share and not more than two shares, one vote; for every two shares above two and not exceeding ten, one vote; for every four shares above ten and not exceeding thirty, one vote; for every six shares above thirty and not exceeding sixty, one vote; for every eight shares above sixty and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote. But no person, co-partnership, or body politic shall be entitled to a greater number than thirty votes; and after the first election no share or shares shall confer a right of suffrage which shall not have been holden three calendar months previous to the day of election. Stockholders actually resident in this or any of the United States, and none others, may be directors.

2d. Not more than three-fourths of the directors in office, exclusive of the president, shall be eligible for the next succeeding year; but the director who shall be president at the time of an election may always be re-elected.

3d. No director shall be entitled to any emolument unless the same shall have been or shall be allowed by the stockholders at a general meeting; the stockholders shall make such compensation to the president for any extraordinary attendance as shall appear to them reasonable.

4th. Not less than seven directors shall constitute a board for the transaction of business, of whom the president shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by any other director whom he by writing under his hand shall nominate for the purpose.

5th. Any number of stockholders not less than sixty, who together shall be proprietors of two hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least twelve weeks notice in at least one newspaper printed in the city of New York, and in at least one newspaper printed in the city of Albany, and in the town of Troy, in Rensselaer county, and specifying in such notices the object or objects of such meeting.

6th. Every treasurer, before he enters upon the duties of his office, shall give bond with two or more sureties to the satisfaction of the directors, and in such sum as the directors shall think proper.

7th. The lands, tenements, and hereditaments which it shall be lawful for the said corporations respectively to hold, shall be only such as shall be requisite for the immediate purpose for which those corporations have been created and made, and such other as shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

8th. No bank shall be established by either of the said corporations, nor shall either of them enter into any money negotiations other than such as shall be immediately incident to the purposes for which the said corporations have been instituted, nor shall either of the said corporations be stockholders in any bank whatsoever, nor shall they or either of them deal in or hold any stock of funded or other debt of the United States, or of this State or any other State whatsoever.

9th. The stock of the said corporations respectively shall be assignable and transferable according to such rules as shall be instituted in that behalf by the laws and ordinances of the same.

10th. All bills or notes which may be given by either of the said corporations or their directors, signed by the president and countersigned by the treasurer or principal clerk, promising the payment of money to any person or persons, his, her, or their order, or to bearer, though not under the seal of the corporation issuing the same, shall be binding and obligatory upon the same, in like manner and with like force and effect as upon any private person or persons if issued by him, her, or them, in his, her, or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were issued by such private person or persons, that is to say, those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement in like manner and with like effect as promissory notes now are, and those which are payable to bearer shall be negotiable and assignable by delivery only: *Provided always*, That no such bills or notes shall be issued which shall not specify the particular service or article for which they were paid: *And provided also*, That the

article or services for which they are issued were articles used or to be used for the purposes of the institution, or services performed therefor.

11th. Half yearly dividends shall be made by each of the said corporations of all the nett annual income thereof amongst the stockholders, in proportion to their respective shares, and no transfer of any share shall be made in any other manner than shall be directed by the president and directors of such company respectively.

*And be it further enacted by the authority aforesaid,* That each of the said corporation, by the president and directors, or by any agent, superintendent, engineer, or other person employed in the service of such corporation, may enter into and upon all and singular the land and lands covered with water, where they shall deem it proper to carry the canals and navigation herein before particularly assigned to each of the said corporations, and to lay out and survey such routes and tracts as shall be most practicable for effecting navigable canals as aforesaid, by means of locks and other devices, doing, nevertheless, as little damage as possible to the grounds and enclosures in and over which they shall pass, and thereupon it shall and may be lawful to and for the said presidents and directors respectively to contract and agree with the owners of any lands and tenements for the purchase of so much thereof as shall be necessary for the purpose of making, digging, and perfecting the said canals, and for erecting and establishing all the necessary locks, works, and devices to such navigation belonging if they can agree with such owners; but in case of disagreement, or in case the owner thereof shall be *feme covert*, under age, *non compos mentis*, or out of the State, then it shall and may be lawful to and for the said president and directors to apply to the chancellor of this State, who upon such application is hereby authorized and empowered, enjoined and required, to frame and issue one or more writ or writs, as occasion shall require, in the nature of a writ of *ad quod damnum*, to be directed to the sheriff of the county in which such lands and tenements shall be, commanding him that by the oaths of twelve good and lawful men of his bailiwick, who shall be indifferent to the parties; he shall inquire whether the person or persons owning any lands and tenements necessary to be used by the said president and directors, or which shall be injured in establishing the said canals and navigation, which person or persons shall be named, and which lands and tenements shall be described in such writ or writs which will suffer and sustain any and what damages, by reason or means of taking any lands, tenements, mill, mill-pond, water, water-course, or other real hereditaments necessary for the use of the said canals and navigation, and the works and locks thereto belonging, and to return the same writ, together with the finding of the said jury, to the court of chancery of this State without delay after such finding; and upon such writ being delivered to the said sheriff, he shall give at least fourteen days' notice in writing to all and every of the owners and occupants of the premises who shall be within his bailiwick, and shall also affix a copy of such notice on the door of the court house or jail within his bailiwick, and if there is no court house or jail, then on the door of some noted tavern within the same, of the lands and tenements in the said writ described, of the time of executing the same, and shall cause to come upon the premises at the time appointed twelve good and lawful men of his bailiwick, who shall be selected in such manner as struck juries usually are, to whom he shall administer an oath that they will diligently inquire concerning the matters and things in the said writ specified, and true verdict give according to the best of their skill and judgment, without favor or partiality; and thereupon the said sheriff and inquest shall proceed to view all and every the lands and tenements in such writ specified; and having considered the quantity of land, land covered with water, mills, buildings, or other improvements that shall be necessary to be vested in the said corporations for the purposes aforesaid; and any water-course then existing, the use whereof will be necessary for the purposes aforesaid, they shall cause the same to be minutely and exactly described by metes and bounds, or other particular descriptions, and shall value and appraise the injury and damages, if any, which the owner or owners of the said lands, tenements, mills, water, water-courses, buildings or improvements, will, according to their best skill and judgment, sustain and suffer by means of so much of the said lands and tenements being vested in the said corporations, or by means of such improvements being destroyed or rendered useless, or of less value, or by means of the said corporations being permitted to turn such water to fill their canals and locks, or by means of the said corporations being permitted to enlarge any mill-pond, mill-race, or other water-course, and to use the same as and for part of their said canals and navigation, or by any other means whatsoever, defining and ascertaining as well all such lands and tenements, liberties and privileges, so to be vested in either of the said corporations as the several sums at which the said injuries and damages shall be so assessed; and the said sheriff and jury shall make an inquisition under their hands and seals, distinctly and plainly setting forth all the matters and things aforesaid; and the sheriff shall forthwith return the same, together with the said writ, to the said court of chancery, and thereupon the chancellor shall examine the same, and if the said writ shall appear to have been duly executed, and the return thereof be sufficiently certain to ascertain the lands and tenements, rights, liberties, and privileges intended to be vested in the said corporations, and the several compensations awarded to the owners thereof, then the said court shall enter judgment that the said corporation, paying to the several owners as aforesaid the several sums of money in the said inquisition assessed, or bringing the same into the said court, over and besides the costs of such writs, and of executing and returning the same, shall be entitled to have and to hold to them and their successors and assigns forever, all and every the lands, tenements, rights, liberties, and privileges in the said inquisition described, as fully and effectually as if the same had been granted to them by the respective owners thereof. And if any of the returns so to be made shall not be sufficiently certain for the purposes aforesaid, the said court shall award an inquisition *de novo*.

*And be it further enacted by the authority aforesaid,* That whenever any or either of the said canals shall cross any public or private road or highway laid out and established according to law, or shall divide the grounds of any persons so as to require a ford or bridge to cross the same, the jury who shall inquire of the damages to be sustained in manner herein directed, shall find and ascertain whether a passage across the same shall be admitted and maintained by a ford or by a bridge, and on such finding the president and directors of the corporation to whom such canal shall belong shall cause a ford to be rendered passable, or a bridge fit for the passage of carts and wagons, to be built, and for ever thereafter maintained and kept in repair at all and every of the places so ascertained by the said jury at the cost and charges of such corporation; but nothing herein contained shall prevent any person from erecting and keeping in repair any ford or bridge across either of the said canals at his own expense, where the same shall pass his ground: *Provided*, such bridge shall be of such height above the water as shall be usual in the bridges erected by the corporations to whom such canals belong: *And provided also*, That such ford or bridges so to be erected by the owners of such land shall not interfere with any of the locks, buildings, or other works of the said corporation.

*And be it further enacted by the authority aforesaid,* That the president and directors of each of the said corporations shall have power and authority from time to time to fix the several sums of money which shall be paid by the subscribers or holders of every share of the stock of the said corporations respectively, in part of the sum subscribed, and the time when each and every of the dividends or parts thereof shall be paid, and the place where they shall be received, and shall give at least thirty days notice in two of the public newspapers, one of which notices to be published in the city of New York, in the newspaper printed by the printer to this State, and the other in the city of Albany, of the sum or dividend and the time and place of receiving the same, and if any stockholder shall neglect to pay such proportions at the place or places aforesaid for the space of thirty days after the time so ap-



pointed for paying the same, every such stockholder shall, in addition to the dividend so called for, pay after the rate of seven per cent. for every month's delay of such payment, and if the same and the additional per centage shall not be paid within one year after the same ought to have been paid, then and in such case the share or shares on which such payment shall be due, shall be forfeited to the use of the stockholders of the corporation of which such defaulting stockholder is a member, and may and shall be sold by the said corporation to any person or persons willing to purchase for such prices as can be obtained therefor.

*And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the president and directors of each of the said corporations respectively, and their superintendents, engineers, artists, workmen, and laborers, with carts, wagons, and other carriages, with their beasts of draught and burden, and all necessary tools and implements, to enter upon the lands, contiguous or near to the tracts of the intended canals and navigation, first giving notice of their intentions to the owners thereof, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be sustained by the owners of such ground by appraisement in manner hereinafter directed, and upon a reasonable agreement with the owners if they can agree, or if they cannot agree, then upon an appraisement to be made upon the oath of three, or, if they disagree, any two indifferent freeholders to be mutually chosen, or if the owners neglect or refuse to join in the choice, to be appointed by any justice of the peace of the county, and, on tender of the appraised value, to carry away any timber, stone, gravel, sand, or earth, there being most conveniently situate for making or repairing the said canals and navigation, and to use the same in carrying on the said works.

*And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and directors of each of the said corporations, as soon as the said canals and navigation, or any part of either of them shall be perfected, to appoint such and so many collectors of toll for the passage of boats and vessels in, through, and along, the same, and in such places as they shall think proper; and that it shall and may be lawful, to and for such toll collectors and their deputies, to demand and receive of and from the persons having the charge of all boats and vessels, and rafts of timber, boards, plank, or scantling, passing through the said canals and navigation, and the locks thereto belonging, such toll and rates for every ton weight of the ascertained burden of the said boats and vessels, and for every hundred feet, cubic measure, of timber, and one thousand feet, board measure, of boards, plank, or scantling, in rafts, as the said president and directors of each corporation shall think proper at any lock or other convenient place: *Provided,* That the amount of all the tolls accruing to the corporations hereby made and created, by the name of the President, Directors, and Company of the Western Inland Lock Navigation in the State of New York, and arising from the use of the said navigation, wherever the same may be between the navigable waters of Hudson river, and Seneca lake, and Lake Ontario, shall not exceed, in the whole, the sum of \$25 for every ton of the burden of such boat or vessel, and so in proportion for every hundred feet, cubic measure, of timber, and one thousand feet, board measure, of boards, plank, or scantling, and so in proportion for any smaller distance and less number of locks in any interval between the said river and lake:

*And also provided,* That the amount of all the tolls accruing to the corporation hereby made and created, by the name of the President, Directors, and Company of the Northern Inland Lock Navigation in the State of New York, and arising from the use of the said navigation, wherever the same may be between the navigable waters of Hudson river and Lake Champlain, shall not exceed, in the whole, the sum of \$20 for every ton of the burden of such boat or vessel, and so in proportion for every hundred feet, cubic measure, of boards, plank, or scantling, and so in proportion for every smaller distance, and less number of locks in any interval between the town of Troy and near the said river and the said lake; *Provided, always,* That all boats, of a burden less than a ton and using either of the said canals, shall pay the toll for a ton. And in order to ascertain the tonnage of boats using the said canals and navigation, and to prevent disputes between the supercargoes and the collectors of tolls concerning the same—

*Be it further enacted by the authority aforesaid,* That, upon the request of the owner or supercargo of such boat or raft, or of the collector of the said tolls at any lock upon either of the said canals and navigation, it shall and may be lawful for each of them to choose one person to measure and ascertain the number of tons which the said boat or vessel is capable of carrying, and to mark the same in figures upon the head and stern of the said boat in colors mixed with oil, and that the said boat or vessel so measured and marked, shall always be permitted to pass through the said canals and locks, for which it shall be so marked, for the price per ton to which the number of tons so marked on her shall amount unto, agreeably to the rates fixed in the manner aforesaid, and if the owner or commander, or supercargo, of such boat or vessel, shall decline choosing a person, resident within four miles of the place where such toll is payable, to ascertain the tonnage thereof, then the amount of such tonnage shall be fixed and ascertained by a person to be appointed for that purpose by the collector of tolls at the lock where the toll is payable as aforesaid, and the said toll shall be paid according to such measurement before any such boat or vessel shall be permitted to pass the lock or place where such toll shall be made payable.

*And be it further enacted by the authority aforesaid,* That if any person or persons, whatsoever, shall wilfully or knowingly do any act or thing whatsoever, whereby the said navigation, or any lock, gate, engine, machine, or device, thereto belonging shall be injured or damaged, he or they so offending shall forfeit and pay to the corporation, to which the injury is done, fourfold the costs and damages by them sustained, by means of such known and wilful act, together with costs of suits in that behalf expended, to be recovered by action of debt in any court having jurisdiction competent to the sum due.

*And be it further enacted by the authority aforesaid,* That the collectors of toll, duly appointed and authorized by the president and directors of either of the said corporations, may stop and detain all boats and vessels using the canals and navigation to which they respectively belong, until the owner, or commander, or supercargo, of the same shall pay the toll so as aforesaid fixed, or may distrain part of the cargo therein contained, sufficient, by the appraisement of two credible persons, to satisfy the same, which distress shall be kept by the collector of the tolls taking the same, for the space of eight days, and afterwards be sold by public vendue at the most public place in the neighborhood, to the highest bidder, in the same manner and form as goods distrained for rent are by law sold, rendering the surplus on demand, if any there be, after the payment of the said toll and the costs of distress and sale, to the owner or owners thereof.

*And be it further enacted by the authority aforesaid,* That the President and Directors of the said corporations respectively, may demand and require of and from their treasurers, and of and from all and every of the superintendents, officers, and other persons by them employed, bonds, in sufficient penalties, and with such sureties as they shall, by their rules, orders, and regulations, require, for the faithful discharge of the several duties and trusts to them, or any or either of them respectively committed.

*And be it further enacted by the authority aforesaid,* That the president and directors of each of the said corporations shall keep just and fair accounts of all moneys received by them from the subscribers to the said undertaking for their subscription thereto, and all penalties for delay or non-payment thereof, and of all moneys by them expended in the payment of the costs and charges of procuring and purchasing all estates, rights, and titles in

the said corporations, respectively, to be vested in pursuance of this act, or by any other means, and in paying their several officers by them to be appointed, and the wages of the different engineers, artists, workmen, and laborers by them to be employed, and for the materials and work furnished and done in the prosecution of the works projected by the said corporations, respectively, and each of them shall, once at least every year, submit such account to the general meeting of the stockholders, until the said canals and rivers therewith connected shall be rendered navigable, and until all the costs, charges, and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated; and from and after the liquidation thereof, if the one thousand shares above mentioned for each or either of the said corporations shall not be sufficient, it shall and may be lawful to and for the said president and directors of the said corporations, respectively, at the general meeting of the stockholders, held in pursuance of the preceding provisions, or called by the president and directors for the special purpose, by public notice in two newspapers, in manner aforesaid, (which shall be given three months previous to the opening of the said subscriptions,) to increase the number of shares to such extent as shall be deemed sufficient to accomplish the objects of this act, and to demand and receive such additional subscriptions from the former, or, in case of their neglect or refusal, from new subscribers, and upon such terms, and in such manner, as by the said general meeting or meetings shall be agreed upon; and the said president and directors of the said corporations, respectively, shall also keep just and true accounts of all and every the moneys received by their several and respective collectors of toll in and through the said canals and navigation, and shall make and declare a dividend of the clear profits and income (all contingent costs and charges being first deducted) among all the stockholders of the stock of the said several corporations, and shall, on every the second Mondays in June and December in every year, publish, in manner aforesaid, the half yearly dividend to be made of the said clear profits to and amongst their stockholders, respectively, and of the times and places when and where the same shall be paid, and shall cause the same to be paid accordingly.

*And be it further enacted by the authority aforesaid,* That, at the end of ten years after the said navigations, respectively, shall be completed, the corporations, respectively, shall render an abstract of the accounts to the Legislature for the last three years of the said ten; and if it shall then appear that the clear profits and income will bear a dividend of any rate on the principal sum expended exceeding ten and not exceeding twenty-five per cent., each of the said companies shall continue the tolls on which such dividend has arisen for such a term of years as to produce to them, respectively, an interest at the rate of ten per centum per annum on the principal sum of their expenditures, such interest being computed on the several payments of the principal from the time and times they were respectively made until it shall be produced as aforesaid, after which the tolls shall be so reduced as to divide a clear profit not exceeding fifteen per cent.; and if such dividend shall exceed fifteen per cent., the excess shall be paid into the treasury of this State; and from and after the time and times when the said companies, respectively, shall render an abstract of their accounts as aforesaid, they shall, once at least in every three years, render to the Legislature an account of the tolls they may have collected, and the sums expended during the years next preceding, so that the clear profits of the companies, respectively, may in any year be known to the Legislature.

And whereas any unnecessary delay in prosecuting the object for which the said corporations have been made and created will be detrimental to the community, therefore,

*Be it further enacted by the authority aforesaid,* That, if the corporation hereby made and created, by the name of the President, Directors, and Company of the Western Inland Lock Navigation, in the State of New York, shall not, within the term of five years, to be computed from the first day of January next, complete so much of the said navigation as is between the south bounds of the town of Schenectady and the waters of Wood creek, in such manner as that boats drawing, when loaded, two feet of water, and of the length of forty feet, and of the breadth of twenty feet, may ascend and descend the Mohawk river, in every part of the said river between the town of Schenectady and the waters of Wood creek, that then, and in such case, this act, so far forth as relates to the said corporation, shall cease and become null and void, and all the rights hereby vested in the said corporation shall revert to the people of this State, any thing herein contained to the contrary notwithstanding; and if, within the term of fifteen years, to be computed from the said first day of January next, the said navigation shall not be continued down the said Wood creek, and extended to Lake Ontario and to the Seneca lake, to carry boats of the burden above mentioned, then it shall be the duty of the attorney general of the State for the time being, *ex officio*, to file an information in the supreme court of this State against the said corporation; and if, upon the traverse, it shall be found that the said corporation hath not extended the said navigation, in manner aforesaid, down the said Wood creek, and as far as to the Seneca lake and Lake Ontario, and judgment shall be given in favor of the people of this State, thenceforth the powers and rights vested in the said corporation, so far forth as relates to the extension of the said navigation from the said Wood creek to the said lakes, shall cease, determine, and be null and void, any thing in this act to the contrary hereof notwithstanding.

*And be it further enacted by the authority aforesaid,* That, if the corporation by this act made and created, by the name of the President, Directors, and Company of the Northern Inland Lock Navigation, in the State of New York, shall not, within the term of fifteen years, to be computed from the first day of January next, complete the said navigation from a west line from the mouth of the creek on which the mill now in the possession of John Van Rensselaer stands, in the town of Troy, to that part of the said town opposite to the north end of the house in the occupation of George Tibbets, so that vessels drawing four feet of water may pass at low water, when loaded, and shall not complete the navigation of Hudson river from the point opposite to the said house in the occupation of the said George Tibbets to a point in Hudson river where a canal from Wood creek or any branch thereof, shall intersect the said river, to carry boats of the burden and dimensions specified in the last preceding section of this act, and shall not in like manner complete such canal and the navigation from Hudson river to Lake Champlain, that then, and in either of these cases, this act, so far forth as relates to the said corporation last mentioned, shall cease and become null and void, and all the rights by this act vested in the said corporation shall revert to the people of this State, any thing herein contained to the contrary hereof notwithstanding: *Provided always,* That it shall be first found, by information, traverse, and judgment, in manner aforesaid, that the said navigation has not been so completed.

And for the encouragement of the said corporations, respectively, and to enable them to prosecute the objects for which they were respectively instituted, with the greater despatch and efficiency—

*Be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the treasurer of this State, for the time being, and he is hereby required, whenever it shall be certified unto him by the person administering the Government of this State for the time being, that it has appeared to him, by satisfactory proof, that either of the said corporations hath actually expended and laid out in the prosecution of the said inland navigation the sum of \$25,000, to pay unto the president and directors of each of the corporations, respectively, (for the use of the stockholders thereof, as a free gift to them from the people of this State,) in whose favor such certificate shall pass, the sum of \$12,500 out of any moneys which may come into the treasury after the first day of October next: *Provided always,* That when such payment shall be made to the said corporations, or either of them, they shall pro-

ceed in the objects of their institution until the said free gift shall be expended or laid out thereon; and, in failure thereof, the same shall be repaid into the treasury; any thing in this act to the contrary notwithstanding.

*And be it further enacted by the authority aforesaid,* That as soon as the said companies shall respectively be incorporated as aforesaid, the said commissioners shall, upon demand, pay to the president and directors of each of the said corporations the several sums by them received, on taking the said subscriptions to the said companies respectively, and by them retained as aforesaid, for the use of the said corporations respectively, to which the same shall be subscribed, after deducting thereon such contingent charges as they shall have incurred in the execution of the trusts committed to them by this act.

AN ACT to amend an act, entitled "An act for establishing and opening lock navigation within this State," passed December 22, 1792.

Whereas the president and directors of the company incorporated by the name and style of "The President, Directors, and Company of the Western Inland Lock Navigation in the State of New York," and the president and directors of the company incorporated by the name and style of "The President, Directors, and Company of the Northern Inland Lock Navigation, in the State of New York," have, respectively, in behalf of the stockholders in the said companies, represented to the Legislature that, by reason of sundry of the provisions, restrictions, and limitations contained in the act, entitled "An act for establishing and opening lock navigations within this State," passed the 30th day of March, 1792, the progress of the improvements to the internal navigation for which the said companies were incorporated will be greatly retarded, if not entirely arrested, unless further legislative interference shall be interposed. To the end, therefore, that improvements, whose object is extensive benefit to the community, may not be impeded, and to render the advantages which are contemplated to result therefrom as mutual between the citizens at large and the said companies respectively, as the nature of the case will admit—

*Be it enacted by the people of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for the president and directors of the said corporations and their successors severally and respectively, to construct any and every canal and lock which they may deem necessary to make of any breadth at their option, provided that every such canal and lock shall not be less than ten feet broad at the bottom or base, nor any lock less than seventy feet long between the gates thereof, any thing in the said act to the contrary hereof notwithstanding.

*And be it further enacted by the authority aforesaid,* That if, in the greater part of the time between the first day of March and the first day of December in every year, the water in the canal and locks to be constructed by the said presidents and directors, or by their successors respectively, and the water in the creeks and rivers into or through which vessels shall pass, to and from any such canal or lock, shall be of such depth as that vessels drawing two feet of water when laden can pass through, the incorporations aforesaid shall not cease, become void, and forfeited, if in the residue of the period aforesaid there shall not be a sufficiency of water to permit vessels drawing two feet of water to pass through such canals, locks, creeks, or rivers, any thing in the said act to the contrary notwithstanding.

And whereas, by the seventh section of the said act, it is enacted, that the said corporation, previous to their respectively entering upon any lands with intent to appropriate the same, the improvements for which the said incorporations were erected, shall purchase such land, or shall cause the same to be appraised in manner directed by the said seventh section. And whereas, before such appraisement can be obtained, much injury may be sustained by the said corporations, and the improvements by them intended arrested, to the detriment as well of the community as of the said corporations; for remedy whereof—

*Be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for each of the said corporations, by its president and directors, or by any superintendent, agent, or engineer, appointed under the seal of the said corporations respectively, to enter into and upon all and singular any land or lands, whether covered with water or not, which they, or either of them may deem necessary for the prosecution of the improvements aforesaid, or whereon or whereby to construct any canal, lock, dike, embankment, pond, dam, or other work intended or permitted by the said act, and by this act to be so constructed, and that without the leave and permission of the owner or owners, proprietor or proprietors of such land first had and obtained, and, having so entered, to dig, trench, and use the said lands for the purposes aforesaid, together with one hundred feet more of such land on each side of any canal, lock, dike, embankment, pond, dam, or other device relative to the said improvements, and to appropriate the same land to such uses as the said corporations respectively shall seem proper; any thing in the said act to the contrary hereof in any wise notwithstanding: *Provided, nevertheless,* that in every case where such entry shall be made, and occupancy had as aforesaid, on the part of the said corporations, or either of them other than by and with the consent of the owner or owners, proprietor or proprietors of such land, it shall be, and is hereby made the duty of the president and directors of the said companies severally, within forty days next after such entry has been made, on the part of either of them to solicit an appraisement of the property so taken, and of the damages sustained by the party or parties from whom the same was taken, in manner directed by the said seventh section; and, in default of obtaining such writ as in the said seventh section is directed, within the said forty days, the party or parties aggrieved shall be entitled to fourfold the amount of the damages sustained by such entry, taking and occupying, to be recovered in any court of record, having cognizance thereof, with costs of suit: *Provided,* That the powers hereby granted to the said corporations of making entries into lands, shall not continue beyond the completion of the said canals, or if not completed in the mean time beyond the period limited by the former act for completing the same; saving also, to the proprietors of any lands that shall be contained within the one hundred feet aforesaid, the right of a way or ways to pass to and from his, her, or their land, as is provided in and by the eighth section of the act hereby amended. And, for the further encouragement of the said corporations to prosecute the objects of their institution,

*Be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for each of the said corporations, at all times hereafter, and at any place where they shall have constructed a canal, lock, embankment, dike, pond, dam, or other improvement, to take and make use of the water contained therein, or in either of them either for mills or any other hydraulic works, which the said corporations respectively may erect or cause to be erected, or to let the use of such water to any person whomsoever, for the use of mills or other hydraulic works, or for irrigating any lands, or for supplying bleach grounds, tanpits, brick-yards, or to any other purpose to which such water is capable of being applied, and the neat profits or rents, resulting therefrom, to distribute amongst the stockholders, in proportion to their respective shares, as a free gift from the people of this State, exclusive of and over and above the per centage which the said companies are, by the said act, permitted to divide, as arising from the toll mentioned in the said act: *Provided always,* That no such use shall be made of the water running through or standing in any canal, lock, river, or creek, if the canal, lock, creek, or river, at the place where such water

shall be taken therefrom, shall, by such use, be rendered incapable of carrying vessels drawing two feet of water when laden: *And provided further*, That the moneys which may be laid out or expended by either of the said companies on any special works which they may erect by virtue of this clause, shall not be considered as any part of the principal sum expended, on which the said companies are allowed, by the act hereby amended, to compute the interest which may be taken by them respectively.

*And be it further enacted by the authority aforesaid*, That all the land under the water in the Mohawk river may be occupied by the corporation first above mentioned, for the purpose of constructing any canal, lock, dike, embankment, or dam, for the improvement of the navigation thereof, shall be, and is hereby, vested in the said corporation and its successors, for and during the existence of the said corporation, and no longer; and for the purposes aforesaid, as a free gift from the people of this State; saving and reserving to the people of this State the right to all lands under the water not so occupied as aforesaid, to be appropriated as the Legislature shall, from time to time, direct. And that all the lands under the water in Hudson river, which may in like manner be occupied by the said corporation last mentioned in the preamble to the first section of this act, shall in like manner be vested in the said corporation and its successors, and for the like purposes, and under the like saving and reservation, as a free gift from the people of this State:

*Provided always, and be it enacted further by the authority aforesaid*, That no dam or dams shall be erected in Hudson river, other than where a canal shall run from the water raised by such dam, to communicate with the water below the water now navigable, or to be rendered navigable by the said company; and such dams shall not be higher than is necessary for the works with which they are connected; and that nothing in this act shall be construed to prevent any person or persons from passing over such dam or dams with rafts of timber, boards, or other lumber, when the water running over such dam or dams shall be of sufficient depths for the passage of such rafts without injuring the dam or dams, and that without paying any toll for such passage: *And provided also*, That, in every such dam across the said river, a flood-gate, sluice, or other proper device, shall be constructed to admit the passage of fish ascending the said river, and to be constantly kept open, except in winter, when, for the greater safety of the dam, gate, sluice, or other device, the same may be closed: *And provided also*, That, in every dam to be erected across the said rivers Hudson or Mohawk, a flood-gate, sluice, or other proper device shall be constructed to admit the passage of fish ascending the said rivers: *And provided also*, That no net, seine, fuyck, or other contrivance for taking fish, or preventing their ascending the said rivers, shall be used or placed, by any person or persons whomsoever, within the distance of five hundred yards of such sluice, gate, or other device as aforesaid, under the penalty of ten pounds for every such offence, to be recovered with costs of suit, before any justice of the peace, by any person or persons who shall prosecute for the same, one-half whereof shall be for the use of the poor of the town where such offence shall be committed, and the other half to and for the use of the person or persons who shall prosecute for the same.

And whereas, by the eleventh section of the said act it is enacted that the tolls on vessels passing through the said improved navigation shall be computed according to the tonnage of such vessels, and that the toll on timber, boards, plank, and scantling, shall be estimated in proportion to the toll on the tonnage of such vessels, by means whereof as much toll may be exacted from vessels passing empty as from those full laden: for remedy whereof—

*Be it further enacted by the authority aforesaid*, That it shall be optional with each and either of the said corporations, respectively, to make such discrimination in the toll to be demanded for empty or laden vessels as they shall think proper; and that it shall be further in their discretion, respectively, to estimate and establish the toll to be taken passing any lock or other improvement, either according to the tonnage of vessels or rafts, passing through or by the same, or by charging a specific toll on every particular article transported through such canal, lock, or other improvement of the said navigation: *Provided always*, That the aggregate toll on any particular articles shall not exceed, upon a ton weight of such articles, the sum which the said corporations are respectively permitted to charge and take by the said eleventh section, any thing in the said act to the contrary hereof notwithstanding.

*And be it further enacted by the authority aforesaid*, That the annual election for directors, in each of the said corporations respectively, in manner prescribed by the said act, shall henceforth be held on the second Tuesday in January in every year, and that the first election for directors shall be held on the second Tuesday in January next ensuing the passing of this act.

*And be it further enacted by the authority aforesaid*, That no non-user or mis-user heretofore omitted, neglected, or done, or which may hereafter, and before the second Tuesday of January next ensuing the passing of this act, be neglected, omitted, or done, shall operate so as to defeat or work an injury to either of the said corporations, any thing in the said act to the contrary notwithstanding.

*And be it further enacted by the authority aforesaid*, That the stock, interest, and shares of and in the said several corporations shall be deemed and considered as personal property to all intents and purposes whatsoever.

AN ACT further to amend the law relative to lock navigation within this State. Passed the 9th of March, 1793.

Whereas petitions have been presented to the Legislature praying for sundry amendments to the act, entitled "An act to amend an act, entitled An act for the establishing and opening lock navigations within this State."

And whereas the President of the Board of Directors of the Western and Northern Inland Lock Navigation Companies, in their behalf, has signified to the Legislature that, in his opinion, the alterations hereinafter specified may be made without materially injuring the important object for which the said companies were instituted: Therefore,

*Be it enacted by the people of the State of New York, represented in Senate and Assembly*, That the president and directors of the said companies shall not take and occupy a greater extent of land, on each side of any canal, dike, or other work incident to the object for which they were incorporated, than twenty feet beyond such work, except where any lock shall be placed, in which case they may take and occupy to the distance of one hundred feet from the side of such lock, for the whole length of such lock, and for the distance of one hundred feet above and below such lock, if, in their discretion, they shall deem that extent requisite; and also, except where a bridge is to be placed over any canal, in which case they may take and occupy one hundred feet from such canal, and for a space as wide as such bridge, if, in their discretion, they shall deem such extent requisite.

*And be it further enacted*, That in all cases where it shall be requisite to appropriate any lands on which there may be any house or houses, or other buildings, or to appropriate any lands which shall reach to, or approach to or within fifty feet of any house or other building which shall then be erected on a part of the land so to be appropriated by the said company, the President or an agent of such company shall give thirty days' notice to the owner or owners, occupant or occupants thereof, before the president and directors of such company, or any or either of their agents, shall take, use, or occupy such land, any thing in this or any other law to the contrary notwithstanding.

*And be it further enacted,* That, in every dam that shall be constructed in the river Hudson by the said company, an aperture shall be so constructed as that not only rafts may descend with facility and safety, but that fish may ascend the river there, through or thereon; and that no toll shall be taken for the passage of such rafts, nor any contrivance for the taking fish by nets, or otherwise, shall be placed at such aperture by the said president and directors, or by any other person whomsoever, to impede or take fish at such aperture, or within five hundred yards above or below such aperture.

*Provided always,* That it shall be optional with the president and directors of the said company to permit the passage of rafts or not, as they shall deem proper, through any canal, lock, or other work, to be erected or made, in or by the river Hudson as aforesaid, other than through or over any dam in the said river; and, if such permission shall be granted, the party giving and the party requiring the same shall agree upon the quantum of toll for such raft, without any regard to the limitation of toll stipulated in the original act, by which the said company was incorporated.

## B. 3.

SIR:

NEW YORK, *January 19, 1808.*

In answer to your several queries respecting the proposed canal at or near Niagara, I find, on examining the survey and estimates made by an eminent engineer, at great length and much apparent accuracy, that the height of water at the commencement of the canal, above that at the termination, was three hundred and twenty-five feet; the water to be taken out of the Niagara river at Fort Schlosser; the canal to terminate at a place on the same river known by the name of the Devil's Hole; the distance between these two points one thousand two hundred and seventy-two perches, or about four miles; the ground clayey, or shelly rock; the station first mentioned is about sixteen miles below the outlet of Lake Erie which forms the Niagara river, by which name the waters between Lakes Erie and Ontario are known; the waters of the former are about four hundred and fifty feet above those of the latter; this difference in height arises from the rapid waters both above and below the two stations mentioned as the beginning and end of the canal; the calculation (as to expense) was for smaller navigation than sloops, and amounted to about 437,000 dollars. The estimates, maps, and remarks on this subject are still in the hands of Mrs. Watson, and, should they be wanted for public use, may be purchased at a less sum than the same could now be made.

Wishing success to so laudable a measure as opening this intercourse, I am, sir, with great respect,

Your obedient humble servant,

DANIEL PENFIELD.

To SAMUEL OSGOOD, Esq.

## No. 1.

- 1st. Elevation of water in Lake Erie, above the lower end of the canal, in Niagara river or Lake Ontario.
- 2d. The place where the canal was intended to be taken out from Lake Erie, and of that where it was to end, whether in Niagara river or Lake Ontario.
- 3d. The distance between those points or length of the canal.
- 4th. The water which was to feed the canal, whether Lake Erie itself or a creek emptying into it.

## ERIE.

The canal was to begin at Fort Schlosser, and to end at the Devil's Hole. Its length was about one thousand two hundred and seventy-two perches, or about four miles; the ground clayey, or shelly rock. It was to be supplied with water from Lake Erie and Giles's creek. The height of water in Lake Erie above Lake Ontario about four hundred and fifty feet.

## C. No. 1.

## CANAL BETWEEN SANTEE AND COOPER RIVERS.

SIR:

COLLECTOR'S OFFICE, CHARLESTON, *September 26, 1807.*

Agreeably to your instructions of the 28th of July last, on the subject of canals, I have waited on Doctor Ramsay, Judge Grimke, and Mr. William Loughton Smith, which gentlemen are principal stockholders or directors of the canals of this State, requesting their aid in order to accomplish the wishes of the treasury, which they readily complied with, and enclosed are the answers to the several questions, with their opinion relating thereto.

With regard to turnpike roads, there are none in this State; the Legislature have, however, appointed several gentlemen to investigate the subject, and report at their next session.

I have the honor to be, sir, your obedient servant,

SIMEON THEUS.

*Questions proposed by the Secretary of the Treasury respecting canals, and answers to the same, with respect to the canal between Santee and Cooper rivers in South Carolina.*

Question 1st. Points united by canal, and their distance by said canal?

Answer 1st. Santee river, and the head waters of Cooper river, about twenty-two miles from each other.

Question 2d. Elevation of highest ground through which canal passes, descent thence to the two lowest extremities, and number of miles where canal is level?

Answer 2d. The elevation of the highest ground is about fifty-two feet; this has been reduced by digging to about thirty-five feet. The summit is about three and a half miles from Santee river; thence, the canal runs about five miles on a level: from each end of this level, it descends, on the north side to the Santee, and on the south side to Cooper river.

Question 3d. Number, dimensions, contents, construction and situation of locks.

Answer 3d. Eleven locks, two double and nine single; they are sixty feet in length between the gates, and ten feet wide, calculated to pass boats fifty-four feet long, and nine and a half wide; they are entirely of brick, except in the vicinity of the gates. These are faced with hard stones, (chiefly Philadelphia marble.) There are three locks in the first two and a half miles; say one single lock of six feet rise at the beginning of the canal or Santee river; another single lock of ten feet rise at the distance of half a mile, and a double lock of nineteen feet rise at the distance of two miles, and at the beginning of the summit. From the south end of the summit to Cooper river, there is one double and seven single locks, making, in the whole, sixty-eight feet fall.

Question 4th. Supply of water, whence obtained, its amount reduced to cubic feet per minute, hour, or day; its elevation above the highest point of the canal, length of feeders, situation and contents of reservoirs, what additional resources may be resorted to if the present supply should fall short of the quantity wanted?

Answer 4th. The water is supplied partly from the bottom of the canal, which, in the low flat country of South Carolina, on the sea-coast, generally springs at the depth of from six to ten feet from the surface, and partly from springs in the bottom of the summit canal, which, being dug from ten to fifteen feet below the surface, afford a considerable supply, and partly from swamps and springs in the vicinity, which are banked in for the purpose of reservoirs; there are two on the summit or highest part of the canal; the first is a swamp called Kirk swamp, through which the canal runs. This is a mile and a quarter long, and a mile wide, and contains from three to four feet water. The soil is of a stiff clay, well calculated to contain water. The next is a swamp called Bulltown swamp, which is connected by means of drains with several others in the vicinity, for a distance of about four miles, and from a quarter to half a mile wide, containing nearly as much water as Kirk swamp. The soil is not quite so good to contain water, as part of the land flowed is high land. These last mentioned swamps are part of the head waters of Biggin swamp. There are several other reservoirs of less magnitude below the summit canal; these can only be conveyed into the canal below or on the south side of the summit, about five miles to the north of the junction of the canal with Biggin creek, which is one of the heads of Cooper river; at the plantation of Stephen Mazyck, Esq. is a very large spring which is conveyed into the canal, and is a never failing resource for that part of it. The elevation of the reservoirs above the level of the canal is from three to six feet. The amount of water furnished to the canal has never been calculated; it varies with the weather, but there is seldom a deficiency; in that case, it has been contemplated to elevate water by steam machinery from the Santee river, and to conduct it to the most elevated ground between the two rivers, which is within four miles of the Santee.

Question 5th. Designation of such parts of the route where the natural or improved bed of rivers is used?

Answer 5th. The canal runs across from one river to the other, and of course no part of it coincides with the bed of either river. For about fifteen miles on the southern extreme of the canal, it runs nearly parallel with Biggin swamp, but does not coincide with its channel till it terminates therein as one of the heads of Cooper river. (See a plan of the canal in Drayton's view of South Carolina.)

Question 6th. Depth and breadth of the canal; burden of vessels; breadth of towing paths?

Answer 6th. The canal is thirty-five feet wide at top, but sloping down at each side to a width of twenty feet at bottom, and is calculated to contain water to the depth of four feet, and to pass boats of 22 tons. The towing paths on each side are about ten feet wide.

Question 7th. Aqueducts across valleys or rivers; tunnels through hills; bridges across the canal?

Answer 7th. Several streams across the canal. These are partly taken into the canal; but most of them are conveyed underneath it by means of aqueducts, on account of their being too low for admission into the canal; one is partly thrown over it by means of a tumbling dam. There are no hills to create a necessity for tunnels; there is a bridge over every lock, besides five large bridges over the canal where it crossed either a public road or private ones to plantations for the convenience of the inhabitants; also a number of smaller ones over drains from the reservoirs. There are, in the whole, about thirty bridges of different dimensions at and appertaining to the canal.

Question 8th. Particular obstructions and difficulties surmounted, or to be encountered?

Answer 8th. The obstructions which existed have been surmounted; these were chiefly from the roots of trees; there were no stones in the way; the face of the country being nearly level, and the soil being chiefly sandy or marshy, little else was required but labor to remove earth and trees.

Question 9th. Defects either in the plan or execution, and the proposed remedies?

Answer 9th. The principal defect hitherto charged on the canal is, the smallness of its locks; if they were larger, wood might more conveniently pass through, and large boats, which now occasionally pass down Santee river to the ocean, might come to Charleston without the risk to which they are exposed in going round. The only remedy is to take down the locks and rebuild them on a larger plan. To this there are several objections; but the probable deficiency of the water in dry seasons is the principal one. The western settlers, who are the great supporters of the canal, are satisfied with the present locks, for they are sufficiently large to admit any boat that can descend the shallow rivers adjacent to their settlements.

Question 10th. Estimate of the tonnage of vessels; species, weight, and value of the articles annually conveyed by the canal; expense of carriage by canal compared with land or river carriage before canal was made; time employed in navigating through the canal?

Answer 10th. No estimate has been made of the general tonnage of the boats using the canal, nor of the weight or value of the articles conveyed by them, for the toll is regulated solely by the size of the boats. Cotton is the principal article that passes. The expenses of water carriage down the rivers and through the canal are generally about one-half of the expenses of conveying the same articles by land from the place of their growth to the Charleston market. The difference is not so great between the expenses of a conveyance in canal boats through the canal and in large river boats by the mouth of Santee river; but in the latter case, the danger of total loss is considerable; the period of a trip doubled, and the conveyance cannot be effected at all unless the river is high from recent rains or freshets; whereas canal boats can pass at all times, and, for the most part, through from river to river either way in a day.

Question 11th. Capital already expended, vested, or wanted for completing the work?

Answer 11th. Six hundred and fifty thousand six hundred and sixty-seven dollars have been already expended; the canal is finished, and has been in use about six years. Sixty negroes and several adjacent tracts of lands have been purchased by the company.

Question 12th. Expenses per mile, and in the whole, and, as far as practicable, of every component part of the work in all its details?

Answer 12th. From twenty to thirty thousand dollars per mile. The expenses were chiefly materials and masonry for the locks, and hire of negroes for digging and removing earth; the expenses of the latter varied with the level and the qualities of the soil; in the highest ground, earth was removed to the depth of sixteen feet from the surface; in the lowest, the bottom of the canal was occasionally raised from five to six feet above the surface; the bricks employed in the locks were mostly made on the spot by the company; what were bought cost the company about ten dollars per thousand, and the laying of them about three dollars per thousand.

Question 13th. Rate and gross amount of tolls. Annual expense of repairs and contingencies. Annual nett income?

Answer 13th. The rates are as follows, viz:

For boats and flats not exceeding $6\frac{1}{2}$ feet breadth,	-	-	-	-	\$10 00
For boats and flats exceeding $6\frac{1}{2}$ and not exceeding $7\frac{1}{2}$ feet breadth,	-	-	-	-	15 00
For boats and flats exceeding $7\frac{1}{2}$ and not exceeding $8\frac{1}{2}$ feet breadth,	-	-	-	-	20 00



For boats and flats exceeding $8\frac{1}{2}$ and not exceeding $9\frac{1}{2}$ feet breadth,	-	-	- \$25 00
Flats exceeding $8\frac{1}{2}$ and not exceeding $9\frac{1}{2}$ , and not having more than 70 bales cotton,	-	-	- 30 00
Flats exceeding $8\frac{1}{2}$ and not exceeding $9\frac{1}{2}$ , and having more than 70 bales cotton,	-	-	- 35 00
Flats exceeding $8\frac{1}{2}$ and not exceeding $9\frac{1}{2}$ , having paid the tolls of 30 or 35 dollars down, shall be passed back, if returning within 30 days, for	-	-	- 20 00

*Gross amount of toll.*

Total amount for 1802,	-	-	-	-	- \$3,083 00
Total amount for 1803,	-	-	-	-	- 5,407 00
Total amount for 1804,	-	-	-	-	- 6,886 00
Total amount for 1805,	-	-	-	-	- 10,563 00
Total amount for 1806,	-	-	-	-	- 12,776 00
For the first 7 months of 1807,	-	-	-	-	- 11,288 00
Annual standing expenses, about	-	-	-	-	- 5,000 00
Annual contingent expenses will, in future, be about	-	-	-	-	- 2,000 00
Annual nett income hitherto,	-	-	-	-	-

Question 14th. Substance of charters, and acts of Legislature upon the subject?

Answer 14th. Soon after the peace of 1803, the Legislature of South Carolina incorporated companies for opening the Catawba and Broad rivers, for clearing Edisto, and for connecting that river with the Ashley, and for connecting Santee and Cooper rivers. These several charters may be found in Grimke's collection of laws. All the companies incorporated by them have hitherto failed in accomplishing the object of their incorporation except the last. This has been completed between the years 1792 and 1800, but the stockholders have as yet received no dividend nor return for their expenditures. This has so materially injured them that a canal phobia is universal in South Carolina. The companies, though incorporated for the aforesaid purposes by liberal charters, have given up their respective projects, except the Santee canal company, and the company for opening the navigation of the Catawba and Wateree rivers. The charter to the latter embraces an object of the first importance, and holds out the greatest encouragement to stockholders. Yet with all these advantages, half of the shares are not taken up, and the work languishes for want of support. The sum of forty thousand dollars, either advanced, lent, or laid out in the purchase of vacant shares, would ensure the speedy completion of this most useful work. For it would command the trade of the adjacent States; the Catawba passes through the heart of South Carolina into the mountains of North Carolina, and has been navigated in batteaux from Morgantown in that State, to Charleston, three hundred and fifty miles, through a population of one hundred and seventy thousand persons. The Catawba, Kanhawa, and Tennessee rivers head near each other. The trade of Tennessee, Kentucky, and a great part of the settlements on the Ohio would, of course, come to Charleston if the Catawba was opened. (See the map of South Carolina, North Carolina, and the settlements beyond the mountains.)

There is abundance of iron ore, of the best quality, on the Catawba river, and the South Carolina settlements on the head of it abound in all kinds of provisions and cattle.

The United States arsenal is on this river; but while it is unopened, it will be difficult to supply the works with raw iron from above, and to transport the proceeds from the arsenal to the intermediate country down the river or to Charleston.

DAVID RAMSAY.

*Catawba Canal Company in South Carolina.*

CHARLESTON, September 1, 1804.

The charter granted by the Legislature of South Carolina to the company for opening the Catawba and Wateree rivers, by clearing away the shoals and removing obstructions, may be justly considered as the most valuable ever granted in the United States.

1st. It is in perpetuity, and the shares are forever free from all kinds of duty or tax.

2d. The company are allowed to raise a toll equal to 25 per cent. on the capital expended.

3d. It cedes to the company all the vacant lands lying within two miles of both banks of the rivers Catawba and Wateree, from Camden Ferry to the North Carolina line, a distance of about one hundred miles, so that it comprehends all the vacant lands in four hundred square miles, and which have already been ascertained to comprise not less than forty thousand acres, some worth five dollars, and none less than one half dollar per acre.

4th. It gives the company the exclusive right of a ferry at Rocky Mount, a place which promises to be soon a considerable village, and several valuable mill-seats.

Since the charter was granted, the company have purchased and now hold the village of Rocky Mount, the most elevated, healthy, and beautiful spot in South Carolina, which, with its environs, contains about four hundred acres of land.

The Catawba river flows through an immense tract of country in North and South Carolina, having its source as far up as Bunkum in the former. A company in North Carolina is now actually opening the shoals in that State, and there is no doubt that the river will be made navigable very near to its source; the produce which will be brought down it will be, of course, considerable. Towards Camden, it assumes the name of the Wateree, and flows into the Santee, now navigable to Charleston through the Santee canal and Cooper river. Active operations are carrying on under the direction of the company's engineer,\* Mr. Graff, in South Carolina, and it is hoped that the navigation will soon be complete as high up as Rocky Mount, near which the great military arsenal of the United States for the southern department is now constructing.

In less than three years the navigation will be completed quite to the North Carolina line, and as the operations in that State will keep pace with those in South Carolina, it is not doubted that within three years there will be a free navigation, from the vicinity of the source above mentioned, to Charleston.

The total number of shares is twelve hundred. Only about six hundred are taken up.

The actual price of a share is now about one hundred and ten dollars, on which there will be required two semi-annual payments, viz: in March and September, until the whole work is finished; each requisition is about eight dollars, but may, if necessary, be doubled, on a semi-annual previous notice.

\* Since the publication of the above, Mr. Graff quitted the company's service, being hypochondriacally inclined, and the company have never been able to obtain any person properly qualified to conduct the work; a Mr. Barnett has lately made proposals for opening the lower part of the river, which General Davie and the rest of the committee have now under consideration.

## C. No. 2.

*Rules and By-laws of the Catawba and Wateree Company.*

AN ACT to establish a company for the opening of the navigation of the Catawba and Wateree rivers.

MARCH 27, 1787.

Whereas John Rutledge, Thomas Sumpter, William Hill, Daniel Bourdeaux, John Gaillard, Benjamin Waring, Joseph Atkinson, and Theodore Gaillard, have, for themselves and others, by their petition to the General Assembly, represented that the opening of the navigation of the Catawba and Wateree rivers, from the North Carolina line to Camden Ferry, by means of canals, dams, and locks, and clearing the same of the obstructions which are now in the way, will be of great public utility; that the said petitioners have entered into an agreement, for establishing a company for opening the navigation of the said rivers, should they meet the sanction of the Legislature, and prayed to be incorporated by law, under the name or title of "The Company for opening the Navigation of the Catawba and Wateree Rivers," and that they be vested with such powers, privileges, and immunities, for carrying the same into effect, as are granted to the incorporated company for the inland navigation between Santee and Cooper rivers.

1. *Be it therefore enacted*, That the said petitioners, and such others as shall be admitted into the said company, shall be, and they are hereby, incorporated, by the name and title of "The Company for opening the Navigation of the Catawba and Wateree Rivers."

2. The said company, by the name and style aforesaid, shall and may sue, and be sued, implead and be impleaded, in any court within this State; and that they may elect and appoint all necessary officers, and from time to time make such rules, regulations, and by-laws, as they shall think proper for their own government; provided the same shall not be repugnant to, or inconsistent with, any laws of the State.

3. The said company shall and may cause a navigation to be made on the rivers aforesaid, by means of dams, canals, and locks, or in such other manner as to them shall seem most fit and convenient, between Camden Ferry and the North Carolina boundary line, and that they, and their successors forever, shall and may fix and establish, and be entitled to take and receive, by way of toll, for all goods and merchandise carried on or through, and boats, vessels, and rafts, passing on or through the said rivers, within the limits aforesaid, such sums or rates as the company shall think proper to impose, not exceeding at any time twenty-five per cent. per annum on the money they shall have expended in opening and keeping in repair the said navigation, to ascertain which the books of the said company shall always be liable to the inspection of the Legislature; that the said toll shall be payable in the current money of the State; and that the said company, or their agents, may stop any goods, vessels, boats, or rafts, from passing on the said rivers, until payment of the said toll.

4. The said company shall have power to open, and keep open, such road, or roads, on each side of the banks of the said rivers, as they may deem necessary for the use of the navigation aforesaid, and to purchase for themselves and their successors forever, all such lands as may be necessary; and where they and the owners of said land cannot agree for the same, to take the said land on valuation, to be made by a majority of five persons, to be appointed by the court of chancery or common pleas to value the same, which land shall, on payment of the sum at which it shall be so valued, be vested in the company forever.

5. The said company shall be obliged to keep the said navigation in good and sufficient order and condition, on pain of being answerable for any damages occasioned by their wilful default or neglect.

6. The shares in the said company shall be forever exempted from any rate, tax, duty, assessment, or imposition whatsoever, and that the said shares may be sold, transferred, assigned, or bequeathed, by the proprietors respectively, and in case of their dying intestate, shall go as personal estates according to the statute of distributions.

7. If any person shall wilfully or maliciously cut, break down, damage, or destroy, any bank, or other work to be erected or made for the purpose of the said navigation, such person shall be adjudged guilty of felony, and, on conviction, shall be compelled to work in chains upon the said navigation, for any term of time not exceeding seven years; and if any person shall throw dirt, trees, logs, or other rubbish in the way, so as to prejudice the navigation and works aforesaid, such person shall be answerable to the said company for treble the damages sustained thereby.

8. The said company shall have power and authority to use any materials in the vicinity of the works for opening the navigation aforesaid or keeping the same in repair, paying a reasonable price therefor, which price shall be ascertained in like manner as the value of land, which the company may take as aforesaid, in case they and the owners of said land cannot agree about the value thereof.

9. To all lands within two miles of the rivers so to be navigable as aforesaid, which have not been heretofore granted to any person, or reserved to the Catawba Indians, the said company and their successors shall have a preferable right, provided they survey and obtain a grant for the same, within three years from and after the passing of this act, and that the said company shall and may collect and reserve water for the use of their canals and locks, making satisfaction for the damages done thereby, the said damages to be ascertained in the manner before described, with respect to the value of land.

10. The said company shall and may, and they are hereby authorized and empowered, to import into this State any number of negroes, not exceeding three hundred, and that they shall have a credit for the duty on such negroes for five years from the time of importation.

11. Upon the said negroes being entered at the custom-house, the director or directors, agent or agents, of the said company, so entering them, shall make oath that they are imported for the sole purpose of being employed on the works aforesaid, and that they shall give bond, with security, for the payment of the duties of the same, at the expiration of the time aforesaid.

12. The said company and their successors, from time to time forever, shall be capable of purchasing, acquiring, or holding and possessing, and of selling and disposing of any negroes, or other goods and chattels, as well as any lands or real estates.

13. If any person shall be sued for any matter or thing done in pursuance of this act, he may plead the general issue, and give this act and the special matter in evidence, and on a verdict against the plaintiff, or a nonsuit or discontinuance, recover double costs.

14. This act shall be deemed and taken to be a public act, and judicially taken notice of as such, without special pleading, and liberally construed for carrying the purposes aforesaid into effect.

JOHN LLOYD,  
*President of the Senate.*

JOHN JULIUS PRINGLE,  
*Speaker of the House of Representatives.*



AN ORDINANCE for opening the navigation of a creek called the Stave Landing creek, and to dig a canal from the upper end of the said creek to the main road leading from Charleston to Camden.

Whereas, the company for opening the navigation of the Catawba and Wateree rivers have, by their petition to the General Assembly, represented that the opening of the navigation from the Wateree river up a creek called the Stave Landing creek, and to dig a canal from the upper end thereof to the main road leading from Charleston to Camden, by means of canals, dams, and locks, and clearing the obstructions now in the way, will be of public utility:

1. *Be it therefore ordained*, That the said company shall and may cause a navigation to be made from the said river to the public road aforesaid near Statesborough, or so far up as they may think necessary, by means of dams, canals, and locks, or in such other manner as to them shall seem most fit and convenient; and the said company shall be entitled to the same toll and other advantages as are granted to them for opening the navigation of the Catawba and Wateree rivers, by an act passed the 27th day of March last, entitled "An act for the opening of the navigation of the Catawba and Wateree rivers," and shall have the same powers and authorities, and be under the same restrictions, as therein mentioned.

JOHN LLOYD, *President of the Senate.*

JOHN JULIUS PRINGLE,

*Speaker of the House of Rep's.*

FEBRUARY 27, 1788.

AN ORDINANCE for establishing a ferry near Rocky creek, on the Catawba river, and vesting the said ferry in the company for opening the navigation of the Catawba and Wateree rivers.

1. *Be it ordained*, That, from and immediately after the passing of this ordinance, a public ferry shall be established near Rocky creek, (that is to say, about a mile and a half below the said creek,) on the Catawba river, and that the said ferry shall be, and the same is hereby, vested in the company for opening the navigation of the Catawba and Wateree rivers, for the term of twenty-one years; that the said company may receive and take, during the said term, the following rates of ferriage, that is to say: for every man and horse, four pence; for a foot passenger, two pence; for a wagon and team, three shillings and six pence; for a rolling hogshead, one shilling and six pence; for a two-wheeled carriage and horse, two shillings and four pence; for every head of cattle, ferried or swam, three pence; for every head of sheep, hogs, or goats, two pence; and that the said company shall, during the said term, keep good and sufficient boats for transporting passengers, their servants, carriages and horses, and all cattle, sheep, hogs, goats, and rolling hogsheads, as well by night as by day.

Ratified the 27th of February, 1788.

AN ACT to confirm the title of the company for opening the navigation of the Catawba and Wateree rivers to lands purchased by them of Richard Ellis, and to vest in the said company the lands therein mentioned.

Whereas, the company for opening the navigation of the Catawba and Wateree rivers purchased five hundred acres of land at and near Rocky Mount, on the Catawba river, from Richard Ellis, for £581 16s. 3d., and paid the said Richard Ellis £180, in part of the said purchase money, but have lately discovered that a moiety of the premises was conveyed to him by James Rugge, since the 26th day of February, 1782, and is therefore liable to be sold by the commissioners of confiscated estates, for the benefit of the public, as part of the estate of the said James Rugge, whose estate has been confiscated: And whereas, the price given for the said land was the value thereof at the time of the said purchase, but the value has been greatly increased by the improvements, labor, and expense of the said company; and, from the indigent circumstances of the said Richard Ellis, they could not be recompensed in damages on being evicted of the said land; and the said Richard Ellis having consented to release the said company from a moiety of their debt, and that such moiety shall be paid by them to the public, in case the Legislature think proper to confirm the title of the said company to the said land:

1. *Be it therefore enacted by the honorable the Senate and House of Representatives now met and sitting in General Assembly, and by the authority of the same*, That the right and title of the said company of, in, and to the land at and near Rocky Mount, on Catawba river, purchased by them of the said Richard Ellis, shall be, and the same is hereby confirmed and established, and the said land is hereby vested in the said company and their successors forever.

2. *And be it further enacted by the authority aforesaid*, That the said company shall pay to the commissioners of the Treasury of this State, agreeably to the instalment law, £290 18s. 1½d., with interest from the first day of March, 1788, being a moiety of the purchase money of the said land: And whereas, by the act for incorporating the said company, they are entitled to all the lands within two miles of the said rivers from Camden ferry to the North Carolina line, which were not then granted to any person, or reserved for the Catawba Indians: *Provided*, The said company should cause the said lands to be surveyed within three years from the passing of the said act, which proviso subjects the said company to many inconveniences and difficulties in obtaining the said lands.

3. *Be it therefore enacted*, That all the lands within two miles of the said rivers, so to be made navigable, from Camden ferry to the North Carolina line, which were not granted before the 27th day of March, 1787, to any person or persons, or reserved for the Catawba Indians, shall be vested in the said company and their successors forever, any law to the contrary notwithstanding: *Provided always, nevertheless*, That any person who, between the 27th day of September, 1786, and the 27th day of March, 1787, made an actual and *bona fide* survey (on a warrant duly issued) of lands within two miles of the said rivers, shall be entitled to a grant for the land so surveyed, within six months next after the passing of this act, (but at no time afterwards,) if the persons who have caused such surveys to be made shall, after notice to the president of the said company of an intended application for a grant, show, to the satisfaction of the Governor and council, or to the commissioner of *caveats* in the district where the land lies, that such surveys have been actually and *bona fide* made as aforesaid.

In the Senate House, the 7th day of March, A. D. 1789, and in the 13th year of the independence of America.

DANIEL DESSAUSURE, *President of the Senate.*

JACOB READ, *Speaker of the House of Rep's.*

## AN ACT to establish a company for the opening the navigation of the Catawba rivers.

Whereas, John Rutledge, Thomas Sumpter, Isaac Huger, Benjamin Waring, Christian Senf, Daniel Bordeaux, Alexander Gillon, Joseph Atkinson, William Hill, and John Gaillard, of South Carolina, Esquires, have, for themselves and others, by their petition to the General Assembly, represented that the opening of the navigation of the Catawba rivers, from the South Carolina line, as far up both branches of the Catawba rivers as may be found practicable, by means of canals, dams, and locks, and clearing the same of the obstructions which are now in the way, would be of great public utility, that the said petitioners have entered into an agreement for establishing a company for opening the navigation of the said rivers, should it meet the sanction of the Legislature, and prayed to be incorporated by law, under the name or title of "The Company for opening the Navigation of the Catawba Rivers;" and that they may be vested with such powers, privileges, and immunities, for carrying the same into effect, similar to those powers, rights, and titles, as are granted to them as an incorporated company for opening the navigation of Catawba and Wateree rivers, by the State of South Carolina.

1. *Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted, by the authority of the same,* That the said petitioners, and such others as shall be admitted into the said company, shall be, and they are hereby, incorporated by the name and title of "The Company for opening the Navigation of the Catawba Rivers."

2. *And be it further enacted by the authority aforesaid,* That the said company, by the name and title aforesaid, shall and may sue, and be sued, implead, and be impleaded, in any court within this State; and that they may elect and appoint all necessary officers, and, from time to time, make such rules, regulations, and by-laws, as they shall think proper, for their own government, provided the same shall not be repugnant to, or inconsistent with, the constitution or any laws of this State.

3. *And be it further enacted by the authority aforesaid,* That the said company shall, and may cause a navigation to be made on the rivers aforesaid, by means of dams, canals, and locks, or in such other manner as to them shall seem most fit and convenient, from the South Carolina line, as far up both branches of the Catawba river as may be found practicable; and that they and their successors, for ninety-nine years, shall and may fix and establish, and be entitled to take and receive, by way of toll, for all goods and merchandise, carried on or through, and boats, vessels, and rafts, passing on or through the said rivers, within the limits aforesaid, such sums or rates, as the said company shall think proper to impose, not exceeding, at any time, twenty-five per cent. per annum, on the money which they shall have expended, in opening and keeping in repair the said navigation, to ascertain which the books of the said company shall always be liable to the inspection of the Legislature of this State; that the said toll shall be payable in the current money of the State; and that the said company, or their agents, may stop any goods, vessels, boats, or rafts, from passing on the said river, until payment of the said toll.

4. *And be it further enacted by the authority aforesaid,* That the said company shall have power to open, and keep open, such road or roads, on each side of the banks of the said rivers, as they may deem necessary for the use of the navigation aforesaid, and to purchase for themselves and their successors for ever, all such lands as may be necessary for the purposes aforesaid.

5. *And be it further enacted by the authority aforesaid,* That the said company shall be obliged to keep the said navigation in good and sufficient order and condition, on pain of being answerable for any damages occasioned by their wilful default or neglect.

6. *And be it further enacted by the authority aforesaid,* That the shares in the said company shall be ninety-nine years exempted from any rate, tax, duty, assessment, or imposition whatever; and that the said shares may be sold, transferred, assigned, or bequeathed by the proprietors respectively; and, in case of their dying intestate, shall go as personal estates, according to the statute of distributions.

7. *And be it further enacted by the authority aforesaid,* That if any person shall wilfully or maliciously cut, break down, damage, or destroy any bank, or other work to be erected, or made for the purpose of said navigation, shall throw dirt, trees, logs, or other rubbish in the way, so as to prejudice the navigation and works aforesaid, such person shall be answerable to the said company for treble the damages sustained thereby.

8. *And be it further enacted by the authority aforesaid,* That the said company, and their successors, from time to time, forever, shall be capable of purchasing or acquiring, holding, and possessing, and of selling and disposing of any negroes, and other goods and chattels, as well as of any lands or real estate.

9. *And be it further enacted by the authority aforesaid,* That if any person shall be sued for any matter or thing, done in pursuance of this act, he may plead the general issue, and give this act and the special matter in evidence; and on a verdict against the plaintiff, or a nonsuit or discontinuance, recover costs of suit.

10. *And be it further enacted by the authority aforesaid,* That this act shall be deemed and taken to be a public act, and judicially taken notice of as such, without special pleading, and liberally construed for carrying the purposes aforesaid into effect, provided that the State of South Carolina agrees that no restrictions, duty, or impost shall be laid on any commodities which is the growth, produce, or manufacture of the State of North Carolina, brought through the said canal or river, for sale or exportation, and that the same may be exported without re-inspection: *Provided, also,* That nothing contained in this act shall be construed to operate against the claim of the State, for any part of the territory included within the lines established as the southern boundary of the State, by the twenty-fifth article of the declaration of rights.

11. *And be it further enacted by the authority aforesaid,* That this act shall not take effect, nor be in force, until the State of South Carolina shall pass a law establishing this proviso a part thereof.

Read three times, and ratified in General Assembly the 6th day of December, 1788.

ALEXANDER MARTIN, P. S.  
JOHN SITGREAVES, S. C.

## STATE OF NORTH CAROLINA:

I, James Glasgow, Secretary of State aforesaid, do hereby certify the foregoing to be a true copy of the act of Assembly, filed in the Secretary's office.

In testimony whereof, I have hereunto set my hand, at Fayetteville, this 6th day of December, Anno Domini 1788.

JAMES GLASGOW.

## AN ACT to enable the United States to purchase a quantity of land in this State, not exceeding two thousand acres, for arsenals and magazines.

Whereas, the late Secretary of State of the United States, in his letter to the late Governor of this State, did request that he would take proper measures for obtaining the consent of the Legislature of this State, that the United States should purchase a quantity of land in this State, whereon arsenals and magazines might be erected.

1. *Be it therefore enacted by the honorable the Senate and House of Representatives now met and sitting in General Assembly, and by the authority of the same,* That the United States, or such person, or persons, as may be by them authorized, shall have a right to purchase, in any part of this State that may be thought most eligible, the fee simple of any quantity of land, not exceeding two thousand acres, for the purpose of erecting arsenals and magazines thereon, agreeably to the act of Congress, entitled "An act to provide for the erecting and repairing of arsenals and magazines, and for other purposes," passed on the 2d day of April, in the year of our Lord, 1794.

2. *And be it further enacted by the authority aforesaid,* That if the person or persons, whose land may be chosen for the abovementioned purpose, should not be disposed to sell the same; or if the persons appointed to make the purchase, should not be able to agree upon terms, with such owner or owners of the said land, the same shall be valued, upon oath, by a majority of five persons, to be appointed by the court of equity, or court of common pleas of this State, for that purpose; and the land shall be vested in the United States, upon their paying the amount of such valuation to the owner or owners of such land.

3. *And be it further enacted by the authority aforesaid,* That the said land, when purchased, and every person or officer residing or employed thereon, whether in the service of the United States or not, shall be subject and liable to the Government of this State, and the jurisdiction, laws, and authority thereof, in the same manner as if this act had never been passed; and that the United States shall exercise no more authority or power within the limits of the said land, than they might have done previous to the passing of this act, or than may be necessary for the building, repairing, or internal government of the arsenals and magazines to be erected thereon, and to the regulation and management of the same, and of the officers and persons by them to be employed in or about the same: *Provided always,* That the said land shall forever be exempt from any taxes to be paid to the State.

In the Senate House, the 12th day of December, in the year of our Lord 1795, and in the 20th year of the independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBERT BARNWELL,  
*Speaker of the House of Representatives.*

AN ACT to give further encouragement to the proprietors for the opening the navigation of the Catawba and Wateree Rivers.

Whereas the General Assembly of the State of North Carolina, by an act passed at Fayetteville, in the year of our Lord 1788, did incorporate sundry persons therein named, and such others as shall be associated with them, by the title of "The Company for opening the Navigation of the Catawba Rivers," and did grant to them the right of causing a navigation to be made on the rivers aforesaid, by means of dams, canals, and locks, or in such other manner as to them shall seem most fit and convenient, from the South Carolina line, as far up both branches of the Catawba river as may be found practicable, with certain other privileges therein mentioned: *Provided,* That the State of South Carolina agree that no restrictions, duty, or impost, shall be laid on any commodity which is the growth, produce, or manufacture of the State of North Carolina, brought through the said canals or rivers, for sale or exportation; and that the same be exported without re-inspection.

1. *Be it therefore enacted by the honorable the Senate and the House of Representatives in General Assembly met, and it is hereby enacted by the authority of the same,* That no restriction, duty, or impost, shall be laid, by any law to be made by this State, on any commodity which is the growth, produce, or manufacture of the State of North Carolina, brought through the said canals or rivers, for sale or exportation; and that the same may be exported, without any re-inspection to be required by any law of this State, unless the State of North Carolina shall hereafter agree that the said commodities shall be subject to the same regulations of inspection, as the commodities of this State are liable to, coming from the Catawba river: *And provided,* That nothing in this act shall extend to prevent the companies of the Wateree and Catawba navigation, and the company of the Santee navigation, from imposing such tolls on the aforesaid commodities from North Carolina, as they impose on the commodities of the growth, produce, or manufacture of this State, going through their respective navigations.

2. *And be it further enacted by the authority aforesaid,* That nothing contained in the said act of North Carolina shall be construed as a waiver, or relinquishment of the claim of the said State, to part of the territory of this State; but the said claim shall be, and remain, in the same plight, as if this act had not been passed.

In the Senate House, the 12th day of December, in the year of our Lord 1795, and in the 20th year of the independence of the United States of America.

DAVID RAMSAY, *President of the Senate.*

ROBERT BARNWELL,  
*Speaker of the House of Representatives.*

*Rules and By-laws of the Catawba and Wateree Company.*

1. That the stock of the company being divided into six hundred shares, should continue so divided.
2. That on the third Tuesday in March, in every year, the company shall meet in Charleston, when a president and six directors shall be chosen by ballot from among the proprietors; and on the same day a secretary shall be chosen, likewise, by ballot.
3. That, in voting, every proprietor shall be entitled to one vote for every share by him or her held, either in his own right, or as trustee, guardian, attorney, or proxy, for any other proprietor.
4. That any proprietor of full age, by a writing, under his hand, and executed before one witness, may depute any person to vote as proxy for him or her, at any meeting.
5. That no persons shall be elected to the office of president, director, secretary, or any other office, unless he shall have a majority of the votes present.
6. The president and three directors shall form a quorum, and shall transact all such business as shall be committed to them by the said company; but in case of the necessary absence of the president, then any four directors shall form a quorum, and be authorized to do business in the same manner as if the president were present.
7. In case of the absence, incapacity, or death of the president, the directors, or a majority of them, shall choose, by ballot, from among themselves, a person to discharge the duties of that office, until the return of the president, if absent, or otherwise, until the next general meeting and election; and in case of a vacancy by absence, incapacity, or death, in the directorship, the directors, or a majority of them, shall fill up such vacancy, by ballot,

out of the proprietors, who shall continue to fulfil the duties of director, until the next general meeting and election, or the return of such director, if absent.

8. That all orders and transactions, by the president and board of directors, and also all proceedings at any meeting of the proprietors, be copied in a book to be provided and kept for that purpose, and signed by the president, or presiding director, as the case may be; that an account of the proceedings of the board of directors be laid before the company at their meetings, and that, on finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered in the books.

9. That every proprietor shall pay 40s. sterling on each share, on the third Tuesday in the month of September, 1793, and the like sum of 40s. sterling, on the third Tuesdays in March and September, in every succeeding year, until the objects of the company shall be completed. And if the president and a majority of all the directors shall judge it necessary, either to raise a larger or smaller sum than the one specified above, they shall be at liberty to do so, and to call for the same to be paid on the days above-mentioned: *Provided*, The sum so called for on each share, in addition to the aforesaid sum of 40s., directed to be paid in the months of September and March, in every year, shall not exceed 40s.: *Provided also*, That such additional requisition shall be made on the said third Tuesdays in the months of March and September.

10. That if any proprietor shall fail to make any payments, to which by the rules of the company he or she may be liable, when it shall become due, or within three days thereafter, every such proprietor shall forfeit to the company all the preceding payments, and also all his or her interest in the said company.

11. That each and every payment shall be made to one or other of the cashiers of the banks, who is hereby authorized to receive the same, and give receipts on the scrip, and carry the sum so paid to the credit of the company.

12. That the Board of directors take under their direction the funds of the company, that they have powers to settle all past accounts, and to fix the salary and duties of the secretary; to convene the stockholders when they may think proper, (giving at least six days notice thereof) to procure, at the expense of the company, a suitable person, or persons, to plan and execute the whole business; to make any arrangements and contracts they may think proper, for beginning and carrying on the said works, and to do all other things which may be necessary for completing the same, in the best and most expeditious manner. *Provided*, That no contract entered into with one of their own body shall be binding on the company, till it is laid before the stockholders, and approved of by a majority of the members present.

13. That none of the foregoing rules shall be altered at any meeting of the proprietors, unless there shall be present two-thirds of the shares subscribed for, nor then, unless two-thirds of the shares voting shall agree to the alteration.

*Resolved*, That if the establishment of a national arsenal, foundry, manufactory, &c. should be determined to be made at or near the Catawba or Wateree river, that this company will undertake to point their endeavors more immediately to the rendering of the river navigable, with all imaginable expedition, up to the place which shall have been so fixed on for a national arsenal, &c.

*Resolved*, That should the United States find any site proper for such an establishment, on lands belonging, or partly belonging, to this company, that they will cheerfully cede the same to the United States, for such purposes, upon a fair and just valuation.

*At a meeting of the Catawba Company, the 4th of March, 1802, two-thirds of them being present.*

1. On motion resolved, that the six hundred shares in the company of the Catawba and Wateree rivers be subdivided into twelve hundred.

2. That the present proprietors be entitled to hold double the number of their present shares; and that they have besides a preference to extend the number of their shares to one for every ten, to which they shall be entitled after such subdivision.

3. That every new subscriber, who shall pay fifty dollars, shall be entitled not only to the advantages to be derived from the opening of said rivers, but also to a proportionate interest in the lands vested in the company by the Legislature of this State.

4. That where a person has paid any part of the sum required by any former resolution of the company, such person shall be entitled to all the rights and privileges of a proprietor, under this subdivision of shares, upon his paying to the secretary, on or before the first day of May next ensuing, all his arrears which may be then due.

5. That the secretary open the books on the eighth day of March instant, at 10 o'clock in the forenoon of the same day, and so from day to day until the 13th of the said month, inclusive, for the purpose of receiving subscriptions; and that he be authorized to receive, at the time, the sum of fifty dollars, on each and every share, which money shall be paid into the South Carolina bank.

6. That in case more shares should be subscribed for than what are vacant, the same rule of reduction shall be adopted, which lately took place in the subscription to the State bank.

7. That as soon as the subscription is closed, the secretary shall advertise a meeting of the stockholders on the 16th of March, being the anniversary, for the purpose of confirming the old, or establishing such new rules as may be thought necessary, and to organise the company in such a manner as to enable them to begin the work this ensuing summer.

8. *Resolved*, That one hundred shares be reserved to be offered to the State of South Carolina, and that an equal number of shares be reserved to be tendered to the State of North Carolina.

*At an anniversary meeting of the Catawba Company, on Tuesday the 16th instant, the following resolves were entered into:*

“That an advertisement be published, inviting persons to contract for the opening of Graves’s ford, and Love’s ford, so deep and wide as to admit boats drawing two feet nine inches water, and twelve feet wide; also, for opening a road and carrying place from above Rocky Mount to the ferry landing below, and for constructing a bridge across Rocky creek; also, for building a ferry boat to ply across the river, at or near the present landing on Rocky Mount; also, for surveying the vacant lands, which have been already granted them by the Legislature. Such undertakers to give approved security for the faithful fulfilment of their respective contracts, and to direct their applications to the president, Judge Grimke, during the sitting of the constitutional court at Columbia, from

the 19th to the 24th of April next, or to Charles Tew, the secretary, in Charleston, on or before the 15th day of May next ensuing.

"That the president do establish a correspondence with some mercantile house in Camden, and endeavor to obtain permission to lodge with them the moneys of the company, and that they would disburse the same, according to the directions of the company.

"That one hundred shares be offered to the citizens of North Carolina, and that they have to the first day of January next ensuing, to subscribe for such shares; and that General Davie be authorized to appoint some person, or persons, in that State, to receive such subscriptions on the part of the company payable as in the following resolution:

"That Colonel Senf, Colonel Hill, and John Simpson, Esq., clerk of Lancaster court, be authorized to receive subscriptions from such persons as are inclined to become proprietors, and who reside within the limits of this State, and that they take notes, payable to the president and directors of the company for opening the navigation of the Catawba and Wateree rivers, on the first day of May, 1803, and that they be authorized to deliver receipts for the same in the nature of scrip, in such form as the president and directors shall appoint.

"That these resolutions, with the late publication in the papers of this city, as far as the president and directors shall deem necessary and proper, be inserted in Freneau's and Williams's gazettes, in this city; and in the one which is printed at Raleigh, North Carolina, by Joseph Gales, once a month until the 1st of October next.

"That the solicitor of the company be instructed to adopt the most immediate measures for the recovery of such balances, as appear to be due by such proprietors as have paid none of the requisitions for the last eighteen months past, and that the secretary do furnish him with a list of the names of such as are defaulters.

"That the following mode be adopted as the uniform rule of transferring the shares of this company: 'I, A. B. do transfer my right to shares No. forty, (the number to be in letters, and not in numerals) in the company for opening the navigation of the Catawba and Wateree rivers, unto C. D. for value received. Signed A. B. Witnessed by E. F. G. H. Proved on oath before me, by L. M. — J. P.

"That the sum of one shilling and two pence be paid on each share, on the requisition which shall become due on the third Tuesday of September next, ensuing, and the same sum on the third Tuesday of May, thereafter.

SOUTH CAROLINA, ——— 180—.

"Received of ——— a note payable to the president and directors of the company, for opening the navigation of the Catawba and Wateree rivers, for fifty dollars, which, when paid, will entitle him to be a stockholder in the said company.

C. No. 3.

JAMES RIVER CANAL.

SIR:

RICHMOND, October 21, 1807.

Agreeably to your request for answers to *queries respecting canals*, I beg leave to present you with the following; but which, it is feared, may not be so perfect as is wished for.

1. *Points united by canal, and their distance by said canal.*

The points united by the James River Canal, including some intermediate sluicing and locks, are James River, above the great falls at Westham; and parallel with tidewater at and within the city of Richmond, distance between six and seven miles; of this, about one half is a continued cut, terminating in a basin.

2. *Elevation of the highest ground through which canal passes; descent thence to the two extremities; and number of miles where canal is level.*

The cut being generally through low ground, near the margin of the river, and on hill sides, no considerable depth has been necessary in the former; but on the hill side, many hundred yards were nearly of solid rock, with such steep descent that the upper side in some places is probably thirty feet perpendicular; while the lower side was of little more height than sufficient for the embankment and footway. The descent from the upper to the lower end of the continued cut or canal, is about one foot to the mile; the length of this part between three and four miles; the perpendicular height from tide water to the basin about eighty feet.

3. *Number, dimensions, contents, construction and situation of locks.*

There are three locks; two of them eighty feet long, sixteen feet wide in the chamber, and about twelve feet high; the other not so high; they are constructed with hewn stone, situated or bottomed upon solid rock blown out for the purpose; they are filled by side sluices, about three feet square, having the axis or hinge of the gate, at the bottom of the sluice.

4. *Supply of water; whence obtained; its amount reduced to cubic feet per minute, hour, or day; its elevation above the highest point of the canal; length of feeders; situation and contents of reservoirs; what additional resources may be resorted to, if the present supply should fall short of the quantity wanted.*

The supply of water is from an arm of the main river; it is forced by means of a stone dam across the smallest arm, to an island, through a large stone archway or set of gates, sixteen feet in breadth, besides two side arches which may be used if necessary, into a broad canal about two hundred yards in length, down to the locks; depth of water at the gates, generally about four feet; the dam across to the island being kept tight, the supply of water is considered as competent to the demand; no other resource than the river can be obtained.

5. *Designation of such parts of the route, where the natural or improved bed of rivers is used.*

Above the locks, the bed of the river has been improved by sluicing, wing walls, &c., for about two hundred and twenty miles, in a great number of places, to wit: from Westham up to Crows ferry, a short distance above Pattonsburg; and produce is brought down frequently, for about forty miles above that place;\* there are also very

\* It may not be improper to observe here, that if the improvements of the river above Crows ferry (beyond which the James River Company are not bound by the charter to proceed) was extended as far as may be practicable, and this may be effected, it is conceived, at no very great expense, it would reach a part of the country, from whence a road to Greenbrier river may be made; and thus, comparatively, a short portage would connect the head waters of James river with the Western waters, and render the transportation and intercourse easy, safe, and the route much shorter than by any other mode of communication known between the Atlantic and the Western country.

considerable improvements between the lock gates and the upper end of the continued cut or canal; here again the water is raised and forced through a stone arch or gateway into the canal, by means of a stone dam extending into the river.

6. *Depth and breadth of canal; burthen of vessels; breadth of towing paths.*

The canal is generally from three to four feet in depth; the breadth twenty-five feet or more; the vessels are generally about eight tons burthen, but do not commonly take full loads; there are no regular towing paths, except at particular passes where the sluices are rapid; and these are only for men, no horses being used for the purpose of towing, on any part of the work.

7. *Aqueducts across valleys or rivers; tunnels through hills; bridges across the canal.*

There are three aqueducts across the valleys and basin; two of stone, and one of brick, to take off small streams and rain water; no tunnels through hills; three wooden bridges for carriages; and three for foot passengers, across the canal.

8. *Particular obstructions and difficulties surmounted, or to be encountered.*

Immense quantities of stone in the cut or canal have been blown; the lower side throughout puddled with strong clay; the bottom also puddled partially; the difficulties as to these parts of the work are pretty well surmounted. In the river immense quantities of stone above and under water have also been blown; dams and wing walls of stone raised to render the work perfectly complete, although it is now, and for some time past has been, considered as legal in the improvement; yet much labor may be laid out advantageously for extending the utility of the navigation in dry seasons.

9. *Defects either in the plan or execution, and the proposed remedies.*

The defects in the plan arise principally, it is conceived, from an idea which prevailed at the time of its formation, that locks to communicate with tide water were necessary. On this head see the printed statement to the Legislature of Virginia, marked No. 2. Defects in the execution are principally in the locks already erected; for although they are substantial, they leak; no cement which has ever been tried, (and many experiments have been made,) will for any considerable time stand within the joints. This defect in some degree retards the passage of the boats. Skilful artists in cements and proper materials are the remedies looked for, but when or where they will be found is yet uncertain.

10. *Estimate of the tonnage on vessels; species, weight, and value of the articles annually conveyed by the canal; expense of carriage by the canal compared with land or river carriage before canal was made; time employed in navigating through the whole canal.*

No estimate of the tonnage of vessels has been kept; but the transportation of coal alone in the year 1803 required two thousand and twenty-two loads; each load by a boat capable of taking about eight tons when the river is sufficiently high. The printed statement, No. 2, will show the principal articles which passed through the canal in the year 1803; since that period some fluctuation has taken place, as will appear by the extract from the books. The expenses of carriage through the canal, and transportation down the river, from the highest point practicable as it relates to the company, are blended in one tariff; for instance, a hogshead of tobacco pays 2s. 6d., come from where it will. Before the existence of the canal, it was not unusual to pay from nine to twelve shillings per hogshead in winter, and seldom less than 7s. 6d. per hogshead, for the wagonage only from Westham, which is but a very short distance above the locks. In descending it requires about two hours from the locks to the basin; in ascending somewhat more time is necessary.

11. *Capital already expended, vested, or wanted for completing the work.*

The capital expended up to the 1st of January, 1805, will be best explained by reference to the printed statement, No. 2; and up to the present time, including interest on the sums actually advanced and borrowed, as well as on the application of tolls, may I think fairly be stated at between 4 and \$500,000. It cannot at present be ascertained with any precision, what sum will be requisite to complete all the improvements which the work is susceptible of beyond those which the law requires; but the expense yet to be incurred will, in all probability, be very considerable.

12. *Expenses per mile, and in the whole, and as far as practicable of every component part of the work in all its details.*

This must be taken in the aggregate, as the money has been expended on a tract of about two hundred and twenty miles on irregular, detached, and unequal spots, by laborers and superintendents employed for this purpose, no minute account being kept of what each place required, nor any part of the work done in jobs, or by undertakers, renders it impossible now to go into details with any accuracy.

13. *Rate and gross amount of tolls; annual expenses of repairs and contingencies; annual nett income.*

14. *Substance of charters and acts of Legislature on the subject.*

The answers to these two queries, the thirteenth and fourteenth, will appear by reference to the charter and laws, marked No. 1; and by also referring to the printed statement, No. 2, and the extract from the books.

It is regretted that the queries cannot at present obtain more full and perfect answers. Should any particular part of the work be specified, and the cost thereof be required, every information which can be obtained will be furnished with pleasure.

With much respect, I am, sir, your most obedient,

W. FOUSHEE, P. J. R. Co.

*Acts of General Assembly for clearing and improving the navigation of James river.*

AN ACT for clearing and improving the navigation of James river: Passed October session, 1784.

SECTION 1. Whereas the clearing and extending the navigation of James river from tide water upwards to the highest parts practicable on the main branch thereof, will be of great public utility, and many persons are willing

to subscribe large sums of money to effect so laudable and beneficial a work; and it is just and proper that they, their heirs, and assigns, should be empowered to receive reasonable tolls in satisfaction for the money advanced by them in carrying the work into execution, and for the risk they run.

SEC. 2. And whereas it may be necessary to cut canals and erect locks or other works on the sides of the said river, *Be it enacted by the General Assembly*, That it shall and may be lawful to open books in the city of Richmond, the borough of Norfolk, at Botetourt court-house, at the town of Lewisburg, in Greenbrier county, and at Charles Irving's store, in Albemarle, for receiving and entering subscriptions to the amount of \$100,000 for the said undertaking, under the management of Turner Southall and James Buchanan, in the city of Richmond; of Robert Taylor, John Kearnes, and Thomas Newton, Jun., in the borough of Norfolk; of William Cabell and Charles Irving, at Irving's store; Patrick Lockhart and George Skellern, at Botetourt court-house; George Clendinen and Andrew Donnolly, at Lewisburg; which subscriptions shall be made personally or by power of attorney, and shall be paid in Spanish milled dollars, but may be paid in other silver or in gold coin of the same value. That the said books shall be opened for receiving subscriptions on the 1st day of February next, and continue open until the 10th day of August next inclusive; and, on the 20th day of the said month of August, there shall be a general meeting of subscribers at the city of Richmond, of which meeting notice shall be given by the said managers, or any three of them, in the Virginia gazette at least one month before the next said meeting. And such meeting shall and may be continued from day to day until the business is finished. And the acting managers, at the time and place aforesaid, shall lay before such of the subscribers as shall meet according to the said notice, the books by them respectively kept, containing the state of the said subscriptions, and if one-half of the capital sum aforesaid should, upon examination, appear not to have been subscribed, then the said managers at the said meeting are empowered to take and receive subscriptions to make up the deficiency; and a just and true list of all the subscribers, with the sums subscribed by each, shall be made out and returned by the said managers, or any four or more of them, under their hands, into the general court, to be there recorded. And in case more than \$100,000 shall be subscribed, then the same shall be reduced to that sum by the said managers or a majority of them, by beginning at and striking off from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one share, until the sum is reduced to the capital aforesaid of \$100,000, or until a share is taken from all subscriptions above one share, and lots shall be drawn between subscribers of equal sums to determine the number in which such subscribers shall stand on a list to be made for striking off as aforesaid; and if the sum subscribed still exceeds the capital aforesaid, then to strike off by the same rule until the sum subscribed is reduced to the capital aforesaid, or all the subscriptions are reduced to one share; and if there still be an excess, then lots are to be drawn to determine the subscribers who are to be excluded, to reduce the subscriptions to the capital aforesaid, which striking off shall be certified in the list aforesaid; and the said capital sum shall be reckoned and divided into five hundred shares of \$200 each, of which every person subscribing may take and subscribe for one or more whole shares, and not otherwise: *Provided*, That unless one-half of the said capital shall be subscribed, all subscriptions made in consequence of this act shall be void; and in case one-half and less than the whole of the said capital shall be subscribed as aforesaid, then the president and directors are hereby empowered and directed to take and receive the subscriptions which shall be first offered in whole shares as aforesaid, until the deficiency shall be made up, a certificate of which additional subscriptions shall be made, under the hands of the president and directors, or a majority of them for the time being, and returned to and recorded in the general court aforesaid.

SEC. 3. *And be it enacted*, That in case one-half of the said capital or a greater sum shall be subscribed as aforesaid, the said subscribers, and their heirs and assigns, from the time of the said first meeting, shall be, and are hereby, declared to be incorporated into a company by the name of the "James River Company," and may sue and be sued as such; and such of the said subscribers as shall be present at said meeting, or a majority of them, are hereby empowered and required to elect a president and four directors for conducting the said undertaking, and managing all the said company's business and concerns for and during such time not exceeding three years, as the said subscribers, or a majority of them, shall think fit. And in counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share as far as ten shares, and one vote for every five shares above ten, by him or her held at the time in the said company; and any proprietor, by writing under his or her hand, executed before two witnesses, may depute any other member or proprietor to vote and act as proxy for him or her at any general meeting.

SEC. 4. *And be it enacted*, That the said president and directors so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons on behalf of the said company to cut such canals, and erect such locks, and perform such other works as they shall judge necessary for opening, improving, and extending, the navigation of the said river above tide water, to the highest part thereof to which navigation can be extended, and carrying on the same from place to place, and from time to time, and upon such terms and in such manner as they shall think fit; and out of the money arising from the subscriptions and the tolls, and other aids herein after given, to pay for the same, and to repair and keep in order the said canals, locks, and other works necessary thereto, and to defray all incidental charges; and also to appoint a treasurer, clerk, and such other officers, toll-gatherers, managers, and servants, as they shall judge requisite, and to agree for and settle their respective wages or allowances, and to settle and sign their accounts; and also to make and establish rules of proceeding, and to transact all the other business and concerns of the said company, in and during the intervals between the general meetings of the same; and they shall be allowed as a satisfaction for their trouble therein, such sum of money as shall, by a general meeting of the subscribers, be determined. *Provided, always*, That the treasurer shall give bond, in such penalty, and with such security as the said president and directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him, and that the allowance to be made to him for his services shall not exceed three pounds in the hundred, for the disbursements by him made; and that no officer in the said company shall have any vote in the passing or settlement of his own account.

SEC. 5. *And be it enacted*, That the said president and directors, and their successors, or a majority of them, shall have full power and authority, from time to time, as money shall be wanted, to make and sign orders for that purpose, and direct at what time and in what proportion the proprietors shall advance and pay off the sums subscribed, which orders shall be advertised at least one month in the Virginia gazettes; and they are hereby authorized and empowered to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced for carrying on and executing, or repairing and keeping in order the said works, until the sums subscribed shall be fully paid, and to order the said sums to be deposited in the hands of the treasurer, to be by him disbursed and paid out as the said president and directors, or a majority of them, shall order and direct. And if any of the said proprietors shall refuse or neglect to pay their said proportions, within one month after the same shall be so ordered and advertised as aforesaid, the said president and directors, or a majority of them, may sell at auction, and convey to the purchaser, the share or shares of such proprietor so refusing or neglecting payment, giving at least one month's notice of the sale in the Virginia gazette, and after retaining the sum due, and charges



of sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid with the incidental charges, the said president and directors, or a majority of them, may, in the name of the company, sue for and recover the balance by action of debt, or on the case; and the said purchaser or purchasers shall be subject to the same rules and regulations as if the said sale and conveyance had been made by the original proprietor. And to continue the succession of the said president and directors and to keep up the same number.

SEC. 6. *Be it enacted*, That from time to time, upon the expiration of the said term for which the said president and directors were appointed, the proprietors of the said company, at the next general meeting, shall either continue the said president and directors, or any of them, or choose others in their stead; and in case of the death, removal, resignation, or incapacity, of the president, or any of the said directors, may and shall, in the manner aforesaid, elect any other person or persons, to be president and directors in the room of him or them so dying, removing or resigning; and may, at any of their general meetings, remove the president or any of the directors, and appoint others for and during the remainder of the term, for which such person or persons were at first to have acted.

SEC. 7. *And be it enacted*, That every president and director, before he acts as such, shall take an oath or affirmation, for the due execution of his office.

SEC. 8. *And be it enacted*, That the presence of proprietors, having one hundred shares, at least, shall be necessary to constitute a general meeting, and that there be a general meeting of proprietors on the first Monday of October in every year, at such convenient town as shall be, from time to time, appointed by the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend may adjourn such meeting from day to day till a general meeting of the proprietors shall be had, which may be continued from day to day until the business of the company shall be finished, to which meeting the president and directors shall make report, and render distinct and just accounts of all their proceedings; and on finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered on the said company's books; and at such yearly general meetings, after leaving in the hands of the treasurer such sum as the proprietors, or a majority of them shall judge necessary for repairs and contingent charges, an equal dividend of all the nett profits arising from the tolls hereby granted shall be ordered and made to and among all the proprietors of the said company, in proportion to their several shares; and upon any emergency in the interval between the said yearly meetings, the said president, or a majority of the said directors, may appoint a general meeting of the proprietors of the said company, at any convenient town, giving at least one month's previous notice in the Virginia gazettes, which meeting may be adjourned and continued as aforesaid.

SEC. 9. *And be it enacted*, That for and in consideration of the expenses the said proprietors will be at, not only in cutting the said canals, erecting locks, and other works for opening the different falls of the said river, and improving and extending the navigation thereof, but in maintaining and keeping the same in repair, the said canals and works, with all their profits, shall be, and the same are hereby, vested in the said proprietors, their heirs and assigns forever, as tenants in common, in proportion to their respective shares, and the same shall be deemed real estate, and be forever exempt from payment of any tax, imposition, or assessment whatever, and that it shall and may be lawful for the said president and directors, at all times forever hereafter, to demand and receive, at the most convenient place, at or near the falls between Westham and tide water, tolls according to the following table of rates, to wit:

	Parts of a dollar.
Every pipe or hogshead of wine, containing more than 65 gallons,	45-72
Every hogshead of rum, or other spirits,	36-72
Every hogshead of tobacco,	30-72
Every cask between 65 & 35 gallons, half of a pipe or hogshead. Barrels one fourth part, and smaller casks or kegs in proportion, according to the quality and quantity of their contents of wine or spirits.	
For casks of linseed oil, the same as spirits.	
Every bushel of wheat, peas, beans, or flax seed,	5-288
Every bushel of Indian corn, or other grain, or salt,	21-288
Every barrel of pork,	15-72
Every barrel of beef,	10-72
Every barrel of flour,	30-288
Every ton of hemp, flax, potash, bar, or manufactured iron,	\$1 3-72
Every ton of pig iron, or castings,	25-72
Every ton of copper, lead, or other ore, other than iron ore,	60-72
Every ton of stone or iron ore,	12-72
Every hundred bushels of lime,	38-72
Every chaldron of coals,	12-72
Every hundred pipe staves,	6-72
Every hundred hogshead staves, or pipe, or hogshead heading,	15-288
Every hundred barrel staves or barrel heading,	10-288
Every hundred cubic feet of plank or scantling,	25-72
Every hundred cubic feet of other timber,	55-288
Every gross hundred weight of all other commodities or packages,	15-288
Every boat or vessel which has not commodities on board to yield so much; provided that an empty boat or vessel returning, whose load has already paid at the respective places, the sums fixed at each, shall repay toll free,	\$1 3-72

Which tolls may be discharged in foreign gold or silver coin of the present fineness at the present rates. But if any of the coin aforesaid should hereafter be rendered less valuable than they are at present, either by lessening their weight, or therewith adding a greater quantity of alloy than is in them respectively at present, then so much of any of the said coins, the value of which is so reduced, to be received for the tolls aforesaid, as is equal in value to the said coins in their present state of fineness and weight, shall be payable for the said tolls, at their reduced value only. And in case of refusal or neglect to pay the toll at the time of offering to pass through any of the said places, and previous to the vessels passing through the same the collectors of the said tolls may lawfully refuse passage to such vessel; and if any vessel shall pass through without paying the said toll, then the said collectors may seize such vessel, wherever found, and sell the same at auction for ready money, which, so far as is necessary, shall be applied towards paying the said toll, and all expenses of seizure, and the balance, if any, shall be paid to the owner; and the person having the direction of such vessel shall be liable for the toll, if the same is not paid by the sale of such vessel as aforesaid: *Provided*, That the said proprietors, or a majority of them, holding at least three hundred



shares, shall have full power and authority, at any general meeting, to lessen the said tolls, or any of them, or to determine that any article may pass free of toll.

Sec. 10. *And be it enacted*, That the said river, and the works to be erected thereon in virtue of this act, when completed, shall forever thereafter, be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities, and produce whatsoever, on payment of the tolls imposed by this act: and no other toll or tax whatever, for the use of the water of the said river, and the works thereon erected, shall at any time hereafter be imposed: And whereas, it is necessary for the making the said canal locks, and other works, that a provision should be made for condemning a quantity of land for the purpose.

Sec. 11. *Be it enacted*, That it shall and may be lawful for the said president and directors, or a majority of them, to agree with the owners of any land, through which the said canal is intended to pass, for the purchase thereof; and in case of disagreement, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the State, on application to any two justices of the county in which such land shall lie, the said justices shall issue their warrant under their hands, to the sheriff of their county, to summon a jury of twenty-four inhabitants of his county, of property and reputation, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten, nor more than twenty days thereafter; and the sheriff, upon receiving the said warrant, shall forthwith summon the said jury, and, when met, provided there be not less than twelve, shall administer an oath or affirmation to every juryman that shall appear; "That he will faithfully, justly, and impartially value the land (not exceeding in any case the width of one hundred and fifty feet) and all damages the owner thereof shall sustain by the cutting the canal through such land, according to the best of his skill and judgment; and that in such valuation, he will not spare any person for favor or affection, nor any person grieve for hatred, malice, or ill will." And the inquisition thereupon taken, shall be signed by the sheriff, and some twelve or more of the jury, and returned by the sheriff to the clerk of his county, to be by him recorded. And upon every such valuation, the jury is hereby directed to describe and ascertain the bounds of the land by them valued, and their valuation shall be conclusive on all persons, and shall be paid by the said president and directors, to the owner of the land, or his legal representatives; and on payment thereof, the said company shall be seized in fee of such land, as if conveyed by the owner thereof to them, and their successors, by legal conveyance. *Provided*, nevertheless, that if any further damage shall arise to any proprietor of land, in consequence of opening such canal, or in erecting such works, than had been before considered and valued, it shall and may be lawful for such proprietor, as often as any such new damage shall happen by application to, and a warrant from, any two justices of the county where the lands lie, to have such further damage valued in like manner, and to receive and recover the same of the said president and directors. But nothing herein shall be taken or construed to entitle the proprietor of any such land to recover compensation for any damages which may happen to mills, forges, or other works or improvements which shall be begun or erected by such proprietor, after such first valuation, unless the same damage is wilfully or maliciously done by the said president and directors, or some person by their authority.

Sec. 12. *And be it enacted*, That the said president and directors, or a majority of them, are hereby authorized to agree with the proprietors for the purchase of a quantity of land, not exceeding one acre, at or near the places of receipt of tolls aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement or any of the disabilities aforesaid, or the proprietor being out of the State, then such land may be valued, condemned, and paid for as aforesaid for the purpose aforesaid. And the said company shall, upon payment of the valuation of the said land, be seized thereof in fee simple as aforesaid. And whereas some of the places through which it may be necessary to conduct the said canals, may be convenient for erecting mills, forges, or other water works, and the persons, possessors of such situation, may design to improve the same, and it is the intention of this act not to interfere with private property but for the purpose of improving and perfecting the said navigation.

Sec. 13. *Be it enacted*, That the water, or any part thereof, conveyed through any canal or cut made by the said company, shall not be used for any purpose but navigation, unless the consent of the proprietors of the land through which the same shall be led, be first had; and the said president and directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done, to answer both the purposes of navigation and water works aforesaid, to enter into reasonable agreements with the proprietors of such situation, concerning the just proportion of the expenses of making large canals or cuts capable of carrying such quantities of water as may be sufficient for the purposes of navigation, and also for any such water works as aforesaid.

Sec. 14. *And be it enacted*, That it shall and may be lawful for every of the said proprietors to transfer his share or shares, by deed executed before two witnesses, and registered, after proof of the execution thereof, in the said company's books, and not otherwise, except by devise, which devise shall also be exhibited to the president and directors, and registered in the company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls. *Provided*, That no transfer whatsoever shall be made, except for one or more whole share or shares, and not for part of such shares; and that no share shall at any time be sold, conveyed, transferred, or held in trust, for the use and benefit, or in the name of another whereby the said president and directors, or proprietors of the said company, or any of them, shall or may be challenged, or made to answer concerning any such trust, but that every person appearing as aforesaid to be a proprietor, shall, as to the others of the said company, be to every intent taken absolutely as such, but as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

Sec. 15. *And it is hereby further provided*, That each proprietor who shall be desirous of selling his share or shares, shall first offer the same to such person as shall be hereafter empowered by the General Assembly to purchase shares on public account; and it is hereby declared that such person acting for the commonwealth, shall have the preference in all such sales, if he will give the same consideration for which the proprietor shall really and *bona fide* sell. And whereas, it hath been represented to this General Assembly, that sundry persons are willing and desirous, on account of the great public advantages and improvement their estates may receive thereby, to promote and contribute towards so useful an undertaking, and to subscribe sums of money to be paid on condition the said works are really completed and carried into execution, but do not care to run any risk, or desire to have any property therein.

Sec. 16. *Be it therefore enacted*, That the said president and directors shall be, and are hereby, empowered to receive and take in subscriptions upon the said condition, and upon the said works being completed and carried into execution, according to the true intent and meaning of this act, that it shall and may be lawful for the said president and directors, or a majority of them, in case of refusal or neglect of payment, in the name of the company as aforesaid, to sue for, and recover of the said subscribers, their heirs, executors, or administrators, the sums by them respectively subscribed, by action of debt, or upon the case in any court of record within this State.

Sec. 17. *And be it enacted*, That if the said capital and the other aids already granted by this act shall prove insufficient, it shall and may be lawful for the said company from time to time to increase the said capital by the addition of so many more whole shares as shall be judged necessary by the said proprietors, or a majority of them, holding at least three hundred shares, present at any general meeting of said company; and the said president and

directors, or a majority of them, are hereby empowered and required, after giving at least one month's previous notice thereof in the Virginia gazettes, to open books in the beforementioned places for receiving and entering such additional subscriptions, in which the proprietors of the said company for the time being shall and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid of taking and subscribing for so many whole shares as any of them shall choose. And the said president and directors are hereby required to observe in all other respects the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner to return under the hands of any three or more of them an exact list of such additional subscribers, with the sums by them respectively subscribed, into the general court as aforesaid, to be there recorded; and all proprietors of such additional shares shall, and they are hereby declared to be, from thenceforward incorporated into the said company.

Sec. 18. *And be it hereby enacted and declared,* That the tolls herein before allowed to be demanded and received at the place abovementioned are granted, and shall be paid on condition only that the said "James River Company" shall make the river well capable of being navigated in dry seasons by vessels drawing one foot water at least from the highest place practicable to the Great Falls, beginning at Westham, and shall at or near the said falls make such cut or cuts, canal or canals, with sufficient locks if necessary, each of eighty feet in length, and sixteen feet in breadth, as will open a navigation to tide water in all places at least twenty-five feet wide, except at all such locks, and capable of conveying vessels or rafts drawing four feet water at the least into tide water, or shall render such part of the river navigable in the natural course.

Sec. 19. *And it is hereby provided and enacted,* That in case the said company shall not begin the said work within one year after the said company shall be formed, or shall not complete the same within ten years thereafter, then shall all the interest of the said company, and all preference in their favor as to the navigation and tolls aforesaid be forfeited, and cease: *Provided,* That in case the navigation shall be opened from Westham to tide water before the opening of the river above Lynch's Ferry, the tolls abovementioned may be collected until the expiration of ten years from the time at which the company shall have been formed.

Sec. 20. *And be it further enacted,* That the treasurer of this commonwealth shall be authorized and directed to subscribe to the amount of one hundred shares in behalf of the same, and the money necessary in consequence of such subscription shall be paid as the same shall be required. And the treasurer for the time being shall have a right to vote according to such shares, in person or by proxy appointed by him, and shall receive the proportion of the tolls aforesaid, which shall from time to time become due to this State for the shares aforesaid.

Sec. 21. *And be it further enacted,* That so much of every act and acts within the purview of this act shall be, and the same is hereby, repealed. *Provided, nevertheless,* That nothing in this act shall be construed so as to take away the right which the representatives of John Balentine have to that part of the canal which is already begun, and to all the advantages resulting from the same; but the same shall be valued by a jury in manner and form as is before directed, and the said representatives shall be entitled to so many shares in the said company and to so much of the surplus water as the said jury shall determine; or they shall receive at their option the value thereof in money, to be estimated by the said jury.

AN ACT vesting in George Washington, Esq. a certain interest in the companies established for opening and extending the navigation of Potomac and James rivers: Passed October session, 1784.

SECTION 1. Whereas, it is the desire of the representatives of this commonwealth to embrace every suitable occasion of testifying their sense of the unexampled merits of George Washington, Esq. towards his country; and it is their wish in particular that those great works for its improvement which, both as springing from the liberty which he has been so instrumental in establishing, and, as encouraged by his patronage, will be durable monuments of his glory, may be made monuments also of the gratitude of his country.

Sec. 2. *Be it enacted by the General Assembly,* That the treasurer be directed, in addition to the subscriptions he is already authorized to make to the respective undertakings for opening the navigations of the Potomac and James rivers to subscribe to the amount of fifty shares to the former, and a hundred shares to the latter, to be paid in like manner with the subscriptions above mentioned; and that the shares so subscribed be, and the same are hereby, vested in George Washington, Esq. his heirs and assigns forever, in as effectual a manner as if the subscriptions had been made by himself or by his attorney.

AN ACT to amend the act entitled "An act for vesting in George Washington, Esq. a certain interest in the companies established for opening and extending the navigation of James and Potomac rivers:" Passed October session, 1785:

Whereas, by an act entitled "An act for vesting in George Washington, Esq. a certain interest in the companies established for opening and extending the navigation of James and Potomac rivers," and reciting "that whereas it is the desire of the representatives of this commonwealth to embrace every suitable occasion of testifying their sense of the unexampled merits of George Washington, Esq. towards his country; and it is their wish in particular that those great works for its improvement which, both as springing from the liberty which he has been so instrumental in establishing, and, as encouraged by his patronage, will be durable monuments of his glory, may be made monuments also of the gratitude of his country:" It is enacted "that the treasurer be directed, in addition to the subscriptions he is already authorized to make to the respective undertakings for opening the navigations of Potomac and James rivers to subscribe to the amount of fifty shares to the former, and one hundred shares to the latter, to be paid in like manner with the subscriptions above mentioned; and that the shares so subscribed be, and the same are hereby, vested in George Washington, Esq. his heirs and assigns forever, in as effectual a manner as if the subscriptions had been made by himself or by his attorney." And whereas the said George Washington, Esq. in his letter addressed to the Governor, which has been laid before the General Assembly, hath expressed his sentiments thereupon in the words following, to wit: "Your excellency having been pleased to transmit me a copy of the act appropriating to my benefit certain shares in the companies for opening the navigation of James and Potomac rivers, I take the liberty of returning to the General Assembly, through your hands, the profound and grateful acknowledgments inspired by so signal a mark of their beneficent intentions towards me. I beg you, sir, to assure them that I am filled on this occasion with every sentiment which can flow from a heart warm with love for my country, sensible to every token of its approbation and affection, and solicitous to testify in every instance a respectful submission to its wishes. With these sentiments in my bosom, I need not dwell on the anxiety I feel in being obliged in this instance to decline a favor which is rendered no less flattering by the manner in which it is conveyed than it is affectionate in itself. In explaining this obligation, I pass over a comparison of my endeavors in the public service, with the many honorable testimonies of approbation which have already so far overrated and

overpaid them; reciting one consideration only, which supersedes the necessity of recurring to every other. When I was first called to the station with which I was honored during the late conflict for our liberties; to the diffidence which I had so many reasons to feel in accepting it, I thought it my duty to join a firm resolution to shut my hand against every pecuniary recompense; to this resolution I have invariably adhered—from this resolution (if I had the inclination) I do not consider myself at liberty to depart. While I repeat, therefore, my fervent acknowledgments to the Legislature for their very kind sentiments and intentions in my favor, and at the same time beg them to be persuaded that a remembrance of this singular proof of their goodness towards me will never cease to cherish returns of the warmest affection and gratitude, I must pray that their act, so far as it has for its object my personal emolument, may not have its effect. But if it should please the General Assembly to permit me to turn the destination of the fund vested in me from my private emoluments to objects of a public nature, it will be my study in selecting these to prove the sincerity of my gratitude for the honor conferred on me by preferring such as may appear most subservient to the enlightened and patriotic views of the Legislature." And whereas, the desire of the General Assembly to mark by the provision above mentioned their sense of the illustrious merits of the said George Washington, Esq. at the same time that it is strengthened by this fresh and endearing proof of his title to the gratitude of his country, is superseded by their respect for his disinterested wishes and patriotic views.

SEC. 2. *Be it enacted*, That the said recited act, so far as it vests in George Washington, Esq. and his heirs the shares therein directed to be subscribed in his name, shall be, and the same is hereby, repealed.

SEC. 3. *And be it further enacted*, That the said shares with the tolls and profits hereafter accruing therefrom, shall stand appropriated to such objects of a public nature, in such manner and under such distributions as the said George Washington, Esq. by deed during his life, or by his last will and testament, shall direct and appoint.

AN ACT to amend an act entitled "An act for clearing and improving the navigation of James river." Passed October, 1785.

Whereas, by the act entitled "An act for the clearing and improving the navigation of James river," it is among other things provided that the first subscription should not exceed the sum of \$100,000, and that no toll should be demanded except in a particular case before the said river should be rendered capable of being navigated in dry seasons by vessels drawing one foot of water at the highest place practicable to the Great Falls: And whereas it hath been represented to the General Assembly that it may be necessary to extend the sum to be subscribed, and to put the depth of the canals in the discretion of the company, and the point to which the navigation is directed to reach before the demand of the tolls, is, by being too vague, a discouragement to adventurers.

SEC. 2. *Be it therefore enacted by the General Assembly*, That it shall be lawful for the said company at any general meeting to extend the shares so as not to exceed one hundred in addition to those already subscribed, and to proportion the depth of the water in the canals to the depth of water in the river in dry seasons.

SEC. 3. *And be it further enacted*, That Crow's ferry, at the mouth of Loony's creek, shall be forever taken and deemed to be the highest place practicable within the meaning of the above-recited act: And whereas, it may be found expedient for the said company to borrow money to answer the purposes of their institution:

SEC. 4. *Be it further enacted*, That it shall be lawful for the president and directors to give an interest of six per centum upon all sums of money that shall be lent to them for the carrying on of the work.

AN ACT giving a more speedy remedy against delinquent subscribers to the Potomac and James river companies: Passed the 1st of December, 1787.

SECTION 1. Whereas, it hath been represented to the General Assembly that the opening of the navigation in Potomac and James rivers hath been retarded by the failure of many of the members of the companies instituted for the purpose of effecting the same to pay their respective subscriptions: And whereas, the mode of recovery now established by law hath been found wholly inadequate thereto, and works of such general utility, to which the commonwealth hath already advanced several sums of money, from time to time, as the same hath been called for, ought not to be frustrated by the delinquency of individuals:

SEC. 2. *Be it therefore enacted by the General Assembly*, That, if any subscriber to the Potomac or James river company now is, or hereafter shall be, in arrear for any sum or sums of money called for in pursuance of either of the two acts of General Assembly, the one entitled "An act for opening and extending the navigation of Potomac river," and the other entitled "An act for opening and extending the navigation of James river," it shall and may be lawful for a majority of the directors of each company to recover any such sum or sums of money from such subscriber, in the general court, at any additional or other session thereof, together with all legal costs, by way of motion to the court: *Provided*, The person against whom such notice may be made hath ten days previous notice thereof: *Provided, also*, That, if the person against whom such motion may be made, or his attorney, shall desire a jury to be empannelled, the court shall direct a jury to be immediately charged to try whether he did assume to pay, and whether he hath paid; but the said directors shall not be required to prove that he did so assume, until he shall have first made oath that he did not so assume; and it shall be lawful for the said court to direct judgment to be entered upon the verdict rendered, with costs, and execution shall issue thereupon, returnable to any day of the said session of the general court which the said court shall direct.

SEC. 3. So much of the said recited acts of Assembly as comes within the purview of this act is hereby repealed.

SEC. 4. *Provided, always*, That so much of this act as relates to the Potomac company shall be suspended until the Legislature of the State of Maryland shall pass a law to the same effect.

AN ACT to amend an act entitled "An act establishing district courts, and for regulating the general court." Passed December 17, 1789.

SECTION 8. The general court shall have jurisdiction to hear and determine motions against the delinquent subscribers of the Potomac and James river companies.

AN ACT to amend the act entitled "An act for clearing and improving the navigation of James river:" Passed Dec. 25, 1790.

SECTION 1. Whereas, it is represented to the General Assembly that the navigation of James river is much obstructed by hedges and fish-traps:

SEC. 2. *Be it therefore enacted by the General Assembly,* That, if any persons shall hereafter make, or cause to be made, any hedges, fish-traps, or other obstructions in the said river, or any of the navigable branches thereof, from the upper end of the James river canal to the highest navigation of the said river or the branches thereof, so as to impede or injure the passage of batteaux or canoes, shall forfeit and pay the sum of £100 for each offence, to be recovered by bill, plaint, or information in any court of record, one-half for the use of the informer, the other half for the use of the commonwealth.

AN ACT to amend the act entitled "An act for clearing and improving the navigation of James river:" Passed Dec. 20, 1790.

SECTION 1. Whereas, it hath been represented to the present General Assembly that the original sum subscribed by the James river company as a capital for improving the navigation from Crow's ferry, in the county of Botetourt, to tide water opposite the city of Richmond, is nearly expended, and it becomes necessary to make further provision for completing the work, by increasing their capital stock:

*Be it therefore enacted,* That it shall and may be lawful for the president and directors of the said company to open new subscriptions for two hundred shares, in addition to the five hundred shares already subscribed; and books for that purpose shall be opened by the president and directors of the said company, in the same manner and at such places as directed by an act entitled "An act for clearing and improving the navigation of James river," and at such other places as the said president and directors, or a majority of them, shall think proper; those who shall become proprietors of shares by subscriptions as aforesaid shall be secured in their interest of the said company, be liable to all the conditions, and subject to all the penalties, as prescribed in the said recited act, and also one other act entitled "An act giving a more speedy remedy against delinquent subscribers to the Potomac and James river companies."

SEC. 2. The treasurer for the commonwealth shall be, and he is hereby, empowered and required to subscribe, in behalf of the commonwealth, for one hundred shares in the new subscriptions to be opened for extending the capital of the said company for the purpose aforesaid: *Provided always, and be it further enacted,* That the treasurer shall, on behalf of the commonwealth, subscribe not more than fifty shares, until the like number shall be subscribed for by private citizens; after which the treasurer may subscribe, from time to time, as many shares as shall be subscribed by individuals, so as not to exceed fifty more shares, and so as to make up one hundred additional shares on public account.

SEC. 3. And whereas, by the said recited act, a right of pre-emption is reserved to the commonwealth of purchasing such share or shares as the proprietors in the James river navigation shall offer for sale, and there having been no agent as yet appointed, agreeably to the said recited act, to make such purchases:

*Be it therefore enacted,* That the treasurer, for the time being, shall, and he is hereby authorized and empowered to purchase, in behalf of the commonwealth, so many shares in the said company as shall be offered for sale, provided the same shall not exceed fifty shares, nor exceed the sum to be paid by the original proprietor for each share.

SEC. 4. It shall be the duty of the directors of the said James river company to make return once in every year, between the first day of October and the first day of November, to the treasurer of this commonwealth, of the delinquent subscribers for shares in the said company, and the said directors may make sale thereof, at such time and place as they shall appoint, with consent of the treasurer, giving at least three months' previous notice thereof in some of the public newspapers; and, if any of the shares of such delinquents shall sell for less than the amount for which such delinquents may be in arrears, the directors shall forthwith cause the most effectual legal measures to be taken for the recovery of such arrears.

AN ACT for regulating the navigation of James river, above the falls of the said river: Passed December 17, 1791.

SECTION 1. *Be it enacted,* That every person who shall be proprietor of any boat or other vessel which shall be employed in navigating the waters of James river and its branches above the Great Falls at Richmond, in the transportation of any produce or merchandise whatsoever, either raised or manufactured within this commonwealth, or imported from any other place without the same, shall, in the clerk's office of the county in which the said proprietor or proprietors shall then live, enter the number of each boat or vessel so to be employed, which number, together with the name of the county, and the name of the owner or owners of such boat or vessel, shall be written or painted on each side of the said vessel, on some conspicuous part of the outside thereof, in large and plain letters, not less than four inches in length.

SEC. 2. If the owner or owners of any boat or vessel which shall be employed in navigating the waters of the said river, above the falls thereof as aforesaid, shall fail to enter in the clerk's office as aforesaid the name or names of the owner or owners, the name of the county in which he or they shall reside, and the number of each boat or other vessel as aforesaid, or shall fail to write or paint the name or names of the owner or owners of the said boat or other vessel in manner above directed, so as to continue plain and legible as long as the said boat or other vessel shall be employed in navigation, he, she, or they shall forfeit and pay the sum of twenty shillings for every day he, she, or they shall neglect to comply with the purposes of this act, to be recovered by any person who may sue for the same, by warrant from a magistrate, allowing the said owner or owners one month after the first day of April next, to attend to the requisitions aforesaid.

SEC. 3. This act shall commence and be in force after the first day of April next.

AN ACT giving further time to the James river company to complete the navigation thereof: Passed November 14, 1793.

SEC. 1. *Be it enacted by the General Assembly,* That the further time of six years from and after the period mentioned in and by an act of Assembly, passed in the year 1784, entitled "An act for clearing and improving the navigation of James river," shall be, and is hereby, allowed the James river company to complete the said work, and any thing in the said recited act to the contrary notwithstanding.

SEC. 2. This act shall commence in force from the passing thereof.

*Report of the agents of the James River Company.*

The agents for the James river Company consider it as a duty incumbent on them, whenever any important step with the affairs of the company is about to be taken, to give the fullest information in their power to all who are concerned; and, as the commonwealth of Virginia is deeply interested in a bill now before the House of Delegates, beg leave respectfully to present to each member of the Legislature a statement of the situation of the company from its commencement to the present day. Facts ascertained on oath, and an equitable calculation, to show the expense to which the commonwealth and individuals have been subjected, independent of the risk that has been run of a failure in the undertaking altogether, and the ground on which the remuneration promised in the act of incorporation, for laborious services, which have at length successfully eventuated in great benefits to the community, as well as to particular individuals in a very considerable district of country, is confidently expected. Various acts of the Legislature, from the year 1784 to 1798, inclusive, have passed relative to the James river Company.

The act of incorporation has had several alterations made in it, such as extending the capital; ascertaining the highest point of navigation; extending the time for completion; the borrowing of money at six per cent., and suspending the erection of locks from the basin to tide water, until the Legislature shall think it reasonable to enforce the same.

The stock of the company consisted originally in five hundred shares of \$200 each, and was increased two hundred shares, so as to constitute an aggregate of \$140,000; of this the State now holds two hundred and fifty shares, or \$50,000, independent of a donation made of one hundred shares, or \$20,000.

The requisitions on the original five hundred shares commenced on the first day of December, 1785, and ended on the 20th February, 1791; those on the two hundred additional shares (in subscribing for which the commonwealth would only go hand in hand with private individuals) commenced on the first day of April, 1792, and ended, as appears by the date of the last payment on the auditor's books, on the 24th day of December, 1795, previous to which time the whole number of shares were subscribed for under the law; that, in the year 1796, the funds being exhausted, the company were compelled to resort to loans; and many of the individual proprietors advanced considerable sums, which have been repaid with six per cent. interest.

This work has progressed under considerable difficulties, at great labor and expense, and at much risk to those engaged in it; for a long time the prospect of succeeding was gloomy; and, until very lately, it has not afforded any compensation either to the public or to individuals.

As agents for the said company, we do not pretend that all the improvements on the bed of the river which we think necessary are yet made, although, in common dry seasons, it is considered that the law has been complied with; the company, however, are going on to do what they consider as requisite, and which their own interest calls for as fast as the seasons and circumstances will permit. They have, at proper seasons, employed for this purpose a manager, with a suitable number of hands for his superintendance, for eight years out of the last nine years; four years of this time, to wit, 1796, '98, '99, and 1800, their exertions were on the bed of the main river, between Crow's ferry and Lynchburg; in 1801, '2, '3, and '4, the labor has been bestowed, for the same purpose, below Lynchburg. Upwards of \$7,000 have been spent on the bed of the main river, and upwards of \$4,000 on its branches, to wit, on Willis's to Cairo; on the Rivanna to Milton; and on the North river, above the mountain, to Lexington; thus extending the benefits of navigation laterally from fifteen to forty-five miles, so as to embrace about fifty or sixty miles in breadth, causing an expenditure of upwards of \$11,000 on the beds of the rivers, independent of a sum, probably, but little inferior in amount, by holding themselves in a state of preparation to work on the bed of the main river, which expense, but for such preparation, would not otherwise have been necessary; a very considerable sum, indeed, will still be requisite to complete the improvements contemplated thereon.

We are willing to admit, that, although in the uncommon drought of the year 1803, the full depth of water required in the river by the act of incorporation may not have been found in all places, yet, from the testimony made to a committee on this subject during the last session of Assembly, the difference was very inconsiderable. Mr. Edmund Tate, on that occasion, proved on oath, that although he did not think the improvement on the bed part of the river was agreeable to law, yet that he considered the shallowest sluices to have at least nine or ten inches depth of water in them; and he also stated, that *twelve inches* of water through those shoals would not, in his opinion, bring down more than two or three hogheads of tobacco. This subject has been since fully ascertained, as will appear by the affidavits hereunto subjoined, and which prove that Mr. Tate, who was produced as a witness against the company, gave a more correct opinion than was then generally entertained on that head. An experiment has been made, and proof obtained, that four thousand and fifty pounds weight will sink a common batteau or boat one foot into the water, and that an empty batteau will draw seven inches and a half of water.

In the extensive improvements made and contemplated by this company, their first object has been *safety*; their second, *facility of conveyance*. This system they have pursued, and mean still to pursue; their inclination, duty, and interest all combine to make the navigation, at an early period, as safe and easy as may be practicable on any rational foundation; and that their exertions have not been without effect, is evinced by the quantity of produce brought down the river in the year 1803, to wit: 16,917 hogsheds of tobacco; 170,588 bushels of wheat; 58,183 barrels of flour; 34,248 bushels of corn; 2,022 coal boats; besides a variety of other articles, making, altogether, a transportation much greater than in any former year, notwithstanding the extreme dryness of the season in which the diminution of the water in the river was unparalleled (they believe) in the memory of man. In the present year, 1804, they are sorry to say, that the produce has been much less, to wit, a deficiency of upwards of three thousand hogsheds of tobacco; nearly one hundred thousand bushels of wheat; upwards of twenty thousand barrels of flour; and near ten thousand bushels of corn; yet the river has been much fuller than in the preceding year, and it is not understood that tobacco, wheat, or flour have remained on hand up the river; this deficit is supposed to arise from the shortness of the crop.

One-half of all sums received by the company, and disposed of in dividends, go to the public, and to those to whom they have made the donation spoken of; the rate of dividends, previous to the last, sent annually \$6,000 into the treasury, and \$2,400 were also furnished to the support of the Washington academy, and then left a sum sufficient to commence and prosecute the improvements on the bed of the river, as fast as reason and propriety would justify. We regret sincerely the cause which rendered the dividend for the last six months to be twenty-five per cent. less than former ones, and then left only a trifling balance, (less than £50,) to commence the operations of the new year with, a sum much inferior to what has been heretofore retained for this purpose.

It may here not be amiss to observe that, in addition to the capital stock of -	£42,000	0	0
The interest thereon, at 6 per cent. from the dates of various requisitions, which commenced on the first day of December, 1785, to the first day of January, 1802, when the first dividend took place, amounts to -	£31,131	13	9

Making, in principal and interest, before any remuneration whatever to the public or to individuals was had, of - £73,131 13 9

This sum is independent of the applications of money arising from tolls, rents of water and of ground, and which became indispensably necessary, as every aid by loans at 6 per cent. proved to be inadequate, and all further prospect of obtaining funds in that way had ceased.

The tolls commenced partially in April, 1794, half only being then demanded, and in 1796 full tolls were received. These to the 1st January, 1802, before any dividend was made, amounted to - - - - - £21,992 14 7½

Since that period, with the rents to the 1st January, 1805, they have produced a further sum of - - - - - 18,799 6 11½

Making altogether an aggregate of - - - - - 40,792 1 7¼

The dividends commenced in 1802, and have been continued to 1st January, 1805, and amount, in the whole, only to - - - - - 13,490 0 0

If this sum is deducted from the tolls, rents of water and of ground, it will then leave, from this source, an expenditure on the work of - - - - - £27,302 1 7¼

Which, being added to the principal and interest, is - - - - - £100,453 154½

We consider this statement of expenses actually incurred as giving a fair and full view of the subject on that head, and is one which we trust will prove satisfactory. The paltry sum retained, as has been already stated, (less than £50,) is too inconsiderable to merit notice, and is, therefore, not deducted.

If it should be thought equitable that an interest ought to be looked for on all money actually expended, then it will require upwards of six thousand pounds per annum to give legal interest, a sum greater than the tolls have ever produced in one year; but if the interest shall be confined to the principal money advanced, with its simple interest thereon, and that for no longer a term than until the dividends commenced, it will be found that £73,131 13 9 will require for six per cent. interest, the sum of £4,386 1 2 annually. In the last six months only £1,890 could be spared for division, and which for that period is but four and a half per cent. on £42,000, instead of having an interest on the sum of £73,131 13 9 expended independent of the money which arose from tolls, &c.; but whatever the sum may be, which is produced by the tolls, &c., it should be remembered that the whole cannot be applied to dividends; so far from it, that a very large proportion is annually to be applied in supporting the establishment, and carrying on the work. In the last year these amounted to upwards of £1,500; in the present year a much greater sum will probably be requisite.

That the risk which the commonwealth and individuals have run in the success of this work, may not be considered as chimerical, or resting on assertion only, we beg leave to refer to the affidavits and certificates on this subject hereunto annexed, in which it will be seen that shares of sixty pounds value, which had been fully paid up, were sold for a great length of time far below par; that, in the summer of 1792, they were worth only forty to forty-five pounds per share, and that about ——— they were so far reduced in value, as to be actually disposed of at twenty-five pounds per share, so greatly were they depreciated on account of the risk, or bad prospect of success.

We will not trespass on your time, by referring to instructions to managers sent up to improve the bed of the river, or to their reports thereon; nor make statement of disappointments in aid expected, and which had been promised by some of those who are now complaining, further than to say, that the gentlemen of Lynchburg had, in the year 1803, at their own request, through their agent Mr. Christopher Clarke, almost a *carte blanche* given them, to have the work contiguous to themselves done in their own way, and by persons of their own choosing; and that their drafts on the company should be paid; all which they declined, but of which they did not inform us until too late to be remedied that season on that part of the river. In the last year, 1804, they were solicited, through several of their respectable and influential citizens, to advise or direct the manner of the improvements near them, or to procure some person, in whom they had confidence, to superintend the execution of the work; although the latter has been partly complied with, yet we are sorry to find, in contradiction to a report made to us by the person we sent up, and not contradicted by their superintendent, but will be supported, we are told, by him, clamors continue to be made by the inhabitants of that town, of negligence and want of inclination in the company to comply with the law.

Thus much we have thought it necessary to say in vindication, confining ourselves to the improvements wished for on the bed of the river; and beg leave to remark, that the bill alluded to, as it now stands, goes to criminate the company. Can this be right, before a just ascertainment is actually made by impartial and adequate judges, of the true state of the improvements which may be necessary to comply with the act of incorporation, if any such further improvements shall be found necessary? We think not, and contend that the improvements are complete, as to law, but not as to the interest or intentions of the company. Should not the bill be altered herein, and be so worded as only to produce a selection of upright, able, and disinterested persons to view the river, and make report? This we cordially invite, and only suggest that, as it would be highly improper for a shareholder to be appointed, we consider it equally so that any petitioner, or resident in the counties bordering on the river, should be selected for this purpose.

As to the section of the bill respecting locks, we shall be very brief: The session of 1798 passed a law suspending their erection until the company should consider them necessary, or a future Legislature shall think it reasonable to enforce their execution. The preceding statement and remarks would, in our opinion, be fully sufficient, of themselves, to show, that at present, and, perhaps for a very considerable time to come, it would be highly unreasonable to enforce the erection of locks, or incur the expense to communicate with tide water. But there are other reasons, strong, indeed, why it will be improper to do this, viz:

A descent of eighty-six feet perpendicular will require a very considerable number of locks, say twelve to fifteen, to give a rational ground of security, and, with the greatest care, they are subject to sap and blow up, passing principally through earth only. The cost of those locks will, in our judgment, be upwards of twenty thousand pounds. This sum, if expended for this purpose, will preclude not only the expected remuneration to the public, and to individuals, or a great length of time, but will prohibit the improvements contemplated and thought necessary by the company for the bed of the river, beyond what has been, or can be, forced from them by law; and thus the public treasury would lose, for a very considerable time indeed, probably not less than six thousand dollars per year; the valuable support of education, on the state of which the freedom or slavery of a country depends, will be withdrawn, in all probability, to an amount of more than two thousand four hundred dollars per annum; and individuals, who advanced and risked their money, will be deprived of an annual income equal to both these mentioned. For such a sacrifice some evident and solid benefit to the community should, at such a juncture, press hard indeed. Is this

the case? Has it been known, or can it be proved, that one cent more has ever been given for the hundred, nay for the hoghead of tobacco, at Rocket's warehouse, than for a like quantity at Shockoe? We know that it has not. Besides, will any prudent merchant ship inspected tobacco, which has come down by water, without stripping and seeing that it is free of damage? This cannot be done in the upland boats, but is generally done in the public or private warehouses, and certainly makes the basin the most proper place for landing the tobacco.

Much stress has been laid on the necessity for locks to facilitate the transportation of coal from the basin. Experience has proved that coal, water borne, cannot be lodged at Rocket's, in safety, without encountering an expense which that article will not bear, and that it is better to pursue the present mode. In proof of this, we refer to the subjoined affidavit of a gentleman well conversant on this subject, and much interested in this article. The same reason will apply to all bulky and heavy articles.

But, admitting the locks to be erected, will there not then be additional expense by loss of time in passing and repassing them; in hand hire to unload; in detention of the vessel and crew, if the vessel shall be ready to receive the load, (but which more frequently will not be the case,) and if no vessel be ready then, to deposite the produce in, security from freshets, &c. which are frequently very sudden, can only be done by placing it in a situation very considerably elevated; to do this, will require more expense than the present mode, independent of the shipping of it afterwards. In addition, we observe that the state of the river is so fluctuating, and the unfitness of small boats loaded, to pass or remain in tide water when the wind blows, is so manifest, that no prudent man will, in our opinion, ever place a reliance on this mode of transporting valuable produce from the basin to Rocket's, although his vessel may sometimes be ready to receive it; and that if the means for land carriage should be once destroyed, great injury must be the consequence in blowing weather, or if any accident should happen to a single lock.

As to small boats, such as are fit for the upper navigation, being able to proceed in the mildest state of the river, or in the calmest weather any distance below Rocket's, it seems almost unnecessary to deny. Will any rational being, carrying on trade, employ, at great risk, a boat capable of holding but a few hogsheds of tobacco, say six to ten, if you will, and which requires at least three prime hands to manage her, when, at Rocket's, he can get a vessel carrying one hundred hogsheds, or upwards, and which will require perhaps not more than three hands to transport the whole in perfect safety, and with infinitely more expedition? It is certainly unnecessary to say more on this part of the subject.

With much regret we find ourselves compelled, in justice to the public, as well as that we owe to the individuals represented by us, to say that we consider the bill now before the Legislature as being premature in its censure, as it takes for granted that which is yet to be ascertained, and, therefore, so far as this is embraced and connected with the clause directing a communication with tide water, we consider it to be at least *impolitic* and *unreasonable*.

*Impolitic*—Because, in the present happy and affluent condition of our common country, and that of the State of Virginia in particular—the surplus wealth, of which there is much, ought to be employed in useful improvements of a general nature—when censure can be easily procured, or the advantages which may fairly and equitably be looked for under acts of incorporation, be withheld or withdrawn under pretext and without due proof, every incentive to engage in arduous and hazardous undertakings is completely destroyed, and thereby works of the most promising utility totally prevented; for if neither credit nor emolument can be counted on with some certainty, who will engage in such works? We have said that it is

*Unreasonable*—Because if, after encountering every risk and difficulty, and an expense far greater than what was ever calculated on, and before scarcely any reimbursement worth mentioning shall be had, those who have already suffered, are to be forced into a further expense, perhaps more than a moiety of what was at first contemplated for the whole, and this, too, for an object, to say the best of it, extremely problematical, and which, under existing circumstances, we deem totally useless, proves to demonstration, in our judgment, that to enforce the measures intended by the bill will be highly unreasonable.

Permit us to ask, is it reasonable that those who have contributed to a work confessedly of great public utility, should be permitted to obtain comparatively nothing on their money? and this must be the inevitable result if the bill passes into a law in its present form, while they see others not engaged in such useful pursuits, and where they run no risk, gaining, perhaps, double the profits they can expect.

Is it reasonable to prevent an annual return into the public treasury of a large sum to replace, or compensate by the alleviation from taxes, for money which has been drawn indiscriminately from the pockets of the citizens at large, and to employ the money so withheld, on an object, the utility of which, to say the most in its favor, is extremely doubtful, and is one, in our judgment, which cannot benefit the planter or the farmer even in the district in which it is to be expended. Convinced that it is not reasonable, and impressed with a full hope and belief that the information herein given, will meet with serious consideration and a just and equitable decision, we rest confident that the bill, on the subject of the James river Company, will be confined to the appointment of competent, upright, and disinterested men to view and decide on the improvements made, or necessary to be made, on the bed of the main river, in conformity to the act of incorporation.

W. FOUCHEE, *President*.  
 EDW. CARRINGTON,  
 GEO. PICKETT,  
 ROBERT GAMBLE,  
 JAMES BROWN. } *Directors.*

RICHMOND, January 14, 1805.

CITY OF RICHMOND, *scilicet*:

This day, Hezekiah Mosby, of lawful age, personally appeared before me, magistrate of the city aforesaid, and made oath in due form, that, some few days ago, in the presence of Mr. Orris Paine and Mr. John Smith, he measured the depth of water which two empty boats drew, and that each boat required seven and a half inches of water to float in; that he also measured, at the same time, a loaded boat, and that she drew one foot and nine inches; that he saw the coal taken out of the boat, and that the load, by the coal-yard measure, was one hundred and eighty-three bushels, and that forty-five bushels of coal sunk the boat one foot into the water; that he carefully weighed twenty-five bushels of coal measured as above; that he averaged the bushel, and found that the forty-five bushels of coal weighed only four thousand and fifty pounds, and that he saw one hoghead of tobacco brought down in a boat, which weighed two thousand seven hundred and thirteen pounds net.

Given under my hand this 14th day of January, 1805.

H. MOSBY.

Sworn to before me, this 15th January, 1805.

JOHN ADAMS.

CITY OF RICHMOND, *scilicet*:

This day, John Smith, of lawful age, personally appeared before me, a magistrate for the city aforesaid, and made oath in due form, that some few days ago, in the presence of Mr. Orris Paine and Mr. Hezekiah Mosby, he mea-



sured the depth of water which two empty boats drew, and that each boat required seven and a half inches of water to float in; that he also measured, at the same time, a loaded boat, and that she drew one foot and nine inches; that he saw the coal taken out of the boat, and that the load, by the coal-yard measure, was one hundred and eighty-three bushels, and that forty-five bushels of coal sunk the boat one foot into the water.

Given under my hand this 14th day of January, 1805.

JOHN M. SMITH.

Sworn to, before me, this 15th January, 1805.

JOHN ADAMS.

RICHMOND, December 31, 1804.

I do certify that I sold and received for three and one-half shares in the James river Company, on the 1st day of April, in the year 1792, the net sum of one hundred and fifty-five pounds; and on the 1st day of June, in the same year, I received for one share, the sum of forty pounds only. This appears from my own, and from the books of John and Samuel Greenhow of Richmond, of which house I was a partner, and made the entries in the primary books of that co-partnery at that time, mostly in my own hand.

SAMUEL GREENHOW.

JANUARY 15, 1805.

I do certify, that some time in the year 1789, or 1790, I sold a James river share for twenty-five pounds, the full sum being then paid thereon to the said company.

SAMUEL McCRAW.

CITY OF RICHMOND, *to wit*:

This day, Orris Paine, of lawful age, personally appeared before me, a magistrate for said city, and made oath in due form, that he has been for many years constantly, and to considerable extent, engaged in coal works; that all his coal comes down the river in boats; that he saw two empty boats measured which were of the common form and size, by H. Mosby and John Smith; that each boat drew seven and a half inches of water; that he saw, at the same time a loaded boat measured also, and that, with what he judged not to exceed two hundred bushels of coal, the boat drew one foot and nine inches of water; that he has always considered coal, by accurate measure, to weigh less than eighty pounds weight to the bushel; and that he thinks empty boats in general draw eight inches water; that if the locks were now erected, he would not send his coal down to Rocket's in batteaux to be taken out and deposited there, being convinced that it would cost more to do this, and ship it afterwards, than in the present mode, independent of the risk to be incurred, and which he has no doubt would be considerable, if left upon the wharves; and that he considers the boats fit for the upper navigation are not proper to pass loaded into tide water, even as far as Rocket's.

ORRIS PAINE.

Given under my hand, this 14th day of January, 1805.

GEORGE FISHER.

*Amount of produce brought down the canal of James river in the following years, viz:*

	Tobacco, hhds.	Wheat, bushels.	Flour, bbls.	Corn, bushels.	Bar iron, tons.	Coal boats.	Cast'gs, tons.	Plank, feet.	Barrel, staves.	Cwt.	Spirits, hhds.	
From Jan. 1, 1804, to Jan. 1, 1805,	13,881	78,687	50,732	25,993	60 $\frac{3}{4}$	1,953	31	350	1,200	1,027	140 $\frac{1}{4}$	\$15,115 24
From Jan. 1, 1805, to Jan. 1, 1806,	15,162	71,382	38,672	6,724	32 $\frac{1}{2}$	2,110	32 $\frac{3}{4}$	-	-	1,026	156 $\frac{3}{4}$	16,748 95
From Jan. 1, 1806, to Jan. 1, 1807,	15,160	77,991	37,818	10,814	55 $\frac{1}{2}$	1,782	31 $\frac{1}{2}$	-	6,500	937	124 $\frac{1}{2}$	14,792 47

The season of 1806 having been uncommonly dry was the cause of the toll for that year being short of the preceding.

C. No. 4.

THE POTOMAC RIVER.

SIR:

GEORGETOWN, January 20, 1808.

The letter which you did me the honor to address me on the 29th of July last, enclosing copy of a resolution of the Senate of the United States respecting roads and canals, and of several queries on that subject, and asking for detailed information as to the canals and other improvements of the Potomac river, would have been much sooner replied to, but that I have not, until a few days, been able to recover some papers belonging to the files of the Potomac Company, necessary to be referred to on this occasion, which had been loaned to a gentleman in the upper country and mislaid.

I will proceed, sir, by taking the queries in the order in which they have been stated, to detail, in the most accurate manner in my power, such information as I have been able to collect from the documents of the Potomac Company, (all of which the board of directors have given me permission to use,) and from such other sources as come within my reach at this time.

*Query 1st.* Points united by canal, and their distance by said canal.

On the main Potomac in descending—

The first canal is conducted on the right bank of the river and unites the points immediately above and below House's falls; (five miles above Harper's Ferry;) their distance by the canal fifty yards.

The second canal is conducted on the left bank, round the Shenandoah falls; (immediately above Harper's;) distance, by the canal, 1,760 yards.

Third canal, on the right bank, round Seneca falls; (eight miles above the Great falls;) distance by the canal, 1,320 yards.



Fourth canal, on the right bank, unites the points immediately above and below the Great falls; distance, by the canal, including a basin and 5 locks, 1,200 yards.

Fifth canal, on the left bank, unites the point immediately above the Little falls and tide water; distance, by the canal, including 3 locks, 3,814 yards.

On the Shenandoah, a branch of the Potomac, which comes in at Harper's Ferry in descending:

First canal, on the left bank, round Little falls, 8 miles above the junction of the Shenandoah with the Potomac; distance, by the canal, including a basin and 1 lock, 180 yards.

Second canal, on the left bank, round Wilson's upper falls; distance, by the canal, including 1 lock, 730 yards.

Third canal, on the left bank, round Bull's falls; distance by canal, (including a chute,) 300 yards.

Fourth canal, on the left bank, round Wilson's lower falls; distance, by canal, including one lock, 600 yards.

Fifth canal, on left bank, round Saw-mill falls; distance, by canal, including 2 locks, 580 yards.

There are a number of small canals and cuts, which draw off the water of the river partially in different places, not enumerated.

*Query 2d.* Elevation of the highest ground through which canal passes; descent thence to the two extremities, and number of miles where canal is level.

This inquiry seems to contemplate canals supplied from sources other than the river to be navigated. It may not, however, be improper to state here the difference of level in the several canals enumerated, all of which are supplied by water taken from the river, conducted round falls in said river too rapid for boats to encounter, and returned to it below said falls respectively.

On the main Potomac—

The first canal round House's falls; difference of level, (between the two extremities,) 3 feet.

Second canal, round Shenandoah falls, difference of level, 15 feet.

Third canal, round Seneca falls, difference of level, 7 feet.

Fourth canal, round the Great falls, difference of level, 76 feet 9 inches.

Fifth canal, round the Little falls, and to tide water, difference of level, 37 feet 1 inch.

#### ON THE SHENANDOAH.

First canal, round Little falls, difference of level between the two extremities, 10 feet 6 inches.

Second canal, round Wilson's upper falls, difference of level, 12 feet 6 inches.

Third canal, round Bull's falls, difference of level, 4 feet.

Fourth canal, round Wilson's lower falls, difference of level, 6 feet 6 inches.

Fifth canal, round Saw-mill falls, difference of level, 17 feet.

*Query 3d.* Number, dimensions, contents, construction, and situation of locks.

On the Potomac and Shenandoah, there are now 13 locks and 1 basin (on the lock principle) in use, and in good repair.

On the Potomac, at the lower extremity of the canal at the Great falls, 5.

*Dimensions.*—One, length 100 feet; width 14 feet; lift 10 feet; contents 18,200 cubic feet; construction, rectangular, walled with hewn freestone; sluice gates discharge through the larger gates.

One, length 100 feet; width 12 feet; lift 16 feet; contents 22,800 cubic feet; construction, rectangular, of hewn stone; sluice gates discharge as before described.

One, length 100 feet; width 12 feet; lift 14 feet; contents 20,400 cubic feet; construction as the last.

Two, length 100 feet; width 12 feet; lift 18 feet; contents 25,200 cubic feet each; construction, rectangular, blown out of the solid rock; the natural rock worked tolerably smooth, forming the sides; some mason work being used where the fixtures are inserted for supporting the gates. The sluice gates in these locks, as in several of the others that are deep, do not lift, but are made of cast iron, and turn on a pivot fixed in the centre; so that when the sluice is open, this little gate, or stopper, is turned edgewise to the stream; they work very easy, and are managed in deep locks more readily than those on the ordinary construction.

At tide water, at the canal at the Little falls, 3.

*Dimensions.*—Length 100 feet; width 18 feet; lift 11 feet; contents 23,400 cubic feet each; construction, of wood, rectangular; sluice gates discharge as described for those at the Great falls.

On the Shenandoah, at Little falls, 1 lock, length 100 feet; width 12 feet; lift 8 feet; contents 13,200 cubic feet; construction, walled with granite, and freestone near the gates, rectangular; sluices discharged through the principal gates; and 1 basin immediately above and adjoining the lock, elliptic, 130 feet from gate to gate, and 150 feet across; lift 2 feet; the upper gate serving as a guard-gate; walled as the lock.

At Wilson's upper falls, 1 lock, length 100 feet; width 12 feet; lift 12 feet; contents 18,000 cubic feet; construction as the last.

At Wilson's lower falls, 1, length 100 feet; width 12 feet; lift 6 feet; contents 10,800 cubic feet; construction as the last.

At Saw-mill falls, 2, one of which, length 100 feet; width 12 feet; lift 9 feet; contents 14,400 cubic feet; the other of same length and width; lift 8 feet; contents 13,200 cubic feet; construction of these, same as the last described.

To the 4th query, as it appears to relate entirely to canals, supplied otherwise than those on the Potomac, there seems to be here nothing to reply.

*Query 5th.* Designation of such parts of the route, where the natural or improved bed of rivers is used.

The natural or improved bed of the main Potomac river, and of its branches, the Shenandoah, the Conococheague, and the Monocacy, are now used, except such parts of the main Potomac and Shenandoah as are intersected by the canals already described; that is to say:

Of the main Potomac from Savage river to tide water: distance by the river, from actual admeasurement, canals included, 218 miles and 350 yards; canals deducted, (to wit: at House's falls, Shenandoah falls, Seneca falls, Great falls, and Little falls,) 213 miles and 1,006 yards.

Of the Shenandoah, from Port Republic to its junction with the Potomac: distance by the river, from estimation attentively made from point to point, canals included, 200 miles; canals deducted, (to wit: at Little falls, at Wilson's upper falls, at Bull's falls, at Wilson's lower falls, at Saw-mill falls,) 198 miles 1,130 yards.

Of the Monocacy, from Pipe creek to its mouth, 40 miles.

Of the Conococheague, 14 miles above its mouth.

*Query 6th.* Depth and breadth of canal; burden of vessels; breadth of towing paths—

The principal canals, viz. on the Potomac at the Great falls and Little falls, are 6 feet deep, 25 feet broad at top, and 20 feet at bottom; the other canals on the Potomac and Shenandoah are from 16 to 20 feet wide, and 4

to 5 feet deep. Burden of the boats which navigate the Potomac and its branches, average 10 tons; breadth of towing paths, where they are carried on walls, from 4 to 6 feet; when on the land, from 8 to 10 feet.

*Query 7th.* Aqueducts across valleys or rivers; tunnels through hills; bridges across the canal.

Of aqueducts or tunnels, there are none; of bridges, none of any note, although there are several across the different canals, substantial, though rough, on which wagons and other carriages pass.

*Query 8th.* Particular obstructions or difficulties surmounted, or to be encountered.

The extent of the navigable waters of the Potomac, above tide water, is, by actual survey on the main Potomac, by what is called the north branch as before stated, 218 miles, 350 yards. By estimation: on the Conegocheague, 24 miles; the Monocasy, 40 miles; Patterson's creek, 20 miles; the South Branch, 100 miles, the Cape Capeton, 20 miles; the Opecon, 25 miles; the Shenandoah, from Port Republic to its mouth, 200 miles; on the north fork, (which branches at 60 miles from the mouth,) by Stover's town, 60 miles. It is further believed the navigation may, one day, be extended from Port Republic, by the middle fork, to the mouth of Lewis's creek, 20 miles, and within 6 miles of Staunton, and thence, by Lewis's creek, to Staunton.

On all this vast extent of interior navigation, stretching, in different directions, through a fertile and well cultivated country, the greatest obstructions and difficulties have been surmounted, to wit: the conducting by canals, and locking the water round the principal falls, as before particularly described; and the reducing to a regularly inclined plane, by canals, the water round the lesser falls. Much has been done from Savage river to tide water on the main Potomac; and, on the Shenandoah, from the first fork downwards, a distance of 60 miles; on the Monocasy, from Pipe creek to its mouth, 40 miles; on the Conegocheague, near its mouth, and improving the bed of the river by blowing rocks, by running wing walls to collect the water; by making cuts on either side, which draw the water partially from the river into better channels, and, by erecting cradles or chutes, to pass boats.

Nothing has yet been done on the upper part of Conegocheague; on Patterson's creek; on the South branch; on Cape Capeton; on Opecon; or on the Shenandoah above the Great Fork.

On all these the bed of the river remains to be improved; and it is further proper to say, that, in many places where much labor has already been expended to improve the bed of the river, considerable work yet remains to be done, to make it well capable of navigation in times of low water. The locking and canaling requisite for locks, are every where executed; unless it may be found at a future day, that, at the Shenandoah falls, on the Potomac, one or two locks would be useful, as the fall in the canal at that place is considerable, and, to ascending boats, presents some difficulty.

On the Shenandoah, a river remarkably well suited to navigation, as, from its mouth to Port Republic, (200 miles,) it preserves nearly an equal width, and the fall, for this whole extent, is estimated to be not more than 435 feet; that is to say:

From Port Republic to Hawk's Bill, 80 miles, fall	-	-	-	175 feet.
From Hawk's Bill to the Great Fork, 60 miles, fall	-	-	-	95
From Great Fork to Little falls, 52 miles, fall	-	-	-	85
From Little falls to the mouth of the river, 8 miles, fall	-	-	-	80
				435 feet.

This estimation, both of distances and falls, is believed to be nearly accurate, as it was done by a judicious man, Mr. Leonard Harbaugh, sent in a boat for the purpose, by the Potomac Company, in the summer of 1805, from Harper's Ferry to Port Republic, and by him noted from point to point. No actual survey or level of that river has yet been taken. All the locking and canaling necessary, from the little falls downwards (eight miles) being finished, but little remains to be done.

On the Potomac, as the fall is more considerable, a perfect improvement of the bed of the river will be more difficult. By actual survey and admeasurement, made in the year 1789, by Colonel George Gilpin and Mr. James Smith, for the Potomac Company, from the mouth of Savage river to Cumberland; distance, by the river, 30 miles 2 quarters and 13 perches; the fall was found to be 445 feet. And from Fort Cumberland to tide water, distance 187 miles 2 quarters and 50½ perches; fall, 715 feet 7¼ inches. But, for more particular information on this head, a copy of their works is sent, herewith, (marked A,) showing the distances and falls, from point to point, through the whole extent of the river.

*Query 9th.* Defects either in the plan or execution, and the proposed remedies.

Many errors of minor importance were, no doubt made in the commencement and prosecution of this great work; and not a little money was lost, for the want of the necessary practical knowledge in its early stages, as it was the first work of the kind undertaken in this part of the country. Most of these, however, were gradually remedied by experience, and it is believed that no material defect remains to be cured, but in two instances. The first, in the construction of four of the locks; three of these were constructed of an improper material, *wood*; and all the four made larger than requisite, thereby not only having gone to a greater expense in the construction than was necessary, but being constantly taxed with a loss of time and water in filling them.

The three locks at the Little falls of the Potomac were the first executed; they were made eighteen feet wide, and of wood. The next which was finished was the upper lock at the Great falls; this was made fourteen feet wide. A little further experience satisfied the directors of the company that the width of twelve feet was sufficient for any vessels that would navigate this river, and so were formed all that followed. The remedy in this case, as to the upper lock at the Great falls, was soon applied; its greater capacity, aided by an adjoining basin, was made to serve to fill more readily the lower locks. At the Little falls the remedy to both defects, the materials and dimensions, is yet to be applied. It is proposed, when the wood decays, to rebuild of granite, (of which there is a quarry of excellent quality on the canal just above, belonging to the company, reserved for the purpose,) and then to contract them to twelve feet in width. In the next instance, it is now thought that, in the labor applied on the bed of the river, too much has been done in removing rocks, and that obstructions to the passing off of the water have sometimes been mistaken for obstructions to navigation. It is proposed, in such places as will admit of that mode of improvement, to erect a series of small, cheap dams across the river, thereby to back the water from station to station, and to leave such falls, generally, as a boat's crew will readily push or haul-up against in ascending; and as will not be dangerous in descending. It is also believed that, in the progress of the improvement of the bed of the river, it will be found best, in many places, to cut additional small canals on either side, through the land, round the more considerable obstacles.

*Query 10th.* Estimate of the tonnage of vessels; species, weight, and value of the articles commonly conveyed by the canal; expense of carriage by canal, compared with land or river carriage before canal was made; time employed in navigating through the whole canal.



might, with the tolls accruing, continue to give to the gradual improvement of the bed of the river, a reasonable sum annually, and yet divide, from time to time, in about the same proportion. They made a small dividend of \$5 55 per share. During the winter following, the Legislature of Virginia granted them the charter for the Shenandoah; since when, it has been judged by the stockholders better to withhold all the tolls, and to borrow money, than to create new stock for the purpose of opening that river. What the annual income will be, at a future day, taking into consideration the vast extent and fertility of the country watered by these streams, may be well conjectured from the data now furnished, though, perhaps, it is not proper here to attempt an estimate.

*Query 14th.* Substance of charters and acts of Legislatures on the subject.

The original acts of the Legislatures of Virginia and Maryland, incorporating the Potomac Company, passed during their respective sessions of the winters of 1783 and 1784, they are verbatim the same; and by them it is provided that the capital stock of the company then authorized, should consist of 500 shares of \$444 $\frac{1}{2}$  each, making \$222,222 $\frac{1}{2}$ ; with power, from time to time, to increase the said capital, by the addition of so many more whole shares as may be judged necessary by the proprietors, or a majority of them, holding at least three hundred shares, present at any general meeting of the company. That the business and concerns of the company shall be managed by a president and four directors, appointed for a term not exceeding three years, and who shall take an oath, faithfully to execute the duties of the office, with power to appoint a treasurer, clerk, and other officers, and, generally, to conduct their affairs in and during the intervals between general meetings of said company. That there shall be a general meeting of the stockholders on the first Monday of August in every year. That the presence of proprietors, holding one hundred shares at least, shall be necessary to constitute such a meeting, to which the president and directors shall make report, and render distinct and just accounts of all their proceedings; and, if found fairly and justly stated, record thereof to be made on the company's books. That at such yearly meetings, dividends of nett profits arising from the tolls may, in the judgment of those holding a majority of the shares present; be ordered to be paid. That, in the appointment of president and directors, and in transacting all business of general meetings, each member shall be allowed one vote for every share as far as ten, and one vote for every five shares above ten, held respectively at the time. That proprietors may vote by proxy duly authorized in writing. That, in case of delinquency in payment of any instalment on shares called for, the president and directors have power to sell at auction such delinquent share; and if the amount of sale be not sufficient to satisfy the amount then unpaid thereon, and the charges of sale, to sue for, and recover of the original proprietor such balance. That the president and directors have power to agree with the owners of any lands, through which the canals, locks, or other works may be intended to pass, not exceeding 140 feet in width, or for any quantity not exceeding one acre, at each of the toll places, for erecting the necessary buildings; and in case of disagreement, or inability, or absence from the State of the owner, a jury shall be empannelled to describe and value such land, and all damages to be sustained by the proprietor; and, on payment of such valuation, the company shall be seized in fee of such land, as if to them and their successors conveyed by the owner. That the water conveyed through any canal or cut made by the company shall not be used by them for any purpose but for navigation, unless with the consent of the proprietor of the land through which the same shall be led. That transfers of shares shall be made only by deed executed before two witnesses, and registered on the company's books; and by devise, which shall be exhibited to the president and directors, and registered in like manner, before it can take effect.

That the said canals, locks, and other works, with all their profits, are vested in the said proprietors, their heirs, and assigns forever, as tenants in common, in proportion to their respective shares; and that the same shall be deemed real estate, and be forever exempt from payment of any tax, imposition, or assessments whatever; and that it shall and may be lawful for the said president and directors at all times forever thereafter, to demand and receive tolls for all commodities transported through either of them, at or near the places, and according to the rates as specified. (See paper K.) That the proprietors, or a majority of them, holding at least three hundred shares, in general meeting convened, have power to lessen any of the said tolls, or to determine that any article may pass free of toll. That, in case of refusal to pay the tolls, the collector may restrict the passage of any vessel so refusing; and if any pass without paying the tolls, then the collector may seize such vessels wherever found and sell her at auction to satisfy said toll; and if such sale produce not enough to satisfy the tolls due, the person having the direction of such vessel to be liable for the deficiency.

That the said river, and the works to be erected thereon, when completed, shall forever thereafter be esteemed, and taken to be navigable, as a public highway, free for the transportation of all produce and goods, on payment of the tolls so imposed, and that no other toll or tax for the use of the waters thereof, shall, at any time thereafter, be imposed by both or either of the States of Virginia or Maryland; and that all the commodities, of the produce of either of the said States, or of the Western country, which may be carried or transported through the said locks, canals, and river, may be landed, sold, or otherwise disposed of, free from any other duties, regulations, or restrictions, of any kind, than the like commodities of the produce of the State, in which the same may happen to be so landed, sold, shipped, or disposed of.

By acts of the State since passed, foreigners are made capable of holding stock in the company. And all fish-dams and other obstructions to navigation in the Potomac or its branches above tide water are declared nuisances. Any person is at liberty to remove such obstruction, and a fine of fifty dollars for every offence, recoverable in any court or record, is imposed on those in any way concerned in making or keeping up such obstructions.

By acts of the Virginia Legislature, passed in 1802 and 1803, the charter to open the river Shenandoah and its branches was granted to the Potomac Company, whereby all the canals and works which they may make and erect on said river and branches, with their profits, are vested in the stockholders of the Potomac Company, their heirs and assigns forever, as tenants in common, in proportion to the shares held by them respectively, on the same terms and conditions as before provided for said company, as relates to the Potomac river, and with the same right, in case of nonagreement or disability, to have a jury summoned to condemn land necessary for their works, &c.; and they are authorized to demand and receive at such place on the Shenandoah, as they shall think proper, the tolls or rates specified in the paper L, hereunto annexed, and the said tolls are secured to the company forever, in same manner as those on Potomac were secured to them by the Legislatures of Virginia and Maryland. And the president and directors are empowered, if they deemed it necessary, to increase the capital of the company, by opening books and receiving subscriptions for one hundred shares, additional to those then held by them, at the rate of one hundred and forty-five pounds sterling each, which, being paid, the respective subscribers to be deemed members of the said company, and entitled to receive their full dividends and proportions of the tolls therein mentioned.

With an earnest hope that I have noticed every thing material contemplated in the queries propounded, and with very great respect, I have the honor to be,

Sir, your very obedient servant,

J. MASON.

The Hon. ALBERT GALLATIN, Esq., *Secretary of the Treasury.*

## A.

The different falls in the Potomac river levelled, and the distance of the river surveyed by Colonel Geo. Gilpin and James Smith, in July and August, 1789; beginning at the mouth of Savage to Shenandoah Falls; and from Shenandoah Falls, to tide water, below the Little Falls, by James Smith, at different times, viz:

	Miles.	Quarters.	Perches.	Feet & inches fall.
From the mouth of Savage to the mouth of George's creek, -	2	-	63	61 5½
From the mouth of George's creek to the mouth of New creek, -	5	3	50	129 2½
From the mouth of New creek to Fort Cumberland, -	22	1	60	254 4
From Fort Cumberland to Evitt's creek, -	4	2	5	34 2
From Evitt's creek to the road on the river side from Cumberland, -	7	-	39	33 3
From where the Cumberland road joined the river to Patterson's creek, -	1	2	27	6 0
From Patterson's creek to Mr. Wm. Moore's, -	2	3	7	15 0
From Mr. Wm. Moore's to Mr. Joseph Spriggs, Old Town, -	4	-	49	11 9
From Mr. Joseph Spriggs' to the mouth of South Branch, -	1	3	15	6 1
From the mouth of South Branch to Town creek, on Mr. Greg's, -	2	2	44	13 7
From Mr. Greg's to Mathias Brant's, -	4	-	77	25 0½
From Math. Brant's to the lower end of the Tumbling Dam's Falls, -	6	3	41	35 1
From the Tumbling Dam's Falls to the lower end of the Bear's Falls, -	-	3	32	00 0
From the lower end of the Bear's Falls to Mr. David Mitchell's house, -	4	1	72	16 6
From Mr. Mitchell's house to General Washington's bottom, -	5	3	42	23 1½
From General Washington's bottom to Fifteen Mile creek, -	4	3	30	13 11
From Fifteen Mile creek to Sideling Hill creek, -	4	1	39	14 1½
From Sideling Hill creek to Great Cape Capon, -	2	2	10	13 6½
From the mouth of Great Cape Capon to the Little Conalaway creek, -	8	-	67	27 9½
From the mouth of Little Conalaway creek to Hancock town, -	-	2	3	00 6
From Hancock town to Great Conalaway creek, -	-	3	4	00 0
From Great Conalaway creek to Licking creek, -	6	-	48	24 6
From Licking creek to opposite Fort Frederick, on Back creek, -	4	1	24	17 6
From Fort Frederick on Back creek to the lower end of Garrison's Falls, -	1	1	36	4 10
From the lower end of Garrison's Falls to Boyd's Ferry, -	1	-	48	00 0
From Boyd's ferry to the mouth of Little Conegocheague, -	6	2	6	23 2½
From Little Conegocheague, or Caroner's mill, to the mouth of Great Conegocheague, -	5	3	24	25 1
From the mouth of Great Conegocheague to the mouth of Opecking, -	8	3	8	48 3½
From the mouth of Opecking to Shepherdstown, -	17	1	24	35 9
From Shepherdstown to the head of Shenandoah Falls, just below Keep Tryste furnace, -	10	-	52	22 2
From the head of Shenandoah Falls to the lower end of the islands at Payne's Falls, -	5	1	53	43 1½
From the lower end of the islands at Payne's Falls to the head of Seneca Falls, -	32	-	8	13 9½
From the head of Seneca Falls to Broad Run, -	2	1	19	15 0
From the mouth of Broad Run to the Great Falls, at the mouth of the canal, -	5	3	26	9 9
The fall at the Great Falls, -	-	-	-	76 9
From the head of the canal at the Great Falls to the head of the canal at the Little Falls, -	9	2	36½	29 4
Fall at the Little Falls, -	-	-	-	37 1
The length of the canal at the Little Falls, -	2	2	75½	-
Total, -	218	-	63½	1,160 7¼

Rise of the Allegany mountain, from the mouth of Savage river, which is 8½ miles to its summit, at Moses Williams's, is 2,097 feet 6½ inches perpendicular.

## B.

Statement of sundry kinds of produce which descended the river Potomac, between the 1st day of August, 1799, and the 1st of August, 1800, with their estimated value.

	Value in dollars.	Am't of tolls taken thereon.
16,585 barrels of flour, at 7 dollars per barrel, -	116,095	} \$1,891 75
46 barrels of pork, at 15 dollars per barrel, -	690	
84 barrels of whiskey, at 18 dollars per barrel, -	828	
25 hogsheads of tobacco, at 40 dollars per hogshead, -	1,000	
Flax seed, hemp, butter, potash, dry and wet goods, &c. &c.	10,801	246 75
Total, -	129,414	2,138 50

The weight of the above articles estimated at 1,643 tons.

## C.

Statement of sundry kinds of produce which descended the river Potomac, between the 1st day of August, 1800, and the 1st of August, 1801, with their estimated value.

	Value in dollars.	Am't of tolls taken thereon.	
100 hogsheads of tobacco, at 40 dollars per hogshead, - - -	4,000 00	} 1,111 21	
28,209 barrels of flour at 10 dollars per barrel, - - -	282,090 00		
619½ barrels of whiskey, at 18½ dollars per barrel, - - -	11,461 00		
40 barrels of pork, at 15 dollars per barrel, - - -	600 00		
17 barrels of bacon, at 16½ dollars per barrel, - - -	286 00		
23 barrels of fish, at 4½ dollars per barrel, - - -	103 50		
14 barrels of oil, at 32 dollars per barrel, - - -	448 00		
2 barrels of potash, at 35 dollars per barrel, - - -	70 00		
33 barrels of lime, at 1 54 cents per barrel, - - -	50 82		
30½ tons of bar iron, at 105 dollars per ton, - - -	3,208 50		
157 tons of pig iron, at 37½ dollars per ton, - - -	5,887 50		
Ship-timber, corn meal, fruit, flax, &c. - - -	14,060 00		
Sundry articles up the river, - - -	3,370 00		53 77
Cord wood, &c. at the Little Falls, - - -	2,810 00		45 21
Total, - - -	328,445 32		\$4,210 19

The weight of the above articles estimated at 2,993 tons.

## D.

Statement of sundry kinds of produce which descended the river Potomac, between the 1st day of August, 1801, and the 1st of August, 1802, with their estimated value.

	Value in dollars.	Am't of tolls taken thereon.
5 hogsheads of tobacco, at 50 dollars per hogshead, - - -	275 00	} 3,479 69
17,253 barrels of flour, at 7½ dollars per barrel, - - -	129,397 50	
379 barrels of whiskey, at 18½ dollars per barrel, - - -	7,011 00	
120 barrels of pork, at 15 dollars per barrel, - - -	1,800 00	
16 barrels of butter, at 21½ dollars per barrel, - - -	344 00	
700 bushels of corn, at 60 cents per bushel, - - -	420 00	
224 bushels of lime, at 44 cents per bushel, - - -	98 56	
28½ tons of bar iron, at 105 dollars per ton, - - -	2,940 00	
210 tons pig iron and castings—pig iron 37½ dollars per ton, castings 120 dollars, - - -	11,170 00	
850 pounds of hemp, - - -	85 00	
4,800 pounds of bacon, at 11 cents per pound, - - -	528 00	
Ship timber, scantling, flax seed, firewood, &c. - - -	9,847 00	
Total, - - -	163,916 06	

The weight of the above articles estimated at 1,952 tons.

## E.

Statement of sundry kinds of produce which descended the river Potomac, between the 1st day of August, 1802, and the 1st of August, 1803, with their estimated value.

	Value in dollars.	Am't of tolls taken thereon.
32 hogsheads of tobacco, at 60 dollars per hogshead, - - -	1,920 00	} 9,077 18
45,055 barrels of flour, at 6 dollars per barrel, - - -	270,330 00	
92 barrels of pork, at 15 dollars per barrel, - - -	1,380 00	
575 barrels of whiskey, at 18 dollars per barrel, - - -	10,350 00	
79 kegs of butter, at \$9 60 per keg, - - -	766 66	
75½ tons of bar iron, at 105 dollars per ton, - - -	7,927 50	
405 tons of pig iron and castings—pig iron 37½ dollars per ton, castings 120 dollars, - - -	19,725 00	
4,382 bushels of wheat, at \$1 13 per bushel, - - -	4,951 66	
69 boat loads of ship timber, - - -	13,800 00	
Flax seed, hemp, lime, cider, &c. - - -	3,936 00	
Articles up the river—say fish, groceries, &c. - - -	10,386 00	
Total, - - -	345,472 82	\$9,353 93

The weight of the above articles estimated at 5,549 tons.

## F.

*Statement of sundry kinds of produce which descended the river Potomac, between the 1st of August, 1803, and 1st of August, 1804, with their estimated value.*

	Value in dollars.	Am't of tolls taken thereon.
8 hogsheads of tobacco, at 60 dollars per hogshead, - - -	480 00	} 7,665 58½
39,350 barrels of flour, at 6½ dollars per barrel, - - -	253,775 00	
164 barrels of pork, at 16 dollars per barrel, - - -	2,624 00	
578 barrels of whiskey, at \$19 20 per barrel, - - -	11,097 60	
88 tons of pig iron, at 37½ dollars per ton, - - -	3,300 00	
Ship timber, hemp, flax, corn, potash, &c. - - -	10,764 00	
Total, - - -	284,040 60	\$7,665 58½

The weight of the above articles estimated at 3,823 tons.

## G.

*Statement of sundry kinds of produce which descended the river Potomac, between the 1st day of August, 1804, and 1st day of August, 1805, with their estimated value.*

	Value in dollars.	Am't of tolls taken thereon.
11 hogsheads of tobacco, at 50 dollars per hogshead, - - -	550 00	} 5,055 37
28,507 barrels of flour, at 10½ dollars per barrel, - - -	299,323 50	
17 barrels of beef, at 12 dollars per barrel, - - -	204 00	
14 barrels of pork, at 16 dollars per barrel, - - -	224 00	
436 barrels of whiskey, at \$18 25 per barrel, - - -	7,957 00	
17 kegs of butter, at \$9 60 per keg, - - -	307 20	
32 tons of bar and pig iron, at 105 dollars and 37½ dollars per ton, - - -	2,554 00	
5,688 bushels of corn meal, at 66 cents per bushel, - - -	3,754 08	
340 bushels of flax seed, at 1 dollar per bushel, - - -	340 00	
340 bushels of lime, at 46 cents per bushel, - - -	156 40	
Ship timber, hemp, potash, &c. - - -	15,813 00	} 114 63½
Sundry articles up the river, - - -	7,486 00	
Cord wood, &c. at the Little Falls, - - -	1,665 00	43 23½
Total, - - -	340,334 18	\$5,213 24

The weight of the above articles estimated at 3,208 tons.

## H.

*Statement of sundry kinds of produce which descended the river Potomac, between the 1st of August, 1805, and 1st of August, 1806, with their estimated value.*

	Value in dollars.	Am't of tolls taken thereon.
5 hogsheads of tobacco, at 60 dollars per hogshead, - - -	300 00	} 1,741 81½
9,079 barrels of flour, at 5½ dollars per barrel, - - -	59,013 50	
459 barrels of whiskey, at 17 dollars per barrel, - - -	7,703 00	
40 bushels of corn, at 66 cents per bushel, - - -	26 40	
20½ tons of pig iron and castings—pig iron 37½ dollars, castings 120 dollars per ton, - - -	1,222 50	
Ship timber, bacon, lard, rye, clover seed, &c. - - -	10,803 00	
Sundry articles up the river, - - -	4,998 00	123 00½
Cord wood, &c. at the Little Falls, - - -	2,724 00	58 87½
Total, - - -	86,790 40	\$2,123 69½

The weight of the above articles estimated at 1,226 tons.

## I.

*Statement of sundry kinds of produce which descended the river Potomac, between the 1st of August, 1806, and 1st of August, 1807, with their estimated value.*

	Value in dollars.	Am't of tolls taken thereon.
20 hogsheads of tobacco, at 50 dollars per hogshead, - - -	1,000 00	} 14,860 78
85,248 barrels of flour, at 6 dollars per barrel, - - -	511,488 00	
971 barrels of whiskey, at 16 dollars per barrel, - - -	15,536 00	
66½ barrels of pork, at 17 dollars per barrel, - - -	1,130 50	
70 bushels of wheat, at \$1 18 per bushel, - - -	82 60	
33 tons of bar iron, at 105 dollars per ton, - - -	3,465 00	
2¾ tons of pig iron, at 37½ dollars per ton, - - -	84 37	} 195 76
Ship timber, mill stones, clover seed, rye, &c. - - -	10,686 00	
Sundry articles up the Potomac and Shenandoah, - - -	7,314 00	23 89
Cord wood, &c. at the Little Falls, - - -	1,110 00	
Total, - - -	551,896 47	\$15,080 42

The weight of the above articles estimated at 8,155 tons.



## K.

## Table of Tolls.

	TOLLS IN STERLING MONEY, AS ESTABLISHED BY LAW.			SAME TOLLS REDUCED TO THE CURRENCY OF THE UNITED STATES.		
	At or near the mouth of Conegocheague.	At or near Hooke's Falls.	At the Great Falls.	At or near the mouth of Conegocheague.	At or near Hooke's Falls.	At the Great Falls.
	Shil. Pence.	Shil. Pence.	Shil. Pence.	Dolls. Cts.	Dolls. Cts.	Dolls. Cts.
Every pipe or hogshead of wine containing more than 65 gallons, - - - - -	1 6	1 6	3 0	33 18-54	33 18-54	66 30-54
Every hogshead of rum or other spirits, - - - - -	1 3	1 3	2 6	27 42-54	27 42-54	55 30-54
Every hogshead of tobacco, - - - - -	1 0	1 0	2 0	22 12-54	22 12-54	44 24-54
Every cask between 65 and 35 gallons, one half of a pipe or hogshead; barrels one fourth part; and smaller casks or kegs in proportion according to the quality and quantity of their contents of wine or spirits.						
For casks of linseed oil the same as spirits.						
Every bushel of wheat, peas, beans, or flax seed, - - - - -	$\frac{1}{4}$	$\frac{1}{4}$	1	50-54	50-54	1 46-54
Every bushel of Indian corn, or other grain, or salt, - - - - -	$\frac{1}{4}$	$\frac{1}{4}$	$\frac{1}{2}$	25-54	25-54	50-54
Every barrel of pork, - - - - -	6	6	1 0	11 6-54	11 6-54	22 12-54
Every barrel of beef, - - - - -	4	4	8	7 22-54	7 22-54	14 44-54
Every barrel of flour, - - - - -	3	3	6	5 30-54	5 30-54	11 6-54
Every ton of hemp, flax, potash, bar, or manufactured iron, - - - - -	2 6	2 6	5 0	55 30-54	55 30-54	1 11 6-54
Every ton of pig iron and castings, - - - - -	10	10	1 8	18 28-54	18 28-54	37 2-54
Every ton of copper, lead, or other ore, other than iron ore, - - - - -	2 0	2 0	4 0	44 24 54	44 24-54	88 48-54
Every ton of stone or iron ore, - - - - -	5	5	10	9 14-54	9 14-54	18 28-54
Every hundred bushels of lime, - - - - -	1 3	1 3	2 6	27 42-54	27 42-54	55 30-54
Every chaldron of coals, - - - - -	5	5	10	9 14 54	9 14-54	18 28-54
Every hundred pipe staves, - - - - -	2 $\frac{1}{2}$	2 $\frac{1}{2}$	4 $\frac{1}{2}$	4 9-54	4 9-54	8 18-54
Every hundred hogshead staves, or pipe or hogshead heading, - - - - -	1 $\frac{1}{2}$	1 $\frac{1}{2}$	3	2 42-54	2 42-54	5 30-54
Every hundred barrel staves, or barrel heading, - - - - -	1	1	2	1 46-54	1 46-54	4 38-54
Every hundred cubic feet of plank or scantling, - - - - -	10	10	1 8	18 28-54	18 28-54	37 2-54
Every hundred cubic feet of other timber, - - - - -	5 $\frac{1}{2}$	5 $\frac{1}{2}$	11	10 10-64	10 10-54	20 20-54
Every gross hundred weight of all other commodities or packages, - - - - -	1 $\frac{1}{2}$	1 $\frac{1}{2}$	3	2 42-54	2 42-54	5 30-54
And every empty boat or vessel, which has not commodities on board to yield so much, except an empty boat or vessel returning, whose load has already paid at the respective places the sums affixed at each, in which case she is to repass toll free, - - - - -	2 6	2 6	5 0	55 30-54	55 30-54	1 11 6-54

NOTE.—At the Little Falls a conditional toll, at the same rates as at Conegocheague, is also payable by law, viz: on articles in descending, not having passed the Great Falls; and in ascending, on such as are not destined to pass said Great Falls.

## L.

*The tenth clause of an act, entitled "An act for opening and extending the navigation of Shenandoah river," passed January 23, 1798.*

It shall and may be lawful for the said president and directors, at all times forever hereafter, to demand and receive, at Little Falls on the said river, or any place below the same falls which the president and directors, or a majority thereof, shall fix upon for that purpose, the following tolls or rates, that is to say:

	Dolls.	cents.
For every pipe or hogshead of wine containing more than sixty-five gallons, - - - - -	-	66
For every hogshead of rum or other spirits, - - - - -	-	55
For every hogshead of tobacco, - - - - -	-	44
For every cask between sixty-five and thirty-five gallons, one-half of a pipe or hogshead, barrels one-fourth part, and smaller casks or kegs in proportion, according to the quality and quantity of their contents of wine or spirits.		
For casks of linseed oil the same as spirits.		
For every bushel of wheat, peas, beans, or flaxseed, - - - - -	-	2
For every bushel of corn or other grain, or salt, - - - - -	-	1
For every barrel of pork, - - - - -	-	22
For every barrel of beef, - - - - -	-	15
For every barrel of flour, - - - - -	-	11
For every ton of hemp, flax, pot-ash, bar or manufactured iron, - - - - -	1	10
For every ton of pig-iron or castings, - - - - -	-	40
For every ton of copper, lead, or other ore, other than iron ore, - - - - -	-	90
For every ton of stone or iron ore, - - - - -	-	20
For every hundred bushels of lime, - - - - -	-	55
For every chaldron of coals, - - - - -	-	20
For every hundred of pipe staves, - - - - -	-	9
For every hundred hogshead staves, or pipe or hogshead heading, - - - - -	-	6
For every hundred barrel staves or barrel heading, - - - - -	-	4
For every hundred cubic feet of plank or scantling, - - - - -	-	40
For every hundred cubic feet of other timber, - - - - -	-	22
For every gross hundred weight of all other commodities and packages, - - - - -	-	6
For every empty boat or vessel which has not commodities on board to yield so much, except an empty boat or vessel returning, whose load has already paid, at the aforesaid place, the sum fixed, in which case she is to repass toll free, - - - - -	1	10

Which tolls may be discharged in dollars and cents, or other coins made current by law.

NOTE. The charter to the Potomac company for the Shenandoah was not granted until the year 1803. The act of the Virginia Legislature, referred to above, of 1798, was in the nature of a charter to a proposed company, which was never made up; and, in the charter to the Potomac company, the tolls intended to have been such to the proposed company were given to the Potomac company, by reference to the act of 1798.

## C. No. 4.

*Answers to certain queries respecting the Appamattox Canal.*

To Query 1st. The highest point up the Appamattox river, to which a batteau can be carried, is more than eighty miles above Petersburg, by the nearest road for a wagon, and that road, passing through a hilly country, where loaded wagons have much difficulty in getting along in the winter. The distance by water is probably double that by land. Of this distance the canal will occupy somewhat more than five miles; and besides this, and for more than five miles above the spot where the water enters the canal, there are obstructions from rocks and rapids, which have occasioned sluices to be formed at considerable expense, through which batteaux pass, with safety and facility, with such loads as they can carry in other parts of the river. When the river is ascended twelve miles above Petersburg, few or no obstructions are met with; there are, indeed, a few rocks, and some ledges of rocks, and a considerable number of old trees, which either have been, or may be, removed, without very great expense to the company.

Query 2d. The highest ground through which the canal passes is the spot where the water is taken out of the bed of the river. It is thrown into the canal by a low dam across a part of the river. The elevation of this spot above the highest ground in Petersburg is more than thirty feet, and it is believed one hundred feet above the level of tide water.

Query 3d. The locks are just beginning, and it will be necessary for the company to build three, perhaps four, to bring the water low enough for the place where it is proposed to have a basin. The dimensions are not exactly recollected, but they are to be built of the least perishable materials, and they will be placed between one and two miles above the basin.

Query 4th. The supply of water is ample as to any purpose of navigating batteaux that can pass in the bed of the river above the canal; and it is also in contemplation to use it, as it passes out of the basin, for mills or other machinery, there being a fall of more than sixty feet from the basin to the place where it will again enter the river. No calculation has been made of the cubic feet of water passing in any given time, although it would be easy for a man on the spot to do it.

Query 5th. Answered in the reply to the first query.

Query 6th. The canal is sixteen feet wide at the top of the water, and about three feet deep. The batteaux are generally constructed to carry from sixty to ninety barrels of flour, or about two hundred and fifty bushels of wheat. There are no towing paths.

Query 7th. The company have spent a considerable portion of their funds in carrying the canal across two considerable valleys, through each of which passes a stream of water and one of them is of a size to make a large tunnel necessary. Over the valley, through which the smallest stream passes, the water is carried on a bank made wholly of earth. Over the other valley, both stone and earth are used, but the work does not appear so permanent and safe as where earth alone was used, although the expense was not lessened as was expected.

Query 8th. The principal difficulty now to be surmounted by the Appamattox company arises from want of money, although their credit has been as yet preserved unimpaired. They have expended nearly 60,000 dollars,

but they have vested about 10,000 dollars of this sum in upwards of thirty negro men, now employed, and skilful as stonemasons, &c. They have yet their locks to build, and to carry their canal through earth only for more than half a mile; they apprehend some difficulty in procuring the necessary sums either by loan or subscription, both of which modes they have resorted to in their exertions to carry on the business.

Query 9th. The superintendents do not doubt of many defects, both in the plan and execution of the work; and they can only say, in extenuation, that they have applied much of their time, and exerted themselves to the utmost, and have never taken a single shilling even to defray their expenses when engaged in forwarding the business of the company.

Query 10th. The bateaux can carry, in a proper depth of water, six tons; perhaps five tons may be considered as the usual load. Tobacco, wheat, and flour are the articles mostly contemplated to come through the canal, although some ideas have been entertained of beds of coal being up the river, and near it. No estimate, at this time, can be formed of the weight or value of the articles that may hereafter be conveyed by the canal. It has been used as yet in a very limited way, because of the difficulty and expense of the portage and storage; but even with these difficulties and restrictions, a considerable quantity of flour has been brought down at a much less expense than it could have been wagoned. The bateaux can pass in four or five days from the highest navigable points of the river to the basin; the river was never used by a bateau before the commencement of the canal.

Query 11th. As was before said, 60,000 dollars have been already expended, and of this there remains, in the hands of the company, only the negroes, which may be estimated fairly at 12,000 dollars. It is probable the work to the basin, as now contemplated, might be completed with 10,000 dollars, and the labor of the hands belonging to the company.

Query 12th. This query cannot be more particularly answered than has already been done.

Query 13th. The rate of tolls is the same as on the James river canal; but no estimate can be made of what they may amount to hereafter. Neither can it yet be ascertained what the expenses of repairs and contingencies may be, as the work is not completed, and few or no parts of it have as yet experienced any decay.

Query 14th. The several acts of the Legislature respecting the Appamattox company give them many rights, and extensive powers, to enable them to carry on and complete the canal, and to fit the river for the purposes proposed; these acts also give the profits arising from the tolls to the shareholders and their successors in perpetuity.

### C. No. 5.

#### SUSQUEHANNAH CANAL.

SIR:

Having seen the resolve passed by the Senate of the United States on the 2d day of March last, I had written to the Secretary of the Treasury, a few days before the receipt of your letter enclosing the same, by which I had in some degree anticipated the inquiry which you now make for the information of the Treasury Department, viz:

1st. Points united by canal, and their distance by said canal.

Answer. The Susquehanna canal commences about one mile below the line which divides the States of Pennsylvania and Maryland, at the upper part or commencement of the Bald Friar falls, and unites the navigation from thence to tide water, which is entirely obstructed by those falls, and the falls called Amos's, for the distance of about nine miles, (say from the top of the wing dam to the lower end of the proposed extension,) except when the river is high.

2d. Elevation of the highest ground through which canal passes; descent thence to the two extremities; and number of miles where the canal is level.

Answer. The entrance of this canal is formed by Love island; the elevation there is fifty-nine feet above tide water, where the obstructions first commence in ascending the river; from Love island the canal passes on a level for the distance of three miles, to Conawingo, where it descends, by two locks, sixteen feet; and from thence passes on a level two miles and a half to Octoraro, where it descends, by three locks, twenty feet; and from Octoraro passes on a level three miles, where it descends, by three locks, twenty-three feet, to the bed of the river at tide water.

3d. Number, dimensions, contents, construction, and situation of locks.

Answer. There are, in all, nine locks; one at the entrance of the canal at Love island, called the regulating lock, two at Conawingo, three at Octoraro, and three at tide water; they are all of the same dimensions, one hundred feet in length, and twelve feet clear in the width, and are all built of stone.

4th. Supply of water; whence obtained; its amount reduced to cubic feet per minute, hour, or day; its elevation above the highest point of the canal; length of feeders; situation and contents of reservoirs; what additional resources may be resorted to, if the present supply should fall short of the quantity wanted.

Answer. The supply of water is, and always will be, much greater than can be wanted in this canal. It is taken from the river Susquehanna, through the regulating lock, from the Conawingo and Octoraro creeks, both of which are large streams of water that never fail, and are crossed by the canal. The amount of cubic feet produced by these streams, respectively, it would be difficult to ascertain. They each produce a great surplus at all times. At the intersection of the canal, they are both below its level. The Conawingo is raised by a dam, constructed of logs and earth, ten feet high, to bring it on a level with the canal, and over which dam the surplus water is discharged. The Octoraro is raised in like manner twelve feet high, and the surplus water discharged in the same way. These creeks or streams, at a little distance from the canal, are elevated much above it, and take their rise in a high and broken country, at many miles from the canal, and discharge such a quantity of water at all seasons as to render any other reservoir for the use of the canal wholly unnecessary. If, however, a further supply of water should ever be wanted, it can be had, in any quantity, through the regulating lock, by extending the wing dam from the upper end of Love island into the river, and turning the water from thence into the canal.

5th. Designation of such part of the route where the natural or improved bed of rivers is used.

Answer. The bed of the river is used, and has been partially improved, from the head of the canal up to Columbia, the distance about twenty-three miles, and affords a tolerable safe passage down in the spring and fall of the year, but boats cannot return in its present state without difficulty.

6th. Depth and breadth of canal; burden of vessels; breadth of towing paths.

Answer. The water in the canal is in all places three feet deep, and thirty feet wide; vessels of two to three hundred barrels burden now pass it; and the towing path is ten feet wide.

7th. Aqueducts across valleys or rivers; tunnels through hills; bridges across the canal.

Answer. There are no aqueducts across any valley or river. The two rivulets or creeks before mentioned are crossed by raising their waters to a level with the canal; nor are there any tunnels through hills, or bridges across this canal, except a wooden bridge at the Bald Friars, where there is a road down to the river, and a ferry across it.

8th. Particular obstructions and difficulties surmounted, or to be encountered.

Answer. The Hollow Rock and Bald Friar falls, a little below the head of the canal, and Amos's falls, three miles above tide water, are the most dangerous and difficult in the river. These are surmounted by the canal for all boats, arks, and rafts of any length, but not exceeding twelve feet wide. The difficulties to be surmounted lie between the head of the canal and Columbia, and require additional improvement, so as to admit of a safe navigation for arks and rafts during the spring and fall months, and for boats of ten tons burden, drawing two feet water, to come down and return at all times when the river is not obstructed by ice.

9th. Defects in the plan or execution, and the proposed remedies.

Answer. The only defect that has been discovered by experience in the plan of the canal is in the width of the locks. When they were first erected, the largest boat navigating the river above Columbia was only eight feet beam, and eighty feet keel, carrying fifteen hundred bushels of wheat; arks were not in use. It is now found that the greatest part of the produce or plank that comes down to the tide is brought in arks and rafts, from fifteen to seventeen feet wide, and from sixty to eighty feet long, which makes it necessary to widen the locks to eighteen feet, to afford a safe passage through the canal. This alteration has been forcibly solicited by the traders down the river, on account of the number of arks and rafts lost in Bald Friar's and Amos's falls, opposite the canal, every season in the highest water; as also to save a heavy expense in pilots, and an additional number of hands, which they are obliged to engage at Columbia, on account of this dangerous part of the river, and who are not wanted to run to the head of the canal only. Besides, the water will answer to navigate three times as long in the season to the head of the canal, through which it can pass at all times, than it will over Bald Friar's and Amos's falls. By improving the river from the head of the canal to Columbia, boats can come down and return during the greatest part of the summer. At present the bed of the river is finished from the head of the canal to Peach Bottom, distance about four miles. From thence to Culley's falls is five miles, and can be completed, by contract, for \$1,000. From thence to the Indian steps is six miles, not difficult, but will require improvement. The Indian Steps and Turkey Hill falls, four miles above them, will be most expensive. From Turkey Hill to Columbia is four miles, and will only require a few rocks to be removed. What the whole expense will amount to cannot be estimated with any certainty, as much depends on the judgment and economy of the persons employed to superintend the work; but, from the report of Colonel Antes, who was employed one season and part of another to improve Turkey Hill falls and a distance below, and who carefully examined the whole distance, it has been a generally received opinion that \$50,000 would be fully adequate.

10th. Estimate of the tonnage of vessels; species, weight, and value of the articles annually conveyed by the canal; expense of carriage by the canal, compared with land or river carriage before the canal was made; time employed in navigating the canal.

Answer. In answering this query, it will be impossible to form any conjecture of what will be the trade through the canal when the proposed improvements are accomplished. The canal has now been finished and in operation two years, and the company have been opposed by the contending interests of the States of New York and Pennsylvania, and by the private interests and prejudices of individuals of the State of Maryland. The number of vessels which have passed the canal has been very few, partly owing to the narrowness of the locks, partly from the want of water from the lower locks into three feet water at low tide, which the company have in contemplation to remedy by extending the canal along the margin of the river about seven hundred yards, as soon as they can raise funds to accomplish it. The gross amount of the tolls have, consequently, been but trifling. The toll on each article will best appear by the table of tolls hereunto annexed.

The expense of carriage on one hundred barrels of flour from Columbia to Philadelphia by land is \$125; from Columbia to Baltimore by water, through the canal, is \$50; by water, down the bed of the river, when the state of the river will admit of it, is \$70; and the time employed in passing through the whole of the canal is six to seven hours.

11th. Capital already expended, vested, or wanted for completing the work.

Answer. The sum already expended in the purchase of lands through which the canal passes, and in making the canal and locks, &c., is upwards of £95,000, and it will require, it is supposed, about \$60,000 more to make all the proposed improvements from tide water to Columbia.

12th. Expenses per mile, and in the whole, and, as far as practicable, of sundry component parts of the work in all its details.

Answer. The whole expense of making the canal and locks, and purchasing the requisite lands, and clearing the bed of the river, amounts to £95,000, as above.

The work has been performed partly by contract, and partly by hiring laborers, which renders it impossible to be more precise in this answer.

13th. Rate and gross amount of tolls; annual expense of repairs and contingencies; annual nett income.

Answer. The gross amount of tolls from the commencement has been, for two hundred and eighty-eight boats, arks, and rafts, \$957 40; the rate of each article as per list annexed. The expenses are, a manager, at \$500 per annum; four laborers to attend the locks, at \$160 per annum each; and other contingencies, amounting, in the whole, to about the sum of \$1,200 per annum. But, when the proposed alterations and improvements are made, the whole expense will not exceed \$1,000.

14th. Substance of charters and acts of Legislature on the subject.

Answer. The first law of Maryland on this subject, passed November session, 1783. It incorporates the company with a capital of £20,000; directs the canal to be thirty feet wide, and three feet deep, to be taken or cut from Love island to tide water. It gives the use of the waters of the river as well for the canal as for water works, and prohibits the cutting of any other canal within the line of Maryland. It is a perpetual charter, and directs the canal to be completed in seven years from October, 1784, &c.

A supplement to the first law passed at November session, 1784, which declares the canal, &c. to be real estate, and to be vested in the proprietors as tenants in common according to their shares, and not liable to pay any tax, imposition, or duty whatever. It regulates the tolls, which were afterwards permitted to be increased.—(See law, November session, 1803.)

An act passed at November session, 1790, extends the time for completing the canal to the 1st of October, 1798, and allows the shares to be extended to thirty of £1,000 each, and permits foreigners to become proprietors.

An additional supplement, passed at November session, 1797, increasing the capital £10,000 more, or ten shares, and extending the time for completing the canal to the 1st of December, 1805.

A further supplement, passed November session, 1799, authorizes the subscription of fifty additional shares of stock, of £1,000 each, and directs £5,000 to be expended in clearing the bed of the river within the State of Maryland, for which half-tolls are to be allowed to the company; and loans a sum of money, &c.

An act passed at November session, 1801, allows an increase of ten more shares.

An act passed at November session, 1803, allows an increase of tolls upon the canal, not exceeding quadruple the sum payable by the act of November session, 1784, and abolishes the half-tolls on the bed of the river.

100 shares, of £1,000 each, have been authorized by law, making a capital of	-	£100,000
75 only have been subscribed, - - - - -	-	75,000
<u>25 remain unsubscribed.</u>		<u>£25,000</u>

*The following is the rate of tolls now established upon the Susquehannah canal:*

On every pipe or hogshead of wine containing more than 65 gallons, - - -	\$1 00
On every hogshead of rum or other spirits, - - - - -	75
On every hogshead of tobacco, - - - - -	50
Every cask between 65 and 35 gallons rates as one-half of a pipe or hogshead; barrels one-fourth part; and smaller casks or kegs in proportion, according to the quality and quantity of their contents of wine or spirits.	
For every bushel of wheat, peas, or beans, - - - - -	2
For every bushel of flax seed, - - - - -	3
For every bushel of Indian corn or other grain, or salt, - - - - -	1½
For every barrel of pork, - - - - -	25
For every barrel of beef, - - - - -	20
For every barrel of flour, - - - - -	10
For every ton of hemp or flax, - - - - -	1 50
For every ton of pot ash, bar or unmanufactured iron, - - - - -	1 00
For every ton of pig iron, stone, or stone ore, - - - - -	25
For every ton of castings, and copper, lead, or other ore than iron ore, - - - - -	75
For every hundred bushels of lime, - - - - -	50
For every chaldron of coals, - - - - -	25
For every hundred of pipe staves, - - - - -	10
For every hundred of hogshead staves, or pipe or hogshead heading, - - - - -	6
For every hundred barrel staves or barrel heading, - - - - -	4
For every hundred cubic feet of plank or scantling, - - - - -	40
For every hundred cubic feet of other timber, - - - - -	20
For every gross hundred weight of all other commodities, - - - - -	6
For every empty boat or vessel which has not commodities on board to yield so much, except an empty boat or vessel returning, whose load has already paid the tolls; in which case she is to repay toll free, - - - - -	1 00

I take the liberty of accompanying this report with two pamphlets, which will be found to contain much correct and useful information respecting the extent of the waters of the Susquehannah, and the public good that will result from improving its navigation.

With great respect, I am, sir, your humble servant,  
ROBERT GILMER, *Susquehannah Canal Comp'y.*

C. No. 6.

FALLS OF THE OHIO.

Sir:

LOUISVILLE, *October 20, 1807.*

I herewith enclose a few remarks, in addition to the notes and draughts [see draught annexed] forwarded to you through the hands of Major Morrison or Mr. Cosby, which were all crowded upon a sheet of parchment for want of large paper, and to show the whole, as far as possible, at one view. I had but part of four days allowed to prepare it, otherwise I might have been somewhat more nice, and probably more explicit; but I presume the information required may be found there.

I am well aware of the danger to which this project will be exposed, when it meets the eye of an engineer or undertaker of other works, which depend on Congress for assistance. The city, I have no doubt, will abound with such men, who are under an impression that the amount and encouragement bestowed here will be so much deducted from their concerns; others will condemn it in hope of obtaining a job for themselves; and many members of Congress may be swayed by the great weight and interest in favor of Eastern canals or other public works; and there is yet a rancor in the breast of the *over the river canal party* which will show itself in some form.

Theoretical architects too often delight in unnecessary expense on all public works; and such are generally incapable of surmounting any other than imaginary obstacles of their own raising; they too often despise the assistance of nature, and substitute their own work, which renders both useless; although in that advance, more expense is incurred than would have perfected the object desired, had there been proper arrangement at the outset.

Most respectfully, sir, your most obedient,

J. BROOKS.

LOUISVILLE, *October 28, 1807.*

The queries respecting canals, forwarded by the Secretary of the Treasury, overreach most generally the simplicity of the work necessary to be done at this place in perfecting a canal, to answer the most important and desirable purposes. The shape and construction of the ground, and the action of the water, naturally co-operate so effectually to assist in perfecting the work, that nothing of consequence but simple labor is required to complete it; considering that when there is a sufficiency of water in other parts of the Ohio river for a ship of ten feet draught, there is but about six feet fall at the rapids, no difficulty can be raised on account of the construction of the locks for the passage of such ship or smaller craft; especially as we have rock to go upon, which may be shaped to the mind; and the two best and most secure harbors for large and small crafts, at all seasons, will be connected by canal. The rock affords most excellent materials for walling; and it may be excavated for less than one dollar per cubic yard, and the quantity of stone thus furnished, will be found to answer very nearly the quantity required for the

walls. The smallest measure of wall used in such cases, in proportion to the magnitude of the work, will only be required here, owing to the strength and compactness of the ground through the whole course.

Considering the price of labor and provisions, the simplicity of the work to be done, though of magnitude, the certainty of not having to encounter any thing precarious, and the perfectly appropriate quantity and fitness of materials naturally ranged in place so as to produce the most desirable advantages in the operation, it is certain that the whole expense ought not to exceed \$200,000, and for that sum and the benefit of the lottery allowed properly applied, it may be completed, whatever obstacles may be labored to view by an imposing party.

The draught and notes in the hands of the honorable John Pope were taken from the lowest water, consequently differ somewhat from those formerly presented; it was at first contemplated to improve the river six or seven hundred yards below F, and enter the land at G or H, noted on a former plan, that may yet be done; but considering the action of the water at this point, through all the different stages which have since been particularly observed, it will be more proper to enter the land from the basin at F.

The expenses already incurred amount to about \$2,000, and the subscriptions to \$70,000.

The locality of this site, in relation to the country watered by the Ohio and its branches, may, with due attention to improvement, remedy, in a great measure, the deficiency of constant water-falls, so well known through all the valley of Ohio. It must be admitted that there is not a country in the world equally extensive and fertile, more deficient of water-falls to assist in manufactures; that the productions of this country are immense; and that it is favored with an easy navigation during the greatest part of the year to all points except passing the rapids.

The dormant wealth of this important section of the national domain can be brought into life and action only by a free and open navigation, and the assistance of water-works for the encouragement of manufactures.

This project of the contemplated canal includes the perfection of the navigation, and the supply of water for manufactures to an immense extent; and it is evident that this operation will advance the national interest in a rate of progression that must infinitely exceed the most sanguine calculation.

#### LAWS OF KENTUCKY.

IN GENERAL ASSEMBLY, *December 21, 1805.*

*Resolved, by the Senate and House of Representatives of the State of Kentucky, in General Assembly met, That the Governor of this Commonwealth be requested immediately to transmit to the Governors of the States of Pennsylvania, Virginia, Ohio, New York, and Maryland, a copy of the act incorporating the Ohio Canal Company, the report of the managers of the said company to the present Legislature, the notes and map of Mr. Jared Brooks, and to invite the enlightened co-operation and aid of the said States in cutting a canal around the rapids of the Ohio river, in the accomplishment of which the whole Western country is so deeply interested.*

WILLIAM LOGAN,

*Speaker of the House of Representatives.*

THOMAS POSEY,

*Secretary of the Senate.*

Approved, December 26, 1805.

CHRISTOPHER GREENUP,

*Governor of the Commonwealth of Kentucky.*

By the Governor:

JOHN ROWAN, *Secretary.*

IN GENERAL ASSEMBLY, *December 21, 1805.*

*To the Honorable the Congress of the United States: The Senate and the House of Representatives of the State of Kentucky, in General Assembly met, respectfully represent:*

That they have passed a law incorporating a company for the purpose of cutting a canal to avoid the rapids of the river Ohio, in the execution of which the whole Western as well as the United States generally, are very deeply interested. Your memorialist would respectfully submit to the consideration of your honorable body, whether the accomplishment of that useful undertaking would not greatly increase the value of the national domains, and render them a much more productive source of revenue to the United States. Firmly impressed with this belief, they are emboldened to approach your honorable body, and to solicit your enlightened co-operation and aid, either by subscription, or donation in land, or otherwise, as you in your wisdom may prescribe, to be vested in the said company according to their respective interests, whenever the said canal shall be completed. Your memorialists would further represent that, from the evidence now before them, they feel no hesitation in giving it as their decided opinion, that the Kentucky side is the best for a canal, that the cost will not probably exceed \$200,000, and that, when completed, it will much better answer the purposes of navigation; but as some competition has arisen on the subject of preference of the two sides of the river, and should your honorable body entertain doubts on this point, we invite the appointment of an engineer to view the two situations, in whose opinion and report implicit confidence can be reposed.

*Resolved, That the Governor of this State do immediately transmit the above memorial, with a copy of the act incorporating the Ohio Canal Company, the report of the managers of said company, and Mr. Jared Brooks's notes to the Congress of the United States.*

WILLIAM LOGAN,

*Speaker of the House of Representatives.*

THOMAS POSEY,

*Secretary of the Senate.*

Approved, December 26, 1805.

CHRISTOPHER GREENUP,

*Governor of the Commonwealth of Kentucky.*

By the Governor:

JOHN ROWAN, *Secretary.*

## AN ACT to amend the act incorporating the Ohio Canal Company.

APPROVED, December 20, 1805.

Whereas it is represented to the present General Assembly, that the opening a canal at the falls of the river Ohio will be of great public utility, interesting to the commerce and agriculture of this State, and the Western country generally, and many persons are willing to subscribe large sums of money to effect that great national object, and it being just and proper that they, their heirs and assigns, should be empowered to receive, by way of toll, satisfaction for the money by them advanced in carrying the work into effect: And whereas, it is also represented that the law of 1804, incorporating the Ohio Canal Company, is defective in many of its important provisions, and that many persons have subscribed large sums of money in the books opened for subscriptions under the directions of the before recited act; therefore,

SEC. 1. *Be it enacted by the General Assembly,* That all persons who have heretofore subscribed, under the before recited act, shall be considered as subscribers under this act, unless within three months after its passage they shall declare personally or by letter to the president and directors, that they wish not to be so considered.

SEC. 2. *Be it further enacted,* That James Berthoud, Thomas Prather, George Wilson, Peter B. Ormsby, James Hunter, John Bradford, Alexander Parker, John Jordan, Jun., Adam Steele, Wingfield Bullock, and Worden Pope, and the present and future subscribers, their successors and assigns, be, and they are hereby, erected into a body corporate and politic, by the name of the Ohio Canal Company, and are hereby ordained, constituted and declared to be forever hereafter a body politic and coporate in fact and in name; they and their successors shall and may have continual succession, and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever, in all manner of actions, suits, complaints, matters, and causes whatsoever, and that they and their successors may have a common seal, and make and alter the same at their pleasure; and also that their successors, by the same name and style, shall be in law capable of purchasing, holding, and conveying any estate real or personal, for the use of said corporation.

SEC. 3. *And be it further enacted,* That the capital stock of said company shall consist of ten thousand shares of \$50 each, and that subscriptions to the said stock may be received by such person and persons, and at such places within and without this State, and under such regulations as the said James Berthoud, Thomas Prather, George Wilson, Peter B. Ormsby, James Hunter, John Bradford, Alexander Parker, John Jordan, Jun., Adam Steele, Wingfield Bullock, and Worden Pope, directors for the time being, or a majority of them, shall prescribe and ordain; and the said directors, or a majority of them, shall meet on the first Monday in February next, at such place as they shall appoint for that purpose, and elect one of their own body to be their president.

SEC. 4. *And be it further enacted,* That the stock, property, and concerns of the said company shall, until the first Monday in April, 1807, be conducted and managed by the directors aforesaid, or a majority of them; and after that day the same shall be conducted and managed by twenty-four directors, any seven or more of whom shall constitute a board, being stockholders, who shall hold their office for one year from the said first Monday in April; and the said directors shall be elected by ballot annually, on the first Monday in April, at such hour of the day, and at such place in the town of Louisville, or Shippingport, as the said president and directors, or a majority of them for the time being, shall appoint; and public notice shall be given by the said directors, not less than thirty days previous to the time and place of holding said election, by an advertisement to be inserted in the newspapers of the public printer, and in some one or more newspapers printed in the State of Kentucky; and the said election shall be made by such of the stockholders as shall attend for that purpose, or by proxy, each shareholder having one vote for every share as far as ten shares, and one vote for every five shares above ten; and the directors so to be chosen shall, at their first meeting, elect, by ballot, one of their number to be their president; and that the said president and directors, and the president and directors hereafter to be chosen, a majority of whom being assembled, shall constitute a Board, and shall have power to appoint the time and place of all meetings for the despatch of business, and to appoint such superintendents, engineers, treasurer, clerks, and other officers, agents, and servants, and exact from them such security for their performance of the duties assigned them, as the said directors, or a majority of them, shall judge requisite, proper, and necessary, for carrying into effect the purpose of this act, and to agree for and settle their respective wages and allowances; and to pass and sign their accounts, and also to make and establish rules of proceedings, and to make such by-laws, rules, and regulations, not inconsistent with the constitution and laws of the United States, or of this State, as may appear to them most conducive to the ends proposed by this act, and to conduct all other business and concerns of the said company: *Provided, however,* That the said company shall not be permitted to issue bills of credit payable to any person or bearer, nor shall they be permitted to exercise the privilege of banking in any respect whatever.

SEC. 5. *And be it further enacted,* That in case of the death, resignation, or refusal to act, of any director or directors, chosen as aforesaid, it shall and may be lawful for the remaining directors, upon public notice being given in any gazette published in Louisville, or the newspaper of the public printer, at least twenty days for that purpose, to proceed to elect a director or directors, to fill such vacancy or vacancies.

SEC. 6. *And be it further enacted,* That in case of the death, resignation, or refusal to act, of the president, it shall and may be lawful for the directors to choose a president *pro tempore*, and for the meeting only for which he shall be chosen, and may, at any of their general meetings, remove their president or any of their directors, and appoint others for and during the remainder of the term, for which such person or persons were at first to have acted.

SEC. 7. *And be it further enacted,* That every president, director, and treasurer, before he acts as such, shall take an oath or affirmation for the due execution of his office.

SEC. 8. *And be it further enacted,* That the subscription for the shares in said company shall be made personally, or by power of attorney, and shall be paid in current money of the United States, and, whenever the whole amount of the capital aforesaid is subscribed for, the president and directors, or a majority of them, shall return a just and true list of the subscribers, of the sums subscribed by each, under their hands and seals, to the clerk of the county court of Jefferson county, to be there recorded.

SEC. 9. *And be it further enacted,* That, after the said first meeting of the subscribers at Louisville, or Shippingport, as aforesaid, the attendance of proprietors in person, or by proxy, having two thousand shares at least, shall be necessary to constitute a meeting of the proprietors, on the first Monday in April, 1807, and on the same day in every year thereafter, at such convenient place as shall be, from time to time, appointed for the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend, may adjourn the meeting from day to day, till a general meeting of the proprietors shall be had, which may be continued, from day to day, till the business of the company is finished; to which meeting the president and directors shall make reports, and render distinct and just accounts of all proceedings, and, on finding them justly and fairly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered in the

company's books. And, at such yearly meetings, after leaving in the hands of the treasurer such sums as the proprietors, or a majority of them, may judge necessary for repairs and contingent charges, an equal dividend of all the net proceeds arising from the tolls herein granted, shall be ordered and made to and among all the proprietors of the said company, in proportion to their several shares; and, upon any emergency in the interval between the said yearly meetings, the said president, or a majority of the said directors, may appoint a general meeting of the proprietors of the said company, at any convenient place, giving at least one month's notice in the newspaper of the public printer; which meeting may be adjourned and continued as aforesaid.

SEC. 10. *Be it further enacted*, That the Governor of this Commonwealth be, and he is hereby, authorized and requested to subscribe for 1,000 shares in said company; and the Auditor of Public Accounts is hereby directed, on the application of the president and directors, or their order, to issue his warrant on the treasurer for the proportion of said shares, which the said president and directors may require, as by this act before directed: *Provided, however*, That the amount payable by the State for the said shares, shall not exceed \$10,000 per year, payable on the 20th day of December, annually, unless by the assent of the General Assembly; and the treasurer shall pay the said sums out of any money in the treasury.

SEC. 11. *And be it further enacted*, That 1000 other shares in the said company shall be reserved for the future disposition of the General Assembly of Kentucky. And the said governor, for the time being, shall have a right to vote according to such shares, in person, or by proxy, duly authorized by commission, and under his hand and seal, who shall receive the proportion of the tolls and other profits aforesaid, which shall, from time to time, become due to this State for the shares aforesaid.

SEC. 12. *And be it further enacted*, That the tolls or other profits which may, from time to time, be received on the shares subscribed for on the part of this State, shall be paid annually or half-yearly, as the same may be received, or within one month thereafter, into the public treasury: *Provided, however*, That until 3,000 shares shall be subscribed, either by some State, the United States, or individuals, no money shall be drawn from the treasury of this State, on account of the sum which the Governor is authorized to subscribe on the part of this Commonwealth.

SEC. 13. *And be it further enacted*, That it shall be lawful for the said company hereby incorporated, and for all and every person or persons employed by or under them, for the purposes contemplated by this act, from time to time, to enter upon any lands contiguous or near to the said canal and other water works, or the places which may be selected for or intended to be used or employed for the same, with carts, wagons, and other carriages, and beasts of draught and burden, and all necessary tools and implements, both for executing and making, and for altering and repairing the said works, or any of them; and to take and carry away any stone; clay, gravel, sand, or earth, from the same, for the making, altering, or repairing of the said works, or any of them; subject always to the making of compensation for all damages thereby occasioned, either by agreement of the parties, or in the mode herein directed in relation to the condemnation of land.

SEC. 14. *And be it further enacted*, That whenever the said canal shall cross any public or private laid out road or highway, or shall divide the grounds of any person or persons, into several parts, so as to require a bridge across the same, the said president and directors shall cause a bridge fit for the passage of wagons and carts, to be built, and forever thereafter maintain, and keep in repair at all and every place and places so divided, at the proper cost and charges of the said company. But nothing herein contained shall prevent any person from erecting and keeping in repair any foot or other bridge across the said canal, at his or her own expense, when the same shall pass through his or her ground. *Provided*, That the same shall be of such height above the water as shall be usual in the bridges erected by the company: *And provided also*, That such foot or other bridges to be erected by the owner or owners of such ground, shall not interfere with any of the locks, buildings, passage of vessels, boats, rafts, or other works of the company.

SEC. 15. *And be it further enacted*, That the said president and directors so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons on behalf of said company, to cut such canal on the Kentucky side of the said river, and erect such locks, and to perform such works as they shall judge necessary for opening, improving, and extending the navigation of the said river, and for other purposes authorized by this law; and if the said president and directors shall deem it proper and expedient to carry on the same from place to place and from time to time, and upon such terms, and in such manner as they shall think fit, and out of the money arising from the subscriptions and tolls and other aids hereinafter given, to pay for the same: *Provided always*, That the treasurer shall give bond in such penalty, and with such security as said president and directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him, and that no officer in the said company shall have any vote in the settlement or passing of his accounts.

SEC. 16. *And be it further enacted*, That it shall be lawful for the said company to receive from the United States, or from any State, or from any body corporate or politic, donations of lands, money or other chattels, for the use of the said company, and to receive for the same use and purpose, voluntary subscriptions and donations from any individual or individuals, who may be disposed to encourage and promote the objects of this act. And it shall and may be lawful for the said company, in case of refusal or neglect of payment, in the name of the said company, to sue for and recover of all such subscribers, their heirs, executors or administrators, the sums by them respectively subscribed, by action of debt, or upon the case in any court of record, having competent jurisdiction.

SEC. 17. *And be it further enacted*, That it shall be lawful for the United States to subscribe for any number of shares in said company not exceeding \$60,000, and that it shall be lawful for the State of Pennsylvania to subscribe for any number of shares not exceeding \$30,000; Virginia, not exceeding \$30,000; Maryland, not exceeding \$20,000; New York, not exceeding \$20,000; Ohio, not exceeding \$20,000.

SEC. 18. *And be it further enacted*, That the said president and directors, and their successors, or a majority of them, shall have full power and authority in their discretion from time to time, as money shall be wanted, to make and sign orders for that purpose, and direct at what time, in what manner, and in what proportion the proprietor shall advance and pay off the sums subscribed, which orders shall be advertised at least two months in the paper of the public printer, and they are hereby authorized and empowered to demand and receive of the several proprietors from time to time, the sums of money so ordered to be advanced, for carrying on and executing, repairing and keeping in order the said works, until the sums subscribed shall be fully paid, and to order the said sums to be deposited in the hands of the treasurer, to be by him disbursed and paid out, as the said president and directors, or a majority of them, shall order and direct; and if any of the said subscribers shall refuse or neglect to pay their said proportions within one month after the same so ordered and advertised aforesaid, the said president and directors or a majority of them, may have sold at auction, and transfer to the purchaser, the share or shares of such subscriber, so refusing or neglecting payment, giving at least two months' notice of the time and place of sale, in the paper of the public printer, and after retaining the sum due, and charges of the sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner upon demand; and if such sales shall not produce the full sum ordered and directed to be advanced as aforesaid, with the incidental charges, the said president and



directors, or a majority of them, may, in the name of the company, sue for and recover the balance by action of debt or on the case, in any court of record having competent jurisdiction, and the said purchaser or purchasers shall be subject to the same rules and regulations as if the same sale and transfer had been made by the original proprietor.

Sec. 19. *And be it further enacted*, That, in consideration of the expenses, the said proprietors shall be at in opening the said canal, and improving and extending the navigation of the said river, and in keeping the said canal and works in repair, the said works and canal shall be and the same are hereby vested in the said proprietors, their heirs and assigns forever, in proportion to their respective shares, and the same shall be real estate, and be forever exempt from the payment of any tax, imposition or assessment whatever; and it shall and may be lawful for the said president and directors at all times forever hereafter to demand and receive at such place or places on the said canal, as they shall hereafter judge and determine to be most convenient for all vessels, boats, merchandise and commodities conveyed through the whole extent of the said canal, according to the following tables and rates, to wit:

For each ship or other sea vessel above one hundred and not exceeding four hundred tons burden, twelve cents per ton.				
Ditto above ninety and not exceeding one hundred tons each,	-	-	-	\$11 75
Ditto above eighty and not exceeding ninety tons each,	-	-	-	11 25
Ditto above seventy and not exceeding eighty tons each,	-	-	-	10 50
Ditto above sixty and not exceeding seventy tons each,	-	-	-	9 75
Ditto above fifty and not exceeding sixty tons each,	-	-	-	9 00
Ditto above forty and not exceeding fifty tons each,	-	-	-	8 00
Ditto above thirty and not exceeding forty tons each,	-	-	-	7 50
Ditto above twenty and not exceeding thirty tons each,	-	-	-	7 00
Ditto all not exceeding twenty tons -	-	-	-	6 00
For each boat, except ferry boats, not more than fourteen feet wide and thirty feet long,	-	-	-	3 00
For each boat not more than fourteen feet wide and forty-five feet long,	-	-	-	4 00
For each boat not more than fourteen feet wide and sixty feet long,	-	-	-	5 00
And for every foot over and above fourteen feet wide and sixty feet long,	-	-	-	09
For each barge, batteau, perogue or canoe, not more than thirty-five feet long,	-	-	-	2 00
For each barge, batteau, perogue or canoe, not more than forty-five feet long,	-	-	-	3 00
For each barge, batteau, perogue or canoe, not more than sixty feet long,	-	-	-	4 00
And for every foot over and above sixty feet long,	-	-	-	09
For each hundred of pipe or hoghead stave, or pipe or hoghead, if floated on a raft,	-	-	-	04
For each hundred feet of plank or scantling, if floated on a raft,	-	-	-	04
For each hundred cubic feet of other timber, if floated on a raft,	-	-	-	09

And that the said rates under the limitation aforesaid, shall be collected at such places as the president and directors of the said company or a majority of them, may, from time, to time determine, and that the said tolls be rated and paid in current money of the United States.

Sec. 20. *And be it further enacted*, That the collector of tolls, duly authorized and appointed by the president and directors of the said corporation, may stop and detain all vessels, boats and rafts, using the canal, until the owner or commander or supercargo of the same shall pay the toll, so as aforesaid fixed, or may distrain the said vessel, boats or rafts, or part of the cargo therein contained, sufficient, by the appraisement of two disinterested persons, to satisfy the same, which distress shall be kept by the collector of the tolls, taking the same for the space of eight days, and not being redeemed, shall afterwards be sold at public vendue in the town of Louisville or Shippingport, to the highest bidder, in the same manner and form as goods distrained for rent are by law sold, rendering the surplus on demand, if any there be, after the payment of the said toll and costs of distress and sale, to the owner or owners thereof.

And whereas it is necessary for making the said canal, locks and other works, that provision should be made for condemning a quantity of land for that purpose—

Sec. 21. *Be it therefore enacted*, That it shall and may be lawful for the president and directors, or a majority of them, to agree with the owner or owners of any land through which the canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner or owners thereof shall be *feme covert*, under age, *non compos*, or out of the State, on application to any two justices of the peace of the county in which lands shall lie, the said justices shall issue their warrant under their hands and seals, to the sheriff of their county, directing him to summon a jury of twenty-four inhabitants of his county, of property and reputation, not related to the parties, nor in any manner interested, to meet on the land to be valued on a day to be expressed in the warrant, not less than ten, nor more than twenty days thereafter; and the sheriff, upon receiving the said warrant, shall forthwith summon said jury, and when met, shall administer an oath or affirmation to every jurymen that shall appear, that he will faithfully, justly, and impartially value the said land, not exceeding one hundred acres, and all damages the owner thereof shall sustain by cutting through such land, according to the best of his skill and judgment, and that in such valuation he will not spare any person for favor or affection, or any person grieved for hatred, malice, or ill-will, and the inquisition thereupon taken shall be signed by the sheriff and some twelve or more of the jury, and returned by the sheriff to the clerk of his county, to be by him recorded, and upon every such valuation the jury is hereby directed to describe and ascertain the metes and bounds of the lands by them valued, and their valuation shall be conclusive on all persons, and shall be paid by such president and directors to the owner or owners of the land, or his or their legal representatives, and on payment or tender thereof the said company shall be seized in fee of such land as is conveyed by the owner to them and their successors by legal conveyance.

And whereas some of the places through which it may be necessary to conduct the said canal may be convenient for erecting mills, forges, or other water works, and the person or persons possessed of such situations may design to improve the same, and as it is the intention of this act not to interfere improperly with private property, but for the purposes of improving and perfecting the said navigation—

Sec. 22. *Be it therefore enacted*, That the water, or any part thereof conveyed through any canal, or cut made by the said company, shall not be used for any other purpose but navigation, unless the consent of the proprietor or proprietors of the land through which the same shall be led, be first had, except the company shall be at liberty to erect water works on that part of the ground lying on each side of the foot of the canal on the bank of the river, and which it will be necessary to condemn for the purposes of securing and guarding the said canal, which condemnation shall not exceed the distance of forty poles on the said river, and shall not extend further on each side of the canal up the same than will be sufficient for cuts and aqueducts to convey the water from the upper lock to the bank of the said river; and it shall be lawful for the president and directors, or a majority of them, to purchase of the proprietor or proprietors of the lands adjoining the said canal, so much land as the said company judge necessary

to erect mills, forges, or other water works thereon, or to sell or lease to the said proprietor or proprietors, such portions of the water as the said president and directors may think proper for the erection of water works; and the said president and directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done to answer both the purposes of navigation and water works aforesaid, to enter into reasonable agreements with the proprietor or proprietors of such situation concerning the just proportion of expenses of making large canals, or cuts capable of carrying such quantities of water as may be sufficient for the purposes of navigation, and also for any such water works as aforesaid.

Sec. 23. *And be it further enacted*, That the said president and directors, or a majority, are hereby authorized to agree with the proprietor or proprietors for the purchase of a quantity of land not exceeding one acre, at or near the place of receipt of tolls aforesaid, for the purpose of erecting necessary buildings; and, in case of disagreement or of any of the disabilities aforesaid, or of the proprietor or proprietors being out of the State, then such lands may be valued, condemned, and paid for as aforesaid, for the purpose aforesaid, and the said company shall, upon payment of the valuation of the said land, be seized thereof in fee simple as aforesaid.

And whereas sound policy requires that the laudable designs of those who may become adventurers in the aforesaid company, should be patronised by legislative sanction.

Sec. 24. *And be it therefore enacted*, That it shall and may be lawful for the said president and directors of the Ohio Canal Company, or a majority of them, to propose any scheme or schemes of a lottery, for raising of a sum of money not exceeding the sum of \$30,000, and to sell and dispose of the tickets therein: *Provided*, That the said directors, or a majority of them, shall, before the sale or disposal of any ticket or tickets in such lottery, give bond to the State of Kentucky in the penalty of \$60,000, conditioned that they will well and truly apply the moneys arising therefrom, according to the proposed schemes, within six months after the drawing thereof, to the payment of the prizes drawn by the fortunate adventurers in said lottery, upon application being made by him, her, or them for the same, and the necessary expenses incurred in the management thereof, and the residue to the use of the company in such manner and to such purposes as the said company may order and direct, in order to carry into effect the provisions of this act.

Sec. 25. *And be it further enacted*, That the said bond shall be lodged in the clerk's office of the county court of Jefferson, to be by him recorded; a copy of such bond, under the hand of said clerk, shall be good evidence in an action of debt against the said obligors or any of them, their or either of their heirs, executors, or administrators, brought in the name of the State, for the use of any person concerned, for any breach or non-compliance with the condition of the same: *Provided, nevertheless, and it is hereby enacted*, That nothing in this act contained shall authorize the said president and directors to hold such lottery, or sell or dispose of any ticket or tickets for the same, unless the directors, or a majority of them, shall first take an oath or affirmation before some justice of the peace of the county, that they will honestly demean themselves as managers and judges of the said lottery; and that they will faithfully render unto the fortunate adventurers their respective prizes; and that the certificate of such oath shall be returned with the bond aforesaid, to the county court clerk's office of Jefferson, under the seal of the justice who shall have administered the same.

Sec. 26. *And be it further enacted*, That the tolls herein before allowed to be demanded and received are granted, and shall be payable on condition only that the said Ohio Canal Company shall make the said canal sufficient for the navigation of boats drawing not more than three feet in time of low water, and which shall be at least twenty-four feet wide at the bottom.

Sec. 27. *And be it further enacted*, That in case the said company shall not begin the said canal within three years after the passage of this act, and shall not complete the same on or before the first day of January, 1815, then the said company shall not be entitled to any benefit, privilege, or advantage, and then shall all interest of the said company, and all preference in their favor as to the navigation and tolls, at, to, or through any other part of the said canal, be forfeited and cease.

Sec. 28. *And be it further enacted*, That the books of the said company shall always be open for the inspection of the General Assembly of Kentucky, or any person or persons to be appointed by them for that purpose.

Sec. 29. *And be it further enacted*, That the said canal, and the works erected thereon, in virtue of this act when completed, shall forever thereafter be esteemed and taken to be navigable as a public highway, free for the transportation of all vessels and boats, and of all goods, commodities, or produce whatever, upon payment of the tolls imposed by this act, and no other toll or tax whatever for the use of the water of the said river, and the works thereon erected, shall, at any time hereafter, be imposed by the said company, president, and directors, unless with the consent of the Legislature of this State: *And provided always*, That the same shall be subject to such further regulations by the Legislature as they shall deem expedient in order to prevent imposition by the said president and directors, or prevent fraud in evading the payment of tolls imposed on all articles or commodities carried up or down any part of the said canal.

This act shall commence and be in force from and after its passage.

WILLIAM LOGAN,  
*Speaker of the House of Representatives.*  
THOMAS POSEY,  
*Secretary of the Senate.*

Approved, December 26, 1805.

CHRISTOPHER GREENUP,  
*Governor of the Commonwealth of Kentucky.*

By the Governor:

JOHN ROWAN, *Secretary.*

PROVIDENCE AND CHARLES RIVER ABOVE TIDE WATER.

C. c. No. 1.

ESTEEMED FRIEND:

PROVIDENCE, 4th of 9th month, 1807.

In answer to thy letter of the 1st instant, I may observe that the latitude of the main body of Charles river, at Partridge's bridge, in Franklin, according to the observation and measurement made by Joseph Harrison and others, commissioners of this State, in 1750, is 42° 10'; and the latitude of Pawtucket bridge, according to our observation of the latitude of Providence, and adding the distance hence there, is 41° 55', which leaves the distance between Pawtucket bridge and Charles river, at the place mentioned, 15 miles; the direct line between these two points is about north and south, which passes nearly on the line between North Providence and Rehoboth, Cumberland and Attleborough, and Wrentham, and so into Franklin; the height of land between those two points, lays about nine miles from Charles river, and in the towns of Wrentham and Billingham. Springs and brooks from the north side of the elevated lands, runs into a large pond, called Whiting's, which empties into Charles

river; and from the south side, through Cumberland, springs, brooks, and the river called Abbot's run, empty into Pawtucket river, about a mile above the bridge; on both which waters, between the two great rivers, there are grist and saw mills, and blacksmiths' works; and, on Abbot's run, a small cotton mill, all which falls are easily passed by locks, the falls being small. The height of land between appears eligible to connect the waters around the separating partition; they lay but a short distance apart. Having been from one water to the other with other commissioners of this Government, on the north line, in 1791, it appears to me there can be no doubt of the *practicability of uniting the waters of the State of Rhode Island with those of Massachusetts*, in this route: but as the Secretary mentions *any other route*, I may take the liberty to mention some further facts and observations relative thereto. About 15 years ago, a canal from Providence to Worcester, in the State of Massachusetts, was projected, either through the Moshossick at the north end of this town, into Pawtucket river, a little west of Cumberland bridge, through, or by the two ponds, and so up to Worcester, through which town a branch of Pawtucket river runs, or to commence at Pawtucket, and so up the river from thence. In this project, the now Deputy Governor Lincoln, was engaged, and was chosen representative in Worcester, to their general court, with a view to obtain a charter from that State; but, finding the town of Boston so warmly opposed to the measure, and commanding such an influence, it was given up. As more than half the distance is in that State, ours could not grant a charter to answer the important object. Since that time the people of Boston projected a canal from northwest, near Connecticut river, down the Pawtucket and Charles rivers to Boston, and proceeded to take the levels, elevations, and other surveys of the land and waters, and found the route very eligible; but when they found and considered it would bring the canal near to our State, of which, and Providence in particular, the present Governor Sullivan informed me they were so jealous, that they turned their attention from the waters of Pawtucket and Charles river, to the Merrimack, where they have made the canal. These facts are mentioned to show the practicability of uniting the waters of the main bodies of Pawtucket and Charles rivers, a little further westward than a direct line from Pawtucket bridge; the junction, in that case, would be about 13 miles north-northwest of Pawtucket bridge, where the two rivers come within about 5 miles of each other, and by brooks through Cumberland and Billingham much higher; and, although this route from Providence or Pawtucket would require a little longer canal than the one mentioned as the most direct, it having the most water, may, eventually, prove the most eligible. The facts mentioned, also show that jurisdictional obstructions to public improvements of our country, by canals and turnpikes, which such local interests and prejudices occasion, should, in time, find a remedy; and would not such improving authority be proper to be vested in the General Government? In regard to the communication by Taunton river, which the Secretary's letter also mentions, I am not so well acquainted as with the more westerly route; but supposing it to be practicable, would it not be more exposed, and less secure from foreigners, being near the sea, and the entrance below Boston?

I am, respectfully, thy friend,

MOSES BROWN.

JEREMIAH OLNEY, Esq., *Collector, Providence.*

#### BLODGET, ESSEX, AND MIDDLESEX CANALS.

BOSTON, *December 30, 1807.*

The river Merrimack issues from a lake in New Hampshire called Winnipiseogee ponds, forty miles long; average, twenty-four wide. Another branch, Pemigewasset, issues from mountains near the Connecticut, and unites with the Winnipiseogee, thence, one hundred miles from the sea. The general course of the river is south until it comes within thirty miles of Boston; this is, until within thirty-six miles of that town, through New Hampshire, which is not within what is here expected in description; but there are Amoskeag falls, where Blodget's canal is, sixty miles from Boston, and other falls; at thirty-six miles from Boston, not on the river's course, but on a straight line, there are some small falls of water over which boats and rafts pass.

This river, when it reaches within thirty miles of Boston, changes its course to the northeast for several miles, and turns and runs easterly, and finds the sea six miles southeasterly of Newburyport, and forty miles from Boston; goes into the great receptacle over a bar that admits vessels calling for twelve feet of water; immediately where this bend to the northeast is formed, there is a fall called Pawtucket fall; this fall reaches one mile and three quarters, and the perpendicular fall in the whole is thirty-two feet. The water in the river, above that fall, is seventy-nine feet and eight inches above the sea; to that there is a fall from the lower end of the Pawtucket fall to the sea, of fifty-seven feet eight inches; but this is what, in the New England mode of expression, is called *riplings*; such shoals in the river that boats and rafts pass without difficulty.

The Essex canal is to transport boats and rafts round the Pawtucket falls; there is an elbow in the river, and the canal is cut on that. There are three locks in it, which divide a fall of about thirty-four feet, and convey boats that do not require more than three feet and a half of water. When they have passed on this canal, which is four miles long, they gain the river again, and go down to Newburyport by Haverhill; at which town they meet the tide from the sea. The expense of that canal was \$——, and now bids fair to become good property.

*The Middlesex canal.*—This canal receives its waters as a reservoir from Sudbury on Concord river; that river issues from a pond in Framingham, and runs northeasterly through Billerica, Concord, &c., to the Merrimack, and empties itself into that river four miles below Pawtucket falls. The canal receives its supply from that river in the Chelmsford, six miles on a straight line from the Merrimack, at the head and near the Pawtucket falls; near the union of the canal with Sudbury on Concord river is a fall, where the proprietors of the canal have mills. The water of the river, above the falls, is one hundred and seven feet eight inches perpendicularly higher than the sea at Boston, and falls about fifty feet to find the Merrimack in the course of six miles.

The canal is cut on a straight line from this place to the Merrimack above Pawtucket falls; receives its waters from Sudbury river, and empties them into Merrimack twenty-eight feet over three locks, which divide that fall; they are twelve feet wide and ninety long, formed of hewn stone, laid in terras mortar.

The Middlesex canal has to fall one hundred and seven feet from Concord river to the sea in Boston; this it does by nineteen locks in the space of twenty-two miles; the ground admitted the canal to be less crooked than the country roads commonly are.

The canal is twelve feet wide; the water necessary is three and a half feet, which is well supplied by the river. There was no place where ground was opened more than twenty feet deep, and but four or five where it was opened more than twelve; there is no place where banks are raised fifteen feet, and but a few where they are raised as much as ten. There were morasses where banks were raised, which sunk under the weight of the earth at one place forty feet, less at others; this was very expensive; some ledges cut through, which cost much money. There

are a number of aqueducts supported over rivers and brooks; one over Shawshire, two hundred and eighty feet long, twenty-two feet wide, twenty-two feet above the surface of the river; there is no one else as high or as long as that.

It has been an object in the forming that canal, to shun rivers and navigable waters; the canal is altogether an artificial navigation. It is cut by the side, and on the banks of rivers, without having any communication with their waters; it crosses them on aqueduct bridges without any communication with them.

The locks are seventy-five feet long, and at various distances from each other, excepting that near the middle distance between Concord river and Boston, there is fifty-seven feet fall in half a mile's distance, divided between six locks.

The boats employed on the canal are from forty to seventy-five feet long, eleven feet wide; the largest carry twenty-four; the least ten tons. The lesser boats are packets, and traverse the canal from end to end every day; the others pass as occasion requires.

A raft of a mile long, drawn by two oxen, including eight hundred tons, has been drawn on the canal at the rate of more than one mile an hour. The boats are drawn by two horses on a towing-path three miles an hour. The toll received has increased yearly the same every year, at six cents a ton, besides the hire of boats and horses; 1802, \$2,000; 1806, \$16,800; the accounts for 1807 are not made up.

The land purchased for the canal cost \$58,000, including divers mill privileges, building lots, and farms; the cutting and forming the canal is not less than \$478,000. To make the proprietors whole, and defray the expenses, the annual reception ought to be \$36,000; the banks grow solid and hard, and the repairs will never be great. The proprietors were incorporated in 1793, and their powers, as a corporation, and their estate in the canal are perpetual.

Great advantages will result from clearing the Merrimack, and there are several corporations formed in New Hampshire for that purpose.

### C. No. 3.

#### SUSQUEHANNAH AND SCHUYLKILL CANAL.

##### *Answers to the queries respecting the Schuylkill and Susquehanna navigation.*

1. The points united by the canal, are Reading on the Schuylkill, below Tulpehocken, and Middleton on Susquehanna, a distance of seventy miles.
2. The elevation of the highest ground or summit level, is ascertained to be above three hundred and ten feet above the water of the Schuylkill; and calculated to be about three hundred and eight feet above those of the Susquehanna.
3. The whole distance would require ninety locks, from six to eight feet lift each, according to the ground, and situated at different distances; must be built of hewn stone, as brick will not stand the sudden and severe changes of climate. The five locks now constructed are sixty-six feet long by nine feet six inches wide, to admit boats of sixty feet long and nine feet wide, carrying thirty tons.
4. The supply of water at the summit level is from a number of springs in the adjoining ground, which have been accurately measured, to admit seventy-five boats of seven to ten tons to ascend and descend. They are all at hand, and, without the expense of a feeder, run into the summit level as a reservoir. Further east and west along the rivers, the supply is abundant, and far exceeding any wants. If, hereafter, the trade should require additional supply of water on the summit level, either a small steam engine, or an Archimedes screw-auger might be fixed at each end thereof, at a small expense, to pump up the deficiency.
5. In the beginning it was calculated only to dig through the summit level, and a little way down each stream to a sufficient strength of water; to use the natural channels by means of dams and locks. It is now found necessary to make a canal the whole distance of seventy miles.
6. It has been determined, that the width of the bottom be twenty feet; that the depth of water be three feet and a half; that the width of the canal be thirty feet and a half; that the width of the towing path be ten feet; that the towing-path be not less than one foot above the surface of the water at any place; that the descent of the canal be at the rate of two inches per mile.
7. Some aqueducts across small creeks would be necessary; also some bridges for main roads; but solid fords will, in general, be substituted in lieu of bridges.
8. The only obstruction and difficulty is the great amount which this grand communication would naturally cost.
9. The defects in the original plan were, that this national benefit was, for want of knowledge, begun on too contracted a scale, and with inadequate funds.
10. It is estimated that many thousand boats of thirty tons will be constantly employed to convey the masts, ship timber, iron ore, coal, grain, and other produce. And it is calculated that though the expense of carriage by canal will not exceed one-third the expense by land, the quantity of produce, timber, and minerals conveyed through this canal, when finished, will give a dividend of six per cent. on a capital of one and a half million, since it would bring forth many bulky articles, and to a ready market, which the expensive land carriage, and the badness of the roads, now prevent.
11. The capital already expended is two hundred and fifty thousand dollars. A million of dollars will be amply sufficient to finish it in a masterly style, if economy is used, and good management takes place.
12. The expense per mile has been found not to exceed seventeen thousand dollars for digging, and, including the locks, each calculated to cost nine thousand dollars.
13. The rate of tolls will vary according to the bulk and value of each article. The annual repairs of canals is trifling if originally substantially finished.
14. The enclosed pamphlet, printed in 1795, recites the charter and acts of the Legislature, except that passed on 1st March, 1806, and the 1st March, 1807.

SIR:

PHILADELPHIA, December 21, 1807.

In answer to your communication of the 7th August last, to the president and managers of the Schuylkill and Susquehanna Navigation, enclosing the queries of the Secretary of the Treasury respecting canals and artificial roads, I have the honor, on behalf of the company, to make the following reply:

The Schuylkill and Susquehanna Company was incorporated by the Governor of Pennsylvania, in pursuance of an act of the Legislature of 29th September, 1791, by the name of "the President, Managers, and Company of the Schuylkill and Susquehanna Navigation." The capital stock of the company was to consist of one thousand shares, at four hundred dollars each, amounting to four hundred thousand dollars; and the dividends were not to exceed twenty-five per cent. on the cost. The privileges and franchises of the corporation were deemed liberal

and extensive, although they were afterwards found to be deficient. The immediate object of the law was to unite the Susquehanna and Schuylkill, between Middleton and Reading, in the counties of Berks and Dauphin, by the waters of the Tulpehocken on the east, and of the Quittapahilla and Swatara to the west. This, however, was but a part of what the Legislature had in view. It was easy to foresee, in the improving state of the country, the advantages of a water communication between the lakes and great waters to the westward of the mountains, and the tide waters to the east. The most ready means of accomplishing so desirable an end were afforded by the head waters of the Allegany, of the western branch of the Susquehanna, and of the Schuylkill.

These waters, with the different portages, were surveyed and examined by the late David Rittenhouse and others, and estimates of the expense of opening a communication were laid before the Legislature.

Upon this, the above-recited law was enacted, as also another, to open the communication between Morristown and the Delaware, by Philadelphia. These were to complete the first links of the great chain of western inland navigation, between the Delaware, the Ohio, and Lake Erie. It was then contemplated only to cut and complete a still-water navigation between the Tulpehocken and Quittapahilla, a distance of between four and five miles, to navigate the natural channels of these rivers, and of the Swatara, by clearing out their beds, and by dams and temporary locks.

The works were accordingly commenced in the latter end of 1792, under the superintendance of persons appointed by the board, and were afterwards conducted under the direction of William Weston, Esq., an able engineer from England, who arrived in the year 1793. From his report to the company, in January, 1794, it appeared desirable, for the reasons urged by him, to make at once a great still-water navigation from the Schuylkill to the Susquehanna, a distance of seventy miles, and that, too, in the most complete and permanent manner. Of the expense, a particular and detailed estimate was made and laid before the board, amounting to about seventeen thousand dollars per mile, or twelve hundred thousand for the whole. By the month of December following, the summit level, and five succeeding locks, of bricks, coped with stone, each of six feet lift, and which are now but little injured, were completed; and bricks, &c. were conveyed in boats on the said summit level of the canal. This was by far the most difficult and expensive part of the work. The cost proved the estimate to be large, as the expenditure fell eight thousand dollars short of the engineer's calculation. In the mean time, application was made to the Legislature for assistance; and a law was passed, authorizing the company to raise, by way of lottery, two-thirds of four hundred thousand dollars. Under this law about forty thousand dollars were raised. The moneys paid by the subscribers amounted to near two hundred thousand dollars. Owing to the high price of labor at this time, the enormous sums paid for land and water rights, the want of judgment and experience at the commencement of a work so large and novel, and from the inadequate sums proposed to be raised by way of lottery, which was also slow in its operation, it appeared evident that the work could not be completed; and, accordingly, at the end of 1794 or beginning of 1795, its progress was arrested, leaving debts unpaid to the amount of several thousand dollars.

The charter, too, did not sufficiently protect the company from imposition in the valuation of land and water rights necessary to the works; it defined with too much precision the rate of tolls, and required bridges over the canal that would have cost enormous sums, and are now found unnecessary and even nugatory.

In this state things have remained until the last year or two, during which measures have been taken to prepare for the accomplishment of this great work. Some of the debts due to this company have been collected, and others are put into train to be collected gradually, and may ultimately prove nearly sufficient to discharge the debts owing. The Legislature have amended the charter in many material points: they have dispensed with the building of bridges; they have left the company to impose and collect their tolls in their own way, with no other restriction than not to exceed twenty-five per cent. per annum; they have guarded against imposition in the valuation of land and water; they have extended the time for completing the work; and have agreed to interest the State, on certain terms, to the amount of three hundred thousand dollars. Measures are also taken to raise, by way of lottery, the authorized sum; and the shares not paid up have been forfeited, according to law.

When it is considered that the price of labor is reduced; that the alterations in the charter will make great savings, and are otherwise encouraging; that the land for the track of the canal may now be had for a more reasonable compensation, and in some instances, it is expected, without any; that the sum to be derived from the lottery law may, if successful, be considerable; and that the products of the country on the waters of the Susquehanna, during the last fifteen years, have increased to an immense extent, it is conceived that the undertaking may hereafter proceed to advantage to those interested, as well as to great and permanent utility to the State and the United States, by facilitating the intercourse between the great eastern and western waters.

But the main-spring is wanting: the large capital that it is now ascertained to be necessary to finish this grand national undertaking, is beyond the means of the moneyed interest of this city, which, with more advantage and immediate benefit, is absorbed already. Though the late Legislatures of this State, equally convinced with their predecessors for more than thirty years past, of the great benefit resulting to a very great proportion, if not the whole, of this State, and the public at large, have been very liberal, nay, generous, in giving every encouragement which they could give to this undertaking, so novel and incredible to most persons in this country. Yet it must languish, and remain *in statu quo* for many years, unless a mode can be devised to procure a loan, either at home or abroad, for a million of dollars. Till this loan is procured, and at a moderate interest, it would be unadvisable to expend a single dollar, since the canal cannot be productive without the whole distance being completed and well finished, which, from the number of locks and the distance of digging, may be done in seven years, but, in the opinion of the stockholders, will require ten. Hence, the interest on the capital gradually expended will considerably increase the cost; yet the amount necessary for finishing could easily be raised in Europe, and probably on very moderate terms, by proper application, but not without a fund pledged for its ultimate redemption at a distant period, and the punctual payment of half-yearly interest, or a guarantee, on these principles, from the United States. It is therefore the intention of the present stockholders to make an application to the Congress of the United States, during this session, if the public affairs will warrant the same, either for this guarantee of principal and interest till refunded by the company, or by a grant of a certain quantity of land, either as a gift or as a collateral security for this loan, which, in a certain given period, might be gradually paid off from the receipt of the tolls; which, it is presumed, might easily be done in fifteen years after the canal is finished.

I beg leave to send by the bearer a bundle containing pamphlets printed in 1795, giving full elucidation on this subject, which, agreeable to its direction, you will please to forward to the Secretary of the Treasury, with my best respects and wishes, to cause them to be delivered, agreeable to their direction, that this subject, so highly interesting to the nation, may be fully understood, when it cannot fail of meeting with national encouragement and assistance. Any further information on this subject I shall with pleasure communicate at any time.

I have the honor to be, with great respect and esteem, sir, your most obedient servant,

CHARLES G. PALESKE,

WILLIAM MCPHERSON, Esq., *Naval Officer, Philadelphia.*

*An historical account of the rise, progress, and present state of the canal navigation in Pennsylvania, with an appendix, containing abstracts of the acts of the Legislature since the year 1790, and their grants of money for improving roads and navigable waters throughout the State; to which is annexed an explanatory map. [See map annexed.]*

## INTRODUCTION.

Commerce between the inhabitants of different countries, as regulated by the general laws of nature and nations, and by particular treaties, is the surest means of uniting all mankind in one happy bond of civilization, peace, and prosperity.

By commerce, in this enlarged sense of the word, "the whole world becomes as it were one single family." What nature has denied to the inhabitants of one climate is supplied by what she has liberally bestowed on another; and the superabundance of each becomes common stock.

What commerce, considered in this view, is to mankind in general, by means of foreign trade and external navigation, she is, in a smaller degree, to particular States and societies by means of inland navigation and good roads; whereby the produce of one part of the country, as the case may require, is easily exchanged for that of another, and the superfluities of the whole readily carried to the principal marts or seaports for exportation.

Without improvements of this kind, together with a good Government and laws for the encouragement of industry and protection of property, the inhabitants of countries rich by nature, capable of being bound together in one flourishing and civilized whole, sensible of a common interest, and rejoicing in the common prosperity, may continue long in a state of almost savage wretchedness and poverty, insensible to the benefits of social and civil life, contributing scantily to the relief of their own wants, and nothing to relieve the wants of others, or to increase the common stock of felicity in their own country and of the world in general.

When a country is well improved by means of good roads and canals, joining its principal rivers, and thus establishing a general inland communication; each district with its superfluity may, as already mentioned, purchase what it wants of another, and each be reciprocally furnished with all necessaries and commodities; and, therefore, improvements of this kind are among the strongest marks of the good policy of a nation.

Canals and water carriage in particular, (as is well observed by the writers on this subject,) "render land carriages and beasts of burthen less necessary; and they may be more profitably employed in tillage and agriculture. By canals dry and barren grounds are fertilized, and marshy and watery grounds are drained. By means of them manufactures require fewer hands and less expense; and traffic is extended and animates all parts of a country, procuring plenty and happiness to the individuals, and enlarging the power and strength of a State or sovereignty in general.

"In fine, by canals a people may be supplied" in their cities, towns, and elsewhere, "with grain, forage, fuel, materials for building, and also all other heavy and raw materials for manufactures, which otherwise would remain of little value at a distance from the place where they are wanted, because of the great expense commonly attending their transportation by carriages, &c. for a barge of a reasonable size, worked by two men and drawn by two horses, can transport seventy or eighty tons; which weight by any other carriage would have required forty men and about one hundred and sixty horses." This calculation is made for the canals in England, where by means of turnpikes, a level country, and improved roads, land carriage has a great advantage over any land carriage that can for many years be completed throughout the greatest part of the United States; and the calculations are also verified by considering the difference between land and water carriage in the immense commerce carried on by canals in Holland, France, and Italy. To estimate the difference of expense between land and water carriage in Pennsylvania, while our rivers continue in an unimproved state, is difficult. An estimate, however, was attempted for this purpose, founded on the most authentic documents, and laid before the Legislature in February, 1791,\* as may be seen from page 838 to page 840 of the following papers, and was greatly in favor of water carriage. But when the canals now in operation shall be completed, even to the connexion of the city of Philadelphia with Presque Isle, on Lake Erie, (two short portages only excepted) the difference in favor of water carriage, it is probable, will be far greater than is estimated in England, Holland, France, and Italy, or indeed any other European country.

It is no wonder, then, that from the earliest stages of commerce in the old world, and even for the conveniency of military expeditions, and manœuvres both of attack and defence, canals for water carriage should have been among the first improvements made on the face of nature by the most powerful States, both ancient and modern.

Among the canals executed by the ancients, the first mentioned by historians is that which connected the Red Sea and the Mediterranean; by which it is said King Solomon passed with his fleet to join that of Hiram, King of Tyre, to proceed together to Ophir in search of gold, as in 1 Kings, chap. 9. Herodotus, Diodorus, and Strabo among the ancients, Delisle, Father Sicard, and Rollin among the moderns, have all borne testimony to the existence of this canal, and its ruins have been traced by sundry travellers; Rollin, in particular, gives the following account of it:

"The canal which joined the Red Sea and the Mediterranean is not one of the least advantages which the Nile afforded Egypt. This canal had its beginning near the town of Bubastus; it was one hundred cubits, that is, fifty yards broad, so that two boats could pass with ease, deep enough for the largest vessels, and above one hundred *stadia*, that is, fifty leagues long." But this canal, useful and extensive as it is said to have been, can hardly be compared in point of utility or extent to what may be anticipated in the future prospects of commerce in the United States by means of canals and rivers joining the tide waters of Delaware, Susquehannah, Potomac, Hudson river, &c. with the Ohio, Mississippi, the great Western lakes, and perhaps the South Sea itself.

It would be foreign to the main subject of the following papers to speak of the military canals of the Romans; such as the Fossa Mariana to draw subsistence by sea up the Rhone; the canal from the Isser (which empties into the Zuyderzee) to the Rhone and Rhine; the canal joining the river Nyne in England, near Peterborough, with the Witham below Lincoln. But it may be proper to observe, that even in a military as well as commercial view, it may be worthy of the United States of America to improve the natural advantages of their situation along our sea-coasts as well as in the internal parts of our country. For example, if it should ever be the misfortune of these States to be engaged in a foreign war, especially with maritime Powers, how easy and safe might a water communication be made from Rhode Island and the eastern States of New York; and from New York to Philadelphia, by joining the Millstone and other branches of the Raritan with the river Delaware and the city of Philadelphia; and then from Philadelphia down the Delaware, and (by a short cut of about four miles and a half below Newcastle) from the Delaware to Chesapeake bay, Baltimore, Annapolis, and the city of Washington, on Potomac; thence still by bays, canals, and cuts, through Virginia, North and South Carolina, to Savannah, in Georgia. In time of war, this might not only give a safe communication from one extremity of the United States to another,

\* The plan of a more accurate estimate will be added to the report of the engineer for the year 1794 in subsequent papers.

similar to the communication from province to province and from town to town in Holland, free from the interruption of the privateers of a foreign enemy; but even in time of peace such a communication at certain seasons by vessels not fit for a coasting trade, and the danger of doubling capes and going out to sea might answer many commercial purposes, and make shorter and safer voyages. But this hint is only thrown out hastily, and by the by. We return to the subject of ancient and modern canals for internal navigation.

Next to the canals of the ancients already mentioned, and indeed superior in name to any of them, is the canal of China, begun about the end of the third century, which is said to be the source of immense riches, being constantly covered with a multitude of vessels and boats; by which one may travel within land from Peking to the extremity of the empire, a space of six hundred leagues. "The principal canal discharges itself on both sides into a great number of others, which accommodate the most part of the towns and villages, and answer the convenience of travellers and traffic. The small canals are again subdivided into a number of smaller to fertilize the neighboring plains. Travellers speak with ecstasy of this canal, and of the magnificence and beauty of the stone bridges over the same, the piers being so slender by the goodness of the materials, that the arches, which are very high, appear at a distance as if suspended in the air; and when many can be seen at once they form a prospect the most agreeable in the world: yet these ingenious people have not the use of locks and sluices, but by the help of ropes and pulleys draw their boats up dams of masonry, where there is a fall which is sometimes attended with great danger."

Of modern canals, those of France deserve particular notice. "As early as the reign of their Henry IV. the French became sensible of the great advantages the Dutch and Flemings enjoyed by joining rivers and seas by canals; and, therefore, conceived many projects of this kind. The most important of those executed are the following:

1. The canal for joining the Seine and Loire, which was the first made in that country, with locks and sluices to ascend and descend boats, without the labor and danger of ropes and pulleys, as in the ancient method.

2. The canal of Orleans, to aid the former, is of great importance to the city of Paris; and which meets the Loire a little above Orleans, and was finished in 1724, making the navigation of the Seine, from near Orleans, as good as can be desired.

3. But of all the great works executed in France, the canal of Languedoc, called also the canal of the two seas, is the greatest, and reflects more honor on Louis XIV. than all the victories and splendid acts of his reign. By means of this grand canal, a ready communication is made between the two fertile provinces of Guyenne and Languedoc, and, in consequence, between the Atlantic and Mediterranean. "It is sixty-four leagues long, and has one hundred and four locks, extending, in some places, for a mile together by a passage dug through rocks under ground. The expense was thirteen millions of livres, of which the king contributed seven millions, and the province of Languedoc the rest.—(See Savare Dict. Comm.) "And if the king, on the representation of Colbert, had not shared the expense, and magnificently given the perpetual revenues of it to the celebrated engineer, Mr. Riquet and his heirs, subject only to the sole charge of keeping it in repair, this great work had, perhaps, remained unfinished to this day. The States of Languedoc, with equal magnanimity, contributed their part, by a tax on that province, without any view to a share of the profits, excepting so far that they rightly considered the tax as continuing only for a time, but that the expenditures of the profits would be amongst themselves, and continue a permanent source of riches, increasing more and more, by the advantages they would reap from trade, added to that of obtaining, with ease, those things which they stood in most need of; and the event confirmed their expectations."

"The opposition which Mr. Riquet met with from the owners of the ground, through which the canal was to pass, being made known to Colbert, he thought the only way to avoid these difficulties was to engage the king to indemnify all those who might think themselves aggrieved; who, accordingly, took the canal into his own protection; bought the ground through which it was to pass; erected it into a fief, and gave the property to Mr. Riquet, as aforesaid."

A similar opposition has been made by some of the owners of lands on the route of the Pennsylvania canals; but this, it is hoped, may be overcome gradually by the good sense of the people: if not, the remedy is in the power of the Legislature, by an amendment of the incorporating acts, providing more effectually for a valuation, by good and lawful men, indifferent to the parties.

But to return to some further account of the Languedoc canal, which, traversing an immense tract of country, and joining two oceans by an entire inland navigation, bears the greatest similitude (although upon a shorter scale) to the canals proposed for joining the Atlantic ocean by means of the tide waters of Hudson river, the Delaware, Susquehannah and Potomac on the east, with Ohio or Mississippi, and the great lakes, which are in the nature of oceans, on the west.

The Languedoc canal (according to the account of Vallancey, an able engineer, whose authority is made use of in many parts of this introduction,) is "divided into two principal parts, running from its\* point of partage, which is the most elevated spot in the neighborhood of Castlenaudari. The first, which extends ninety-six thousand three hundred and fifteen French fathoms towards the Mediterranean, descends from the point of partage to the Lake of Thau, near Agde, and passes from thence to the port of Cete in the Mediterranean. The second, which extends twenty-nine thousand three hundred and sixty-six fathoms, descends from the point of partage to the ocean, at its mouth, in the Garonne, below Toulouse; so that, between the two mouths of this grand canal, the whole extent is one hundred and twenty-five thousand six hundred and eighty-one fathoms, or fifty French leagues and a half. An exact level of the ground being taken, it was found that the point of partage was six hundred French feet higher than the Lake of Thau, which is on a level with the Mediterranean, and one hundred and eighty-six French feet above the mean height of the Garonne, taken immediately below Toulouse."

To pass the boats from the port of Cete up to the point of partage, there are seventy-four locks,† of about eight feet fall each; and twenty-six locks from the same point to the Garonne, which is navigable from Toulouse to the

\* The point of partage is that point on the summit of some mountain, or highest middle ground, where the waters, head springs, or sources of different great rivers rise, and, dividing themselves, run different ways. Thus, in the navigation from Philadelphia, by means of the Schuylkill, Susquehannah, and Juniata rivers on the east side, and the Conemaugh, Kiskeminetas, Allegheny and its branch, called French creek, on the west side, (see the map,) by which the tide waters of Delaware may be connected with Lake Erie, and the other great lakes, at Presque Isle, and with the Mississippi waters, at the heads of Conemaugh. The point of partage is on a fine level on the Allegheny mountain, where large springs running eastward into the Juniata branch of Susquehannah, and westward into the Conemaugh branch of Allegheny river, and consequently of the Ohio and Mississippi, are but a few rods apart; and the present carrying place, from the mouth of Poplar run, on Juniata, to the forks of Little Conemaugh, less than sixteen miles.

† To pass from the summit level of the Schuylkill and Susquehannah canal to the mouth of Tulpehocken on Schuylkill eastward, in the distance of near thirty-five miles, the fall is three hundred and ten feet, proposed to be divided into forty-five locks; the descent from the west end of the summit level to the Susquehannah, at the mouth of its Swatara branch, has not been finally ascertained, nor, consequently, the number of locks, should it be eventually necessary to make a canal and locks the whole way, and every where to quit the bed of the river.



ocean; so that this canal contains one hundred great locks. The only difficulty in the accomplishment of this work (for the ground is level and of a good kind) was the expense which was supplied as above stated.

Of these one hundred locks, the most beautiful are the eight locks together, near Beziers, which form one continued cascade of one hundred and fifty fathoms long and sixty-six French feet fall; that is, eight feet three inches fall to each lock. Similar to this, and equally beautiful, are the five locks together, at the east end of the summit level of the Schuylkill and Susquehanna canal, between Myers-town, near the head of the Tulpehocken branch of Schuylkill, and Lebanon, at the head of the Quittapahilla and Swatara branch of Susquehanna. Here there is thirty feet fall, that is, six feet fall to each lock, comprised in the distance of three hundred and seventy feet; by which junction there is a saving of about a fifth of the expense which would have been requisite in the construction of so many locks separately.

In the route of the Languedoc canal, there are several hills and mountains in the aforesaid space of fifty leagues which the canal was to cross; all of which are cut through, except that of Malpas, which, being very high and rocky, is hollowed or tunnelled in the form of a vault, with a foot bank four feet broad, to draw the boats along. This work passes for an extraordinary and noble a thing as any of the ancient Romans.

This canal (of Languedoc) is sixty feet broad at top, thirty feet at bottom, and six feet deep. At the point of partage there is a great basin, called Narouse, of an octangular form, being four hundred yards long, three hundred broad, and seven feet deep—its sides lined with masonry. The greatest difficulty in joining the two seas by means of this canal, was thought to be that of finding a sufficient quantity of water at the point of partage to supply a continual navigation of fifty leagues, because of the inevitable loss by the gates, the oozing, and evaporation. It was here that Riquet gave proof of his superior abilities, for providing for so essential an article, by the reservoir\* of St. Farriol—the greatest work that has been executed by the moderns; this he accomplished by means of a trench collecting the waters which rise and descend from the Black Mountain into the grand reservoir at the summit level, or point of partage. The waters of this reservoir run out through large brass cocks, which communicate with vaulted galleries, made at the bottom of the dam, one hundred feet below the surface.

In constructing this grand canal they inevitably crossed many rivers and rivulets; and then thought of no other expedient than to bring them into it, and let them overflow again at particular places, that they might always keep a sufficient depth of water for the navigation; and, so far from thinking these foreign waters an inconvenience, they were considered as proper to supply what was lost by evaporation. At the end of some years they found their error; for the mud, which these foreign waters brought into the canal, increased so fast, that the canal would not have remained long navigable, had not the celebrated engineer Vauban found means to separate these foreign waters from the canal, and to let in as much of them as they pleased, and when they thought proper. This he completed by back drains, or side ditches, and aqueducts of his own invention—there are forty-five of these on this canal, which are of two kinds; the first, called aqueduct bridges, raised on arches, to support the canal, under which pass these foreign rivers and waters. There are thirty-nine others, passing syphon-wise† from one side ditch to another under the canal. There are many other canals, which it would be needless to describe on this occasion; such as that of Grave, navigable to Montpellier, and from thence, by the river Lez, to the sea; that of Lunel, emptying itself likewise into the sea; those of Radelle, Burgogne, and Silvestal, communicating from Aiguemote, on the Rhine, to the sea; the canal of Movella, crossing the lakes of Salees, Palme, and Signeau, from the neighborhood of Perpignan to Narbonne, from thence to the river Aude, within one league of the great canal; the whole facilitating one great and various communication, from the mouth of the Rhone to Perpignan, and to the ocean, without running any risks by sea.

It would be likewise needless to describe, or even to attempt, on this occasion, to enumerate all the canals made in Holland and the Netherlands within the two last centuries, for the benefit of commerce. The whole country exhibits one chain of water-carriage, for profit as well as pleasure, from port to port, and from town to town, and from village to village, through these countries. "Even under the government of a woman, Elizabeth Eugenia, in the low countries, one hundred and seventy years ago, the famous canal of St. Mary was made; which joins the Rhine and the Meuse, extending from Rheinberg to Vanlo, in order to transport all the merchandise which comes from Germany into Brabant, and to deprive the Dutch of that trade. Foreseeing the jealousy that this work would create amongst her Dutch rivals in trade, she caused it to be fortified by twenty-four redoubts of defence, to support the workmen, in case they should be molested; and although the Prince of Orange attacked them several times, he could not prevent the work from being perfected.

"In addition to this, it may not be improper to mention the exertions of the Czar, Peter I., who, of all the sovereigns who have endeavored to polish and enrich an almost barbarous multitude of subjects, justly merited the title of Great. This Prince travelled through England, Holland, Germany, and France, to instruct himself in military discipline, trade, navigation, and the art of Government; and having engaged many learned and skilful persons of foreign nations in his service, contemplated, in imitation of France, by internal navigation, to join the seas which surrounded his kingdom.

"The principal rivers of Russia are the Dwina, which falls into the White sea; the Don, into the Baltic; and Wolga, into the Caspian sea. The Czar thought that the junction of these rivers by canals would give his subjects a communication with all the seas; and after going himself over this vast tract, having taken all the levels, resolved on the places of the canals for their junction; in a word, having planned every thing for so great a project, he began by the junction of the Wolga with Wolkava, which empties into Lake Ladoga, running by Petersburg, into the Baltic sea. In this manner, it was practicable to cross all Russia by water, which is above eight hundred leagues from the Baltic to the Caspian sea. The intention of this monarch was, that Petersburg, by its favorable situation, should become a magazine for the commerce of the whole world; which would probably have happened, if he had not died in one thousand seven hundred and twenty-five, before the completion of his projects."

In England, Scotland, and Ireland, it may be unnecessary to observe what facilities have been given to trade and commerce, by means of roads and canals—mountains have been traversed and levelled for land-carriage, and, where necessary, perforated for water-carriage; rivers running contrary courses, and seas washing opposite shores, have been made to embrace each other; and an easy and cheap inland navigation formed through all parts of the insular dominion. The joining the friths of Forth and Clyde, in Scotland, and the Duke of Bridgewater's navigation, not to mention a multitude of others, in England, might be adduced as examples. Of the latter, namely, the Duke of Bridgewater's, the republication of a short extract from *Memoirs of the Life of Mr. James Brindley*, may

\* This reservoir is said to contain a body of water, whose superficies is two millions three hundred and forty thousand square feet, and one hundred feet depth, which makes above one million cubic fathoms of water. The reservoir and locks, on the summit level of the Schuylkill and Susquehanna canal, are supplied by the head springs of Tulpehocken, which empties into the Schuylkill branch of Delaware, and the head springs of the Quittapahilla and Swatara branch of Susquehanna. An estimate of the quantity of water which these head springs will carry into the reservoir at the summit level will be found in the following papers.

† Commonly called culverts.



be proper to show that neither mountains nor valleys, rivers nor marshes, can be any long impediment to skill and perseverance, supplied and supported by adequate finances.

"The Duke of Bridgewater hath, at Worsley, about seven miles from Manchester, a large estate, rich with mines of coal, which had hitherto lain useless in the bowels of the earth, because the expense of carriage was too great to find a market for consumption.

"The duke, wishing to work these mines, perceived the necessity of a canal from Worsley to Manchester: upon which occasion, Mr. Brindley, who was now become famous in the country, was consulted. Having surveyed the ground, he declared the scheme to be practicable. In consequence of this, an act was obtained in the years 1758 and 1759, for enabling the duke to cut a canal from Worsley to Salford, near Manchester, and to carry the same to, or near, Hollin ferry, in the county of Lancaster. It being, however, afterwards discovered, that the navigation would be more beneficial, both to the Duke of Bridgewater and the public, if carried over the river Irwell, near Barton bridge, to Manchester, he applied again to Parliament, and procured an act, which enabled him to vary the course of the canal agreeably to this new plan, and likewise to extend a side branch to Longford bridge in Setford. Mr. Brindley, in the mean time, had begun these great undertakings, being the first of the kind ever attempted in England, with navigable subterraneous tunnels, and elevated aqueducts. The principle laid down at the commencement of this business reflects much honor on the noble undertaker, as well as upon his engineer. It was resolved that the canal should be perfect in its kind, and that, in order to preserve the level of the water, it should be free from the usual obstructions of locks; but, in accomplishing this end, many difficulties occurred, which were deemed unsurmountable. It was necessary that the canal should be carried over rivers, and many large and deep valleys, where it was evident that such stupendous mounds of earth must be raised as could scarcely, it was thought, be completed by the labor of ages; and above all, it was not known from what source so large a supply of water could be drawn, as, even upon this improved plan, would be requisite for the navigation: but Mr. Brindley, with a strength of mind peculiar to himself, and being possessed of the confidence of his great patron, conquered all the embarrassments thrown in his way, not only from the nature of the undertaking itself, but by the passions and prejudices of interested individuals, and the admirable machines he contrived, and the methods he took to facilitate the progress of the work, brought on such a rapid execution of it, that the world began to wonder how it could have been esteemed so difficult.

"When the canal was completed as far as Barton, where the Irwell is navigable for large vessels, Mr. Brindley proposed to carry it over that river, by an aqueduct of thirty-nine feet above the surface of the water. This, however, being generally considered as a wild and extravagant project, he desired, in order to justify his conduct towards his noble employer, that the opinion of another engineer might be taken; believing that he could easily convince an intelligent person of the practicability of his design. A gentleman of eminence was accordingly called in; who, being conducted to the place where it was intended that the aqueduct should be made, ridiculed the attempt; and when the height and dimensions were communicated to him, he exclaimed, 'I have often heard of castles in the air, but never before was shown where any of them were to be erected.'

"This unfavorable verdict did not deter the Duke of Bridgewater from following the opinion of his own engineer. The aqueduct was immediately begun; and it was carried on with such rapidity and success, as astonished all those who had but a little before condemned it as a chimerical scheme.

"This work commenced in September, 1760; and the first boat sailed over on the 17th July, 1761. From that time, it was not uncommon to see a boat loaded with forty tons drawn over the aqueduct, with great ease, by one or two mules; while below, against the stream of the Irwell, persons had the pain of beholding ten or twelve men tugging at an equal draught; a striking instance of the superiority of a canal navigation over that of a river not in the tide way. The works were then extended to Manchester, at which place, the curious machines for landing coal upon the top of the hill, gives a pleasing idea of Mr. Brindley's address in diminishing labor by mechanical contrivances.

"The Duke of Bridgewater perceiving, more and more, the importance of these inland navigations, not only to himself in particular, but to the community in general, extended his ideas to Liverpool; and though he had every difficulty to encounter, that could arise from the novelty of his undertakings, his grace happily overcame all opposition, and obtained, in 1762, an act of Parliament for branching his canal to the tide way of the Mersey. This part of the canal is carried over the Mersey and Bollen, and over many wide and deep valleys. Over the valleys it is conducted without the assistance of a single lock: the level of the water being preserved by raising a mound of earth, and forming therein a channel for the water across the valley at Setford, through which the Mersey runs: this kind of work extends nearly a mile.

"A person might naturally have been led to conclude, that the conveyance of such a mass of earth must have employed all the horses and carriages in the country, and that the completion of it would be the business of an age. But our excellent mechanic made his canal subservient to this part of his design, and brought the soil in boats of a peculiar construction, which was conducted into caissons or cisterns. On opening the bottom of the boats, the earth was deposited where it was wanted; and thus, in the easiest and simplest manner, the valley was elevated to a proper level for continuing the canal. The ground across the Bollen was raised by temporary locks, which were formed of the timber used in the caissons, just mentioned. In the execution of every part of the navigation, Mr. Brindley produced many valuable machines, which ought never to be forgot in this kingdom; nor ought the economy and forecast, which are apparent through the whole work, to be omitted, in the stops or floodgates, fixed in the canal where it is above the level of the land. The stops are so constructed that, should any of the banks give way, and thereby occasion a current, the adjoining gates will rise by that motion only, and prevent any other part of the water from escaping, except that which is near the breach between the two gates. The success with which the Duke of Bridgewater's undertakings were crowned encouraged a number of gentlemen, and manufacturers, in Staffordshire, to revive the idea of a canal navigation through that country, for the conveying to market, at a cheaper rate, the products and manufactures of the interior parts of the kingdom. This plan was patronized by Lord Gower and Mr. Anson; and met with the concurrence of many persons of rank, fortune, and influence in the neighboring counties. Mr. Brindley was, therefore, engaged to make a survey from the Trent to the Mersey; and, upon his reporting that it was practicable to construct a canal from one of those rivers to the other, and thereby to unite the ports of Liverpool and Hull, a subscription for carrying it into execution was set on foot in 1765, and an act of Parliament\* was obtained in the same year.

"In 1766, this canal, called by the proprietors "the canal from the Trent to the Mersey," but more emphatically by the engineer, "the grand trunk navigation," on account of the numerous branches which he justly supposed

\* He was the greatest enthusiast in favor of artificial navigations that ever existed. Having spoken upon various circumstances of rivers before a committee of the House of Commons, in which he seemed to treat all sorts of rivers with great contempt, a member asked him, for what purpose he apprehended rivers were created? Brindley, considering with himself a little before he gave an answer, replied at last, "to feed navigable canals."

would be extended every way from it, was begun, and under his direction conducted with great spirit and success as long as he lived. Mr. Brindley's life not being continued to the completion of this important and arduous undertaking, he left it to be finished by his brother-in-law, Mr. Henshall, who put the last hand to it in May, 1777, being somewhat less than eleven years after its commencement. We need not say that the final execution of the grand trunk navigation gave the highest satisfaction to the proprietors, and excited a general joy in a populous country, the inhabitants of which already receive every advantage they could wish from so truly noble an enterprise.

"This canal is ninety-three miles in length, and, besides a large number of bridges over it, has seventy-six locks and five tunnels. The most remarkable of the tunnels is a subterraneous passage of Harecastle, being two thousand eight hundred and eighty yards in length, and more than seventy yards below the surface of the earth. The scheme of this inland navigation had employed the thoughts of the ingenious part of the kingdom for upwards of twenty years before, and some surveys had been made; but Harecastle hill, through which the tunnel is conducted, could neither be avoided nor overcome by any expedient the ablest engineers could devise. It was Mr. Brindley alone who surmounted such difficulties, arising from the variety of minerals, strata, and quicksands, as no one but himself would have attempted to conquer.

"Soon after the navigation from the Trent to the Mersey was undertaken, application was made to Parliament by the gentlemen of Staffordshire and Worcestershire, for leave to construct a canal from the grand trunk, near Haywood, in Staffordshire, to the river Severn, near Bewly. The act being obtained, the design was executed by our great engineer; and hereby the port of Bristol was added to the two before united ports of Liverpool and Hull. This canal, which is about forty-six miles in length, was completed in 1772. Mr. Brindley's next undertaking was the survey and execution of a canal from Birmingham, to unite with Staffordshire and Worcestershire canal near Wolverhampton. This navigation, which was finished in about three years, is twenty-six miles in length. As by means of it vast quantities of coal are conveyed to the river Severn, as well as to Birmingham, where there must be a peculiar demand for them, extraordinary advantages have accrued to manufactures and commerce.

"Our engineer advised the proprietors of the last mentioned navigation, in order to avoid the inconvenience of locks, and to supply the canal more effectually with water, to have a tunnel at Smethwick. This would have rendered it a complete work. But his advice was rejected; and to supply the deficiency, the managers have lately erected two of Messrs. Watts and Boulton's steam engines. The canal from Droitwich to the river Severn, for the conveyance of salt and coal, was likewise executed by Mr. Brindley. By him, also, the Coventry navigation was planned, and it was a short time under his direction.

"The canal from Chesterfield to the river Trent, at Stockwith, was the last public undertaking in which Mr. Brindley was engaged.

"And notwithstanding some of the canals passed through the fine villas and extensive lawns of many gentlemen's retreats, yet their magnanimity induced them to sacrifice their private convenience for public utility.\*

"He surveyed and planned the whole, and executed some miles of the navigation which was successfully finished by Mr. Henshall in 1777.

"The last of our great mechanic's ingenuity and uncommon contrivances that we shall mention, is his improvement of the machine for drawing water out of mines, by a losing and gaining bucket. This he afterwards employed to advantage in raising up coal from the mines."

P. S. Upon an extensive view of the natural advantages which Pennsylvania enjoys for improvements of this kind, a few of her citizens, in the year 1789, united by the name of "the Society for promoting the improvement of Roads and Inland Navigation;" and the number of members soon increased to more than one hundred, residing in various parts of the State, whose meetings were to be on every Monday evening, during the session of the Legislature, in order to suggest information, schemes, and proposals for promoting internal trade, manufactures, and population, by facilitating every possible communication between the different parts of the State.

The following are the principal memorials which have hitherto been acted upon by the Legislature, so far as concerns land and water carriage.

*To the honorable the Senate and House of Representatives of the freemen of the commonwealth of Pennsylvania, in General Assembly met. The memorial of "The Society for promoting the improvement of Roads and Inland Navigation," respectfully sheweth:*

That your memorialists, residing in various parts of this State, with a view to contribute their best endeavors to promote the internal trade, manufactures, and population of their country, by facilitating every possible communication between the different parts of the State, have lately formed themselves into a society by the name above mentioned. And knowing that the Legislature, with the laudable intention of advancing the best interests of this commonwealth, and availing themselves of the extensive information which they have obtained of the geography and situation of the country, have now under their consideration the important subject of roads and inland navigation, we therefore beg leave, with all possible deference, to suggest some important considerations which have occurred to us in our inquiries into this subject.

Pennsylvania, from her situation and extent of territory, is a respectable commonwealth in the Union. Her soil is fertile, her products various, and her rivers, by the bountiful author of nature, have been made to flow in every direction, as if on purpose to bear from all parts the wealth and produce of the land, in an easy, cheap and expeditious manner, to her principal mart and port in the city of Philadelphia. To combine the interests of all the parts of the State, and to cement them in a perpetual commercial and political union, by the improvement of those natural advantages, is one of the greatest works which can be submitted to Legislative wisdom; and the present moment is particularly auspicious for the undertaking, and if neglected, the loss will be hard to retrieve.

When once our trade hath forced its way, even through a less advantageous channel, it is difficult to alter its course, and a little expense, judiciously and seasonably applied, may retain a stream in its channel which, with immense sums, cannot be restored, if once diverted from it. Large emigrations from Europe are now directing their course to this country, and will be encouraged by every improvement we make, by means of roads and water communications with the distant parts of the State. The constant influx of settlers from the Eastern States, is also a considerable object. Being stopped for the present by the Indian disturbances from swarming into the Western territory, many of them may be encouraged to make a halt or settlement in this State, if they find good roads and communications in the different parts thereof.

It may be proper, therefore, before we proceed further, to subjoin a general statement of the various communications and improvements of which Pennsylvania is capable in this way, so far as relates to navigation.

\*Persons were offered to be appointed to value the ground, and assess damages, which they refused.

## DELAWARE NAVIGATION.

	Miles.	Chains.	Total miles.	Total chains.
<b>No. 1. From the tide water at Trenton Falls to Lake Otsego, the head of the north-east branch of the Susquehannah.</b>				
From Trenton falls to the mouth of Lehigh at Easton, - - -	50	15	50	15
To Lechewacksin branch of Delaware, - - -	94	12	144	27
Thence to Stockport, on the Delaware, a little below the junction of the Mohawk and Popachton branches, - - -	66	24	210	51
Portage from Stockport to Harmony, at the great bend, - - -	20	00	230	51
Thence up the northeast branch of Susquehannah, to Otsego lake, - - -	70	00	300	51
<b>No. 2. From the tide water on Delaware to Oswego, on Lake Ontario.</b>				
To Harmony, at the great bend of Susquehannah, as above, - - -	230	51	230	51
Down Susquehannah to the mouth of Tioga, - - -	65	00	295	51
Up Tioga to Newtown, - - -	18	00	313	51
Portage to Conedessago lake, which may be turned wholly into lock navigation by Newtown creek, - - -	18	00	331	51
Down Conedessago lake, - - -	36	00	367	51
Down Seneca or Onandago river to Oswego, - - -	86	00	453	51
<i>Estimate of the expense of opening this navigation from Trenton Falls to Stockport, near the State line.</i>				
From Trenton falls to the mouth of Lehigh, - - -			£1,005	
From Lehigh or Easton to Stockport, - - -			1,243	
Portage from Stockport to Harmony, at £20 per mile, - - -			400	
			<u>£2,648</u>	

## SUSQUEHANNAH NAVIGATION,

As connected with the Schuylkill on the east, and Ohio and the great lakes on the west.

	Miles.	Chains.	Total miles.	Total chains.
<b>No. 1. From Philadelphia, or the tide waters of the Schuylkill, to Pittsburgh, on the Ohio.</b>				
Up Schuylkill to the mouth of Tulpehocken, - - -	61	00	61	00
Thence up Tulpehocken to the end of the proposed canal, - - -	37	09	98	09
Length of the canal, - - -	4	15	102	24
Down Quittapahilla to Swatara, - - -	15	20	117	44
Down Swatara to Susquehannah, - - -	23	00	140	44
Up Susquehannah to Juniata, - - -	23	28	163	72
Up Juniata to Huntingdon, - - -	86	12	250	04
From Huntingdon, on Juniata, to the mouth of Poplar run, - - -	42	00	292	04
Portage to the Canoe Place on Conemaugh, - - -	18	00	310	04
Down Conemaugh to Old Town at the mouth of Stony creek, - - -	18	00	328	04
Down Conemaugh and Kiskeminetas to Allegany, - - -	69	00	397	04
Down Allegany river to Pittsburgh on the Ohio, - - -	29	00	426	04
<i>Estimate of the expense of clearing this navigation from Philadelphia to Pittsburgh.</i>				
Schuylkill, from the tide water, to Reading, by David Rittenhouse and others, - - -			£1,147	0s.
By Benjamin Rittenhouse and John Adlum, - - -			1,519	13
Clearing the Tulpehocken, by do. - - -			1,419	9
The canal from Tulpehocken to Quittapahilla, 20 feet wide and 7 feet deep on an average.*				
The Quittapahilla and Swatara, - - -			18,900	0
Susquehannah, from Swatara to Juniata, - - -			300	0
The Juniata to Frank's town, - - -			2,320	0
Canal or lock navigation to Poplar run, (if found necessary, which probably will not be the case,) - - -			7,000	0
Portage of 18 miles to Conemaugh, at £20 per mile, - - -			360	0
Conemaugh and Kiskeminetas to Allegany, - - -			7,150	0
Total expense from Philadelphia to Pittsburgh, being four hundred and twenty-six miles.				
<b>No. 2. From Philadelphia to Presque Isle, on Lake Erie, by the Juniata and Kiskeminetas, &amp;c.</b>				
To the mouth of Kiskeminetas, by the same route as above, - - -	397	04	397	04
Up the Allegany to French creek, - - -	83	43	480	47
Up French creek to Le Bœuf, - - -	65	40	546	07
Portage from Le Bœuf to Presque Isle, - - -	15	40	561	47
N.B. The sum of £500 for French creek, and £400 for the portage, is all the additional expense in the navigation from Kiskeminetas to Presque Isle or the lakes.				

\* The society have left a blank for the estimate of the canal, as they mean to inquire further whether it cannot be done cheaper upon a plan of lock navigation.

## SUSQUEHANNAH NAVIGATION—Continued.

	Miles.	Chains.	Total miles.	Total chains.
<b>No. 3. From Philadelphia to Presque Isle, by the west branch of Susquehanna, Sinnemahoning, and Conewango.</b>				
From Philadelphia to Swatara, as above, - - - -	140	44	140	44
Up Susquehanna to the west branch at Sunbury, - - - -	65	00	205	44
Up the west branch to the mouth of Sinnemahoning, - - - -	106	00	311	44
Up Sinnemahoning to the forks, - - - -	15	20	326	64
Up the north branch of the Sinnemahoning, - - - -	19	40	346	24
By the portage to the head of Allegany river, - - - -	23	00	369	24
Down Allegany river (partly through New York State) to the mouth of Conewango, - - - -	76	00	445	24
Up Conewango to New York line 11 miles—thence, up the same, through the State of New York, 17 miles, to Chataughque lake, - - - -	28	00	473	24
Across Chataughque lake to its head, - - - -	17	00	490	24
Portage to Lake Erie at the mouth of Chataughque creek, - - - -	9	20	499	44
Along Lake Erie to Presque Isle, - - - -	25	00	524	44
<b>No. 4. From Philadelphia to Presque Isle, by the west branch of Susquehanna, Sinnemahoning, and Toby's creek.</b>				
From Philadelphia to the forks of Sinnemahoning, as above, - - - -	326	64	326	64
Up the west branch of Sinnemahoning, - - - -	24	00	350	64
Portage to Little Toby's creek, - - - -	14	00	364	64
Down Little Toby's creek to the main branch, - - - -	10	00	374	64
Down the main branch of Toby's creek to the Allegany, - - - -	70	00	444	64
Up the Allegany to French creek, - - - -	35	00	479	64
Up French creek and the Portage to Presque Isle, - - - -	81	00	560	64
<b>No. 5. From the tide waters of Susquehanna to Pittsburgh.</b>				
From Thomas's, near Susquehanna ferry, to the mouth of Swatara, - - - -	54	00	54	00
From the mouth of Swatara, as above, to Pittsburgh, - - - -	285	40	339	40
<b>No. 6. From the tide waters of Potomac, at Georgetown, to Pittsburgh.</b>				
From Georgetown to Williamsport at the mouth of Conococheague, - - - -	98	15	98	15
From Williamsport to Fort Cumberland, - - - -	93	36	191	51
From Fort Cumberland to the mouth of Savage river, - - - -	30	44	222	15
Portage from the mouth of Savage river on the Potomac to Dunkard Bottom on Cheat river, - - - -	37	20	259	35
Down Cheat river to Monongahela, - - - -	25	00	284	35
Down Monongahela to Pittsburgh, - - - -	102	00	386	35
<b>No. 7. From Conedessago lake to New York.</b>				
From Geneva, at the outlet of Conedessago lake, by Seneca river, to the Three Rivers, - - - -	62	00	62	00
To the Oneida lake, - - - -	28	00	90	00
Up the Oneida lake to Wood creek, - - - -	18	00	108	00
By Wood creek, (a very crooked course 25 miles, but supposed longer,) - - - -	30	00	138	00
Portage to the Mohawk river, - - - -	1	00	139	00
To the rapids or falls of the Mohawk river, - - - -	60	00	199	00
Portage, - - - -	1	00	200	00
Down the Mohawk river to Schenectady, - - - -	55	00	255	00
Portage to Albany, - - - -	15	00	270	00
By Hudson river to New York, - - - -	165	00	435	00
<b>No. 8. From the middle of the Genesee country to New York.</b>				
Down Genesee river to Lake Ontario, - - - -	30	00	30	00
Along Lake Ontario to Oswego, - - - -	60	00	90	00
From Oswego to the Three Rivers, - - - -	24	00	114	00
From thence to New York, as above, - - - -	373	00	487	00
<b>No. 9.</b>				
From Conedessago lake, by the portage, and by Tioga and Susquehanna, to the mouth of Swatara, - - - -	260	00	260	00
Thence to Philadelphia, as above, - - - -	140	00	400	00
<b>No. 10.</b>				
From Conedessago, by Tioga and Susquehanna, to the great bend, - - - -	101	00	101	00
The portage to Stockport, and down the Delaware to tide water, - - - -	230	51	331	51
To Philadelphia, - - - -	34	00	365	51

On the inspection of the map hereunto annexed, compared with the foregoing statement of distances and water communications, as they may be improved to connect the western waters of the Susquehanna, the Ohio, and great lakes, with the port of Philadelphia, an almost unbounded prospect of future wealth and importance opens to the citizens of this commonwealth. That this subject may be better comprehended in detail, give us leave to consider it under two great heads.

First, The Delaware navigation, as stated in Nos. 1 and 2, by which the countries on the waters of the north-east branch of Susquehannah up to its head at Lake Otsego, and all the countries lying from the mouth of Tioga to Lake Ontario, may be connected with the city of Philadelphia; having only twenty miles portage from Stockport on Delaware to Harmony, at the great bend of Susquehannah, in the whole distance of three hundred miles and a half from the tide water of Delaware to Lake Otsego; and only eighteen miles more in the much larger distance of four hundred and fifty-three miles and a half from the same tide waters to Oswego on Lake Ontario.

The expense of this whole navigation, by the estimate annexed, is only—

For the river Delaware,	-	-	-	-	£2248	0
The portage of twenty miles,	-	-	-	-	400	0
And the Tioga waters and portage, about	-	-	-	-		

But as the Tioga waters, and the communications from thence to Lake Ontario, lie within the State of New York, it is probable they will not be improved by that State, unless it can be done with a view to draw the trade of that country by the Oneida lake, Wood creek, &c. into Hudson river, and even when that shall happen, by a happy rivalry between the cities of Philadelphia and New York, to draw the trade of those vast countries to their respective ports, a great part of it will come with more ease to the former than to the latter; and while the waters are left in their present unimproved state, every advantage is on the side of Pennsylvania, by means of the navigation down the Tioga, and then either down Susquehannah to the mouth of Swatara, and thence to Philadelphia by the waters of Swatara, Quittapahilla, Tulpehocken, and Schuylkill; or from the mouth of Tioga up Susquehannah to the great bend, and thence by the portage to Stockport, and by Delaware to Philadelphia. Taking Conedessago lake as a central place of embarkation for the settlers in the Genesee country, the distance to the city of New York will be four hundred and thirty-five miles (see No. 7,) whereof seventeen miles are land carriage; and the distance to Philadelphia, by Delaware, (see No. 2,) will be three hundred and thirty-one miles; or by Swatara and Schuylkill (see No. 9,) will be four hundred and one miles. Or if the middle of the Genesee settlement, on the Genesee river, be taken as the place of beginning, the distance to New York will be four hundred and eighty-seven miles, whereof \* seventeen miles are land carriage, (see No. 8,) and the distance to Philadelphia three hundred and sixty-five miles and a half (see No. 10,) whereof thirty-eight miles are land carriage.

Connected with the Delaware navigation, we beg leave further to add, that above Stockport, the Mohawk and Popaughton branches, are each navigable for boats of fifteen tons for more than fifty miles above their junction, and considerably higher still for rafts. The Lehigh and Lechawacksen, likewise offer themselves as very important branches of this navigation, lying in the interior parts of the State, but nothing need be added to the report of the commissioners on this head. We proceed, therefore, to the second great and most important head, viz:

The Susquehannah navigation, as it may be connected with the Schuylkill waters on the one hand, and the Ohio waters and great lakes on the other. Here is a navigation which we may properly call our own, passing through the most inhabited and central parts of the State; in which we can have no rivals, if duly improved, and opening such numerous sources and channels of inland trade, all leading to the port of Philadelphia, as perhaps no other nation or sea-port on the whole globe can boast of.

For, in the first place, if we turn our view to the immense territories connected with the Ohio and Mississippi waters, and bordering on the great lakes, it will appear from the table of distances, that our communication with those vast countries, (considering Fort Pitt as the port of entrance upon them,) is as easy and may be rendered as cheap as to any other port on the Atlantic tide waters. The distance from Philadelphia to the Allegany, at the mouth of Kiskeminetas, is nearly the same as from the mouth of Monongahela to Georgetown, on Potomac; and supposing the computed distances from Pittsburg to the Dunkard bottom to be just, and the navigation of Cheat river, on the one hand, and the Potomac, at the mouth of Savage river, on the other, to be, at all seasons of the year, equal to the navigation of the Kiskeminetas, Conemaugh, and Juniata, yet as the portage from Dunkard bottom to the Potomac, at the mouth of Savage river, is thirty-seven miles and a quarter, and the portage from Conemaugh to Juniata only eighteen miles, (which may be considerably shortened by locks,) there can be no doubt but that the transportation of all kinds of goods and merchandise from Philadelphia to Pittsburg may be at a much cheaper rate than from any other sea-port on the Atlantic waters.

This is not mentioned with a view to disparage the internal navigation of our sister States, more especially Maryland and Virginia. We admire their noble exertions to improve the natural advantages of their country, and desire to imitate and emulate them. Every improvement, and every new communication with the Western territories, promoted by any of the United States, by which the trade of the lakes, the Ohio and Mississippi waters can be drawn to our sea-ports, is a benefit to the whole Union. By no other methods than by opening easy communications, both by good roads and safe water carriage, can the settlers in those vast Western countries be made useful to the Atlantic States, and comfortable in their own situation. Nor can we expect by any other means than by inviting their trade, and making it their interest to be connected with us, that we can long secure such connexion. But although a considerable part of the settlers on the Ohio waters may be accommodated by the Potomac navigation, and the State of Pennsylvania may only have a share in the trade of those waters; yet there remains to us the immense trade of the lakes, taking Presque Isle, which is within our own States, as the great mart or place of embarkation. Here there can be no competition in respect to the distances or the ease of water carriage, between the port of the Philadelphia and any other port on the Atlantic tide waters, whichever of the three communications, between Philadelphia and Presque Isle, we may choose to pursue.

Of these three communications, it is of importance to choose the best in the first instance, and not to neglect the improvement of it; nor to entertain doubts and delays, till the opportunity of receiving benefit from it be entirely lost, and the trade of those vast countries drawn into other channels.

We shall speak first of the communication with Presque Isle, by the Chadaughque lake, the Conewango river, part of Allegany, the Sinnemahoning, Susquehannah, Swatara, and Schuylkill, (see No. 3,) which appears to be the shortest, being about five hundred and twenty-four miles and a half. The navigation of the Conewango and north branch of Sinnemahoning, according to the report of the commissioners, may be made very good, and is, on that account, as well as the shortness of the distance, preferable to that by way of Toby's creek and west branch of Sinnemahoning. But a considerable part of this communication lies through the State of New York, in a yet unsettled country; and although it leads, in the most direct way, to Presque Isle and the great lakes, it cannot be of any great use in the main communication with the Ohio and Mississippi by the way of Pittsburg, which is the great object of present consideration.

\* In this route to New York there are the same portages, viz. seventeen miles, as in the other from the Conedessago lake supposing Genesee river could be made navigable; but it is doubtful whether it can be made useful in navigation, having many falls, and one of them sixty feet.

The second route from Philadelphia to Presque Isle, by the west branch of Susquehannah, as connected with Swatara and Schuylkill, and by the Sinnemahoning and Toby's creek, being five hundred and sixty miles and a quarter, (see No. 4,) passes indeed wholly through our own State; but besides what has been already mentioned concerning the waters of Toby's creek, compared with the Conewango and Chadaughque lake, this navigation could be of no further use than the former, in respect to the main communication with Pittsburg, as the mouth of Toby's creek lies fifty miles higher on the Allegany than the mouth of Kiskeminetas; and even with respect to Presque Isle, the navigation from Philadelphia, by the way of the Juniata and Kiskeminetas, is as short as by the way of Toby's creek, the latter being five hundred and sixty miles and three-quarters, as mentioned above, and the former five hundred and sixty-one miles and a half.

Third. This third communication, then, is that which embraces all present interests. It connects Philadelphia with Pittsburg and all the Ohio waters, by the Schuylkill, the Swatara and Juniata branches of Susquehannah, and the Kiskeminetas branch of Allegany, with the distance of five hundred and sixty-one miles and a half, (see No. 2,) and also Philadelphia and Presque Isle, using the same waters as above, to the mouth of Kiskeminetas, and then by the easy waters of Allegany and French creek. In this whole communication to Pittsburg, there are only eighteen miles portage between the Juniata and Conemaugh, which may be considerably reduced, as is said before, and only the addition of fifteen miles and a half more at the portage from Le Bœuf to Presque Isle, which portage is likewise included in both the other communications. In this statement of portages, it is supposed that the canal or lock navigation between the heads of Tulpehocken and Quittapahilla is to be completed; but if that work should be thought too great to begin with, it will be only the addition of four miles portage, by an excellent and level road.

The navigation by this route we beg leave to recommend to the Legislature, as one of the first and greatest works which they can undertake for the honor and advantage of their country. It is a work within their reach; a work in which not only the citizens of this State, but of the United States in general, are deeply interested. The expense, even including the canal, has been estimated, and doth not exceed the sum which would be requisite to complete a good road of fifty or sixty miles in some of the interior parts of the State, and which, after all, would only be of partial benefit, contributing but little to unite the remote parts of the same, in one easy central chain of communication with the capital.

The improvement of roads is, however, one great part of the design of our association, and we mean to make it our endeavor to bring forward and to encourage useful plans for this purpose. Some roads, as connected with the plan of inland navigation, require the immediate attention of the Legislature. Among these are the different portages mentioned in the respective water communications stated above; and, particularly, that between Stockport on Delaware, and Harmony, at the great bend of Susquehannah, and between the mouth of the Poplar run on Juniata, and the Canoe Place on Conemaugh. Another most important road, as connected with the navigation scheme, will be from the highest boatable waters of Yohiogeny, near the Turkey Foot, to the junction of the Raystown branch of Juniata and Dunning's creek near Bedford; or even to the mouth of Poplar run on the Frankstown branch. By this road all the inhabitants of the upper parts of Washington and Fayette counties, and part of Bedford county, would have access to the great water communication by the Juniata, or to the great State road from Bedford to Philadelphia; avoiding the mountainous and circuitous course they are now obliged to pursue; and a great part of their trade, which would otherwise go to Potomac, would be thereby secured to Pennsylvania.

In this view, also, the State road through Lancaster, Carlisle, and Bedford, to Pittsburg, is an object of primary consideration, and may be undertaken without delay or injury to the plan of Western navigation. This commonwealth, we are happy to believe, is now, in its resources, equal to the accomplishment of all necessary improvement, both of roads and navigation.

We would beg leave, before we conclude, to point out some other roads as worthy of attention, viz:

1. The road through Reading and Sunbury, and thence to be continued by the best and most practicable route to Presque Isle, or the lands on French creek.

2. The road through Bethlehem to the northern boundary of the State, at some point between Delaware and the great bend of Susquehannah.

3. A road leading from Hudson river, in the State of New York, to be continued from Stockport on Delaware, across towards the west branch of Susquehannah, between Munsey and the great island, and to join the road mentioned above, as leading to French creek and Presque Isle.

But, in every view, we humbly conceive, that the laying out and improving those roads ought not to interfere with, or delay the improvement of, our inland navigation. The ease and cheapness of water carriage, compared with every other, furnish sufficient arguments on the subject, if there were none else.

The annexed comparative view of the expenses of both is submitted to the consideration of the Legislature, as a conclusion to this memorial.

Signed on behalf and by order of the society.

ROBERT MORRIS, *President.*

FEBRUARY 7, 1791.

*Remarks and calculations respecting the communications between Schuylkill and Susquehannah.*

In the present year, 1790, by the best estimates that can be obtained, the quantity of one hundred and fifty thousand bushels of grain have been brought down the Susquehannah, and passed through Middletown, on its way to Philadelphia market. Juniata has afforded a very considerable part of this quantity; and here it must be observed that the lands on this river are but in an infant state of cultivation; and suppose them to be ever so well improved, the proportion they bear to the lands on the other branches of the Susquehannah is not more than one-fifth part.

In the year 1788, large quantities of wheat and flour were carried up the river for the use of the settlers in Northumberland county; since last March, about thirty thousand bushels of wheat returned down the stream to market from said county. It may also be reasonably expected, that should an easy inland communication be effected between the Susquehannah and the Schuylkill, the whole produce of Cumberland, and part of York county, would cross the Susquehannah to the Philadelphia market. From these principles it is evident, that there will be an annual increase of country produce that will descend the Susquehannah, although, from so short an experience, certainty in our estimates cannot be expected; but, in order to reduce the subject more to view, let the annual increase be put at one-eighth, which I expect will be allowed, on all hands, to be guided by moderation and justified by strong probability.

I said one hundred and fifty thousand bushels of grain are allowed to have passed to Middletown in the present year, which, augmented by an annual increase of one-eighth, will, in 1793, amount to two hundred and six thousand two hundred and sixty bushels, which, at two shillings and six pence per bushel, (the carriage, on the present principles, to the Philadelphia market,) amounts to twenty-five thousand seven hundred and eighty-one pounds, five shillings; then, by adding one-eighth, the annual increase, it will stand thus:—

For the year 1793,	-	-	-	-	-	-	-	£25,781	5	0
For the year 1794,	-	-	-	-	-	-	-	28,125	0	0
For the year 1795,	-	-	-	-	-	-	-	30,468	15	0
For the year 1796,	-	-	-	-	-	-	-	32,812	10	0
For the year 1797,	-	-	-	-	-	-	-	35,156	5	0
For the year 1798,	-	-	-	-	-	-	-	37,500	0	0
For the year 1799,	-	-	-	-	-	-	-	39,843	15	0
For the year 1800,	-	-	-	-	-	-	-	42,187	10	0
Whole amount of carriage to market,								£271,875	0	0

The abovementioned quantity of grain is equal to five thousand five hundred and twenty-four tons and a half; and suppose one-third of the weights carried back in salt, liquors, and other merchandise, at five shillings per hundred, or five pounds per ton, there will be one thousand eight hundred and forty-two tons, with an annual increase of one hundred and sixty-seven tons. It will then stand thus:—

For the year 1793,	-	-	-	-	-	-	-	£ 9,210	0	0
For the year 1794,	-	-	-	-	-	-	-	10,045	0	0
For the year 1795,	-	-	-	-	-	-	-	10,880	0	0
For the year 1796,	-	-	-	-	-	-	-	11,715	0	0
For the year 1797,	-	-	-	-	-	-	-	12,550	0	0
For the year 1798,	-	-	-	-	-	-	-	13,385	0	0
For the year 1799,	-	-	-	-	-	-	-	14,220	0	0
For the year 1800,	-	-	-	-	-	-	-	15,055	0	0
Whole amount of back carriage in eight years,								£97,060	0	0

The whole amount of carriage to and from Middletown in eight years:—

To Philadelphia,	-	-	-	-	-	-	-	£271,875		
To Middletown,	-	-	-	-	-	-	-	97,060		
								£368,935		

Suppose the quantities before mentioned to be carried by water, the wheat at one shilling and six pence per bushel, and the back loads at three shillings per hundred, or three pounds per ton, it will then stand thus:—

To this market,	£15,468	15	0	For the year 1793,	From this market,	£5,426	0	0	
	16,875	0	0		1794,		5,927	0	0
	18,281	5	0		1795,		6,428	0	0
	19,687	10	0		1796,		6,929	0	0
	21,093	15	0		1797,		7,430	0	0
	22,500	0	0		1798,		7,931	0	0
	23,906	5	0		1799,		8,432	0	0
	25,312	10	0		1800,		8,933	0	0
	£163,125	0	0				£57,436	0	0
	57,436	0	0						
	£220,561	0	0	Whole amount of carriage by water.					

Carriage by land in eight years,	-	-	-	-	-	-	-	£368,935		
Carriage by water,	-	-	-	-	-	-	-	220,561		
Balance,								£148,374		

A number of observations naturally present themselves as consequences of this water communication: First, the difference between the carriage by land and that by water, during the aforesaid period, is one hundred and forty-eight thousand three hundred and seventy-four pounds, which will be a clear gain to the country; and the stock now vested in horses, wagons, &c., could be employed to other useful purposes. The so general use of horses might be abated and oxen used in their stead by the farmers, whose principal reason for giving so decided a preference to horses, is their being supposed better for draught on the roads: a more general use of oxen would not only be attended with immediate profit to the husbandman, but would tend to increase the article of beef as an export. The lands in the old counties, below the mountains, are known to have abated in that virgin fertility which attends all new cultivation; they must now be manured. Added to this, the population is increasing very rapidly. The operation of these causes, in a few years more, will make the consumption equal to the produce in the old counties. If the staple of the port of Philadelphia is to be supported, it can be best done by conducting the streams of commerce, in the article of grain, from the Susquehannah to this city.

The late information obtained from the commissioners who have viewed the communications with the Allegany and Lake Erie, make it highly probable, that an immense trade will, one day, be carried on from Philadelphia with the great lakes and fur countries, and with the settlements on the Ohio, &c. The proposed communication between Schuylkill and Susquehannah will serve as a basis to this traffic, whether the route be by the Juniata or the other branches of the Susquehannah.

*The expense attending the transportation of two hundred and six thousand two hundred and fifty bushels of grain to market.*

The above quantity of grain is equal to five thousand five hundred and twenty-four tons and a half; and a boat to carry six tons will be equal to nine hundred and twenty-one boat loads; and each boat to pass and repass eight times, annually, it will take one hundred and fifteen boats to transport the quantity above mentioned in a season.

The expense of hands and provisions attending each load will be £15; consequently, nine hundred and twenty-one loads will cost £13,815; and the annual increase of expenses, for an additional number of boats, hands, &c., to transport the increase of produce, will be £1,520 a year; and then it will stand thus:

For the year 1793,	-	-	-	-	-	-	-	£13,815 0 0
For the year 1794,	-	-	-	-	-	-	-	15,335 0 0
For the year 1795,	-	-	-	-	-	-	-	16,855 0 0
For the year 1796,	-	-	-	-	-	-	-	18,375 0 0
For the year 1797,	-	-	-	-	-	-	-	19,895 0 0
For the year 1798,	-	-	-	-	-	-	-	21,415 0 0
For the year 1799,	-	-	-	-	-	-	-	22,935 0 0
For the year 1800,	-	-	-	-	-	-	-	24,455 0 0
								<u>£153,080 0 0</u>

The whole expense of carriage, and for seventy-seven additional boats, some of which will be seven-eighths worn, and so on to one-eighth, allowing a boat to last eight years.

Amount of carriage by water in eight years,	-	-	-	-	-	-	-	£220,561
Expense attending the same, -	-	-	-	-	-	-	-	153,080
								<u>Balance, - £ 67,481</u>

It is supposed, by these calculations, that the boats, for the beginning of the carriage, will be taken in the estimate with the canal.

The grain consumed as horse feed will be another object of attention. Two hundred and six thousand two hundred and fifty bushels of grain, at forty-five to a wagon load, are equal to four thousand five hundred and eighty-three loads: each team, to be ten days on the road, will eat ten bushels of rye, which is equal to forty-five thousand eight hundred and thirty bushels, which, with the annual increase, will, in eight years, amount to four hundred and eighty-three thousand four hundred and eighty bushels; or, annually, it will stand thus:

								Bushels.
For 1793,	-	-	-	-	-	-	-	45,840
For 1794,	-	-	-	-	-	-	-	50,010
For 1795,	-	-	-	-	-	-	-	54,180
For 1796,	-	-	-	-	-	-	-	58,350
For 1797,	-	-	-	-	-	-	-	62,520
For 1798,	-	-	-	-	-	-	-	66,690
For 1799,	-	-	-	-	-	-	-	70,860
For 1800,	-	-	-	-	-	-	-	75,030
								<u>483,840</u>

*Estimate of the expense of clearing the river Schuylkill, from the falls to Reading, by David Rittenhouse and others, in the year 1778.*

Clearing the Schuylkill from the falls to the Spring Mill,	-	-	-	-	-	£192 0 0	
Ditto to Reading,	-	-	-	-	-	955 0 0	
							<u>£1,147 0 0</u>

*Estimate of the expense of clearing the river Schuylkill, from the falls to Reading, by Benjamin Rittenhouse and John Adlum, in 1789.*

Clearing the Schuylkill from the falls to the Spring Mill,	-	-	-	-	-	£270 0 0	
Ditto to Reading,	-	-	-	-	-	1,111 10 0	
Contingencies, £10 per cent.,	-	-	-	-	-	138 3 0	
							<u>£1,519 13 0</u>

*Estimate of the expense of clearing the Tulpehocken creek, from its mouth to the head of the same, by Benjamin Rittenhouse and John Adlum.*

Clearing the Tulpehocken from its mouth to Lechner's mill, twenty-eight miles and sixteen chains up said stream,	-	-	-	-	-	£1,289 10 0	
Contingent expenses, say 10 per cent.,	-	-	-	-	-	129 19 0	
							<u>1,419 9 0</u>
Amount of the estimate from Lechner's mill to the mouth of the creek,	-	-	-	-	-		
A canal to be cut from Lechner's mill to Loy's spring, at the head of the Tulpehocken creek, about seven miles and a half in length, suppose twenty feet wide, and, on an average, seven feet deep, the expense of common cutting at nine pence per yard,	-	-	-	-	-	7,699 19 9	
For ten locks in the above distance,	-	-	-	-	-	2,000 0 0	
For temporary damages to lands, impediments to works, &c.. suppose 10 per cent. on the above,	-	-	-	-	-	970 0 0	

Amount of expense from Lechner's mill to the head of Tulpehocken creek, - 10,669 19 9  
 For cutting the canal from Loy's spring, the head of Tulpehocken creek, to Kucher's dam, on the head of the Quittapahilla creek, four miles and sixty perches, on an average twenty-five feet deep and thirty feet wide, the expense of common cutting, nine pence per yard, - 23,031 4 6

The amount of the expense for clearing the Schuylkill, Tulpehocken canal, &c., to the head of the Quittapahilla, - 36,640 6 3

N. B. This expense may be avoided by leaving a portage of about four miles, which will reduce the whole to £32,540.



Amount of expense on Quittapahilla and Swatara to Susquehannah, by Matlack, Maclay, and Adlum, in 1790, - - - - -	£18,900 0 0
Amount of expense from Philadelphia to Susquehannah, by way of Schuylkill and Swatara, -	55,540 6 3
From the mouth of Swatara, up the Susquehannah, to the mouth of Juniata, by Galbreath, Boyd, and Huling, - - - - -	300 0 0
Up Juniata to Water street on the Frank's town branch of Juniata, - - - - -	820 0 0
Clearing the Frank's town branch to Frank's old town, by Matlack, Maclay, and Adlum, -	1,500 0 0
Canal from thence to Poplar run, - - - - -	7,000 0 0
Portage to Little Conemaugh, eighteen miles, at £20 per mile, - - - - -	360 0 0
From the Canoe Place, on the Little Conemaugh, down the same, and Kiskeminetas to Allegany, -	7,150 0 0
Opening French creek to Le Bœuf, - - - - -	500 0 0
Road from Le Bœuf to Presque Isle, - - - - -	400 0 0
Contingencies in Matlack's, Maclay's, and Adlum's estimate, - - - - -	3,599 0 0
Amount of expense from Philadelphia to Presque Isle on Lake Erie, by way of Schuylkill, Swatara, Juniata, &c., - - - - -	£77,169 6 3

N. B. This may be reduced to £54,169, by leaving a portage of four miles between the Tulpehocken and Quittapahilla.

*Estimate of the expense for opening the navigation and communications to Presque Isle, on Lake Erie, from Philadelphia by way of Schuylkill, Swatara, the west branch of Susquehannah, Sinnemahoning, Conewango, &c.*

From Philadelphia to the mouth of Swatara, by Schuylkill, &c., - - - - -	£55,540 6 3
From Swatara to North town, at the forks of Susquehannah, - - - - -	600 0 0
To the Canoe Place, on Sinnemahoning, - - - - -	660 0 0
Portage to the Allegany, - - - - -	460 0 0
From the head of the Allegany to the mouth of Chataughque creek, on Lake Erie, - - - - -	1,400 0 0
Whole amount of expense to Presque Isle, as above, - - - - -	£58,660 6 3

N. B. This estimate may be reduced to £35,660, by leaving the distance between Tulpehocken and Quittapahilla a portage.

*Estimate of the expense of opening the river Delaware, from the falls, at Trenton, to Stockport, near the Popachton branch of the same, and the portage across to Harmony, on the great bend of the Susquehannah.*

From the falls at Trenton to Easton, - - - - -	£1,005 0 0
From thence to Stockport, - - - - -	1,243 0 0
Portage to the great bend on the northeast branch of the Susquehannah, - - - - -	400 0 0
Amount, -	£2,648 0 0

*A proposal and plan for carrying into immediate execution the improvement of roads and inland navigation.*

To the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met:

The Society for promoting the Improvement of Roads and Inland Navigation beg leave to present the result of their inquiries concerning the best method and most effectual plan for the carrying that important work into immediate execution; and, in the first place, with respect to the improvement of roads, on turning our attention to the history of this work, as it hath been conducted in other countries, and especially in the island of Great Britain, we find that but little attention was paid to the improvement of roads till, in the year 1285, the first statute was passed for widening the roads between market towns "in England;" but this was done purely to prevent robberies, and not the least hint of its being yet necessary for the use of carriages or to promote commerce. But, in the year 1555, a statute was passed "taking notice that the highways were becoming very noisome, and tedious to travel, and dangerous to all passengers and carriages;" wherefore, it was enacted, "that every parish should annually choose two surveyors of the highways to see that the parishioners, according to their lands, abilities, and farms, shall send their carts, horses, men, tools, &c. four days in every year, for mending the roads, &c.;" and, from this time to the reign of Charles II., there were no less than twenty-six statutes, on similar principles, passed for keeping the highways in repair, from which the road laws of Pennsylvania have been in a great measure copied, only substituting townships for parishes. But, soon after the restoration of Charles II., we find it set forth—"that the vast increase of the capital city of London, and of the nation's commerce and manufactures, with the concomitant increase of wealth and luxury, had introduced such numbers of heavy wheel carriages on the roads, as rendered it impracticable, in most cases, for parishes to keep their own part of the roads in repair, more especially in the counties lying nearer London, and in the manufacturing counties; and, therefore, a more equitable and effectual method was introduced of tolls and toll-gates, called turnpikes, by which means the burden of putting and keeping the roads in repair (as it is strongly expressed) was put upon the identical wearers-out of the roads, according to the use they made of them; and, accordingly, upon this new and more equitable and effectual plan, many local, as well as general statutes have been enacted, for limiting the weight of wagon-loads, the breadth of wheel-rims, called fellies, the number of horses, &c. And what has been said of roads may be applied to the deepening of rivers, and the improvement of inland navigation, by locks, tolls, and canals," which was begun about the same time, and is now extended over the whole kingdom by subsequent acts of Parliament special and local as well as more general.

The present circumstances of Pennsylvania, in respect to the increase of commerce, wheel-carriages, &c. and the unimproved state of our roads and inland navigable waters, being so similar to those of England in the time of Charles II., the foregoing reasoning will justify the conclusion which we mean to draw from it, namely: that the putting or keeping the great roads in repair, either in the counties near the capital city of Philadelphia, or, indeed, in dis-

tant counties but thinly inhabited, would be a burden not only intolerable to the inhabitants of the particular townships through which the roads pass, but likewise unequal in itself, and ought neither to be borne by the State at large, nor yet by the particular townships and counties; but, for the greater part, "by the *identical wearers-out* of the roads, according to the use they make of them." And the like reasoning applies to the improvement of rivers and opening of canals for water carriage.

From these preliminary observations, the Society beg leave to lay down the following principle, as the groundwork of the plan herewith submitted to the consideration of the Legislature of Pennsylvania:

First. The method of turnpike roads and toll navigation must be adopted.

Secondly. The work, both of roads and navigation, must be undertaken and carried into execution by separate companies and associations of men, upon some uniform and consistent plan, aided and directed by the Legislature; as neither the State alone, nor any number of companies, without public regulations and assistance, can be adequate to the great work in all its parts; and, therefore, the assistance of the State should be apportioned to different parts of the work with a liberal and equal hand in respect both to roads and navigation as it may be most necessary, and where the smallness of the tolls, the distance from the market and other circumstances may yield the least probability of an adequate encouragement or speedy reimbursement to the adventurers.

Upon those principles, the society beg leave to offer the following

#### *Heads of a plan:*

I. The Legislature to appropriate a sum not less than ——— dollars to this object.

II. In order that there may be sufficient wisdom, consistency, experience, impartiality, and public spirit attached to the execution of the work, and interested in its success. The Legislature to appoint by law a "board of commissioners for the improvement of roads and inland navigation within the State of Pennsylvania."

III. The board to consist of ——— members, of which the Governor shall be president, with a vice president, to be annually elected. They shall meet once a week, or as often as may be needful. The time and place of every meeting to be announced in one of the daily newspapers, and the members present, being not less than ———, to be capable of transacting business.

IV. The board of commissioners to be allowed the use of a room or rooms in some of the public buildings in the city of Philadelphia, wherein they may hold their meetings, and deposit their books, maps, plans, and other papers. They are to be allowed firing, candles, stationary, clerks' hire, and actual contingent necessary expenses to be paid by the public; but they shall not receive any pay for their own time or personal services, unless when any of them shall be employed by the board to make surveys, or to inspect or superintend any of the works that may be carried on under their direction; in which cases they shall be entitled to their travelling charges and expenses.

V. The general and standing powers of the said board of commissioners shall be as follows, viz:

1. To employ at the public expense a proper person or persons to examine, survey, mark out, and report in writing such roads as may be deemed the most proper to be established as turnpikes, assigning their reasons that induced them to be of opinion in any instance that it will be of public utility to depart from the present or old line of any established road.

2. To determine finally (after considering such reports and obtaining all necessary information) upon the line of road which shall be established as turnpike.

3. To determine on such roads as not being suitable for turnpike, ought to be made or repaired at public cost, and to employ proper persons to perform the same.

4. To advertise the roads which they shall establish for turnpikes; receive propositions and enter into contracts with individuals, companies, or corporations, for constructing and mending the said roads in such manner and upon such principles as have in other countries been found upon experience to be best.

5. To fix in each contract the particular road and the extent and length thereof which the parties are to improve, and the rates or tolls which they shall be entitled to receive for horses, cattle, carriages, &c.

6. To appoint a superintendent, if desired by the contractors, who shall attend and survey the work, and see that it be well executed, and at as moderate an expense as may be practicable: he shall likewise examine and certify every account, so as to ascertain truly the actual amount necessarily expended.

7. To engage with such contractors as shall submit their operations to the control of a superintendent.

*First.* That if the tolls fixed should, upon experience, be found so unproductive as not to yield, after paying annual charges, six per centum per annum, clear upon the capital expended, the board of commissioners shall in such case pay the annual deficiency; or may annul such contract on repaying to the contractors the money expended.

*Secondly.* That, on the contrary, where the toll shall be found so productive as to yield more than six per cent. per annum, the commissioners may, at the end of ——— years, annul such contract, paying back the capital sum with an advance of ——— per cent. to the proprietors. But if the contractors do not agree to a public superintendent or ask aid, it may be supposed that the contract is amongst the advantageous ones, and the commissioners may, at the end of ——— years, annul the same as above.

8. To authorize the contracting parties to establish fences and gates at such distances as may be deemed necessary and proper to enable the due collection of the tolls with the least possible inconvenience to travellers.

9. The several boards of contractors shall be declared by law to be corporations or bodies politic, for carrying into effect the purposes of their contracts for and during the terms thereof; and shall be authorized

*First.* To divide the capital sum expended into shares of ——— dollars each; and

*Secondly.* To grant a certificate to every proprietor of a share, which shall be transferable at pleasure, and every holder of a share, whilst he continues so to be, shall be a member of the corporation.

*Thirdly.* Each corporation shall have a right to elect a treasurer and managers to conduct the affairs of the corporation agreeably to such rules and regulations as it may from time to time establish.

*Fourthly.* Every share to entitle the holder to a vote in establishing general rules and regulations, and in the choice of the treasurer and managers.

*Fifthly.* The managers to have power—

1st. To call upon the contractors or subscribers for such proportions, from time to time, of their respective subscriptions, as may be necessary to carry on the work until finished, placing the sums collected in the hands of the treasurer.

2d. To employ workmen, purchase materials, and conduct the whole business, either under their own inspection, or by their agent or agents.

3d. To settle all accounts, and draw orders upon the treasurer for the payments or advances which ought to be made.

4th. To superintend the collection of the tolls, either by proper agents to be employed for the purpose, or by farming the same to individuals.

5th. To settle the accounts of the tolls and make dividends half-yearly, which shall be announced in the newspapers.

6th. To call the corporation together whenever they shall find it necessary, and to lay their proceedings and accounts before it, at least once a year, and oftener, if thereunto required by a quorum thereof.

10. The said board of commissioners to have the care and superintendence of inland navigations, respecting which they should be empowered—

*First.* To determine which of those that are proposed by the report of the committee of Assembly shall be undertaken solely at the public expense, and which of them can best be performed by contractors entitled to tolls, &c. The latter to be preferred whenever the situation and nature of the improvements will admit of it. With respect to the former, the Board should be authorized to carry on the work at the public expense, under the direction of such agent or agents as they may appoint for that purpose. In regard to the latter, viz: such improvements as may be entitled to tolls, the Board should be empowered:

1st. To advertise for contracts.

2d. To appoint superintendents to examine, survey, and report the works necessary to be performed.

3d. To make the contracts and engagements with individuals, or companies, willing to undertake the same, and who are to be declared bodies politic, as proposed in the case of roads.

4th. The commissioners shall also have power to fix the tolls, and to divide the capital into shares transferable, &c., as in the case of turnpike roads.

11. By an article in each contract, the Government shall be restrained from laying out or establishing turnpikes, or toll navigations, in a second instance, that, during \_\_\_\_\_ years, would destroy or diminish the income or revenue of turnpikes or toll navigations which they had established in the first instance.

12. The board of commissioners to be empowered to lend public money, if necessary, to any contractors or subscribers, to turnpike roads, or toll navigations, for the purpose of completing what they have undertaken, if, after going certain lengths, it should appear that they would be unable to complete the same without such aid, sufficient security being given, that the sums so lent shall be faithfully applied to the uses intended, and repaid at the end of the term stipulated. Or, the said board may subscribe, on behalf of the Commonwealth, such number of shares, under any contract for turnpike roads or toll navigations, as may be found necessary, and be entitled to all the rights and privileges conferred on the shareholders.

13. The board of commissioners shall make application to the Governor, for his warrant upon the treasurer, for the sums of money which they may, from time to time, require, for carrying their duty into effect; their requisitions to be made in writing, and to be founded upon estimates of expenditures necessary, or actually made, or upon engagements, subscriptions, or contracts, made for the purposes of their appointment, and the Governor to grant his warrants upon such requisition, (to be paid out of the fund appropriated to this use,) unless he shall see sufficient cause to refuse; in which case he shall assign his reasons in writing.

The society have directed an accurate geographical and hydrographical map to be compiled from actual surveys; exhibiting a general and complete view of the roads and water communications, which are proposed to be improved, connecting them with the roads and water communications of the neighboring States; and they have promoted a liberal subscription for the immediate publication of the same; considering that such a map will not only be highly useful to all persons who wish to gain a general knowledge of the situation of the country, and the various improvements of which the State of Pennsylvania is susceptible, but it will likewise be useful to the public, by directing their attention to the different parts of the State which are the objects of improvement, and bringing forward individuals, as well as companies, to promote and undertake the execution of the same. But as the subscriptions of the members of the society alone may not be sufficient encouragement for the publication of a map of such an expensive nature, the society beg leave to recommend the further encouragement of the same to the Legislature, and herewith have presented the original draught of the same to their inspection.

All which is humbly submitted.

By order, and on behalf, of the society,

ROBERT MORRIS, *President.*

The foregoing memorial, with the estimates and proposed plan of execution, having been referred by the Legislature to committees of their respective houses, to confer with the committee of the society of roads and navigation, and to report thereon; the result of the whole, after mature deliberation, was the adoption of the following general principles:

That the Legislature, although animated with the warmest zeal for the improvement of their country, by means of roads and inland navigation, yet could not subject the finances of the State (even if adequate) to the burden of the whole; but they would make liberal appropriations of public money for the improvement of such roads and navigable waters, as lying too remote from the more populous parts of the country, and the inhabitants but thinly settled, rendered it impracticable for them either to improve their own roads and waters by subscriptions or the usual county taxes; and the profits of the tolls would yet be too small to induce companies to undertake the work at their own expense; and that in the more settled parts of the country, especially near the metropolis, they would be ready to incorporate companies, for the gradual and progressive improvement of roads and waters, where the tolls would be sufficient to recompense the subscribers or stockholders, and the charge would fall, according to justice, upon those who were to be benefited, in proportion to the use they might make of such roads and waters.

The Legislature, therefore, in discharge of their part, and to set a laudable example of public spirit, made large appropriations, by law, for the improvement of sundry roads and waters. [See the appendix following.] They also passed the following acts of incorporation, viz:

AN ACT to enable the Governor of this Commonwealth to incorporate a Company for opening a Canal and Lock Navigation between the rivers Schuylkill and Susquehanna, by the waters of Tulpehocken, Quittapahilla, and Swatara, in the counties of Berks and Dauphin.

Whereas the opening a communication, by water, for the transportation of the produce of the country, and of goods, wares, and merchandises, between the city of Philadelphia and the western and northwestern counties of the State of Pennsylvania, will greatly tend to strengthen the bands of union between citizens inhabiting distant parts of a country governed by the same free and happy constitution and laws, to the encouragement of agriculture and manufactures, and the promotion of commerce: And whereas, from reports, made by certain commissioners, appointed by the late supreme executive council, in pursuance of an act of the General Assembly of this Commonwealth, in such case provided, it appears that the waters of the Tulpehocken, Quittapahilla, and Swatara, in the counties of Berks and Dauphin, united by means of a canal and locks, will be sufficient for an inland navigation for the purposes aforesaid; and it is reasonable that the expense of procuring so great a convenience should be defrayed by the persons who will derive an immediate benefit by the use of it:

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That Henry Drinker, Robert Hare, Joseph Heister, George Latimer, George Fry, William Montgomery, and Samuel Miles, be, and they are hereby, appointed commissioners, to do and perform the several duties hereinafter mentioned, that is to say: They shall, and may, on or before the 1st day of December next, procure a book, and therein enter as follows:—"We, whose names are hereto subscribed, do promise to pay to the president, managers, and company of the Schuylkill and Susquehanna Navigation, the sum of \$400 for every share of stock in the said company set opposite to our respective names, in such manner and proportions, and at such times, as shall be determined by the said president and managers, in pursuance of an act of the General Assembly of Pennsylvania, entitled 'An act to enable the Governor of this Commonwealth to incorporate a company for opening a canal and lock navigation between the rivers Schuylkill and Susquehanna, by the waters of Tulpehocken, Quittapahilla, and Swatara, in the counties of Berks and Dauphin;' " and shall, thereupon, give notice in three of the public newspapers printed in Philadelphia, one whereof shall be in the German language, for one calendar month, at least, of the time and place, when and where, the said book will be opened to receive subscriptions of stock for the said company, at which time and place the said commissioners, or any three of them, shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said book, which shall be kept open for at least fifteen days, for any number of shares of the said stock, not exceeding ten, by or for any one person or copartnership, at one time; and, if need be, shall adjourn, from time to time, as the said commissioners shall find proper and necessary, until the number of subscriptions shall amount to 1,000 shares of stock; and if, while the said subscription shall be open, a greater number of shares shall be applied for, than will fill up the said number of shares, then the said commissioners shall apportion the whole number of shares previously applied for, by lottery, to and among the persons who shall have subscribed, or offered to subscribe, before the said commissioners shall have declared the subscription to be full, and the book closed; and when the said subscription shall be filled to the amount of 500 shares, the said commissioners shall return to the Governor of this Commonwealth a full and perfect list of all the subscriptions to the said stock, with the number of shares by them respectively subscribed, certified under the hands and seals of the said commissioners.

SEC. 2. *And be it further enacted by the authority aforesaid,* That whenever 500 shares shall be subscribed to the capital stock of the company, that then it shall and may be lawful to and for the Governor of this Commonwealth, by letters patent, under the great seal of the State, to create and erect the said subscribers into one body corporate and politic, in deed, and in law, with perpetual succession, and with all the privileges and franchises incident to a corporation, by the name, style, and title of "The President, Managers, and Company of the Schuylkill and Susquehanna Navigation;" and by such name the said subscribers shall be able and capable, by force of this act and the said letters patent, of exercising all and singular the said privileges and franchises; and, moreover, shall be able and capable of holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the end and intent of this act; and of purchasing, taking, and holding to them, their successors and assigns, in fee simple, or for any lesser estate, all such lands, tenements, and hereditaments, as shall be necessary for them in the prosecution of their works; and of doing all and every other act, matter, and thing, which a corporation or body politic may lawfully do.

SEC. 3. *And be it further enacted by the authority aforesaid,* That the first seven persons named in the said letters patent shall, as soon as conveniently may be, after sealing the same, give notice, in three of the newspapers published in the city of Philadelphia, as aforesaid, of a time and place by them appointed, not less than thirty days from the time of issuing the said notice, at which time and place the said subscribers shall proceed to organise the said corporation, and shall choose, by majority of votes of the said subscribers, by ballots, to be delivered in person, or by proxy, one president, twelve managers, one treasurer, and such other officers as they shall think necessary to conduct the business of the said company, for one year, and until other officers shall be elected; and shall or may make such by-laws, rules, orders, and regulations, not inconsistent with the constitution and laws of this Commonwealth, as shall be necessary for the well-ordering the affairs of the said company: *Provided always,* That no person shall have more than twenty votes in the said elections, or in determining any question arising at such meeting, whatever number of shares he may be entitled unto, and that each person holding one or more shares, under the said number of twenty, shall have one vote for every share by him held.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the said company shall meet on the first Monday in January in each succeeding year, at such place within this State as shall be fixed by the rules and orders of the said company, to be made as aforesaid, for the purpose of choosing such officers as aforesaid for the ensuing year, and at such other time as they shall be assembled by the managers for the purpose of making such further by-laws, rules, orders, and regulations, not inconsistent with the constitution and existing laws of this State, as shall, from time to time, be necessary, of which meetings previous notice shall be given; in such manner as shall be provided by such rules and orders.

SEC. 5. *And be it further enacted by the authority aforesaid,* That the said president and managers shall procure certificates to be written or printed, for every share of the capital stock of the said company, and deliver one to each subscriber, signed by the president and sealed with their common seal, he paying to the treasurer of the company the sum of seventy-five dollars for every share by him subscribed, which certificate shall be transferable at his pleasure, in the presence of the treasurer of the said company, subject, however, to all payments thereupon due and to grow due; and the holder of every such certificate, having first caused the assignment to him to be entered into a book of the company, to be kept for that purpose, shall be a member of the said corporation, entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid at the general meetings thereof.

SEC. 6. *And be it further enacted by the authority aforesaid,* That the said president and managers shall have full power and authority to appoint all officers necessary to supply vacancies by death, resignation, or otherwise, and also to appoint one or more superintendent of the works to be undertaken by them, and to hire and employ all such engineers, artists, workmen, and laborers, as they shall find necessary to carry on the same; and by the said superintendent, engineers, artists, workmen, and laborers, to enter into and upon all and singular the land and lands covered with the water situate upon, near, and between Tulpehocken creek, in the county of Berks, and Swatara creek, in the county of Dauphin, and to lay out and survey such route or tracks as shall be most practicable for effecting a navigable canal between the rivers Schuylkill and Susquehanna, by means of locks and other devices; doing, nevertheless, as little damage as possible to the grounds and enclosures in and over which they shall pass; and thereupon it shall and may be lawful to and for the said president and managers to contract and agree with the owners of any lands and tenements, for the purchase of so much thereof as shall be necessary for the purpose of making, digging, and perfecting the said canal, and of erecting and establishing all the necessary locks, works, and devices, to such a navigation belonging, if they can agree with such owners; but in case of disagree-

ment, or in case the owner thereof shall be *feme covert*, under age, *non compos mentis*, or out of the State, then it shall and may be lawful to and for the said president and managers to apply to two of the justices of the supreme court of this commonwealth, who, upon such application, are hereby authorized and empowered, enjoined, and required, to frame and issue one or more writ or writs, as occasion shall require, in the nature of a writ of *ad quod damnum*, to be directed to the sheriff of the county in which such lands and tenements shall be, commanding him, that by the oaths and affirmations of twelve good and lawful men of his bailiwick, who shall be indifferent to the parties, he shall inquire whether the person or persons owning any lands and tenements, necessary to be used by the said president and managers, or which shall be injured in establishing the said canal and navigation, which person or persons shall be named, and which lands and tenements shall be described in such writ or writs, will suffer and sustain any, and what damages, by reason or means of taking any lands, tenements, mill, mill-pond, water, water course, or other real hereditament, necessary for the use of the said canal and navigation, and the locks and works thereto belonging, and to return the same writ, together with the finding of the said jury, to the next supreme court of this commonwealth after such finding; and, upon such writ being delivered to the said sheriff, he shall give at least ten days' notice, in writing, to all and every the owners of the lands and tenements in the said writ described, of the time of executing the same, and shall cause to come upon the premises, at the time appointed, twelve good and lawful men of his bailiwick, who shall be selected in such manner as struck juries usually are, to whom he shall administer an oath or affirmation, that they will diligently inquire concerning the matters and things in the said writ specified, and a true verdict give, according to the best of their skill and judgment, without favor or partiality; and thereupon the said sheriff and inquest shall proceed to view all and every the lands and tenements in such writ specified; and, having considered the quantity of land, land covered with water, mills, buildings, or other improvements, that shall be necessary to be vested in the said company for the purposes aforesaid, and any water course then existing, the use whereof will be necessary for the purpose aforesaid, they shall cause the same to be minutely and exactly described by metes and bounds, or other particular descriptions, and shall value and appraise the injury or damages, if any, which the owner or owners of the said lands, tenements, mills, waters, water courses, buildings, or improvements will, according to their best skill and judgment, sustain and suffer, by means of so much of the said lands and tenements being vested in the said company; or by means of such improvements being destroyed, or rendered useless or of less value, or by means of the said company being permitted to turn such water to fill their canal and locks, or by means of the said company being permitted to enlarge any mill-pond, mill-race, or other water-course, and to use the same as and for part of their said canal and navigation, or by any other means whatsoever, defining and ascertaining, as well all such lands and tenements, liberties and privileges, so to be vested in the said company, as the several sums at which the said injuries and damages shall be so assessed; and the said sheriff and jury shall make an inquisition under their hands and seals, distinctly and plainly setting forth all the matters and things aforesaid; and the sheriff shall forthwith return the same, together with the said writ, to the office of the prothonotary of the supreme court; and at the first supreme court which shall be held next after the return of any such writ, the justices of the said court shall examine the same, and if the said writ shall appear to have been duly executed, and the return thereof be sufficiently certain to ascertain the lands and tenements, rights, liberties, and privileges, intended to be vested in the said company, and the several compensations awarded to the owners thereof, then the said court shall enter judgment, that the said company, paying to the several owners as aforesaid the several sums of money in the said inquisition assessed, or bringing the same into the said court, over and beside the costs of such writ, and of executing and returning the same, shall be entitled to have and to hold to them, and their successors and assigns forever, all and every the lands, tenements, rights, liberties, and privileges, in the said inquisition described, as fully and effectually as if the same had been granted to them by the respective owners thereof; and if any return so to be made shall not be sufficiently certain for the purposes aforesaid, the said court shall award an inquisition *de novo*.

SEC. 7. *And be it further enacted by the authority aforesaid*, That wherever the said canal shall cross any public or private laid out road or highway, or shall divide the grounds of any person into two parts, so as to require a ford or bridge to cross the same, the jury who shall inquire of the damages to be sustained, in manner herein directed, shall find and ascertain whether a passage across the same shall be admitted and maintained by a ford or by a bridge; and, on such finding, the said president, managers, and company, shall cause a ford to be rendered practicable, or a bridge, fit for the passage of carts and wagons, to be built and for ever hereafter maintained and kept in repair, at all and every the places so ascertained by the said jury, at the costs and charges of the said company; but nothing herein contained shall prevent any person from erecting and keeping in repair any foot or other bridge across the said canal, at his own expense, where the same shall pass through his ground, provided the same shall be of such height above the water as shall be usual in the bridges erected by the company; and provided, also, that such foot or other bridges, so to be erected by the owners of such land, shall not interfere with any of the locks, buildings, or other works of the company.

SEC. 8. *And be it further enacted by the authority aforesaid*, That the said president and managers shall have power and authority, from time to time, to fix the several sums of money which shall be paid by the subscriber or holder of every share of the stock of the said company, in part of the sum subscribed, and the time when each and every dividend or part thereof shall be paid, and the place where it shall be received, and shall give at least thirty days' notice, in three of the public newspapers published in the city of Philadelphia, as aforesaid, of the sum or dividend, and the time and place of receiving the same; and if any holder of any share shall neglect to pay such proportions, at the place aforesaid, for the space of sixty days after the time so appointed for paying the same, every such shareholder or his assignee shall, in addition to the dividend so called for, pay after the rate of five per cent. for every month's delay of such payment; and if the same, and the said additional penalty, shall not be paid for such space of time as that the accumulated penalties shall become equal to the sums before paid for and on account of such shares, the same shall be forfeited to the said company, and may and shall be sold by them to any person or persons willing to purchase, for such prices as can be obtained therefor.

SEC. 9. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for the said president and managers, and their superintendents, engineers, artists, workmen, and laborers, with carts, wagons, wains, and other carriages, with their beasts of draught and burden, and all necessary tools and implements, to enter upon the lands contiguous or near to the said track of the intended canal and navigation, first giving notice of their intention to the owners thereof, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be sustained by the owners of such ground, by appraisement, in manner hereinafter directed, and upon a reasonable agreement with the owners, if they can agree, or, if they cannot agree, then upon an appraisement to be made upon the oath or affirmation of three, or, if they disagree, any two indifferent freeholders, to be mutually chosen, or, if the owners neglect or refuse to join in the choice, to be appointed by any justice of the peace of the county, and tender of the appraised value; to carry away any stone, gravel, sand, or earth, being most conveniently situate for making or repairing the said canal and navigation, and to use the same in carrying on the said works.

Sec. 10. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers of the said company, so soon as the said canal and navigation, or any part thereof, shall be perfected, to appoint such and so many collectors of tolls for the passage of boats and vessels in, through, and along the same, and in such places as they shall think proper; and that it shall and may be lawful to and for such toll collectors and their deputies to demand and receive of and from the persons having the charge of all boats and vessels, and rafts of timber, boards, plank, or scantling, passing through the said canal and navigation, and the locks thereto belonging, such tolls and rates for every ton weight of the ascertained burden of the said boats and vessels, and for every hundred feet, cubic measure, of timber, and twelve hundred feet, board measure, of boards, plank, or scantling, in rafts, as the said president and managers shall think proper, at any lock or other convenient place; provided that the amount of all the tolls, from the mouth of the Swatara to the mouth of the Tulpehocken, shall not exceed, in the whole, the sum of one dollar for every ton of the burden of such boat or vessel, and for every hundred feet, cubic measure, of timber, and twelve hundred feet, board measure, of boards, plank, or scantling, and so in proportion for any smaller distance and lesser number of locks, in any interval between the mouths of the said creeks.

And in order to ascertain the tonnage of boats using the said canal navigation, and to prevent disputes between the supercargoes and collectors of tolls concerning the same—

Sec. 11. *Be it further enacted by the authority aforesaid,* That, upon the request of the owner, skipper, or supercargo of such boat or raft, or of the collector of the said tolls at any lock upon the said canal and navigation, it shall and may be lawful for each of them to choose one skillful person to measure and ascertain the number of tons which the said boat or vessel is capable of carrying, and to mark the same in figures upon the head and stern of the said boat, in colors mixed with oil; and that the said boat or vessel, so measured and marked, shall always be permitted to pass through the said canal and locks, for the price per ton to which the number of tons so marked on her shall amount unto, agreeably to the rates fixed in the manner aforesaid; and if the owner, skipper, or supercargo of such boat or vessel shall decline choosing a person resident within four miles of the place where such toll is payable, to ascertain the tonnage thereof, then the amount of such tonnage shall be fixed and ascertained by the person appointed for that purpose by the said president and managers, or chosen by the said collector of tolls for the said company, and the toll shall be paid, according to such measurement, before any such boat or vessel shall be permitted to pass the lock or place where such toll shall be made payable by the said company.

Sec. 12. *And be it further enacted by the authority aforesaid,* That if any person or persons whatsoever shall wilfully and knowingly do any act or thing whatsoever, whereby the said navigation, or any lock, gate, engine, machine, or device thereto belonging, shall be injured or damaged, he or they so offending, shall forfeit and pay to the said company fourfold the costs and damages by them sustained by means of such known and wilful act, together with costs of suit in that behalf expended, to be recovered by action of debt in any court having jurisdiction competent to the sum due.

Sec. 13. *And be it further enacted by the authority aforesaid,* That the collectors of tolls, duly appointed and authorized by the said president and managers, may stop and detain all boats and vessels using the said canal and navigation until the owner, skipper, or supercargo of the same shall pay the tolls so as aforesaid fixed, or may distrain part of the cargo therein contained, sufficient, by the appraisement of two credible persons, to satisfy the same, which distress shall be kept by the collector of the tolls taking the same, for the space of five days, and afterwards be sold by public auction, at the most public place in the neighborhood, to the highest bidder, in the same manner and form as goods distrained for rent are by law sold and saleable, rendering the surplus, if any there be, after payment of the said tolls and the costs of distress and sale, to the owner or owners thereof.

Sec. 14. *And be it further enacted by the authority aforesaid,* That the president and managers of the said company may demand and require of and from the said treasurer, and of and from all and every other the superintendents, officers, and other persons by them employed, bonds, in sufficient penalties, and with such sureties as they shall, by their rules, orders and regulations, require for the faithful discharge of the several duties and trusts to them, or any or either of them, respectively committed.

Sec. 15. *And be it further enacted by the authority aforesaid,* That the president and managers of the said company shall keep fair and just accounts of all moneys received by them from the subscribers to the said undertaking, for their subscriptions thereto, and all penalties for delay or non-payment thereof, and of all moneys by them expended in the payment of the costs and charges of procuring and purchasing all estates, rights and titles, in the said company, to be vested in pursuance of this act, or by any other means, and in paying their several officers by them to be appointed, and the wages of the different engineers, artists, workmen and laborers by them to be employed, and for the materials and work furnished and done in the prosecution of the works projected by the said company, and shall, once at least in every year, submit such account to the general meeting of the stockholders, until the said canal and creeks, therewith connected, shall be rendered navigable, and until all the costs, charges, and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated; and from and after the liquidation thereof, if the one thousand shares above mentioned shall not be sufficient, it shall and may be lawful to and for the said president, managers and company, at a general meeting of the stockholders thereof, held in pursuance of the preceding provisions, or called by the president and managers of the company for the especial purpose, by public notice in three newspapers in manner aforesaid, (which shall be given three months previous to the opening of the said subscriptions,) to increase the number of shares to such extent as shall be deemed sufficient to accomplish the object of this act, and to demand and receive such additional subscriptions from the former, or, in case of their neglect or refusal from new subscribers, and upon such terms, and in such manner, as, by the said general meeting shall be agreed upon; and the said president and managers shall also keep a just and true account of all and every of the moneys received by their several and respective collectors of tolls in and through the said canal and navigation, from one end thereof to the other, and shall make and declare a dividend of the clear profits and income thereof (all contingent costs and charges being first deducted) among all the subscribers to the said company's stock; and shall, on every the second Mondays of January and July, in every year, publish the half yearly dividend to be made of the said clear profits to and amongst the stockholders, and of the time and place when and where the same shall be paid, and shall cause the same to be paid accordingly.

Sec. 16. *And be it enacted by the authority aforesaid,* That the said president and managers shall, at the expiration of every third year from the date of their incorporation, lay before the General Assembly of this commonwealth an abstract of their accounts, showing the whole amount of the capital expended in purchasing real estates, and in digging, erecting, and establishing the whole of the said canal, locks and works, and the whole income and profits arising from the said tolls for and during the said periods, together with the exact amount of the contingent charges of supporting, maintaining, and keeping the same in repair for the said periods, to the end that the clear annual profits may be known; and if, at the end of two years after the said canal navigation shall be completed, it



shall appear that the said clear profits and income will not bear a dividend of six per centum per annum on the whole capital stock of the said company, so expended, then it shall and may be lawful to and for the said president, managers, and company to increase the tolls herein above allowed to them, so much per ton through the whole length of the canal and navigation, and in proportion for each separate part thereof, as will raise the dividends up to six per centum per annum; and at the end of every period of ten years after the said canal shall be completed, they shall render a like abstract to the General Assembly of their accounts for three preceding years; and if, at the end of any such decimal period it shall appear, from such abstract, that the clear profits and income of the said company will bear a dividend of more than twenty-five per centum per annum, then, and in such case, the said tolls shall be reduced so much per ton, as will reduce the said clear profits and income to a dividend not exceeding twenty-five per centum per annum.

SEC. 17. *And be it further enacted by the authority aforesaid,* That whenever the profits of the said society shall amount to a clear annual dividend of fifteen per centum on the whole amount of their capital, there shall then be reserved one per centum out of the same, which shall be applied, at the direction of the Legislature, for the establishment of schools, and the encouragement of the arts and sciences, in one or more seminaries of learning, according to the provisions of the constitution.

SEC. 18. *And be it further enacted by the authority aforesaid,* That if the said company shall not proceed to carry on said work within the space of two years from the passing of this act, or shall not, within the space of ten years from the passing of this act, complete the same canal and navigation, so as to open an easy and safe water communication from the mouth of Swatara to the mouth of Tulpehocken, navigable for boats of at least seven tons burden, then, and in either of those cases, it shall and may be lawful for the Legislature of this commonwealth to resume all and singular the rights, liberties, and privileges, hereby granted to said company.

WILLIAM BINGHAM,  
*Speaker of the House of Representatives.*

RICHARD PETERS,  
*Speaker of the Senate.*

Approved, September 29, 1791.

THOMAS MIFFLIN,  
*Governor of the Commonwealth of Pennsylvania.*

**AN ACT** to enable the Governor of this commonwealth to incorporate a company for opening a canal and water communication between the rivers Delaware and Schuylkill, and for other purposes therein mentioned.

Whereas, connecting the waters of the rivers Delaware and Schuylkill by means of a canal, will not only immediately contribute to the convenience of the citizens, but correspond with the extensive plan of connecting the eastern with the western waters of the State, and there being ample reasons for expecting that the same may be effected by individual citizens, if invited thereto by reasonable encouragement: Therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That David Rittenhouse, William Moore Smith, Elliston Perot, Cadwallader Evans, Jun., and Francis Johnston be, and they are hereby, appointed commissioners to do and perform the several duties hereafter mentioned; that is to say, they shall and may, on or before the first day of July next, procure a book or books, and therein enter, as follows: "We, whose names are hereunto subscribed, do promise to pay to the president and managers of the Delaware and Schuylkill canal navigation the sum of two hundred dollars for every share of stock in the said company set opposite to our respective names, in such manner and proportions, and at such times, as shall be determined by the said president and managers, in pursuance of an act of the General Assembly of this commonwealth, entitled 'An act to enable the Governor of this commonwealth to incorporate a company for opening a canal and water communication between the rivers Delaware and Schuylkill;'" and shall thereupon give notice in three of the public newspapers printed in Philadelphia, one whereof shall be in the German language, for one calendar month at the least, of the time and place when and where the said book or books will be opened to receive subscriptions of stock for the said company; at which time and place the said commissioners, or any three of them, shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said book or books, which shall for that purpose be kept open at least six hours in every juridical day, for the space of at least three successive days; and on any of the said juridical days, within the hours aforesaid, any person of the age of twenty-one years shall have liberty to subscribe, in his own or any other name or names, by whom he shall be authorized, for one share; on the second day, for one or two shares; on the third, for one, two, or three shares; and on any succeeding day, while the said books shall remain open, for any number of shares in the said stock; and if, at the expiration of the said three first days, the said book shall not have two thousand shares therein subscribed, the said commissioners may adjourn, from time to time, until the said number of shares shall be subscribed, of which adjournments public notice shall be given in at least one public paper; and when the said subscriptions in the said books shall amount to the respective numbers aforesaid, the same shall respectively be closed; and if, on that day, and before the said subscriptions shall be declared to be full, applications shall be made to subscribe more shares than will fill the said book to the numbers aforesaid, respectively, then the said commissioners shall apportion the whole number of shares unsubscribed on the morning of that day among all those who shall have subscribed, or offered to subscribe, as aforesaid, on that day, by deducting from the subscribers of more shares than one such proportion of the shares by them respectively subscribed as will, with the least fraction, and leaving every person one or more shares, come nearest to the exact number of shares aforesaid: *Provided always,* That every person offering to subscribe in the said book, in his own name, or any other name, shall previously pay to the attending commissioners ten dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions, and other incidental charges, and compensation to the said commissioners, not exceeding two dollars to each of them for every day they shall be publicly employed in the said business; and the remainder shall be paid over to the treasurer of the corporation as soon as the same shall be organized, and the officers chosen, as hereinafter mentioned.

SEC. 2. *And be it further enacted by the authority aforesaid,* That, when one hundred persons, or more, shall have subscribed five hundred or more shares in the said stock, the said commissioners may, or, when the whole number of shares aforesaid shall be subscribed, they shall certify, under their hands and seals, the names of the subscribers, and the number of shares subscribed by, or apportioned to, each subscriber, to the Governor of this commonwealth; and thereupon it shall and may be lawful to and for the Governor, by letters patent, under the great seal of the State, to create and erect such subscribers into one body, politic and corporate, in deed and in law, with perpetual succession, and with all the privileges and franchises incident to a corporation, by the name, style, and title of "The President, Managers, and Company of the Delaware and Schuylkill Canal Navigation;"

and by such name the said subscribers, and such other subscribers as may thereafter become shareholders, not exceeding the number of two thousand as aforesaid, shall be able and capable of holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the end and intent of this act, and of purchasing, taking, and holding to them, their successors, and assigns, in fee simple, or for any lesser estate, all such lands, tenements, and hereditaments, as shall be necessary for them in the prosecution of their work, and of doing all and every other act, matter, and thing which a corporation or body politic may lawfully do.

SEC. 3. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said president and managers to take water from the river Schuylkill, by means of a canal, beginning at any place on the easterly side of the said river, between the upper side of the mouth of Stony creek, at Norriton, and the north bound of the city of Philadelphia, where it strikes the said river, and to conduct the water thereof, by means of a canal, along the easterly bank of the said river, or as near thereto as the nature of the ground and intervening obstacles and impediments will admit; and from thence, to conduct the said water, as nearly parallel as may be, to the north bounds of the said city, by the most convenient route, to the river Delaware, the width of the said canal, at or near the place where it shall be taken from the river Schuylkill, not to exceed thirty feet; and no more water shall be drawn from the said river, than will pass through a thirty feet water way, which shall be erected of stone or wood by the said company, and be kept in constant repair, under the penalty of forfeiting all the rights and immunities granted by this act; which water way shall be erected within the distance of one mile, at most, from the mouth of the said canal on the river Schuylkill; but no part of the said work shall be commenced, before the said president and managers shall have ascertained and paid for the value of the ground to be occupied by the said canal and works, as also for any damage which the owners may sustain, by means of such alienation, or otherwise, by means of the canal passing through their grounds, agreeably to the mode hereinafter directed: *Provided, always,* That wherever the said president and managers shall find it most convenient to commence the said canal, they shall have liberty to erect a wing from the easterly shore of the said river Schuylkill, extending up the stream, but not to extend more than one-third across the said river, except the said wing shall be erected at the upper side of the mouth of Stony creek, in which case it may extend to the head of the island opposite thereto; but the said canal shall not be commenced, and the said wing be erected, at any place which shall render the navigation of the said river dangerous, by forcing boats or rafts on the opposite shore, or on rocks or shoals, which they might otherwise have passed in safety; and if the said president and managers shall be of opinion that it may be advisable to construct a canal between the said rivers Schuylkill and Delaware, by means of lock navigation, to be supplied with water from the streams lying between the north bounds of the city of Philadelphia, and the distance of eight miles therefrom, it shall and may be lawful for them so to do, and, to effect the same, shall have power to conduct any of the said streams into such canal, paying for the damage occasioned thereby in manner aforesaid.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the said president and managers shall have power to form dry and wet docks, for the accommodation of vessels, near the city of Philadelphia, to communicate with the waters of the said canal, and to supply the city of Philadelphia, and the neighborhood thereof, with water, by means of pipes and other conductors, under the public roads, streets, and alleys, conveying water from thence for the use of such persons as will agree to pay for the same such annual prices as shall be established by the said president and managers: *Provided, always,* That they shall immediately repair any injury which they may do to said roads, streets, or alleys, by means of laying down or repairing any of the said pipes or conductors, and give as little obstruction to the use of the said roads, streets, or alleys, as the nature of the works will admit: *Provided, also,* That the said company shall not be entitled to any greater price for water to supply the city, and neighborhood thereof, than will create the annual profit of ten per centum on the capital that may and shall be expended for that particular purpose, exclusive of the general expense of the canal.

SEC. 5. *And be it further enacted by the authority aforesaid,* That the seven persons first named in the said letters patent shall, as soon as conveniently may be, after sealing the same, give notice in three of the newspapers, published in the city of Philadelphia as aforesaid, of a time and place by them to be appointed, not less than thirty days from the time of issuing the said notice, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose, by majority of votes of the said subscribers, by ballots, to be delivered in person or by proxy, one president, twelve managers, one treasurer, and such other officers as they shall think necessary to conduct the business of the said company, for one year, and until such other officers shall be elected; and shall or may make such by-laws, rules, orders, and regulations, not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for the well ordering of the affairs of the said company: *Provided, always,* That no person shall have more than twenty votes in the said elections, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person holding one or more shares, under the said number of twenty, shall have one vote for every share by him held.

SEC. 6. *And be it further enacted by the authority aforesaid,* That the said company shall meet on the first Monday of January, in each succeeding year, at such place as shall be fixed by the rules and orders of the said company, to be made as aforesaid, for the purpose of choosing such officers as aforesaid for the ensuing year; and at such other times as they shall be assembled by the managers for the purpose of making by-laws, rules, orders, and regulations, not inconsistent with the constitution and existing laws of this State, as shall, from time to time, be necessary; of which meetings previous notice shall be given, in such manner as shall be provided by such rules and orders.

SEC. 7. *And be it further enacted by the authority aforesaid,* That the said president and managers shall procure certificates to be printed or written, for every share of the capital stock of the said company, and deliver one to each subscriber, signed by the president, and sealed with their common seal, he paying to the treasurer of the company the sum of twenty-five dollars for every share by him subscribed, which certificate shall be transferable at his pleasure, in the presence of the treasurer of the said company, subject, however, to all payments due and to grow due; and the holder of every such certificate, having first caused the assignment to him to be entered into a book of the company, to be kept for that purpose, shall be a member of the said corporation, entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid at the general meetings thereof.

SEC. 8. *And be it further enacted by the authority aforesaid,* That the said president and managers shall have full power and authority to appoint all officers necessary to supply vacancies by death, resignation, or otherwise, and also to appoint one or more superintendents of the works to be undertaken by them, and to hire and employ all such engineers, artists, workmen, and laborers as they shall find necessary to carry on the same; and by the said superintendent, engineers, artists, workmen, and laborers, to enter into and upon all and singular the land and lands, which may be deemed most convenient for accommodating the said canal navigation, and to lay out and survey such route or tracks as shall be deemed most practicable for effecting a navigable canal between the rivers Delaware and Schuylkill, near the said city, by means of locks and other devices, conformably to the provisions in



the third section of this act, doing, nevertheless, as little damage as possible to the ground and enclosures in and over which they shall pass; and, thereupon, it shall and may be lawful to and for the said president and managers to contract and agree with the owners of any lands and tenements, for the purchase of so much thereof as shall be necessary for the purpose of making, digging, and perfecting the said canal, and of erecting and establishing all the necessary locks, works, and devices, to such a navigation belonging, if they can agree with such owners; but, in case of disagreement, or in case the owner thereof shall be *feme covert*, under age, *non compos mentis*, or out of the State, or otherwise incapacitated to convey, then it shall and may be lawful to and for the said president and managers to apply to two of the justices of the supreme court of this commonwealth, who, upon such application, are hereby authorized and empowered, enjoined, and required, to frame and issue one or more writ or writs, as occasion shall require, in the nature of a writ *ad quod damnum*, to be directed to the sheriff of the county in which such lands and tenements shall be, commanding him, that by the oaths and affirmations of twelve good and lawful men, of his bailiwick, who shall be indifferent to the parties, he shall inquire whether the person or persons owning any lands and tenements necessary to be used by the said president and managers, or which shall be injured in establishing the said canal and navigation, which person or persons shall be named, and which lands and tenements shall be described in such writ or writs, will suffer and sustain any, and what, damages, by reason or means of taking any such lands, tenements, or other real hereditaments, necessary for the use of said canal and navigation, and the locks and works thereto belonging, and to return the same writ, together with the finding of the said jury, to the next supreme court of this commonwealth after such finding; and upon such writ being delivered to the said sheriff, he shall give at least ten days' notice, in writing, to all and every the owners, or their representatives, of the lands and tenements in the said writ described, of the time of executing the same, and shall cause to come upon the premises, at the time appointed, twelve good and lawful men, of his bailiwick, who shall be selected in such manner as struck juries usually are, to whom he shall administer an oath or affirmation, that they will diligently inquire concerning the matters and things in the said writ specified, and a true verdict give, according to the best of their skill and judgment, without favor or partiality; and thereupon the said sheriff and inquest shall proceed to view all and every the lands and tenements, or other real hereditaments, in such writ specified, and having considered the quantity and quality thereof, which shall be necessary to be vested in the said company, for the purposes aforesaid, they shall cause the same to be minutely and exactly described, by metes and bounds, or other particular descriptions, and shall value and appraise the injury and damages which the owner or owners of the said lands, tenements, or other real hereditaments or improvements, will, according to their best skill and judgment, sustain and suffer, by means of so much of the said lands, tenements, or other real hereditaments or improvements, being vested in the said company, or by means of any works being destroyed, or rendered useless or of less value, or by means of the said company being permitted to turn any water course, for the use of the said canal, or by means of said company being permitted to enlarge any pond or water course, and to use the same for the purposes aforesaid, or by any other means whatsoever, defining and ascertaining, as well all such lands and tenements, liberties, and privileges, so to be vested in the said company, as the several sums at which the said injuries and damages shall be so assessed; and the said sheriff and jury shall make an inquisition, under their hands and seals, distinctly and plainly setting forth all the matters and things aforesaid, and the sheriff shall forthwith return the same, together with the said writ, to the office of the prothonotary of the supreme court; and at the first supreme court which shall be held next after the return of any such writ, the justices of the said court shall examine the same; and if the said writ shall appear to have been duly executed, and the return thereof be sufficient to ascertain the lands and tenements, rights, liberties, and privileges intended to be vested in the said company, and the several compensations awarded to the owners thereof, then the said court shall enter judgment, that the said company, paying to the several owners, as aforesaid, the several sums of money in the said inquisition assessed, or bringing the same into the said court, over and besides the cost of such writ, and of executing and returning the same, shall be entitled to have and to hold to them, and their successors and assigns forever, all and every the lands, tenements, rights, liberties, and privileges, in the said inquisition described, as fully and effectually as if the same had been granted to them by the respective owners thereof; and if any return so to be made shall not be sufficiently certain for the purposes aforesaid, the said court shall award inquisition *de novo*.

SEC. 9. *And be it further enacted by the authority aforesaid,* That whenever the said canal shall cross any public or private laid out road or highway, or shall divide the grounds of any person into two parts, so as to require a ford or bridge to cross the same, the jury, who shall inquire of the damages to be sustained in any manner herein directed, shall find and ascertain whether a passage across the same shall be admitted and maintained by a ford or bridge; and, on such finding, the said president and managers, and company, shall cause a ford to be rendered practicable, or a bridge, fit for the passage of carts and wagons, to be built, and forever after maintained and kept in repair, at all and every the places so ascertained by the said jury, at the cost and charges of the said company; but nothing herein contained shall prevent any person from erecting, and keeping in repair, any foot or other bridge across the said canal, at his own expense, where the same shall pass through his ground, provided the same shall be of such a height above the water as shall be usual in the bridges erected by the company; and provided that such foot or other bridges, so to be erected by the owners of such lands, shall not interfere with any of the locks, or buildings, or other works of the company.

SEC. 10. *And be it further enacted by the authority aforesaid,* That the said president and managers shall have power and authority, from time to time, to fix the several sums of money which shall be paid by the subscriber or holder of every share of the stock of the said company, in part, or for the sum subscribed, and the time when each and every dividend or part thereof shall be paid, and the place where it shall be received; and shall give at least thirty days' notice, in three of the public newspapers, published in the city of Philadelphia, as aforesaid, of the sum or dividend, and the time and place of receiving the same; and if the holder of any share shall neglect to pay such proportions at the places aforesaid, for the space of sixty days after the time so appointed for paying the same, every such shareholder, or his assignee, shall, in addition to the dividend so called for, pay after the rate of five per centum for every month's delay of such payment; and if the same, and the said additional penalty, shall not be paid for such space of time, as that the accumulated penalties shall become equal to the sums before paid for and on account of such shares, the same shall be forfeited to the said company, and may and shall be sold by them, to any person or persons willing to purchase, for such prices as can be obtained therefor.

SEC. 11. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers, and their superintendents, engineers, artists, workmen, and laborers, with carts, wagons, wains, and other carriages, with their beasts of draught and burden, and all necessary tools and implements, to enter upon the lands contiguous or near to the said track of the intended canal and navigation, first giving notice of their intention to the owners thereof, or their representatives, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be sustained by the owners of such ground, by appraisement in manner hereinafter directed, and upon a reasonable agreement with the owners, if they can agree, or, if they cannot agree, then upon an appraisement to be made upon

the oath or affirmation of three, or, if they disagree, any two indifferent freeholders, to be mutually chosen, or, if the owners neglect or refuse to join in the choice, to be appointed by any justice of the peace of the county, and tender of the appraised value, to carry away any stone, gravel, sand, or earth, thereon, being most conveniently situate for making or repairing the said canal and navigation, and to use the same in carrying on the said works.

SEC. 12. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers of the said company, so soon as the said canal and navigation shall be perfected, to appoint such and so many collectors of tolls, for the passage of boats, vessels, and rafts, in, and through, and along the same, and in such places as they shall think proper; and that it shall and may be lawful to and for such toll collectors, and their deputies, to demand and receive, of and from the persons having the charge of all boats, vessels, and rafts passing through the said canal and navigation, and the locks thereto belonging, such tolls and rates, for every ton weight of the ascertained burden of the said boats and vessels, and for every hundred feet, cubic measure, of timber, and twelve hundred feet, board measure, of boards, plank, or scantling, in rafts, as the said president and managers shall think proper, at any lock or other convenient place at the said canal: *Provided,* That the amount of the said tolls shall not, in the whole, exceed the rate of one-sixteenth of a dollar per mile, for every ton of the burden of such boat or vessel, and for every hundred feet, cubic measure, of timber, and twelve hundred feet, board measure, of boards, plank, or scantling.

SEC. 13. *And be it further enacted by the authority aforesaid,* That, in order to ascertain the size of rafts and the tonnage of boats using and passing the said canal and navigation, and to prevent disputes between the supercargoes and collectors of tolls concerning the same, upon the request of the owner, skipper, or supercargo of such boat or raft, or of the collector of the said tolls, at any lock upon the said canal and navigation, it shall and may be lawful for each of them to choose one skilful person to measure and ascertain the size of the said rafts, or the number of tons which the said boat or vessel is capable of carrying, and to mark the said tonnage, so ascertained, in figures upon the head and stern of the said boat, in colours mixed with oil, and that the said boat or vessel, so measured and marked, shall be permitted to pass through the said canal and locks, for the price per ton to which the number of tons so marked on her shall amount to, agreeably to the rates fixed in the manner aforesaid; and if the owner, skipper or supercargo of such boat or vessel shall decline choosing a person resident within two miles of the place where such toll is payable, to ascertain the tonnage thereof, then the amount of such tonnage shall be fixed and ascertained by the person appointed for that purpose by the president and managers, or chosen by the said collector of tolls for the said company, and the toll shall be paid according to such measurement, before any such boat or vessel shall be permitted to pass the place where such toll shall be made payable by the said company: *Provided always,* That if any of the said boats shall have been marked on any other canal, the said collectors may admit the same as the rate of tonnage, unless they shall have cause to suspect that the same is not correct, in which case a new mark shall be painted, without defacing the old mark.

SEC. 14. *And be it further enacted by the authority aforesaid,* That, if any person or persons whatsoever shall wilfully and knowingly do any act or thing whatsoever, whereby the said navigation, or any lock, gate, engine, machine, or devise, thereto belonging, shall be injured or damaged, he or they so offending shall forfeit and pay to the said company fourfold the costs and damages by them sustained by means of such known and wilful act, together with costs of suit in that behalf expended, to be recovered by action of debt, in any court having jurisdiction competent to the sum due.

SEC. 15. *And be it further enacted by the authority aforesaid,* That the collectors of tolls, duly appointed and authorized by the said president and managers, may stop and detain all boats and vessels using the said canal and navigation, and also all rafts passing the same, until the owner, skipper or supercargo of the same, shall pay the tolls so as aforesaid fixed, or may distrain part of the cargo therein contained, or a part of such rafts, sufficient, by the appraisement of two credible persons, to satisfy the toll, which distress shall be kept by the collector of the tolls taking the same for the space of five days, and afterwards sold by public auction, at some public place in the neighborhood, to the highest bidder, in the same manner and form as goods distrained for rent are by law sold and saleable, rendering the surplus, if any there be, after payment of the said tolls, and the costs of distress and sale, to the skipper, or supercargo or owners thereof.

SEC. 16. *And be it further enacted by the authority aforesaid,* That the president and managers of the said company may demand and require of and from the said treasurer, and of and from all and every other the officers, superintendents, and other persons by them employed, bonds, in sufficient penalties, and with such sureties, as they shall by their rules, orders, and regulations require, for the faithful discharge of the several duties and trusts to them, or any of them, respectively committed.

SEC. 17. *And be it further enacted by the authority aforesaid,* That the president and managers of the said company shall keep fair and just accounts of all moneys received by them from the subscribers to the said undertaking, for their subscriptions thereto, and all penalties for delay or non-payment thereof, and of all moneys by them expended in the payment of the cost and charges of procuring and purchasing all estates, rights, and titles, in the said company to be vested in pursuance of this act, or by any other means, and in paying their several officers by them to be appointed, and the wages of the different engineers, artists, workmen and laborers, by them to be employed, and for the materials and work furnished and done in the prosecution of the works projected by the said company, and shall, once at least in every year, submit such account to the general meeting of the stockholders, until the said canal and navigation shall be completed, and until all the costs, charges and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated; and from and after the liquidation thereof, if the works shall not be sufficiently perfected, or from any casualty should be injured, so as to require an increase of the capital stock, it shall and may be lawful to and for the said president, managers, and company, at a general meeting of the stockholders thereof, held in pursuance of the preceding provisions, or called by the president and managers of the company for the especial purpose, by public notice in three newspapers in manner aforesaid, (which shall be given three months previously to the opening of the said subscriptions,) to increase the number of shares to such extent as shall be deemed sufficient to accomplish the object of this act, and to demand and receive such additional subscriptions from the former, or, in case of their neglect and refusal, after ten successive days from the time of such meeting, from new subscribers, and upon such terms, and in such manner, as by the said general meeting shall be agreed on.

SEC. 18. *And be it further enacted by the authority aforesaid,* That the said president and managers shall also keep a just and true account of all and every the moneys received by their several and respective collectors of tolls on the said canal navigation, and shall make and declare a dividend of the clear profits and income thereof (all contingent costs and charges being first deducted) among all the subscribers to the said company's stock; and shall, on every the second Mondays of January and July, in every year, publish the half-yearly dividend to be made of the said clear profits to and amongst the stockholders, and of the time and place, when and where the same shall be paid, and shall cause the same to be paid accordingly.

Sec. 19. *And be it further enacted by the authority aforesaid,* That the said president and managers shall, at the expiration of every third year from the date of their incorporation, lay before the General Assembly of this commonwealth an abstract of their accounts, showing the whole amount of the capital expended in purchasing real estates, and in digging, erecting, and establishing the whole of the said canal, locks, and works, and the whole income and profits arising from the same, for and during the said periods, together with the exact amount of the contingent expenses of supporting, maintaining, and keeping the same in repair for the said periods, to the end that the clear annual profits may be known. And if, at the end of two years after the said canal and navigation shall be completed, it shall appear that the said clear profits and income will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall and may be lawful to and for the said president, managers, and company to increase the tolls herein above allowed to them so much per ton as will raise the dividend up to six per centum per annum. And at the end of every period of ten years after the said canal shall be completed, they shall render a like abstract to the General Assembly of their accounts for three preceding years; and if, at the end of any such decennial period, it shall appear from such abstract that the clear profits and income of the said company will bear a dividend of more than twenty-five per centum per annum, then, and in such case, the said tolls shall be reduced so much per ton as will reduce the said clear profits and income to a dividend not exceeding twenty-five per centum per annum.

Sec. 20. *And be it further enacted by the authority aforesaid,* That whenever the profits of the said company shall amount to a clear annual dividend of fifteen per centum on the whole amount of their capital stock so expended, there shall then be reserved one per centum per annum out of the same, which shall be applied, under the direction of the Legislature, for the establishment of schools, and the encouragement of the arts and sciences in one or more seminaries of learning.

Sec. 21. *And be it further enacted by the authority aforesaid,* That if the said company shall not proceed to carry on the said work within the space of two years from the passing of this act, or shall not, within the space of ten years from the passing of this act, complete the same canal and navigation, so as to open an easy and safe water communication from the river Schuylkill to the river Delaware, which canal or water shall be of the depth of three feet, and the width of at least twenty-four feet, then, and in either of those cases, it shall and may be lawful for the Legislature of this commonwealth to resume all and singular the rights, liberties, and privileges hereby granted to the said company.

WILLIAM BINGHAM,  
*Speaker of the House of Representatives.*  
SAMUEL POWELL, *Speaker of the Senate.*

Approved, April 10, 1792.

THOMAS MIFFLIN,  
*Governor of the Commonwealth of Pennsylvania.*

AN ACT to incorporate the Conewago Canal Company.

Whereas the General Assembly of this commonwealth did, in and by an act, entitled "An act to provide for the opening and improving sundry navigable waters and roads within this commonwealth," authorize and empower the Governor to contract with individuals or companies, among other things, for improving the navigation of the river Susquehannah, from Wright's ferry to the mouth of Swatara creek, inclusive, and for that purpose appropriated the sum of five thousand two hundred and fifty pounds. And whereas a contract and articles of agreement were made and entered into on the third day of July, in the year of our Lord one thousand seven hundred and ninety-two, between Thomas Mifflin, Governor of the commonwealth of Pennsylvania, on behalf of the State, of the one part, and Robert Morris, William Smith, Walter Stewart, Samuel Meredith, John Steinmetz, Tench Francis, John Nicholson, John Donaldson, Samuel Miles, Timothy Matlack, David Rittenhouse, Samuel Powel, Alexander James Dallas, William Bingham, Henry Miller, Abraham Witmer, and Robert Harris, all of the State of Pennsylvania, of the other part, as a company, by the name of the Conewago company, for opening and improving that part of the river Susquehannah from Wright's ferry to the mouth of Swatara creek, inclusive, agreeably to the true intent, meaning, and design of the Legislature; whereby the said Robert Morris and others, as a company, and each of them, did agree, undertake, and contract, to and with the said Thomas Mifflin and his successors, governors of the said commonwealth, that they, the said company, will well and truly open and improve the navigation of the said river Susquehannah, between Wright's ferry and mouth of Swatara aforesaid, agreeably to the true intention of the Legislature, in the manner set forth in the said contract, reference being thereto had at large; and, particularly, that at the Conewago falls they will cut, establish, and maintain a canal of a sufficient and convenient width, not less than forty feet, of a length sufficient to pass and extend beyond all obstructions created in the navigation of the said river by means of the said Conewago falls, and of a depth sufficient at all times to contain and convey, through the whole distance of the said canal, a body of water at least four feet deep; and that they will also erect and maintain on the said canal a sufficient number of safe and commodious locks, not less than two, for the benefit of navigation; and that the said canal and locks, and the works thereunto belonging, shall be forever kept and maintained in good and perfect order and repair by them, the said contractors, their heirs, executors, administrators, and assigns, at the proper cost of them, and of every of them, and opened as a public highway and for public use forever, so that all persons whosoever, with boats, rafts, and other suitable vessels, and their freights, may thenceforth, at all seasons when the navigation of the said river Susquehannah is not rendered impracticable by ice, pass and re-pass in the said canal, and use and enjoy the benefit of the said locks, free of toll, and any and every other charge whatsoever, as freely as if the said canal and locks were made and established by the public, and duly declared by law to be a public highway. And whereas the said Thomas Mifflin, in behalf of this commonwealth, in consideration of the undertakings and contracts of the said company, did covenant and agree that they shall have and receive the sum of five thousand two hundred and fifty pounds, the sum appropriated by law, to be taken as full satisfaction and compensation of all their services and expenses in carrying on, completing, and maintaining the said works. And whereas it has been represented to the Legislature, by the said company, that no provisions having been made by the public to purchase the ground through which the said canal is to pass, for the distance of three hundred and six perches, more or less, nor to compel the owners to part with the same at a reasonable price or valuation for the public use, and that they have been obliged to purchase the same at their own expense, and at a very high rate, appropriating to the use of the public such part of their grounds as may be necessary to the said canal and works, the whole of which is to be constructed and maintained within the grounds so purchased; but that, in the execution of the said important work for the public use and benefit, as well as for securing and maintaining the necessary constructions and erections from trespasses and damages, the better managing their several shares, dividing and transferring the same, making and executing contracts for carrying on the work,

and the improvement of the natural advantages of their estates and interest in the lands contiguous to and connected with the said canal, (including the ferry at the lower end of the said Conewago falls,) they labor under many inconveniences, as a number of individuals, bound by temporary articles to the execution and support of a public work for permanent and perpetual use to the community at large, and have, therefore, prayed that they may be constituted into a body politic and corporate, with the powers, rights, and privileges incident and necessary to a corporation of the like nature and kind.

Sec. 1. *Be it therefore enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the said Robert Morris, William Smith, Walter Stewart, Samuel Meredith, John Steinmetz, Tench Francis, John Nicholson, John Donaldson, Samuel Miles, Timothy Matlack, David Rittenhouse, Samuel Powel, Alexander James Dallas, William Bingham, Henry Miller, Abraham Witmer, and Robert Harris, their successors and assigns, shall be, and they are hereby, incorporated into a body politic and corporate in deed and in name, by the name, style, and title of "The Conewago Canal Company;" and by the same name, style, and title, they shall have succession forever, and be able and capable in law to sue and be sued, to implead and be impleaded, and to have and to make one common seal to use in their affairs, and the same to break and alter at their pleasure; and to hold and enjoy any lands, tenements, goods, wares, and merchandise, and all manner of estates, real and personal, and mixed, provided the same shall not exceed at any time one million of dollars; and shall have power to meet, choose, appoint, and contract with all officers, servants, and persons necessary in the management of their affairs, and to do and perform such acts, and to make such rules, ordinances, by-laws, and regulations, (not inconsistent with the laws of the United States, and of this State,) as they, or a majority of them, shall, from time to time, find convenient, useful, and necessary for establishing and maintaining the said canal and locks, and the works thereunto belonging or connected with the same; and in general for the better managing and promoting the interests of the said corporation and company, and the improvement of the natural advantages of their estate in the premises, in as full and ample a manner as any other corporate body within this commonwealth can or may do.

Sec. 2. *And be it further enacted by the authority aforesaid,* That the said canal and locks shall be, and the same are hereby, declared to be, a public highway, and as such shall be kept and maintained by the said corporation and company for public use forever, so that all persons with boats, rafts, and other suitable vessels, with their freights, may at all seasons, when the navigation of the river Susquehannah and the said canal is not rendered impracticable by ice, pass and repass in the same, and use and enjoy the benefit of the said locks free of toll, and any and every other charge whatsoever; and the said company shall keep and maintain a skilful person for opening and shutting the locks, and for assisting the boatmen in their passage through the same.

Sec. 3. *And be it further enacted by the authority aforesaid,* That, if any person or persons whatsoever shall, wilfully and knowingly, do any act or thing whatsoever, whereby the said navigation, or any lock, gate, engine, machine or device, thereto belonging, shall be injured or damaged, he, she, or they, so offending, shall forfeit and pay to the said company fourfold the costs and damages by them sustained by means of such known and wilful act, together with costs of suit in that behalf expended, to be recovered, by action of debt, before any justice of the peace, or in any court having jurisdiction competent to the sum due.

Sec. 4. *Provided always, and be it further enacted by the authority aforesaid,* That nothing in this act contained, shall be held, deemed, taken, or in anywise understood to invalidate the contract had and made between the Governor of this commonwealth and the said company, for completing the said canal and locks in the manner, and in the time therein specified, nor to release the said company, or any of them, from their responsibility, each for the other, jointly and severally, in the due and faithful execution of the work, according to the true intention of the Legislature, as specified and set forth in the said contract.

GERARDUS WYNKOOP,  
*Speaker of the House of Representatives.*  
SAMUEL POWEL,  
*Speaker of the Senate.*

Approved, April 10, 1793.

THOMAS MIFFLIN,  
*Governor of the Commonwealth of Pennsylvania.*

#### SCHUYLKILL AND SUSQUEHANNAH CANAL NAVIGATION.

*To the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met:*

The president, managers, and company of the Schuylkill and Susquehannah navigation, with every sentiment of respect and grateful acknowledgment of that protection, encouragement, and support, which they have received from the Legislature in the carrying on the great work committed to their trust and direction, beg leave to submit to the consideration of the General Assembly, an account of the work already executed, the moneys expended, the plan and probable expense of the work remaining to be accomplished, and the prospect of an effectual completion of the whole undertaking within the time limited by law.

The magnitude and immense importance of the system of roads and inland navigation projected, and now in rapid progress through the various parts of the State, as tending to the increase of our commercial and agricultural interest, to the general prosperity of our citizens of every class and degree, and strengthening the bands of their union to the most distant parts of the State, need not be mentioned to an enlightened Legislature, which hath nursed this great work, by the aid of public money from the beginning, and hath incorporated and encouraged companies with liberal franchises, for carrying on and completing the same.

Within the whole habitable globe, there is not a country, of equal dimensions, which offers to its industrious inhabitants more resources of wealth, independence and happiness, than Pennsylvania; considering the salubrity of climate, the fertility of soil, the variety of produce and manufacturing materials, and the means of communication by improved roads and the inland navigation of our great rivers and their numerous branches, embracing and interlocking with each other, and spreading themselves (up to their sources) through all the parts of the State; and forming water communications by sundry routes, from the tide waters of Delaware and the Atlantic, to the great lakes and extreme bounds of the United States.

The canal which is to connect the Schuylkill and Susquehannah navigation, is the chief link of this vast chain; a link on which the success and utility of the whole must necessarily depend.

The summit level of this canal, between Lebanon and Myerstown, for upwards of three miles is completed; in respect to the heavy digging, and the purchase of all the ground for the site of the canal, the locks and towing

paths, as well as the grounds containing the sources and springs of waters, and through which they are to be conducted into the reservoir at the summit level. The exorbitant price allowed by juries for some of the lands and waters necessary to the work, has considerably enhanced the expense of this part; but a sufficiency of water to fill the canal and locks at the middle ground was of such essential consequence to the success of the undertaking that the whole system of our inland navigation must have been deranged, and have become abortive, if the managers had been deterred, or slackened their exertions on account of the expense, which, after all, does not greatly or disproportionately exceed the original estimates for the middle ground; and the final amount of expenditures on this part will not be above forty thousand pounds.

The two remaining parts of this grand communication under our direction, are—

1. The Tulpehocken canal navigation, from the east end of the middle ground, down to Schuylkill at the mouth of Tulpehocken, being, by the courses of the creek and along its margin, thirty-five miles.

2. The Quitapahilla and Swatara navigation, from Lebanon to Susquehannah, being thirty-two miles.

The report of our engineer, his plan and estimates, together with his able and judicious arguments and reasons for preferring, generally, a canal navigation along the margin, to the natural bed of the waters (as being a more complete navigation, with less injury to the meadows or mills of the land holders, and, on the whole, at an expense not so much greater as to be placed in competition with the permanent advantages to be derived from it) are herewith submitted to the Legislature.

But the original calculations, on framing the act by which we were incorporated, were grounded upon the presumption that the natural beds of those rivers, by means of dams and locks, might answer the purpose of a temporary navigation, with little more than eight or ten miles digging on the whole; whereas, on the present improved plan, (which will remain of permanent emolument to the State, so long as those rivers continue to run,) the expense will be about thrice the sum first contemplated, as will appear by the annexed estimate. It is an expense, however, (considering the magnitude of the undertaking,) which can, by no means, be viewed as beyond the powers of this State, and is a prize worthy of their public spirit, and utmost exertions to see accomplished. Your memorialists, therefore, cannot but entertain the most sanguine expectations of the aid and encouragement of the Legislature in prosecuting and completing the work.

By the estimates hereto annexed, it will appear that, in order to complete the navigation upon a permanent foundation, through the distance of about seventy miles, (from the mouth of Tulpehocken on Schuylkill, to the mouth of Swatara, on Susquehannah,) there will be a deficiency of £308,000; but the trade which may reasonably be expected through this immense communication with the western world will amply compensate the public, as well as the individual stockholders, for the capital stock to be employed in the work.

There are but two ways to raise this capital—

1. Either by enlarging the present capital, by the increase of shares and new subscriptions, on the terms of the act of incorporation; or

2. By the company's negotiating and obtaining an effectual loan.

A loan, in the opinion of the stockholders, and agreeable to their resolutions, at a meeting held to consider the state of their affairs, is the mode they would prefer; and, therefore, they have instructed the president and managers to pray the Legislature, and they accordingly pray—

For an aid in money to the amount of the said deficiency, or as much thereof as the Legislature may think proper to grant; either by lending the same to the company on interest, at the rate of six per centum per annum, the principal of the loan to be advanced by the State to the company in monthly instalments of ten thousand dollars each, or by the State taking an interest in the work for the speedy accomplishment of the same, to the amount of the deficient capital, or such part thereof, as, in regard to the public emolument, they may think meet, and that, in case the loan shall be granted, as aforesaid, the corporation engage to pay the same with interest, by instalments of not less than fifty thousand dollars annually; the first instalment to be paid at the end of twelve months after the work shall be finished, and the commencement of the tolls thereon.

That, as by the act of incorporation, although some parts of the said canal navigation may be finished, and in use before the whole distance of seventy miles can be completed; yet the company are not enabled to receive toll for that part except at the rate of one dollar for every seventy miles, or the whole distance, which is only one cent and three-sevenths of a cent per mile; whereas the Delaware and Schuylkill canal is allowed one-sixteenth of a dollar per mile, whenever any part thereof is finished; and although a remedy is given for this inequality by the sixteenth section of the act of incorporation, which provides "that the company may increase the toll, if it should appear that the clear profits and income will not bear a dividend of six per centum per annum on the whole capital stock of the company expended, in such manner that the tolls will raise the dividend to six per centum per annum through the whole length of the canal and navigation, and in proportion for each separate part thereof;" yet this remedy cannot be applied to any particular part, till at the end of two years after the whole of the said canal and navigation shall be completed. Your memorialists are, therefore, instructed by the stockholders further to pray, and they do pray, that the Legislature will grant such toll per mile, for any part of the canal that may be finished, as is allowed on the Delaware and Schuylkill canal, under the same restrictions, for that part of the canal so finished, as are provided in the said sixteenth section of the act of incorporation, on the finishing of the whole canal.

By order, and on behalf, of the corporation,

ROBERT MORRIS, *President.*

*Report of William Weston, Esq., engineer and superintendent, &c. To the President, Managers, and Company of the Schuylkill and Susquehannah Navigation.*

GENTLEMEN:

Pursuant to an order of the board, made in April last, I have now the honor to lay before you a plan and estimate of that part of the Schuylkill and Susquehannah canal, which extends from the east end of the summit level to the junction of the Tulpehocken with the river Schuylkill, near Reading. Independent of other circumstances, I purposely delayed the survey of the intended line until autumn, as by that means I had an opportunity of viewing the creek in its lowest state. My instructions directed me to explore the Tulpehocken, the adjacent ground, and any other practicable course by which a navigable canal might be made to the Schuylkill. I had conceived very sanguine hopes in favor of the practicability of the latter mode, as I had been informed, by persons well acquainted with the face of the country, that there was a probability of finding a more direct route to the Schuylkill than by following the circuitous windings of the Tulpehocken. But, on a very attentive view, I do not hesitate to declare that it is impracticable to deviate from the course of the creek, which, from its source to its mouth, is environed with hills, so as to render it impossible to leave its banks at any considerable distance, as will be seen by an inspection

of the plan. One of the two remaining modes must, therefore, be adopted, viz: a canal navigation totally unconnected with the river, or, by using the beds of the present creeks, and making such improvements as they are capable of. I have well considered every argument that has been advanced in favor of, and every objection that has been made against, the latter mode. After stating, with as much perspicuity as I am able, the reasons that have influenced my determination, I shall leave it to the board to adopt that plan which to them appears most eligible. The contest between river navigation and canals is an old one. Many very plausible arguments have been adduced in favor of the former, and, until time had proved their fallacy, they had much weight, as may be conceived from the many fruitless attempts that have been made in England to render navigable the river Avon, from Stratford to Tewksbury, the Stour to the Severn, the Severn from Shrewsbury to Worcester, the Irwell, the Kennet, the Mersey, and the Thames from Crechlade to the tide water; the last of which rivers has employed the abilities of the first engineers for more than a century to no purpose; for, after immense sums have been expended upon it, it is now so imperfect as to be unnavigable six months in the year. A collateral canal has been recommended as much cheaper; but the prejudices of corporations, millers, and land owners have hitherto prevented the adoption of this plan. The unerring test of experience has at length convinced the warmest advocates for river navigations how inefficacious they are. I have mentioned the above instances, as practical examples are more conclusive than theoretical arguments. It should also be remembered that the danger to be encountered in this country is much greater than in England, as the floods are more violent and accompanied by ice in greater quantities. The usual method of making rivers navigable is to throw dams across the stream in the most convenient situations, and to build a lock in a collateral channel, to enable the boats to pass from one pond to the other. To obtain the necessary depth of water, the bed of the river, at the tail of each lock, must be deepened, or the water raised so much by the next dam as to effect the same purpose. In the instance before us, the former mode may be deemed impracticable, the bed of the creek being chiefly solid work. The latter is liable to the following objections: To obtain the requisite depth, the water will be raised higher than the adjacent meadows; to prevent their being overflowed, an embankment must be made, which obstructs the natural drainage from the meadows. This may be remedied by cutting a back drain to the tail of the next lock; but, in many instances, it will be impracticable. These banks are liable to be destroyed every winter by the floods, if raised only to the height necessary to pen up the water, as they will not be sufficient to confine the river in its bed at that time; and, if it overflows, it will inevitably destroy them. To prevent this, it follows that the banks should be raised sufficiently high, and of a proper strength to resist every effort of this powerful element. I am not so well acquainted with the state of the Tulpehocken, in the winter season, as to assign the just dimensions of these embankments, which will vary with the increase of its stream by every new accession of water. But, from the best information which I have been able to collect, I have reason to believe they will destroy as much land, and be nearly as expensive as cutting a canal; and, when every precaution has been taken that human ingenuity can suggest, they are in continual danger of being destroyed; and that these instances are far from being rare the works on the rivers I have before mentioned will evince, having been frequently swept away. The lifts of the locks on the canal will be, on an average, seven feet; but on the river it would not be prudent to make them more than four or five feet. This circumstance, by increasing the number of locks, will add considerably to the expense of execution, as the difference between a four feet and seven feet lock is not so much as may be imagined. For the ease and convenience of hauling, and also for its stability, a towing path should be as little elevated above the surface of the water as possible; but as, in the most favorable seasons, the water will be continually fluctuating, it would be necessary to raise it at least three times its usual height; and then it will be considerably damaged every flood. If the Tulpehocken was in a permanent state, it would be much less difficult to render it navigable; but its variations, both from natural and artificial causes, being so great, it will be almost impossible to assign a just proportion of fall and lockage, to acquire the opposite advantages requisite in a summer and winter season. The above are the most material objections that occur to me at present. The only argument advanced in favor of river navigation is, that they are less expensive in the execution. What the saving may amount to, in the case before us, is difficult to ascertain; but it will not be of any consequence when put in competition with the manifest advantages of a canal navigation; and the necessary annual repairs will, I am persuaded, amount to as much as the interest of the principal sum saved in the execution. As far as my opinion will influence the board, it is necessary to declare that, taking every object into consideration, I recommend, as most subservient to their immediate interest, and beneficial to the public at large, the adoption of a canal navigation, independent of the Tulpehocken, except in such instances as nature or art render it expedient to deviate therefrom. These particular cases will be pointed out in the course of the annexed description of the proposed line. Having done my duty by declaring my opinion, it only remains for me to assure the board that, whatever their decision may be, I shall execute their orders with as much alacrity as if my recommendation had been adopted.

The plan herewith exhibited will give the board a better information respecting the appearance of the country, the direction of the canal, and the course of the Tulpehocken, than could be conveyed by words. The track of the canal is shown by a red line; and, though I may hereafter find it expedient to vary therefrom, in some few instances, these variations will be so trifling as not to cause any sensible alteration in the plan.

The water courses intended to convey the several springs into the summit level of the canal are distinguished by different colors, which the table of reference on the plan will explain. In placing the locks, particular regard has been paid to their situation and lift, so as to combine the double advantage of suiting the ground, and affording the easiest communication with the divided lands, by bridges over the tails, which saves two hundred pounds in every instance. In a first survey it cannot be expected that every local circumstance can be comprehended. I may hereafter see sufficient reasons to induce me to make some alteration in their situation and lift; whenever that is done, it will be from economical motives. The ground in Loy's plantation would have admitted the lifts of the locks to have been ten feet; but, as it would have caused a considerable additional expenditure of water, I have deemed it most eligible to fix them at six feet; and this has been continued until additional supplies of water have justified increasing the falls of the subsequent locks.

The regular and uniform descent of the ground in the vicinity of the Tulpehocken prevents us having locks of more than eight feet fall, as the extra digging at the tail of each lock would be more expensive than the saving of an increased lift. On account of the proximity of the hills on each side of the Tulpehocken, the canal is obliged to keep very near the channel, and, consequently, in the meadows. This circumstance makes it very unpopular with the farmers; but it cannot be avoided, as any other course would enhance the expense of execution infinitely more than any consideration which will be made for the land. In the following estimate I have been as particular and accurate as the uncertainty of works of this kind will admit. I trust it will be found that sufficient allowance has been made for the execution. In some instances I may have overrated, and in others undervalued, the contingent expense; but I believe the average will be found very near what I have allowed it. Not to depend altogether upon appearances, to form a judgment of the quality of the ground through which the canal passes, I caused it to be bored in every field. I found the strata generally the same, viz. black earth, clay of different kinds, gravel, and rock, on which the borings mostly terminated, but at irregular depths from the surface, viz: from one



to six feet. The rock, in general, lies sufficiently deep from the surface to permit the canal to be cut without interfering with it. When it lies near the surface, I shall cause it to be accurately examined before the canal is set out, and shall regulate the locks accordingly. It has been a common complaint (and experience in general has evinced the justice of it) that the estimates of most public works have fallen considerably short of the sums afterwards actually expended in their execution. Whatever may have been the motives for these deceptions, they have not influenced me. The following estimate (though not greater than the majority of the English canals of the same length have cost) would not have been so high but for the unusual quantity of lockage, and the peculiar disadvantages it labors under in being far removed from most of the necessary materials, particularly stone and sand. However, the execution of the work will be as economical as possible, as I shall let all the work by contract that can be done with propriety.

The important article of lockage, I am well persuaded, will be found accurate. Bridges, the next object, I am not so confident of with respect to number. I have allowed them in all places where I suppose them necessary, but perhaps a jury may think otherwise. It would be advisable, in many cases, for the company to purchase the land cut off by the canal, as it is very rarely worth the expense of erecting a bridge, and very frequently not a fourth part. These parcels of land, if purchased and re-sold to the owners of the adjacent plantations, would save some thousand pounds. In the estimate I have not included the value of the land necessarily destroyed by the canal; this rests entirely with the juries, who have hitherto differed so much in their valuations, that no certain idea can be formed of it. In the article of fencing there would be a considerable saving by introducing the modern mode of towing path gates at the division of every enclosure.

The following description of the nature of the ground, through which the canal passes, aided by a reference to the plan, will convey as just an idea of it as can be obtained by any other mode than ocular observation: Beginning at the line of Michael Loy, the summit level is continued twenty-two perches to the head of the first lock, between which, and Michael Loy's road, there will be six other locks of six feet fall each; at the tail of the seventh lock we shall acquire a considerable accession of water, by taking in two copious streams which rise in the spring-houses of Loy and Spangler; from this place, therefore, the canal may be considered as abundantly supplied with water at all seasons. Leaving Leonard Immel's and Michael Ramler's on the south, the canal passes through the meadows to the west end of Bassler's mill-dam, across which an embankment must be made for a towing path, three hundred and twenty yards in length, with a waste wear under it to discharge the superfluous water into the mill-pond.

The tenth lock is intended to be placed at the road from Myerstown to Lebanon, with a bridge over the tail. Leaving Myerstown about a quarter of a mile to the northward, the canal passes through the lands of Simon Bassler and John Myers to Valentine Miller's, in very favorable ground; from thence to the line of John Kuster is one continued rock, in length forty perches; this part will be very expensive; I have considered it in the estimate as cut through the solid rock; but if, on trial, it should prove difficult to quarry, I shall bank over it as the cheapest mode. Through the plantations of Kuster, Haag, Kreitzer, and Wolborn, the ground in general is good. Through Sharf's plantation it will be rocky; but, by adapting the fall of the preceding lock to suit the level of the ground, it may, in a great measure, be avoided. Near the great spring the Tulpehocken makes a considerable elbow, as will be seen by the plan; the canal is laid down as crossing the isthmus. Of the propriety of this route I am not fully satisfied; the distance does not exceed twenty-two perches, but it is composed wholly of rocks in distinct but large masses. To cut the canal through these, and also a new channel for the Tulpehocken, will certainly be very expensive.

The next mode of execution is to carry the canal over the Tulpehocken, by means of two small aqueducts, and to bank across the isthmus; another mode is to make use of the bed of the river, which may be rendered navigable by erecting a dam at the second intersection, sufficient to raise the water to the requisite height. The first plan is the most perfect, and the last most economical. I am not now prepared to speak decisively on this point; but, before it is set out, I shall carefully examine the ground, and adopt that mode which shall appear most eligible. From the great spring no material obstacle occurs till we arrive at Lower's mill-dam. Here there are two routes; the first through the hill to the northward of the mill; the other by an embankment through the dam; this last is the most preferable, as being much the cheapest. In the estimate I have divided the canal into five districts, the first of which terminates at this place. The length is six miles four furlongs and six chains, and the fall one hundred and nine feet seven inches. From Lower's to Lechner's mill, the ground is various in quality, but in general it is not unfavorable. In many places it will be necessary to cut a new channel for the river, as it frequently runs so near the hills as not to leave a sufficient width for a canal and towing path; it will be unnecessary to specify these instances particularly, as they will be shown more plainly on the plan where they are denoted by a blue line. At Lechner's, the canal will pass through the hill between the mill and a small out building; at this place I propose to contract the width of the canal to eleven feet, admitting the passage of one boat only at a time; the length of this hill is twenty perches. From Lechner's the canal passes through the plantations of Lantz, Read, Kortz, Brown, Sheaffer, and Meyer, in favorable ground. The course of the canal, through Debe's meadow, might have been more direct; but as the circuitous tract, laid down on the plan, saves a bridge, it will be the cheapest. At Edge's it will be advisable to make use of the present dam; indeed there is no alternative, as the hill, on the west side, approaching nearly perpendicular to the water edge, precludes every idea of making a canal in this place. All that is necessary here will be to make a towing path, elevated about three feet above the surface of the water, that being the height to which the floods generally rise in the winter season. This is the end of the second district, which is five miles seven furlongs, and two chains in length, and the fall is fifty-four feet eleven inches, divided into eight locks. Leaving the mill-dam by the new race cut to the slitting mill, the canal passes through the plantations of George Ege, Deppe, Lutz, and Clinger to Forrar's mill. From this place to the North hill creek the ground is very irregular in quality. In the wood, belonging to Jasper Stump, the canal crosses the North hill; at the time I viewed it the stream was very trifling, but from the appearance of its banks, and the width of the channel, it must be very considerable in the winter season. Until I am better acquainted with it I cannot determine upon the most eligible mode of crossing it, whether by an aqueduct or a tumbling dam. The latter will be the cheapest, but the most inconvenient for the boats. The third district terminates here; the length is six miles and seven furlongs; and the fall forty-eight feet eight inches, which I have divided into six locks. From hence the canal passes through the plantations of Shomo, Stouch, Geis, and Dunder, to Stouch's mill. From this place to Heister's mill the ground is various in quality and irregular in surface; a considerable portion is rock, the particulars of which will be specified in the estimate. From Heister's mill to Raeber's, the canal proceeds in very favorable ground; at this place the river must be turned from its natural course, which will be occupied by the canal. From Raeber's the line of the canal runs through the plantations of Bon, Ruhl, John Raeber, to Read's mill, near which the fortieth lock is placed. From Read's mill to the Schuykill, the ground on each side of the Tulpehocken, with very few exceptions, is so extremely irregular and rocky, that, on account of the enormous expense that would be incident to a canal navigation, it will be the most eligible mode to make the

Tulpehocken navigable by means of dams and side locks. The ground on each side of the creek is well adapted to this purpose; in most places it will require no banking, nature having already performed that office; and in those places, where the water will be raised above the surface of the adjacent land, it is of so little value as to render the purchase of it an object of little importance. The length of this district, extending from Heister's mill to the Schuylkill, is eight miles seven furlongs and four chains, and the fall sixty-seven feet eleven inches. The total length of the canal, from the east end of the summit level to the Schuylkill, is thirty-four miles one furlong and six chains; the fall three hundred and ten feet, divided into forty-five locks.

I have the honor to be, gentlemen, your most obedient humble servant,

JANUARY 15, 1794.

WILLIAM WESTON.

*General estimate of the probable cost of completing the canal from Schuylkill to Susquehannah.*

	Length.		Fall.		Amount.	
	miles. fur.	feet. inches.	£.	s. d.	£.	s. d.
For the crown level from near Lebanon to Michael Loy's, nearly completed, upwards of three miles,	-	-	-	-	40,000	00 0
From the summit to Lower's mill,	6 4-6	109 7	54,233	0 11½		
From Lower's to Ege's,	5 7-2	54 11	30,575	7 1½		
From Ege's to the North Hill,	6 7	48 8	30,819	2 3		
From North Hill to Heister's,	5 7-4	28 11	26,848	10 3¾		
From Heister's to the Schuylkill,	8 7-4	67 11	43,894	15 6½		
					186,370	16 2
Cost of land already valued,	-	-	-	-	8,051	00 0
Cost of land necessary on the same estimate,	-	-	-	-	15,300	00 0
Ten houses for clerks and toll-gatherers,	-	-	-	-	1,500	00 0
Supposed damages to lands, mills, water, &c.	-	-	-	-	4,700	00 0
Salaries, office hire, and incidental charges, for all persons employed by the company for four years,	-	-	-	-	10,078	3 10
Whole cost from Lebanon to Schuylkill, thirty-eight miles, average £7,000 per mile,	-	-	-	-	266,000	00 0
From Lebanon to Susquehannah the difficulty will not be so great; thirty-two miles, supposed to cost £6,000 per mile,	-	-	-	-	192,000	00 0
Total valuation,	-	-	-	-	458,000	00 0
Sum provided by law, 1,070 shares, at \$400 each,	-	-	-	-	150,000	00 0
Deficit, and to be provided for,	-	-	-	-	£308,000	00 0

£116,000, a part of the sum deficient, will complete the work from Lebanon to Schuylkill; when that part is finished, the company will draw a considerable annual toll. The citizens of the State will be convinced that, although this great work will be attended with considerable difficulty, it can be surmounted so as to perfect a navigation from the Eastern to the Western waters. For finishing the work from Lebanon to Susquehannah, a further sum of £192,000 is to be provided, making, agreeably to the above estimate, £308,000.

But, as the work from Lebanon to Susquehannah has not yet been laid out by the engineer, £192,000 is mentioned as the greatest sum, supposing no part of the bed of the Quittapahilla and Swatara to be made use of; but if, instead of a canal navigation along the whole margin of the rivers, the beds of the said rivers, wherever they can be made safe and permanent, should be adopted, the expense may possibly be found less. This point will be ascertained during the ensuing summer.

*Report of William Weston, Esquire, for the year 1794.*

To the President and Managers of the Schuylkill and Susquehannah Navigation Companies.

GENTLEMEN:

LEBANON, December 16, 1794.

Having received from the Secretary of the Schuylkill and Susquehannah canal the request of the managers for my immediate attendance on the committee who are appointed to state the present situation of their works, and a general statement of their affairs, I have endeavored to supply them with every information which the shortness of the notice would allow. It was my original intention to have postponed my report until the close of the present year; but the commands of the board not permitting me to carry it to that time, I have endeavored to anticipate, as accurately as possible, the probable state of the works at that period. It must be understood that the annexed details and statements relate only to that part of the canal eastward of the summit level, the operations of which commenced early in June; the previous expenses of day-wages, and some subsequent pieces of contract work on the summit, will be included in Mr. Roberdeau's accounts herewith exhibited.

I flatter myself the progress made in the works, in the short space of seven months, will prove satisfactory to the board. On a careful comparison of the actual state of the various works, and an ample allowance for the completion of such parts as remain unfinished, with the previous estimate laid before the board in my last report, it appears that, from the east end of the summit level to Michael Kreitzer's plantation, a distance of more than four miles and a quarter, the actual expenditure will fall far short of the estimated one, at least £3,000. Though I would not wish to appear too sanguine, yet I may be allowed to draw some favorable inferences of the remainder of the line, which, if realised, cannot be more gratifying to the board than pleasing to myself. Independent of this, I have well-founded



reasons for asserting that the works will rather proportionably diminish than increase in expense, as the important object of land carriage will, after the ensuing year, in a great measure, be done away, by the canal being made subservient to that purpose. The sand for the locks, bridges, &c. will be, from the approaching proximity of the canal, delivered at the respective works for little more than half the present cost; the same remark will hold good respecting the lime. Though the average value of the bricks, reduced to statute size, will not exceed twenty-four shillings per thousand, yet I must own I have been disappointed in the quantity made the last season—the unfavorable state of the weather, during the greater part of the summer has prevented the produce coming up to my calculations; at the same time that the number has been diminished, the cost of those actually made has, of consequence, been increased. From the difficulty of procuring wagons to haul bricks, lime, sand, &c., I was under the necessity of not employing half the number of bricklayers I had at first contemplated; though, at the same time, more work has been done in four months than is generally executed on most canals in one season. Five locks of six feet fall, and two road bridges are completed, and such progress made in the sixth lock, and two more bridges, that a fortnight's work, in the ensuing spring, will suffice to finish them. The whole of the works on the canal, excepting such parts as it would have been imprudent to set, have been executed by contract, and on such terms as I doubt not will be satisfactory to the board. As the subsequent statements contain the whole of the expenses incurred on the respective articles to the present period, it is proper to observe that a considerable portion thereof belongs to the next year's account; upwards of a million and a half of bricks, hollow quoins for ten locks, coping for nine bridges, and a considerable quantity of lime, sand, &c. are now on hand, ready for immediate use. The different works are classed separately; the amount of these will not contain the whole expenses of the present year, there being many accounts which could not, with any propriety, be fixed to any article; others that belong not solely to the present year; and others which I have had no opportunity of seeing; but the accounts of Mr. Roberdeau and Mr. Beatty will give the board every information they may desire on this head.

I am, gentlemen, with the greatest respect, your obedient humble servant,

WILLIAM WESTON.

*Account of the number of bricks made for the use of the Schuylkill and Susquehannah canal, and the attendant expenses.*

	£	s.	d.
Digging of clay, 9,785 cubic yards, at 6d., 7d., and 8d. per yard, - - -	294	2	2
Moulding and burning, - - - - -	1,418	17	9
Tempering and burning, - - - - -	1,042	12	6
Wheeling and burning, - - - - -	724	3	5
Off-bearing, - - - - -	346	6	5
Wood-cutting, 2,388 cords of wood, at 2s. 6d., 3s., and 3s. 9d. per cord, - - -	358	11	10½
Labor of various kinds; emptying kilns, stacking the bricks, &c. - - -	622	00	0
Hauling wood, sand, dust, &c. - - - - -	391	19	1
	<u>5,198</u>	<u>13</u>	<u>2½</u>

998,699 bricks laid in the locks and bridges.

72,065 bricks laid in the stop-gate, towing path, walls, &c.

1,419,236 bricks in the brick-yard.

106,000 bricks in the sixth lock.

204,000 bricks in kilns, clamps, chimneys, &c.

2,800,000 total, which reduced to statute size, and some deductions made which do not belong to the brick account, will average 24s. per thousand.

*Bricklaying.*

Laying 1,103,052 bricks in the five locks, bridges, &c. - - - - - 987 19 4

*Lime.*

Burning 10½ kilns of lime, at £12 12s. per kiln, - - - - - £134 8 0  
Cutting wood and hauling, - - - - - 99 5 11

233 13 11

7,500 bushels of lime, which is equivalent to 7½d. per bushel.

*Sand.*

Damages of land by digging, unbasing the sand-pit, digging and unloading the sand, and hauling the same to the locks and bridges, - - - - - 281 16 1

Three hundred and sixty wagon loads have been delivered at the locks and bridges, containing 14,400 bushels, equal to 4½d. per bushel.

£6,702 2 6½

*Cutting the canal from the east end of the summit to Kreitzer's.*

Length 4 miles 16½ chains. Amount £8,526 13s. 2d., viz:

	Chains.	Links.	£.	s.	d.
Through Loy's plantation, - - - - -	46	25	876	7	3
Through Spangler's plantation, - - - - -	20	51	369	11	8
Through Immel's plantation, - - - - -	22	86	616	17	2
Through M. Rambler's plantation, - - - - -	23	60	645	12	2
Through L. Rambler's plantation, - - - - -	16	50	498	6	9
Through T. Bassler's plantation, - - - - -	39	40	710	7	11
Through Myers's plantation, - - - - -	41	50	1,353	11	10
Through S. Bassler's plantation, - - - - -	18	50	522	6	4
Through Miller's plantation, - - - - -	27	10	931	9	9
Through Kushier's plantation, - - - - -	19	40	606	00	0
Through Haag's plantation, - - - - -	30	90	746	9	8
Through Kreitzer's plantation, - - - - -	30	00	649	13	8
<b>STONE WORK.</b>					
Getting stone at the different quarries for the locks and bridges, - - - - -			£.	s.	d.
Hauling stone from the quarries to the canal, - - - - -			761	7	6
Working and setting the coping of the bridges, hollow quoins of the locks, - - - - -			189	15	0
			424	15	0
					1,375 17 6
<b>WAGONS.</b>					
Hauling bricks, lime, &c. from May 19th to December 31, - - - - -			186	4	7
Feed for the company's horses, overseers' and wagoners' wages, - - - - -			597	7	6
					783 12 1
<b>LOCK-PITS.</b>					
By order, in favor of Samuel Galbraith, for cutting 1st lock-pit, - - - - -			56	1	3
By order, in favor of Samuel Galbraith, for cutting 2d lock-pit, - - - - -			48	17	6
By order, in favor of Samuel Galbraith, for cutting 3d lock-pit, - - - - -			48	17	6
By order, in favor of Samuel Galbraith, for cutting 4th lock-pit, - - - - -			48	17	6
By order, in favor of James Rannels, for cutting 5th lock-pit, - - - - -			137	16	6
By order, in favor of Samuel Galbraith, for cutting 6th lock-pit, - - - - -			262	6	3
By order, in favor of John Fletcher, for cutting 7th lock-pit, - - - - -			97	17	9
By order, in favor of John Butler, for cutting 8th lock-pit, - - - - -			120	00	0
By order, in favor of Thomas Morris, for cutting 9th lock-pit, - - - - -			72	7	6
					993 1 9
Backing the five locks in Michael Loy's wood, to December 31st, - - - - -					465 5 0
					£12,134 9 6

*A comparative statement of the expense of conveying twenty tons of produce from Middletown, on the Susquehanna, to the city of Philadelphia, by land and water carriage.*

WATER CARRIAGE.		LAND CARRIAGE.	
Schuylkill and Susquehanna canal, say - miles, 70		From Middletown to Philadelphia, - miles, 100	
Schuylkill, from Reading to Norristown, - 46			
Schuylkill and Delaware canal, - 16			
	miles, 132		
	£. s. d.		£ s. d.
Toll on 20 tons of produce for 86* miles of canal navigation, at 10 cents per mile, - 40	6 3	The present price of carriage from Middletown to Philadelphia is 5s. 6d. per hundred weight, or for 20 tons, - 110	0 0
Hauling 20 tons 132 miles:			
One man, 5 days, - - - - -	1 5 0		
One boy, 5 days, - - - - -	1 0 0		
One horse, 5 days, - - - - -	1 10 0		
Freight or hire of a boat, - - - - -	18 9		
	20 tons for - 45 00 0		
Or £2 5s. per ton;		Or £5 10s. per ton;	
Or 3s. 11½d. per barrel of flour;		Or 9s. 7½d. per barrel of flour;	
Or 1s. 2¼d. per bushel of wheat.		Or 2s. 11¼d. per bushel of wheat.	
The above produce is conveyed to market by two men and one horse.		The same by land requires 20 men and 80 horses.	

*An attempt to ascertain the probable trade and consequent tonnage on the Schuylkill and Susquehanna canal, as referred to in the note at the bottom of page 830.*

1. Taking the extent of country on an average width of 10 miles on each side of the canal, from Reading to Middletown, the distance being 55 miles by a straight course, we shall have 1,100 square miles, or 704,000 acres; and taking each plantation at 320 acres, we have 2,200 planta-
- \* Forty-six miles from Reading to Norristown, where the bed of the Schuylkill is to be used as a temporary navigation, being taken from the whole distance of one hundred and thirty-two miles, leaves eighty-six miles, as above, for the canal navigation subject to tolls.

tions. Supposing each plantation to cultivate 40 acres of grain, at 10 bushels per acre, the total produce will amount to 880,000 bushels, which, at 60 pounds per bushel, gives 23,576 tons; and taking the average tonnage at half the length of the canal, or 35 miles, according to its various windings, it amounts to, at one-sixteenth of a dollar per ton per mile, -	£19,351 19 4
2. The produce of the extensive country, bordering on the navigable waters of the Susquehannah and its numerous branches, are, at present, very great; but in a few years, from the natural increase of population, it will be so immense as to exceed the bounds of calculation; at present, we believe it may very safely be estimated at 600,000 bushels, or 16,071 tons, and, as the distance is 70 miles, the tonnage will amount to £1 12 9 $\frac{3}{4}$ per ton, -	26,366 9 8
3. Back carriage, consisting of salt, groceries, liquors, and various kinds of European and domestic manufactures; this we will estimate at one-fourth of the above, or -	11,429 12 3
4. The carriage of lime, timber, for building, coals, fire-wood, iron, stone, bricks, &c., will certainly be very great; but such as to render it impossible to form an accurate idea of the amount; but, taking it at the lowest rate, it may be estimated at one-eighth of the two first articles, -	5,714 16 1 $\frac{1}{2}$
	<u>£62,862 17 4<math>\frac{1}{2}</math></u>

Exclusive of the above annual income, the stockholders will derive great emolument from the seats for water works, of which there will be many, from the surplus water at the different locks within the grounds purchased for the canal, and without damage to the mills erected on the lands of the adjoining owners. It will also be a peculiar advantage, that, from the situation of these water works, all produce and manufactures, or raw materials, may be loaded or unloaded directly, without the intervention of land carriage, to and from the boats. The waters of the Tulpehocken and Quittapahilla are abundantly copious to supply every demand for any purpose of this kind whatever. The above calculation, at a dividend of 12 per cent. per annum, is equal to a capital of £523,850; but, calculating the most moderate increase of population, the toll will increase, even on this capital, one per cent. per annum, until it amounts to the limitation, in the act of incorporation, and then the toll will be subject to a reduction according to law.

#### DELAWARE AND SCHUYLKILL CANAL.

This canal is intended to answer the double purpose of forming a capital link in the great chain of western navigation, from the Ohio and Lake Erie to Philadelphia, as well as for an abundant supply of wholesome water to all parts of the city. The canal will connect the navigation of the Schuylkill with the Delaware, and is carried on a level of forty-nine feet above the high water mark of the Delaware, for about sixteen miles to Broad street; and from thence is conducted into the Delaware, above Callowhill street, through six locks, the distance being about one mile. The report of the deputy engineer states, that\* one-third of the work is finished, and that contracts are formed and forming for a vigorous prosecution during the present year; and the committee, with confidence, can assert, that a proper attention of the stockholders to the punctual payment of the moneys when called for by the president and managers, will enable the board to draw a toll for part of the distance in the year 1796, and to complete the whole in three or four years. The sum already expended amounts to £52,500.

*The following estimate of revenue the stockholders may, with safety, calculate on when the work is completed:*

All the produce passing through the upper canal, and supplies returning, must pass through this canal; the estimate of the Susquehannah and Schuylkill canal is fixed at £62,862 for 35 miles; the Delaware and Schuylkill draw the same toll per mile, in proportion to the distance, which will amount to -	£31,431 0 0
The probable toll, from the produce of the lands bordering on the Schuylkill and waters thereof, not estimated in the above, will at least produce one-half the amount, -	15,715 0 0
The canal passing for about five miles through a variety of marble, free-stone, and lime-stone quarries, from which this city is supplied with materials for building and ornament, will, by calculating the number of wagons now employed in transporting those materials to the city, produce at least -	15,000 0 0
	<u>£62,146 0 0</u>

The stock of the company, as already subscribed, amounts to £150,000, which, from the costs of that part of the canal already cut, will be sufficient for the completion of the work necessary for the transportation of produce; the toll of which will amount, agreeably to the foregoing estimate, to £62,000 per annum, making a dividend of upwards of forty-one per cent.; but, agreeably to the charter granted to the company, the toll is to be so reduced every ten years, as not to afford more than a dividend of twenty-five per cent. per annum.

In addition to the £150,000 subscribed, a further sum of about £50,000 will be wanting to complete the watering of the city, on which the stockholders, by law, are allowed a further dividend of ten per cent. per annum. This great object is of such immense consequence to the health of the city, and to the extinguishing of fires, that the citizens of Philadelphia will cheerfully pay, for the use of the water, a sum more than adequate to the payment of the ten per cent. allowed by law.

In addition to the advantages already stated, great revenues may be drawn from the application of the surplus water passing through the canal, which, from Broad street to the Delaware, affords a fall of near fifty feet. Dry docks are, also, contemplated by the law, and will, when the resources of the company become ample, be carried into effect.

\* By a rough calculation, which is by no means exaggerated, I find we have blasted with powder, and quarried five millions four hundred and forty-five thousand cubic feet of rock, and have mounded up, between the towing path of the canal and river, a bank with the stone and rubbish, from twenty to twenty-five feet high, from its base in the river. We have made at our brick-yard, last summer, about three hundred thousand bricks.

At the lower end of the canal, in the vicinity of the city, through the distance of two miles and three-quarters, there have been two hundred and fifty thousand cubic yards of earth and gravel, and partly rocks, removed out of the bed of the canal, and ten culverts built and completed.

Respecting the dimensions of this canal, it has been determined:

- 1st. That the width of the bottom be twenty feet.
- 2d. That the depth of water be three feet and a half.
- 3d. That the width of the canal be thirty feet and a half.
- 4th. That the width of the towing-path be ten feet.
- 5th. That the towing-path be not less than one foot above the surface of the water in any place.
- 6th. That the locks be constructed to admit boats of sixty feet in length and nine feet in width.
- 7th. That the descent of the canal be at the rate of two inches per mile.

N. B. The new river canal, for conducting water to the city of London, has three inches descent per mile; but this has been found more than necessary, and increases the expense of maintaining the banks.

On the petition of the president and managers of the Schuylkill and Susquehanna canal company, the Legislature have been pleased to pass the following supplement:

A SUPPLEMENT to an act, entitled "An act to enable the Governor of this commonwealth to incorporate a company for opening a canal and lock navigation between the rivers Schuylkill and Susquehanna, by the waters of Tulpehocken, Quittapahilla, and Swatara, in the counties of Berks and Dauphin."

SEC. 1. *Be it enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for the president, managers, and company of the Schuylkill and Susquehanna navigation, when any part of the said canal and lock navigation shall be in use, to demand and receive of and from the persons having the charge of all boats and vessels, rafts of timber, boards, plank or scantling, passing through the said canal and navigation, and the locks thereunto belonging, at the rate of one-sixteenth of a dollar, by the mile, for every ton weight of the burden of said boats and vessels, to be ascertained as provided for in the act to which this is a supplement, and in like manner one-sixteenth of a dollar, by the mile, for every hundred feet, cubic measure, of boards or timber, and the same sum, by the mile for twelve hundred feet, board measure, of boards, plank, or scantling in rafts, and in proportion for rafts of a greater or less size.

SEC. 2. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful, to and for the said president, managers, and company, to open a subscription for such additional number of shares, in such manner, and at such times, as they may judge necessary, to complete the said canal and lock navigation.

SEC. 3. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful; to and for the said president, managers, and company, if they shall think it necessary, and for the interest of the said company, to negotiate and borrow, upon the credit of their capital stock and incorporation, and the tolls and profits of the same, such sum or sums of money, from time to time, as they may be able to procure, and shall deem expedient and necessary for carrying on and completing the said work.

GEORGE LATIMER,  
*Speaker of the House of Representatives.*  
WILLIAM BINGHAM,  
*Speaker of the Senate.*

Approved, February 12, 1795.

THOMAS MIFFLIN,  
*Governor of the Commonwealth of Pennsylvania.*

#### APPENDIX.

In a historical view, according to the order of time, the following papers should have been inserted immediately after page 852 of the preceding pages. As soon as the subscriptions were completed, and the several canal companies organized by an election of president, managers, and other officers, committees were appointed to lay off and level the proposed tracks of the canals, and to report to the boards of managers.

The summit level, or middle ground, between the head waters of Quittapahilla near Lebanon, and those of Tulpehocken, near Myerstown, (a distance of about four miles and a half,) had been examined and levelled, about twenty-five years ago, by a committee appointed by the American Philosophical Society, viz: William Smith, D. D., then provost of the college of Philadelphia, John Lukens, Esquire, surveyor general of the province (now State) of Pennsylvania, and John Sellers, Esquire. The same ground was afterwards examined and levelled, under legislative sanction, by sundry skillful persons, and, among others, by the celebrated philosopher and mechanic, David Rittenhouse, Esquire, L. L. D. his brother Benjamin Rittenhouse, Timothy Matlack, John Adlum, Esquires, and others, all agreeing in the result of their work, respecting the proper track of the canal, for a junction of the Schuylkill and Susquehanna; extending their prospects still further to the great plan now in operation, viz: the junction of the tide waters of Delaware with the Ohio and Western lakes. But the dark and distressing period of the revolution necessarily suspended all improvements of this nature, in every part of America, until the glorious era of the peace and independence of the United States, when they were first resumed in the States of Virginia and Maryland, upon the Potomac, under the auspices of the illustrious Washington, during his short recess from his public labors; next in the State of Pennsylvania, as set forth in the last page of the introduction to these papers; and speedily afterwards, with a noble emulation of public spirit, in most of the other States, according to their natural advantages, as New York, Connecticut, Massachusetts, the Carolinas, &c.

The Company of the Schuylkill and Susquehanna Navigation being (as above mentioned) the first organized in Pennsylvania, a committee, viz: Dr. Smith, and Timothy Matlack, Esquire, were appointed to repair to the summit ground near Lebanon, and finally to re-examine the levels to ascertain the exact route of the canal, the sources and quantity of the waters which could be brought to supply the reservoir on the summit, and the locks at each end; with an account of the lands and waters necessary to be purchased as the great basis of the work. The same committee were also appointed to level and lay out the Conewago canal, and finished their work in July, 1792. A committee was also appointed to lay out and level the Delaware and Schuylkill canal, from Norristown to Philadelphia, viz: Dr. Rittenhouse, Dr. Smith, and Samuel Powel, Esquire. There is a responsibility attached to the companies and their managers, as well concerning their own diligence as that of their committees, which is the only apology for the mention of these appointments. But the president and managers did not think it proper to depend wholly on their own judgment, or the judgment of their committees, in works of such magnitude and immense public consequence. They, therefore, determined to engage one of the ablest engineers that could be

procured from England, to superintend and direct their works; and, in the meanwhile, that there might be no unnecessary delay, they commenced their undertakings at such places, on the three canals, as appeared to them to leave no room for the choice of better ground, or for any error which could materially affect the work; the Schuylkill and Susquehannah canal under the superintendence of Thomas Bull, Esq. the Delaware and Schuylkill canal under Mr. Jonathan Robeson, and the Conewago canal under Mr. James Brindley.

Early in the month of January, 1793, arrived from London William Weston, Esquire, the engineer engaged by the companies; a gentleman who had directed the execution of some of the principal canals in England, whose great abilities, activity, and experience in all the branches of his department, have merited and obtained the perfect confidence and esteem of the managers; and whose advice and assistance, which have been solicited and given as occasion might permit, will be of the utmost importance towards facilitating the improvements of a similar nature in the neighboring States.

After some necessary arrangements with the president and managers of the several canals, Mr. Weston, accompanied by one of the committee who had assisted in laying them out, left Philadelphia February 1st, and proceeded to that part of the canal begun at Norristown, arriving at Lebanon, February 4th. He found more than six hundred men at work, viz: upwards of two hundred at Norristown, and about four hundred at the summit or middle ground between Lebanon and Myerstown. The following abstract of his report made to the companies on his return, gave them great satisfaction, viz:

"From such a view as the time and the season of the year would permit me to take of the canal through the middle ground near Lebanon, I have little doubt but the most favorable line has been adopted.

"The first and most important object is a due and adequate supply of water. I judged it expedient to examine the various springs which are to supply the summit of the canal, but not with intention to ascertain the quantity they afford (this being an improper season for that purpose) but to view their situation with respect to the summit level. It is very apparent that they may be conducted into the canal with great ease. The springs were lower than when gauged last summer. It will be needless to say any thing further on this subject, as Dr. Smith will deliver to the committee a calculation of the number of lock fulls of water they yield in twenty-four hours; which seems to have been made with great care and attention. This, I apprehend, will be adequate to the trade which may reasonably be supposed to pass over the summit, making proper allowance for exhalation and leakage. Suppose the crown level  $3\frac{1}{2}$  miles in length, the extra depth 4 feet, the mean width 32 feet, it will contain 2,365,440 cubic feet of water, which, at 3,420 cubic feet to a lock, will give 691 locks full.

"The Delaware and Schuylkill canal appears to be judiciously laid out, by keeping as near the banks of the river as the nature of the ground will admit.

"The fault of this canal, supposing the dimensions perfectly right, as formed by persons intimately acquainted with the state of the waters, and the boats navigable on them, I observe to be this, viz: that the proposed depth of water being three and a half feet, the width at bottom twenty feet, the surface, with the proper slope, should have been thirty and a half feet, whereas I found it but twenty-seven, the angle of the slope being forty-five degrees; whereas the present practice is an angle of thirty-three and a half degrees, and the bottom and top as two to three.

"The result of a conference with Dr. Rittenhouse, respecting the fall it may be necessary to give the canal, in order to supply the city with water, will be explained to the board by Dr. Smith, together with other matters necessary to be known, but which do not come immediately in my department.

"WILLIAM WESTON."

*An abstract of the report of Dr. Smith, respecting the Schuylkill and Susquehannah canal, so far as above referred to by Mr. Weston.*

On Tuesday, February 5, 1793, I accompanied Mr. Weston from the main body of the canal, where the workmen were employed, to view the several springs and waters at their sources and heights, from whence they are proposed to be conducted to the canal at the summit level, and where they had been gauged by Mr. Matlack and myself, as a committee of the company, in July last.

Mr. Weston, in his report, has stated to the board the reasons of our not considering it necessary to make any new estimate of the quantity of those waters, and his present idea of their competency to a full supply of the locks "adequate to the trade that may be reasonably supposed to pass over the summit, making the proper allowance for exhalation, oozing, and leakage." He has examined the calculations, and having given them his sanction, as appearing to have been made with care and accuracy, I now report them to be entered among the proceedings of the board, as materials for the engineer to proceed upon, and to be examined in other states of the water.

*Estimate of the waters and springs to supply the locks of the grand canal between the waters of the Tulpehocken and Quittapahilla, at the rate of 3,420 cubic feet, to be expended in passing a set of locks.*

#### EAST END.

##### I.

*Kantner's mill stream.*

Breadth.	Depth.	Length in inches.	Cub. inches.	Cub. feet.	Time.	Cub. ft. pr. day.	Locks per day.
48	× 3.96	× 396 =	75271.68	= 43.61	= in 17"	$\frac{221641.44}{3420}$	64.5, or one lock full in about 22 minutes.

##### II.

*Breckhill's spring and waters, measured at the road a little below the spring house.*

Breadth.	Depth.	Length.	Cub. inches.	Cub. feet.	Cub. ft. pr. day.	Locks per day.
43	× 5.41	× 396 =	92121.48	= 53.31	in 1' = $\frac{76766.4}{3420}$	= 22.4, or about one lock in 1 hour 4 min.

##### III.

*Baylor's spring, measured at the road below his meadows, two-thirds of the water which issues from the great spring, near his house, being then spread over the meadows or flowing in the water courses.*

Breadth.	Depth.	Length.	Cub. inches.	Cub. feet.	Cub. ft. pr. day.	Locks.
24	× 3.1	× 396 =	29462.4	= 17.65	in 73" = $\frac{20179.74}{3420}$	= 5.9; but if taken at the spring head, and conducted in pipes or a trunk, without wasting, would yield + 11.8 locks, or 17.7 locks per day.

WEST END.

I.

*Punch spring, measured by making a dam at the spring head.*

Breadth.	Depth.	Length.	Cub. inches.	Cub. feet.	Cub. ft. pr. day.	Locks.
141.6	× 5.38	× 396	= 301675.968	= 174.563	in 8' = $\frac{31421.34}{3420}$	= 9.33 per day.

*Ditto, measured lower down, in the natural channel, without a dam.*

Breadth.	Depth.	Length.	Cub. inches.	Cub. feet.	Cub. ft. pr. day.	Locks.
36.07	× 1.5	× 240	= 12985.2	= 7.514	in 17" = $\frac{38188.8}{3420}$	= 11.16 per day.

N. B. The measurement where the dam was first made being the lowest, it is probable that the water had not risen to flow over the dam at its full height, or to the same height which it had when the water was measured below.

The mean of both will give  $\left\{ \begin{array}{l} 9.33 \\ 11.16 \end{array} \right\}$  10.5 locks.

II.

*Upper Punch spring.*

Breadth.	Depth.	Length.	Cub. inches.	Cub. feet.	Cub. ft. pr. day.	Locks.
24	× 1.73	× 396	= 16441.92	= 9.55	in 70" = $\frac{10787.333}{3420}$	= 3.154 per day.

III.

*Martin Light's brook, or run, to be united with the two Punch springs, and carried, on the level of the Lower Punch spring, to the reservoir; measured at a deep and wide place below a ford.*

Breadth.	Depth.	Length.	Cub. inches.	Cub. feet.	Cub. ft. pr. day.	Locks.
89.06	× 6.9	× 360	= 221545.656	= 128.2	in 4' 15" = $\frac{43436.4}{3420}$	= 12.7 per day.

*Ditto, measured at a shallow and narrow place, with greater velocity.*

Breadth.	Depth.	Length.	Cub. inches.	Cub. feet.	Cub. ft. pr. day.	Locks.
76.44	× 2.64	× 360	= 72648.576	= 42.042	in 1' 32" or 92" = $\frac{39482.92}{3420}$	= 11.545 per day.

Mean locks per day, 12.122.

The amount of the whole is upwards of one hundred and thirty locks per day, which will ascend and descend seventy-five boats of from seven to ten tons each.

“At the season of the year in which these springs and waters were gauged, the weather was extremely warm, the evaporation great, and many of them gauged after having passed over large meadows. I have, therefore, no hesitation in declaring that the quantity given may be safely taken as rather under than above the mean quantity, at the driest and warmest times of the year; and I trust this will be verified by Mr. Weston's future examinations; and if any deficiency should, upon an increased state of the trade, be found in the quantity of those waters, it may be supplied, as I hinted in a former report, by the introduction of Furnace creek, and even the Swatara and some of its branches; and the increased trade will enable the company to make use of all these auxiliary supplies when necessary. But, without these, Mr. Weston's abilities, even with the present waters, will introduce constructions in the locks, at a small expense, whereby one-third of the quantity of water in each lock may be saved, exclusive of the reservoir on the summit level, which may be constructed, according to his report, to contain six hundred and ninety-one locks full of water, to be accumulated by occasional rains at all seasons of the year, and by the natural supply of the springs on such days, as the number of boats passing the locks may be short of the number calculated upon, which will probably be the case for a long time to come.

“WILLIAM SMITH.”

“FEBRUARY 19, 1793.”

RECAPITULATION.

More than two years have elapsed since the engineer delivered his first report, approving the general plan of the works, as projected by the companies, and in considerable progress before his arrival. His experience and labors during that period have fully justified the accuracy of the calculations, and the easy practicability of all the projections. Upwards of fifteen miles, including the work on both canals, commenced before his arrival, are in general nearly completed or finished, with the necessary locks, and through the most difficult grounds; a distance of more than four miles and a quarter of which were finished in about seven months of last summer and autumn; the actual expenditure of which fell short of the estimated one at least £3,000; yielding a favorable presumption, that, in the progress of the works, the expense will rather be proportionably diminished than increased. [See his reports for 1793 and 1794, particularly the latter, page 856 of the preceding papers.]

Upon the whole, it appears demonstrably evident, that this grand canal navigation (through a course of seventy miles distance, joining the Schuylkill, at the mouth of Tulpehocken, with Susquehannah, at the mouth of Swatara, whereby the carrying trade between Philadelphia and the western waters of the Ohio and great lakes, will be commenced and proceed in operation) may be completed, on a secure and permanent foundation, for the sum of £450,000

But by the lowest calculation of the trade which may, at present, be expected through this distance of seventy miles, (without estimating its immense future increase by the increase of population, through an extent of country of more than two hundred miles square, whose waters will communicate with this canal,) it would yield a dividend of 12 per cent. per annum to the stockholders, which is equal (see page 859) to a capital of 523,850

So that there would be a present surplus of a toll of 12 per cent., (increasing annually,) equal to a capital of £73,850, beyond the capital necessary for completing the work.

This surplus, with a dividend of 12 per cent. yearly increasing, (setting aside for a moment the incitements of public spirit,) is certainly more than sufficient to incite the most active perseverance in the great undertaking, and every effort of the company to increase their capital to the amount, which, as stated above, is

amount, which, as stated above, is	450,000
Of this sum the subscriptions of the stockholders, according to the original act of incorporation, amount to	150,000
	<u>£300,000</u>
Deficient about	-

There are but two ways of supplying this deficiency, as was stated in a memorial to the Legislature, (see page 853,) viz:

1st. Either by enlarging the present capital by the increase of shares and new subscriptions, on the terms of the act of incorporation; or,

2d. By the company's negotiating and obtaining an effectual loan; or, perhaps, partly in both these methods.

But by reason of the large sums of money already invested in the various stocks of this State, and of the United States, such as banks, insurance companies, roads, canal and other companies, and the growing demands of capital for our increased domestic and foreign trade among our moneyed citizens, there appears but little prospect either of obtaining a loan or an increase of shares to any considerable amount among individual capitalists in this country, nor a prompt payment of a considerable number of the shares already subscribed according to law.

And although it might be possible, and perhaps probable, in the present state of property among capitalists in Europe, to obtain a foreign loan, upon the ample prospects which the magnitude of this undertaking holds forth, of a speedy and secure return either of the capital or liberal profits on the footing of stockholders, yet the length of time and expense attending the negotiation, would give a damp to the work, and occasion such a stop or suspension of it as would be dishonorable to the State, and fatal in the issue; considered not only as a check to our Western population, but a grievous prolongation of the time in which the present stockholders might expect some returns for their money advanced, not to mention the bad policy of vesting such a large proportion as two-thirds of the stock and profits of so great an undertaking in the hands of foreigners; although one-third might be prudently vested in this way, while the State might hold the other third.

This distribution of the capital into three parts, the commonwealth and original stockholders being invested with two, would undoubtedly secure the raising of the other third part, upon an advantageous loan or new subscriptions for shares either at home or abroad, and thereby likewise insure the speedy and complete success of the work.

The finances of the State are in a flourishing condition, and it is submitted to the wisdom and feelings of an enlightened Legislature, to what nobler purposes they can be applied (in part at least) than to the improvement of our country, and the encouragement of arts and manufactures, even if no moneyed return were to be expected on the capital to be expended; for, can an interest of 8 or 10 per cent. on the moneyed capital of a great commonwealth be considered as an equivalent for suffering the improvements of a happy and fertile country to languish and decay? But when it is considered that, even in a moneyed view, the stock to be vested in the shares of this canal will produce a larger and more growing interest or dividend than can be contemplated on any other species of stock, besides the additional interest, in point of revenue, from an increase of population and of the wealth of our citizens, it is hoped the Legislature, "who have already put their hands to the plough (by the liberal benefactions and grants which are stated below) will not look back," nor suffer their former liberality to be lost to the public by any abatement of their protection and encouragement.

*Grants of public money for the improvement of roads and waters by the Legislature of Pennsylvania.*

Appropriation of £5,000 (part of £10,000 appropriated by a former act for claims and improvements) yearly.

A sum, not exceeding £2,500, shall be expended and laid out, under the direction of council, for clearing and making navigable certain parts of the river Susquehannah above Wright's ferry and the Juniata, and their waters, &c., viz:

£1,000 for clearing and making navigable the Schuylkill, and its waters.  
£1,500 for clearing and making navigable the Delaware, Lehigh, and their waters.

*RIVERS.—Appropriations, April 13, 1791.*

For the river Delaware,	£3,500
For the river Lachawaxen,	250
For the river Lehigh,	1,000
For the river Schuylkill,	2,500
For the river Susquehannah, from Wright's ferry to the mouth of Swatara creek, inclusive,	5,250
From the mouth of Swatara to the mouth of Juniata,	300
From the mouth of Juniata to the mouth of the west branch	300
From the mouth of the west branch to Starucca, at the great bend,	440
For the west branch of Susquehannah, from the mouth thereof to the Sinnamahoning,	160
For the Sinnamahoning to its north branch,	200
For the north branch of the Sinnamahoning, as far as the place called Driftwood,	300
For the river Alleghany from the place where the road from Driftwood will strike the same, down to the mouth of Conewango creek,	150
For French creek, from its mouth to the portage leading to Presque Ile, on Lake Erie,	400
For the river Juniata, from the mouth to Water street,	820
From Water street to Frankstown,	1,500
For the Conemaugh, from Stony point to Richard's run,	400
From Richard's run through Chesnut ridge,	2,000
From Chesnut ridge to Loyal Hanning,	400
For the river Kiskeminetas to the second falls inclusive,	250
From the said falls to the river Alleghany,	100

## ROADS.—April 13, 1791.

From Stockport, on the river Delaware, to Harmony, on the river Susquehannah,	-	£400
From Driftwood, on the Sinnamahoning, to the river Allegany,	-	460
From French creek to Presque Isle, on Lake Erie,	-	400
Through the Canoe Narrows, and from Daniel Titus's to Poplar run,	-	300
From Poplar run to Conemaugh,	-	360
From the forks of Little Conemaugh to the mouth of Stony creek,	-	180
For a road from the town of Wilkesbarre to the Wind gap,	-	500
From Harrisburg, through the narrows, at the end of Kittatiny mountain and Peter's mountain, and from thence the nearest (and best course to the place where it will intersect) to the road leading from Harrisburg to Sunbury, at or near Halifax,	-	600
From Frankstown to Pittsburg,	-	300
From Bedford to Pittsburg,	-	500
From Reading to Sunbury,	-	300
From Bedford to the west side of Laurel hill,	-	400
From the mouth of Juniata to David Miller's, on the Juniata, through Dick's gap,	-	300
Through the Long Narrows,	-	180
Through Jack's and Igow's narrows, on the Juniata,	-	120
From near Catawessy, on the north branch of the Susquehannah, to Hamburg, on the river Schuylkill,	-	300
From Yorktown to Cooper's ferry, (to be applied between Muddy creek and said ferry,)	-	100
From Fulton's ferry, on the Susquehannah, towards Newport,	-	300
From Callender's mill over Croghan's gap, in the Blue mountain, to West's mill,	-	200
Through the upper part of Berk's county down to Schuylkill	-	300
From Keplinger's mill, on Little Schuylkill, to the Susquehannah,	-	300
Through Nicholls's gap over the South mountain,	-	250
From Middle creek to Grubb's furnace,	-	200
Through Black's gap over the South mountain,	-	100
From Buchanan's, on the east side of the South mountain, and through the Great cove, to the foot of Sideling hill,	-	200
From Fort Penn, on the east side of the northwest branch of Broadhead's creek, to Wallenpauck, near the great falls, and from thence by or near the Indian orchard, between the river Delaware and Shohocking creek, to the river Susquehannah,	-	400

APRIL 10, 1792.

The moneys appropriated by the act of April 13, 1791, for opening the road from Poplar run to Conemaugh, and from Little Conemaugh to the mouth of Stony creek, and also from Frankstown to Pittsburg, are resumed and applied as follows, viz:

From Frankstown on Juniata, to Conemaugh, at or near Stony creek, a sum of	-	£530
And the remainder from Conemaugh, at or near the mouth of Stony creek, to the west side of the Chesnut ridge, at or near Thomas Trimble's,	-	310
From Bedford to Pittsburgh, to be laid and applied to that part of the road between the east side of the Allegany mountain, and the west side of Laurel hill,	-	800
From the east side of Sideling hill to the town of Bedford,	-	150
From Lehigh Water Gap across the Matchunk mountain to intersect the Nescópeck road made by Evan Owen,	-	200
Through Shippensburgh Gap over the south mountain leading towards Yorktown,	-	200
Through McAllister's Gap to the Burnt Cabins,	-	300
From Hughes's encampment, at the foot of the Dry ridge across the Allegany mountain,	-	200
From Cherry's mill, on Jacob's creek, across the Chesnut ridge, thence to the top of Laurel hill, &c.	-	200
From the west end of High street, of the city of Philadelphia, through Blockley to the line of the county of Delaware,	-	300
For Vandering's hill, Roxbury township,	-	300
From Lancaster to Harrisburg, beginning at the Bear,	-	500
From Shippensburgh to Bedford, over the three mountains,	-	200
From Mount Rock, near Carlisle, to Rankin's Ferry, on Susquehannah,	-	150
Across the Blue mountain at Smith's Gap, between the Wind Gap and the Lehigh Water Gap,	-	200
From Peter's mountain, on the east side of Susquehannah, to Sunbury, (in addition)	-	150
From Wilkesbarre, or Wyalusing, or Mushoppen creek, and to intersect Ellicott's road at or near Tioga point,	-	100
From Loyalsock creek to the Tawanisco branch of Tioga, &c.	-	100
From Stockport, on Delaware, to Susquehannah, near Mushoppen creek,	-	100

## RIVERS.—April 10, 1792.

Monongahela, from the mouth thereof to the Virginia line,	-	1,200
Youghiogeny, from its mouth to the mouth of Saltlick creek,	-	1,200
Juniata Raystown branch, from the mouth thereof to Magaughey's mill, about three miles above Bedford, and Dunning's creek, from the mouth thereof to the Big Fork,	-	600

Total, - - - £36,160

NOTE.—These three sums, amounting to £3,000, are taken from the sum of £4,000 by the former act appropriated towards improving the navigation of the Little Conemaugh; but the faith of the State is pledged to make good the said sum of £3,000 whenever the Governor shall be of opinion that the navigation of the Kiskeminetas and Conemaugh shall be so far improved as to render the navigation of Little Conemaugh a necessary link in the chain of water and land communication between the eastern and western waters of the State.



## ROADS.—April 11, 1793.

From Philadelphia to Yorktown, through West Chester,	-	-	\$400
From McCall's ferry, on Susquehannah, to the line of the Delaware State, by the way of the cross roads,	-	-	300
From Prather's, on the top of Allegany mountain in Bedford county, through Berlin, to the west side of the Chesnut ridge,	-	-	300
From Spiker's, at the foot of the Allegany, to Cherry's mill, on Jacob's creek,	-	-	200
From Reading to Presque Isle,	-	-	1,333
From Strasburg, in Lancaster county, to the line of the State of Delaware towards Newport, from the west end of High street, Philadelphia, through Philadelphia county to the line of Delaware county,	-	-	300
From Perkioming to the Swamp meeting-house,	-	-	200
From Tohiccon to the Springfield meeting-house,	-	-	200
From Brackenridge's to the Northampton county line,	-	-	80
For a bridge over Perkioming creek,	-	-	2,300
For a bridge over Clark's creek and Powel's creek, and for a road over Peter's mountain from Ayre's farm to McCall's tavern,	-	-	720
Road over Black's Gap, and a bridge over Conegocheague creek,	-	-	300
Bridges over Conegocheague creek and Conedogwinet creeks on the State road from Shippenburg to Bedford,	-	-	300
From Burnt Cabins to the east side. Sideling hills,	-	-	200
From Philadelphia to Sunbury (improving and completing) from the Broad mountain to Titeworth's tavern,	-	-	800
Over Trent's Gap in Cumberland and York counties,	-	-	300
From Carlisle to Sherman's Valley, to cross the north mountain near Hurley's Gap,	-	-	300
From Buffalo hill, in Greenwood township, to the mouth of Wild Colt run,	-	-	200
From Spiker's to Cherry's mill,	-	-	300
From the top of Winding ridge, on the Maryland line, to the west side of Laurel hill, near Uniontown,	-	-	500
From near the line dividing the counties of Lancaster and Chester, on the north side of the Welch mountain in the Paxton road, and from thence to the road leading from Philadelphia to the borough of York,	-	-	400
From McCall's or Newberry's ferry, on Susquehannah, to intersect the road leading from Yorktown to Peach Bottom ferry,	-	-	200
From Bedford to Pittsburgh,	-	-	500
From Frankstown to Pittsburgh,	-	-	500
From Wilkesbarre to Wyalusing,	-	-	700
From Fort Penn to the portage between Delaware river and Shohoking creek (in addition)	-	-	400
From Lehigh Water Gap across the Matchunk mountain, to intersect the Nescopeck road (in addition)	-	-	400
From George Brown's, through the Little Gap of the Blue mountain,	-	-	200
Between Lewistown, in Mifflin county, and Huntingdon town,	-	-	400
From Lewistown to Penn's Valley,	-	-	400
From Peach Bottom ferry, on Susquehannah, to the Maryland line towards Christiana,	-	-	500
Total,	-	-	\$14,333

£200 appropriated by a former law towards opening and improving a road from Cherry's mill to the top of Laurel hill, applied towards opening and improving the road from Spiker's to Cherry's mill.

## C. c. 5.

## NEWBERN AND BEAUFORT CANAL.

SIR:

CUSTOM HOUSE, BEAUFORT, *October 9, 1807.*

I have received your letter of the 28th July, enclosing a copy of a resolution of the Senate of the United States, respecting roads and canals.

There is not at present, within my knowledge, any company for carrying on canals or turnpike roads, existing in this State.

About the year 1795 the Legislature of this State passed a law to authorize the cutting a canal to connect the waters of Nuis and Newport rivers, and thereby to form a safe and convenient communication between Newbern and Beaufort, which, if it had been effected, would have been of great utility, particularly to Beaufort.

Shortly after the passing of said act, commissioners were appointed, and a survey had on the route through which the canal was to pass. The distance was found to be short of three miles, the ground low and very level, not more, I think, than six or eight feet on an average above the level of the waters to be connected.

A plan was then drawn up, and the cost of the work estimated at \$10,000, which was divided into one hundred shares of \$100 each, to be paid in four different instalments.

The shares were sold out immediately, and directors appointed to carry the plan into execution, who contracted with a William McClure, of Newbern, to have the work completed in eighteen months from the date of the contract; but he, (McClure,) supposing the sum to be insufficient, applied to the General Assembly, who allowed him eleven shares in addition to the former, notwithstanding the work was not completed within the time limited; and, to avoid a prosecution, the said contractor fell on a plan of buying in all the shares, and thereby got the business entirely in his own hands, but he, dying shortly afterwards, the matter was discontinued.

Considerable work has been done on the premises, but in such a manner as to be of no great use, even though the canal should be undertaken again.

I have also understood that another canal has been undertaken some years since, to connect some of the waters in this State with some of those in Virginia; but of that I have no particular knowledge.

Enclosed is my weekly return, No. 222.

I have the honor to be, very respectfully, sir, your obedient servant,

BRIAN HELLEN, *Collector.*

HON. ALBERT GALLATIN, Esq.

## CAPE FEAR RIVER.

DEAR SIR:

HOUSE OF REPRESENTATIVES, *March 20, 1808.*

To the queries you have been pleased to address to me on the subject of ———, in North Carolina, I can make you but a general reply. Our Assembly has passed a number of laws, and incorporated various companies to improve and extend the navigation of our rivers. In some instances, with a view to connect different water courses within the State, and in other instances to effect a like object with streams out of the State; but I believe little, as yet, if any thing at all, has been done with complete effect.

Of this little, my information is principally confined to what has been done on Cape Fear, Deep and Haw rivers. To extend the navigation of these, a company was incorporated, with the usual privileges, in the year 1796. Their stock in shares was not to exceed \$8,000, which, with their town lots and other canal property, raised the estimate of their entire funds to a sum not less, nor considerably over, \$12,000. At the outset some spirit attended the business. The shares were soon sold, land bought, and a town laid off in the county of Chatham, a little above the confluence of Deep and Haw rivers, extending from river to river. To this the name of Haywood was given, and no sooner was the lots exposed to sale, than sold; buildings and stores established, and a number of families introduced, all in the most unshaken confidence; they were soon to have both town and commerce.

In the mean time the company had adopted the plan of a sluice navigation, and they pursued it till much time, and a considerable portion of their active capital were consumed, and when supposed to be completed, attempts were made to descend with loaded boats; but, in two cases out of three, both failure and disaster took place. Thus, then, with abated zeal and diminished funds, they had, of necessity, to resort to the true system, *that of canals and locks*. In one season they accomplished a short but difficult canal, (difficult from a body of solid rock that lay in the way,) and established a lock, which was found to answer, and to give a safe passage by what is called the Brick House or Great falls, about seven miles below the new town.

Smilie's falls, something below these, which, though larger, were not so rapid, then presented the principal remaining difficulty to be encountered, and would require a canal six miles long, and two locks to effect a passage of convenience and safety. The digging was found easy, and I am told nearly half the distance has been accomplished; but, from the exhausted state of the funds, the work has been suspended for now two years or more. In this state, therefore, the business remains, except that our last Assembly has increased the amount of the original stock, and we may now presume the company are about to recommence their labors.

I am, sir, with assurance, &amp;c.,

R. STANFORD.

## TURNPIKE ROADS OF MASSACHUSETTS.

SIR:

BRIDGEWATER, *December 10, 1807.*

I received your communication of the 13th of August, last, accompanied with certain queries respecting canals and artificial roads, in pursuance of a resolution of the Senate of the United States, and requesting my aid in both or either of those objects. Not having any thing important to communicate on either, I have forborne to answer your letter longer than I ought to have done, considering the great honor you have done me in supposing I could have more information on these subjects than yourself. With respect to the first object, canals, the general court of this State, having already appointed a committee to explore this part of the country, where, if I have any knowledge on this head, and might be supposed to have the most, I must refer you to their report when made, for better information than I can possibly give. As to the second object, artificial roads, I have no particular information to communicate, excepting in the turnpike from Weymouth landing to the great ponds in Middleborough, called, in the act of incorporation, *New Bedford and Bridgewater Turnpike*, in which I have had, perhaps, the principal concern, and which is now completed. And even in this, your own knowledge is sufficient to make any information from me unnecessary. I will, however, state that it is about twenty-five miles long; that there are but a very few hills, and that four degrees ascent is the greatest that has been allowed; it is twenty-four feet wide in the travelling part. There are no large bridges. It cost about \$1,600 a mile, including the bridges. The road, exclusive of the bridges, cost about \$900 a mile; for the rates of toll, I must refer you to the act of incorporation. I suppose, however, this information is not of the nature required by the resolution of the Senate, which appears to have in view such objects only as may require the aid of Congress.

With much respect, I am, sir, your friend and obedient servant,

SILVANUS LAZELL.

DEAR SIR:

WEYMOUTH, *August 29, 1807.*

Having been absent from home on a journey, your favor of the 13th instant did not reach me until the 25th. The enclosure contains sundry questions respecting canals and turnpike roads; with respect to the former, my knowledge is very imperfect; our friend, Col. Baldwin, will give you every necessary information on the subject. With respect to the latter, viz: turnpike roads, such knowledge as I am possessed of, I shall cheerfully communicate, requesting the liberty of making such observations as occur to my mind, without being restricted to the order of the questions proposed by the Secretary of the Treasury of the United States.

The turnpike roads in this State have been made upon the principle of opening a shorter course to the metropolis, or to some capital seaport town, or to some one of the neighboring States, in as direct a line as the nature of the ground would admit. These have uniformly been undertaken by individuals, who have associated together for the purpose, petitioned to the general court for leave to build the road proposed, as surveyed and described. Having obtained an act of incorporation, and become duly organized, they determine the numbers of shares to be held in the turnpike, and the mode of executing the business. The powers, duties, and privileges of the corporation, are described in the incorporation act.

The corporation is vested with the power of making the road as described in the act; to agree with the owners of land through which it passes; if they cannot agree upon the price, application is to be made to the court of the general sessions of peace, for the county in which the land lies, for a committee to view the premises, and make an appraisal and report, which report, if accepted by the court, generally settles the dispute; but if the holder of the land is dissatisfied, he may, within a time limited, apply to the same court for a jury, whose verdict is final. The corporation is allowed to erect toll-gates at certain distances, at which they may demand such toll as they are authorized by law to receive from all travellers on horses, for carriages of all kinds, carts, wagons, &c. A rate-board, descriptive of the legal toll of each article, is to be kept at each toll-house, placed in a conspicuous view; if

a greater toll is demanded and received, the receiver is subject to a penalty. The corporation is liable to damages if the board is not kept in repair, and all who injure the road or toll-gates, subject to a penalty. Such as travel on the Sabbath, to public worship, are exempted from toll; also, the farmer through whose land the road passes, and all persons passing on military duty.

Shares are considered as personal estate; those of delinquent proprietors may be sold.

A limited time is given for completing the road, and, when completed, must be viewed by such committee as is appointed by the act for that purpose, and, if approved, the corporation will commence their toll; but, previous to receiving of toll, are required to exhibit to the Governor and Council a statement of the whole expense of the road, and annually, an account of the income or dividend arising from the toll, with their necessary annual disbursements.

The general court reserves to itself the right of dissolving the corporation, whenever it shall appear that it has been fully compensated for the moneys expended in purchasing, repairs, &c., with an interest of 12 per cent. per annum; it is then to be vested in the commonwealth, and be at their disposal.

Each proprietor has a right to as many votes in corporation meetings, as he holds shares, provided they do not exceed the number of ten; but is entitled to no more.

Having given the outlines of the charters or acts of incorporation, which may serve, in some measure, as an answer to query 9th, I will now proceed to—

Query 2d.—Elevation of hills.

Answer. The greatest angle of ascent not exceeding five degrees.

Query 3d.—Breadth, form, materials, &c.

Answer. Breadth not exceeding four, nor less than three, rods; the foot-path 24 feet, crowning with an elevation in the middle, of 18 inches from its sides; the materials are according to the nature or bed of ground on which the road is to be made; if it is morassy, or a meadow, it must be covered with brush, poles, or plank, ditches dug on each side, and thrown over them, then covered with clay, if at hand, or earth, and last of all, well gravelled. If there is any outlet for the water, it should be drained off, and in particular places, through the whole, where necessary, sluice-ways, or small bridges, should be carried across the road.

If the land, over which the turnpike road is to be made, is loose and sandy, some body of a more adhesive nature must be added to it, such as clay, compact earth, and, in some cases, poles or stone. If the ground is a light or heavy loam, it will require much gravelling, but a very compact earth, whose parts adhere closely together, less gravelling. Where the ground is stony, the large stones must be removed, and none appear above the surface. The ground is generally ploughed before forming the road.

Query 5th.—Particular obstructions and difficulties surmounted, or to be surmounted.

Answer. Deep meadows, hills, and ledges, or bodies of rock. In some instances they are insurmountable, and make it necessary to take a different or more circuitous course, to avoid them; the instances, however, are but few, where resolution, patience, and perseverance will not surmount them.

The 6th, 7th, and 8th queries, must be answered generally, as I know not any particular data, by which to determine, in detail, the expenses per mile, or the rate or gross amount of toll, &c. The expense will be in proportion to the price of the land, and the labor and difficulty of making the road; the amount of toll in proportion to the travelling. Turnpike roads in this State have generally been made by contract; the contractors have rarely, or ever, kept an account of their work in detail. The business is attended with such a variety of circumstances, that it is very difficult to form any exact standard. Some of the roads have cost \$3,000 per mile, others \$5,000, and so on, to \$15,000. Newburyport turnpike road, I suppose to be 32 miles in length; it has cost more than \$400,000, and yields but little profit, perhaps not exceeding 2 per cent. per annum; the difficulties surmounted were hills, rocks, meadows, and sunken land. Neponset turnpike is said to yield 8 per cent.; Salem, 6 per cent.; and it may be affirmed, with truth, upon the best information I can obtain, that all the other turnpikes in the State will not, upon an average, yield much more than 3 per cent. per annum, net income.

Query 4th.—Respecting bridges.

Answer. Bridges in this State are generally constructed of wood, with stone abutments, 24 feet in width, or wider, if necessary, for foot-passengers to pass on each side, with good strong railings. The timber must be sound and durable; the posts of the bridge, which are generally white oak, must be drove singly with heavy weights, sufficient to enter them far enough into the ground; this is done, for the greater part, by machinery. The bridge is covered with 3 inch plank, and made a little crowning. To bridges on navigable rivers, a draw is required, which should be so constructed as to be raised with the greatest ease. Some few of the wooden bridges have been constructed with arches, upon geometrical principles; in like manner, they may be made of stone.

Having, in some measure, answered the several queries, and having written under the operation of the prevailing cold, which has unfitted me, in a degree, either for bodily or mental exercise, I am constrained to forward it to you in its uncopied state, with all its errors and imperfections. Should it, however, in any measure, answer the end proposed, it will be highly gratifying to him who subscribes himself,

With great esteem and respect, your friend and humble servant,

COTTON TUFTS.

HOB. BENJAMIN LINCOLN, Esq.

D.

#### TURNPIKE ROADS OF RHODE ISLAND.

SIR:

COLLECTOR'S OFFICE, PORT OF NEWPORT, September 29, 1807.

On the 5th of August I received your letter of the 28th of July, with its enclosure, relative to canals and roads, with a desire that I would collect, and communicate to you, such information as could be obtained respecting undertakings of that nature which may have been completed, commenced, or projected, in the State of Rhode Island; and, in the postscript, you say: "This communication is made to you principally in order to obtain information respecting the practicability of uniting the bay of Rhode Island with that of Massachusetts, either by Taunton or Providence river, or any other route."

Finding that the collector of Providence has received a similar communication from you, excepting what is contained in said postscript, and that he could more easily obtain correct information concerning turnpike roads than I could, (no canals are formed or contemplated in this State,) my attention has been principally drawn to the subject of the postscript. I have, indeed, made some inquiry concerning the turnpikes projected in this district, and am informed that a turnpike road has been projected and surveyed, which begins on the post road nearly opposite to the road leading to Wickford, and runs nearly a west course by the Beach pond until it reaches the Connecticut line. The distance from Connecticut to the post road is a few rods more than nineteen miles. There

are but few remarkable hills in this route, and their elevation has not been ascertained. The sum necessary to complete this road will be about twenty or twenty-five thousand dollars. The capital stock of the Wickford turnpike company is to be divided into shares of not more than fifty dollars each; but the shares have not yet been subscribed for, nor hath the charter yet passed both branches of the Legislature. The surveyor for North Kingstown, from whom I have received this information, is doubtful whether the plan will ever be carried into execution; but, should it be executed, he believes great benefit would be derived from it.

The surveyor for East Greenwich has given me the following account: The Legislature of this State, in February, 1803, granted a charter to sundry persons to make a turnpike road from East Greenwich to Connecticut line, thirteen thousand dollars having been subscribed. The distance from the compact part of East Greenwich to the turnpike leading from Providence to Norwich, in Connecticut, is twenty-four miles; probable cost, \$1,000 per mile. As the whole money necessary to finish the road is not yet subscribed, nothing has yet been done; as soon as that is effected the work will commence.

Hills to ascend on a western course from East Greenwich until it strikes the turnpike road from Providence to Norwich, in Connecticut.—Andrew's hill; rise about 20 degrees; can be straightened so that the rise will not exceed 18 degrees; length about 100 rods. No other hills of any considerable ascent until we get to Racoon hill, which we must ascend; rise about 30 degrees; can be reduced a little; length about 120 rods from bottom to top. No other hill of any considerable rise on the western route; but on our return we have the Weaver hill, so called, to ascend; length about 80 rods, and about the same ascent as Racoon hill; but can be much altered for the better by straightening the road. No other hill of consequence until we get to the hill called G. Greene's hill, which is not very steep, and about 40 or 50 rods in length. But two bridges of any considerable consequence, and these not very large; materials, wood and stone abutments. The road four rods wide, and generally a rough, hard, stony soil.

Beside these two there is only one more turnpike road in this district, and that is a very short one, on the road leading from Newport to Bristol ferry, unless the bridge, or more properly the causeway, at Howland's ferry may be called an artificial or turnpike road. This is, indeed, a great work, and will be of great utility. I send a sketch of this causeway, drawn August 3, 1807. Since that time some carriages have passed on it, and, frequently, in this present month, stages have run on this new route to and from Boston in one day.

In order to obtain the best information I could respecting the practicability of uniting the bay of Rhode Island with that of Massachusetts, either by Taunton or Providence river, or by any other route, I wrote a letter to Samuel Fales, Esq., a copy of the answer to which I enclose. My letter to him he showed to Jones Godfrey, Esq., a representative from Taunton to the General Court of Massachusetts, which produced a letter from him to me, a copy of which is also enclosed. You will observe that he had written a letter to Colonel Baldwin, requesting him to state such facts as he had collected from his survey, and to send them to me as soon as convenient. I have not received a line from him; nor do I ever expect to receive one from him; for, when I was in Massachusetts, I was well informed that his life was despaired of, or I should have visited him. I wrote also a letter to the collector of Providence, more than a month ago, desiring him to give me such information as he could obtain, touching a practicable water communication from Pawtucket or Rehoboth river to tide water at Charles river, Cambridge, or Boston bay, to which I have not received an answer; when I do I will send you a copy of it.

From the letters of Mr. Fales and Mr. Godfrey, and conversation with some gentlemen in Massachusetts, I am persuaded that the shortest, most feasible, and least expensive, water route from our bay to that of Massachusetts, could be formed by the way of Taunton river. Thus, sir, I have given you the best information I have hitherto been able to collect, and wish it may be acceptable. If I should obtain any further information, seasonably, I will communicate it.

I am, with respect, sir, your obedient servant,

WM. ELLERY, *Collector.*

ALBERT GALLATIN, Esq., *Secretary of the Treasury.*

#### RHODE ISLAND BRIDGE.

This bridge connects the northeast end of the island with the main land in Tiverton, at a place called Howland's ferry, about eleven miles from Newport. It is 1524 feet in length from the west end on the island to the east end on the main, and 864 feet between the former abutments of the old (wooden) bridge, where the average depth of water is 39 to 40 feet, and the greatest depth 59 to 60 feet at high water. This bridge is building on the following plan: a sufficient quantity of stone, to be thrown promiscuously into the river, in a line across, to form a base, with such declivity on each side as the stones shall rest at, and of such width as will make a ridge levelled to 35 feet wide at low-water mark. On this base a causeway to be raised five feet above high-water mark, and to be 31 feet wide on the top, for the passage way; the walls of which to be built with large flat stones; the space between to be filled with stone, and the top levelled with gravel. On each side to be erected a substantial fence or wall, for the safety of passengers. The whole to be filled up and built in this manner, except a passage of 66 feet near the centre of the river, over which a draw-bridge to be thrown.

This great and novel work was undertaken the last summer, and the following is the present state of it: from the east end of the bridge to the draw, a distance of 757 feet, is nearly completed; a draw-bridge, on a very simple and good model, is thrown over the passage left in the river, to open 30 feet for vessels to pass, which is worked with great ease and despatch by one man; from the draw, westward, 184 feet is filled up to low-water mark; on the west end 140 feet is nearly complete; and 228 feet further eastward is filled up to low-water mark; the remaining space, about 150 feet, is filled up, on an average, within five feet of low-water.

It is expected that the bridge may be passed on foot, at low water, on the 1st of September, and probably carriages may pass in October next. The time requisite for the stones thrown in loosely to settle, and form a natural or secure angle, before the side walls can be built up, where it has lately been filled in, will delay the completion of the work till next summer; but it is expected the bridge can be passed by horses and cattle (if not by carriages) without difficulty, after October.

To raise the money requisite for building this bridge a subscription was opened, under the act of incorporation, for 800 shares of one hundred dollars each, which has been subscribed, and it is expected will complete this work.

This undertaking, though not so expensive as many, may be considered as the most enterprising, considering the rapidity of the current, and the very great depth of water; and that it was impossible to make a bridge that would stand, unless by filling up a passage across the river in the manner which has been done. The quantity of stone already used, and which will be required, is immense. The success of the undertaking, and durability of the bridge, cannot be questioned by any who examine it.

There are few works of greater public utility; it establishes a permanent communication with the main land; is the most direct and shortest way to Boston, and the only way to New Bedford. To travel from hence to Boston, via Providence, requires two days; but a line of stages will run, on this new route, across the bridge, to and from Boston, with great ease in one day. It will form an essential security to this island, in case of war with any European power, as it will keep open a communication from the main which cannot be destroyed; and, by stopping up the passage, prevent ships of war from sailing round the island.

The country where this causeway bridge is erected has a delightful climate, and affords a diversified and interesting perspective. In the season there are plenty of curlews, plovers, and other game. The river abounds with almost every kind of fish that is brought to market, particularly the sheeps-head, striped bass, blue fish, and totoague, of the largest size; and for sea bathing no place on the continent can be preferred to it. That it is expected in a few years it will become a fashionable place of great resort, where invalids, *bon vivants*, and parties of pleasure, may benefit their healths, or agreeably pass the summer months.

NEWPORT, RHODE ISLAND, August 3, 1807.

#### D.

#### TURNPIKE ROADS IN CONNECTICUT.

SIR:

COLLECTOR'S OFFICE, MIDDLETOWN, December 12, 1807.

Unforeseen difficulties in procuring the information requested in your letter of the 28th of July have prevented an earlier performance of your request, and have rendered that performance, after all, very imperfect.

On the receipt of your letter, I applied myself to discover the commissioners from whom I was to obtain the information; but, as the turnpike roads in this State are so numerous, and in most cases so unimportant, except to a small section of country, that probably no individual has any personal knowledge of one-half of them, I soon found that inquiries *in the country* were useless. I learned that commissioners were appointed by the Governor and Council. I applied to the records of that board; but, as their recorder is one of their own body, appointed, as I understand, from year to year, their records seemed to be imperfect. That circumstance, however, I afterwards found to be of no importance to my inquiry, because, after having applied to some of the commissioners, I learned that they could afford me no satisfactory information, as their duty, besides superintending the roads, directing repairs to be made, &c., extended only to auditing the accounts kept by the companies' own agents, and laying the general result before the General Assembly. I had then the alternative before me of undertaking to discover the agents of the turnpike companies in every part of the State, and procure the information from them, or to content myself with such information as the records of the Assembly and the treasurer, with whom these summary statements were lodged, might afford me. As the former would have been both tedious and expensive, I chose the latter course, and I hope the information obtained will answer the object of the inquiry. During the late session of the Legislature, an investigation of the records was necessarily suspended. Thus much for the causes of delay.

With regard to the specific questions proposed by you, the statements accompanying this, with explanatory remarks annexed, contain answers to many of them as far as they are susceptible of answers. On the subject of bridges I have made no statement. I understand your inquiries to relate to such only as have been built by turnpike companies; and of such I know none that merit particular notice. The truth is, that bridges as well as roads are supported by the inhabitants of the several towns, within the limits of such towns respectively. This is the general law; and as our turnpike roads are, with very few exceptions, old roads repaired at the expense of those who travel them, the bridges have been left as a charge on the towns. Wherever the turnpike road deviates from the old road, the company builds and supports the bridges; but, excepting on the Hartford and New Haven turnpike road, I know of no bridge supported by any of the companies that merits notice. Indeed, in most instances, it is impossible to ascertain the expense of those small bridges that have been built by the companies, as it has generally been the case that the roads, including the bridges, have been made on contract for a gross sum, so that the expense of roads and of bridges form an undistinguished mass.

I have read most of the charters or acts of incorporation. They differ only in respect to some local circumstances. Their general provisions are these: They constitute certain individuals named, with their associates, a body politic; the corporation is named; the mode of organization is directed; the number of toll-gates, and the rate of toll are regulated; the gates to be erected, and the toll to commence whenever the road shall be completed *to the satisfaction of commissioners to be appointed, &c.*; and whenever the capital stock, with twelve per cent. interest thereon, (received annually,) together with all expenses of repairs, &c., shall have been reimbursed, the toll to cease. These are all the provisions, except of a local and unimportant nature. It follows that there is no law regulating the acclivities of hills, or the breadth or structure of roads. All is left to the discretion of commissioners; and that discretion is doubtless influenced by various considerations, such as the nature of the ground, the importance of the road, &c. &c. An opinion has prevailed that something like a general principle had been adopted, that no ascent greater than five degrees should be allowed. Nothing, however, is more certain than that no such principle has been adhered to.

Materials.—On this head our answer will serve for all the roads in Connecticut. No other materials are used than the earth found on the spot. Graveling, strictly speaking, is unknown. In few instances, and to a very small amount, I have known a strong mould, such as could be most easily obtained, spread on a road of deep sand, to give a degree of solidity, or rather adhesion, to the surface. In short, sir, the improvements that have been made in our roads have been confined to the following objects, viz: avoiding, when practicable, steep and extensive elevations; shortening distances when consistent with other objects; and, principally, removing rocks and stones, &c., and raising a pathway of earth, and draining it.

It will be observed that the capital stock of the "Hartford and New Haven" company is out of all proportion to that of any other company, considering the length of the way. In that case every consideration was sacrificed to a *straight line*. The old road was deserted almost altogether, and a very hilly route preferred to a more smooth, though less straight one. The consequence was, that the company had the ground to purchase, (which, in almost every other instance, was a charge on the towns,) and the hills to reduce. The purchase of the land was a heavy charge. It has been stated to me, by a proprietor, at something more than thirty thousand dollars. Excepting this article, and some, not very expensive, bridges, amounting, in the whole, perhaps, to two thousand dollars, the amount of their stock has been laid out in the same manner, and on a road of the same description with others; that is, a road of earth made on contract. As more labor has been done on this road than on any other, and, as there are heavy articles of distinct and separate expense in this that are not in other cases, I regret that I am not able to state with precision and certainty the amount of each. If this shall appear to you of any importance, I beg

leave to refer you for information to Mr. Hillhouse of the Senate, who is not only a proprietor, but has been a contractor for making the road, and will probably be able to give you as accurate information on the subject as it is possible to obtain.

I suppose you to have before you a map of the State of Connecticut, otherwise my information relative to the direction of the roads, and the points united by them, will be utterly unintelligible. After all, I fear the information will fall short of your expectations; but I know not how I could have done much better; for a detailed statement of minute expenses on a multitude of unimportant roads would have required much labor and expense, and, at the same time, I imagine would have been of no use.

I have endeavored to communicate correct ideas of the present state and character of the improvements in our roads, and to give such data as will enable you to determine with sufficient accuracy the expense of such improvements; and also to ascertain the remuneration received by the proprietors of the roads, respectively. From this view it will appear that the expense of our improvements, imperfect as they are, is as great as any toll that the people will submit to pay, will support. As we have no great market towns, and, consequently, no great avenues from an extensive country to a market, it is probable that we must very long content ourselves with roads of earth.

I am, with perfect respect, sir, your obedient servant,

ALEX. WOLCOTT.

The Hon. ALBERT GALLATIN.

*Schedule of turnpike roads completed in the State of Connecticut, with explanatory remarks.*

	Am't of capital stock.	Date of first settlement when toll commenced.	Date of last settlement.	Whole receipt of tolls.	Amount of ordinary repairs.	Length of road in miles.	REMARKS.
Hartford and New Haven, -	\$79,260 95	June, 1803,	May 1, 1807,	\$8,800 74	\$5,808 02	34½	This road is probably the best, as it is doubtless the shortest, from New Haven to Hartford, being nearly a straight line from New Haven, through Wallingford and Berlin, to Hartford.
Granby, - - -	8,438 13	Sept. 19, 1804,	June 28, 1806,	1,753 76	991 13	20	This road extends from Hartford, through Windsor, Granby, and Hartland, to Granby, in Massachusetts.
Fairfield, Western, & Reading,	1,895 02	April 20, 1804,	May 1, 1805,	198 05	165 50	12	From Fairfield to Reading.
Ousatonick, - - -	13,884 58	Jan. 1, 1804,	Jan. 1, 1806,	1,941 60	1,719 84	20	From Derby to New Milford.
Derby, - - -	7,520 00	Jan. 1, 1804,	Jan. 1, 1805,	1,049 19	273 48	8	From New Haven to Derby.
Oxford, - - -	4,045 61	Dec. 31, 1803,	Jan. 1, 1806,	2,096 45	532 84	8	From Derby to Southbury.
Remmon falls, - - -	9,443 45	Jan. 1, 1804,	Jan. 1, 1806,	1,256 38	985 04	6	From New Haven to Derby.
Farmington river, - - -	11,751 28	Oct. 9, 1804,	April 23, 1807,	2,110 41	1,025 32	11	From New Hartford, along on the border of Farmington river, to the line of Sandsfield, in Massachusetts, and is continued from thence, through Lenox, to Pittsfield.
Green Woods, - - -	19,481 87	Sept. 1, 1804,	Feb. 1, 1807,	9,453 03	5,486 21	21	This road commences with the preceding; and, northwesterly, through Norfolk and Canaan, to Sheffield, in Massachusetts.
Canaan and Litchfield, - - -	10,565 23	Sept. 18, 1803,	Nov. 18, 1806,	7,048 78	3,753 06	20	From Litchfield, through Canaan, to Sheffield.
Cheshire, - - -	22,810 44	Oct. 1, 1804,	Oct. 1, 1806,	5,494 23	2,105 89	17	From New Haven, through Cheshire, to Southington. This is a stage route from New Haven to Hartford, and, though not so short, is preferred by some to the Berlin road.
Streights, - - -	16,796 47	Oct. 22, 1803,	Oct. 22, 1806,	11,582 90	7,994 12	36	From New Haven to Litchfield.
Litchfield and Harwinton, - - -	5,406 28	April 1, 1804,	April 1, 1807,	3,094 63	1,147 48	11	From Litchfield, through Harwinton, to Bristol, where it joins the Farmington and Bristol road, and is the stage road from Litchfield to Hartford.
New Milford and Litchfield,	4,506 95	Nov. 12, 1803,	May 1, 1807,	3,313 49	1,182 53	12	From New Milford to Litchfield.
Farmington and Bristol, - - -	15,252 10	Oct. 3, 1805,	Oct. 3, 1807,	1,147 13	224 99	10	From Farmington to the Litchfield and Harwinton T. P. road in Bristol.
Boston, - - -	17,073 30	Sept. 20, 1805,	Jan. 12, 1806,	2,085 35	2,072 78	52	This is called the Middle road from Hartford to Boston, and is, at present, the shortest, though not the best route; it runs through East Hartford, Boston, Coventry, &c., to Thompson, and the line of Massachusetts at Douglass.
Hartford and Tolland, - - -	8,874 17	June 28, 1805,	June 6, 1807,	2,489 35	726 01	16	This road, which runs through East Hartford to Tolland, is continued by the Stafford Pool turnpike, through Stafford to the line of Massachusetts. Stages run on this road from Hartford to Boston.—(See Stafford Pool turnpike.)
Waterbury river, - - -	38,769 94	Oct. 3, 1805,	Nov. 22, 1806,	1,572 40	365 67	41	From Waterbury, through part of Litchfield, Harwinton, Farmington, Winchester, &c., to Massachusetts line.
Windham, - - -	8,679 75	Sept. 20, 1805,	Aug. 14, 1806,	2,985 75	2,309 64	30	From the New London and Windham County Turnpike, in Plainfield, to the Boston turnpike, in Coventry.
Middlesex, - - -	17,544 88	Dec. 31, 1805,	Dec. 31, 1806,	4,494 22	3,096 73	35	From Wethersfield, through Middletown and Haddam, to Saybrook, at the mouth of Connecticut river.
Bridgeport and Newtown, - - -	22,619 81	April 17, 1806,	April 1, 1807,	3,357 27	914 80	26	From the borough of Bridgeport, on the Sound, through Newtown, to N. Milford.
Danbury and Bridgefield, - - -	1,907 80	April 17, 1806,	April 1, 1807,	409 98	140 21	10	From Danbury to Ridgefield.
Norwalk and Danbury, - - -	2,833 64	April 17, 1806,	April 1, 1807,	677 42	429 03	22	From Norwalk to Danbury.
New Preston, - - -	5,405 07	May 2, 1806,	May 1, 1807,	426 17	115 07	10	From the New Milford and Litchfield turnpike, in Washington, to the line of the State of New York, toward Fishkill.
Torrington, - - -	11,889 07	April 30, 1806,	April 30, 1807,	1,089 77	1,201 15	18	From Litchfield, through Torrington, to West Simsbury, and joins the Talcott mountain turnpike.
Norwich and Woodstock, - - -	14,100 00	May 26, 1805,	April 26, 1807,	408 90	705 00	39	From Norwich to the Massachusetts line in Woodstock.

SCHEDULE—Continued.

	Am't of capital stock.	Date of first settlement, when toll commenced.	Date of last settlement.	Whole receipt of tolls.	Amount of ordinary repairs.	Length of road in miles.	REMARKS.
Talcott mountain, -	\$8,839 67	Oct. 1, 1804,	Oct. 1, 1806,	7,361 44	3,053 60	19	From Hartford, through Simsbury, to New Hartford, where it is continued, by Farmington river turnpike, to Lenox, &c., and, by the Green Woods' turnpike, to Sheffield.
Hebron and Middle Haddam, -	7,907 71	April 16, 1805,	April 16, 1806,	294 44	-	13	From Hebron, in Tolland cty. to M. Haddam Landing, 6 miles below Middletown.
Salisbury and Canaan, -	6,005 05	May 1, 1805,	May 1, 1807,	713 87	294 23	10	From Canaan and Litchfield turnpike, in Canaan, by Salisbury furnace, to the line of New York.
New London and Windham county, -	4,806 92	May 1, 1795,	April 1, 1805,	3,451 08	2,498 22	24	From Norwich, through Plainfield, Sterling, &c. to the line of Rhode Island, and is the stage road from Norwich to Providence.
Hartford, New London, Windham, and Tolland county, -	5,881 50	April 1, 1805,	April 1, 1807,	3,692 07	2,157 37	23	This is the stage road from Hartford to Norwich, and extends from the east line of East Hartford to Norwich line.
Stafford Pool, -	10,515 00	-	-	-	-	13	No account has been rendered of receipts or expenditures. This is a continuation of the Hartford and Tolland turnpike road, and is, at present, the best route from Hartford to Boston; it extends from Tolland to the Massachusetts line, and companies are incorporated in Massachusetts, as it is said, to continue the road in as direct a line as is practicable to Worcester, and thence to Boston. The road from Worcester to Boston is in considerable forwardness. When completed, this will probably be the shortest and much the best route from New York to Boston that has been, or probably will be, projected.
Pomfret and Killingly, -	3,706 00	-	-	-	-	8½	No account rendered. This road branches off from the Boston turnpike, in Pomfret, and passes through Killingly to the Gloucester turnpike road at the line of Rhode Island, and is now a stage route from Hartford to Providence.
Woodstock and Thompson, -	5,596 77	-	-	-	-	-	No account rendered, and distance not ascertained. From the Providence turnpike road, at the line of the State, through Thompson and Killingly, to the Norwich and Woodstock turnpike road, in Woodstock.
Hartford and New London, -	-	-	-	-	-	42	No account has been rendered, though the road has been several years completed. This is the most direct and best road from Hartford to New London, through E. Hartford, Glastonbury, Marlboro', and Colchester, and is a stage and postroad.
Colchester and Norwich, -	-	-	-	-	-	11½	No account has been rendered. The road is but lately completed. This road puts off from the preceding at Colchester, and extends to Norwich, and is probably the shortest and best route from Hartford to Norwich.
Connecticut and Rhode Island, -	-	-	-	-	-	-	No account has been rendered, and the road but lately finished. This road branches off from the the Boston turnpike road, at Ashford, and passing through Pomfret and Killingly, meets the Gloucester turnpike road at the line of the State. A stage has commenced running on this route, and it is probable the best route from Hartford to Providence.
Mohegan, -	-	-	-	-	-	13	This road was established on different principles from any other in the State. It is the road between New London and Norwich, and was our first experiment at repairing roads by a toll. A company was incorporated, and authorized it to collect a toll previous to any improvement of the road, the whole amount of which toll they were to lay out in improvements. The road has, of course, been for many years in a progressive state; and, from one of the worst in the State, has become a pleasant, though very hilly one.
New Haven and Milford, -	-	-	-	-	-	12	No account for the New Haven and Milford road has been rendered. The road extends from New Haven to Strafford ferry, on the Ousatonick river, on the route to New York.



A table showing the rate of tolls for every two miles.

	Cents.		Cents.
Four wheeled pleasure carriage, - -	25	Sleighs, pleasure or loaded, empty, - -	3
Chaise or sulkey, - - - - -	12½	Man and horse, - - - - -	4
Loaded cart or sled, - - - - -	8	Mail stage, - - - - -	6½
Empty do. - - - - -	6½	Every other stage, - - - - -	25
Loaded wagon, - - - - -	12½	Single horse cart loaded, - - - - -	6½
Empty do. - - - - -	6½	Ditto empty, - - - - -	4
Horses, cattle, and mules, (each,) - -	1	Sheep and hogs, - - - - -	½
Sleighs, pleasure or loaded, - - - -	6½		

Every charter for a turnpike road has been examined. To state the rate of toll for each gate, and the number of gates allowed on each road, would be tedious and doubtless useless. One gate is established for each ten miles of road, as nearly as circumstances would admit, and, when it is otherwise, the rate of toll is conformed to the length of road.

The rate of toll is not on all roads precisely the same; but generally it is as stated in the annexed table. The deviations are so few, and so unimportant, that it has not been thought necessary to notice them.

*Schedule of turnpike roads projected (but not completed) in the State of Connecticut.*

*Stratford and Weston.*—From Stratford to Weston. Incorporated, October, 1797.

*Windham and Mansfield.*—This road extends from Franklin, northerly, through Windham, Mansfield, &c. to Stafford. It was incorporated May, 1800; what progress has been made on the road has not been ascertained.

*Greenwich and Ridgefield.*—This road extends from Danbury, through the west part of Greenwich, towards New York. Incorporated, May, 1802.

*Goshen and Sharon.*—This road is to extend from the Torrington turnpike road, in Torrington, through Goshen, Cornwall, and Sharon, to meet the Duchess county turnpike, at the line of the State of New York. Incorporated, May, 1803.

*Washington.*—This road is to extend from Woodbury, through Washington, to the east end of the New Preston turnpike road. Incorporated, October, 1803.

*Thompson.*—This road is to extend from the Gloucester or Providence turnpike road, at the line of the State of Rhode Island, northwest, through Thompson, &c. to the line of Massachusetts. Incorporated, October, 1803.

*Middle road.*—This road is to extend from Farmington, through Bristol, Plymouth, Waterbury, Woodbury, Southbury, and Newtown, to Danbury, and was incorporated in October, 1803.

*Hartland.*—This road extends from the stage road in Suffield, through Granby and Hartland, to the Green woods' turnpike road in Colbrook. Incorporated, May, 1806.

*N. B.* In October, 1798, a company was incorporated for the purpose of building a bridge over Connecticut river, at Suffield. The bridge is begun, and it will probably be finished the next season; when it is supposed this will be the best route from the eastern part of Connecticut and Rhode Island to Albany, &c.

*Warren.*—The Warren turnpike road is to extend from the Canaan and Litchfield turnpike road, in Canaan, through Warren, &c., to the New Preston turnpike road, in Washington. Incorporated, May, 1806.

*New London and Lyme.*—From New London, through Lyme, to Connecticut river. Incorporated, May, 1807.

*Connecticut.*—This road is to extend from Fairfield to Byram's river, (the boundary of the State of New York,) and is to follow the present route from Fairfield to New York, excepting such variations as may be thought necessary for the improvement of the road, &c. Whenever this road shall be completed, the whole of the route from New York to Boston, within the State of Connecticut, will be a turnpike road; (except a short space, of very level road, from Fairfield to Stratford Ferry;) that is to say, the "Connecticut," the "New Haven and Milford," the "Hartford and New Haven," the "Hartford and Tolland," and the "Stafford Pool" turnpikes, constitute as good a route, perhaps, as can be hoped for. I speak in reference to distance, the nature of the ground, and the state of the population generally. The road itself is susceptible of vast improvement, and it is probable that some deviations might be made to advantage. For instance, it is a general opinion, that the best route from New Haven to Hartford would be through Dorham and Middletown, though the distance must always be greater, by two or three miles, than on the present route; the advantages of ground and population are probably more than sufficient to countervail that advantage.

TURNPIKE ROADS IN NEW YORK.

*A sketch of the turnpike roads in the State of New York, by Benjamin De Witt, Secretary of the Society, Fellow of the American Academy of Arts and Sciences, Member of the Massachusetts Agricultural and Historical Societies, &c. &c.*

The progress of improvements in public highways, turnpike roads, bridges, and canals, has ever been considered an interesting subject. There is an inseparable connexion between these and the agriculture, arts, and commerce of a country. The condition of the former is a criterion of the advancement of the latter. The one is a natural and necessary consequence of the other. Where there is no agriculture, there are no roads; and without roads, there can be but little commerce. Hence, the existence of roads has been considered as a line of demarcation between the civilized and the savage state; and hence, also, the excellence of public highways marks the degree of general improvement in a country. Thus, the rude essays of the early Peruvians, in constructing their celebrated great roads, has contributed to rank them amongst the civilized, instead of the savage nations; and thus the beauty and perfection of the famous Roman highways characterized the flourishing state of that ancient empire. Thus, also, in our own country, the contrast between our present turnpike roads and the dismal footpaths of the aborigines is not greater than between our state of civilization and refinement and their condition of rudeness and barbarity.

Taking into consideration the newness of our country, and the infancy of many of its settlements, the people of the United States have not been inattentive to the making of roads and the building of bridges. Generally speaking, the progressive improvement in these things has been as rapid as the increase of our population, agriculture, and commerce. Perhaps no country in the world, under similar circumstances, has done more in so short a period of time. But, as it belongs peculiarly to each individual State to encourage and patronise its own domestic works of utility and convenience, every State may be considered, in relation to matters of this kind, as a distinct country and people. Accordingly, a great diversity of condition will be perceived in the different States. Some have made greater progress in one species of improvement; some in another. Some are furnished with excellent turnpike roads; some have opened extensive canals; some have built magnificent bridges; whilst others have scarcely turned their attention to these subjects. To estimate the various exertions of the individual States, to show what each may have done in these beneficial undertakings, and thus to furnish the means of instituting a comparative inquiry between them, would be both interesting and useful. It would excite a rival spirit of emulation amongst them. One would receive instruction from the example of the other; and all would be benefited by a knowledge of the progress of improvement in each. But this would be a difficult task for any one person to perform. My design in this communication is not to go beyond the limits of my native State.

Within a few years past the State of New York has undoubtedly made very rapid advances in improving and opening roads. The Legislature have, from time to time, made liberal grants of money, drawn from the avails of lotteries and other sources, for opening new roads in the western and northern parts of the State. But so rapid has been the population of the new lands, by emigrations principally from the New England States, that all the ordinary resources were found inadequate to satisfy the demands of the country for roads. Hence, the system of establishing turnpike companies was resorted to. The prospect of increasing the value of lands, by the establishment of good roads, the expectation of profit from the tolls granted by the Legislature, and the more fascinating project of speculating in turnpike stock, induced a large portion of the community to embark a part of their capitals for these purposes. The spirit of turnpiking consequently spread over every part of the country; millions were vested in stock, and the State has become covered with turnpike roads. The number of these incorporated companies, the great distance of road they are about to make, and the vast amount of capital granted to them, constitute so extensive a system of turnpiking that important consequences are to be anticipated from it. The immediate effect of opening and improving a great extent of road, and building numerous bridges, must, without doubt, prove beneficial in a high degree to the State, inasmuch as they encourage settlements, open new channels for the transportation of produce and merchandise, increase the products of agriculture, and facilitate every species of internal commerce. But what may be the ultimate effect, in a country, and under a Government like ours, of the establishment of these numerous incorporated companies, with large capitals, having all one common interest and object, with the privilege of exacting large contributions of toll from the community, for an unlimited period of time, remains to be determined by experiment. The succeeding statement of the several turnpike and bridge companies, with the amount of their capital stock, and the distance of road to be made, will serve to show how far we have gone into this system, and enable every one to draw his own conclusions. It is a document which certainly furnishes a pleasing indication of the enterprise and prosperity of the people of this State; and, whilst it may have a tendency to excite the emulation of our sister States, it cannot fail, I think, to be useful even to our own legislators, who, above all, ought to be minutely acquainted with the subject.

It is proper to premise that the amount of the capital stock of the companies, as stated, is taken from the acts of the Legislature. There is reason to believe that at least the whole of that amount will be required to complete the roads; for several of the companies first incorporated have been obliged to apply to the Legislature for an increase of their stock, to enable them to finish their work.

The distance of road, as stated, is taken, in some instances, where the roads are already finished, such as the Albany and Schenectady, the Mohawk, the Seneca, and others, from actual measurement. The distance of others is ascertained as nearly as could be by measurement on the State map, in straight lines from place to place, as designated in the laws; and of some of the short roads, where the places of beginning and termination are not sufficiently marked for measurement on the map, the distance is conjectured from the number of gates permitted by law to be erected across them. On the whole, the statement will be found to be not far from the truth. It is, at all events, sufficiently accurate to furnish a general view of the subject.

The roads distinguished by an asterisk in the list are either wholly or nearly finished; and the companies have received permits from the Governor to erect gates, and receive toll for about nine hundred miles, as appears from the papers in his office. Many of the other companies are progressing in working their roads, and have portions of them nearly finished; but are not yet authorized to erect gates and turnpikes.

*List of toll bridges, with their capital stock.*

	Capital stock.		Capital stock.
Schoharie-kill bridge, - - -	\$10,000	Schoharie creek, north, - - -	\$5,000
Catskill, - - - - -	5,000	Wallabought and Brooklyn, - - -	15,000
Cayuga, - - - - -	25,000	Delaware, - - - - -	20,000
Canajoharie and Palatine, - - -	10,000	Susquehannah, - - - - -	20,000
Jericho, - - - - -	10,000	Canton, - - - - -	6,000
Troy, - - - - -	150,000	Farmers', - - - - -	3,000
Union, - - - - -	50,000	Cohoes, - - - - -	7,500
Fort Miller, - - - - -	40,000	Jefferson, - - - - -	4,000
Newtown and Bushwick, - - -	7,500	Mohawk, (stock included in Mohawk turnpike.)	
Montgomery, - - - - -	13,500		
Schoharie and Cobleskill, - - -	6,000		
Fort Hunter, - - - - -	7,500		
			\$415,000

List of turnpike roads, with the amount of the capital stock of the companies, and the distance of the roads to be made.

	Capital stock.	Length of road.
	Dollars.	Miles.
*First Great Western turnpike road, -	180,000	52
*Columbia, -	25,000	20
*Rensselaer and Columbia, -	32,000	28
*Eastern, (with a diverging road,) -	50,000	40
*First Northern, -	90,000	60
*Seneca, (two roads,) -	177,500	112 45
*Susquehannah, -	116,000	80
*Orange, -	21,000	25
*Mohawk, -	190,000	80
*Westchester, -	25,000	10
*Newburgh and Cochection, -	80,000	60
*Chenango, -	64,000	65
*Oneida, -	30,000	25
*Union, -	50,000	30
*Stephentown, -	8,000	10
*New Windsor and Blooming-grove, -	7,500	10
*Second Great Western, -	50,000	45
*Flushing and Newtown, -	15,000	5
Quaker Hill, -	10,000	10
*Albany and Schenectady, -	140,000	14
Troy and Schenectady, -	60,000	15
*Hudson branch, -	20,000	10
*Ulster and Delaware, -	125,000	110
*Dutchess, -	60,000	35
*Schoharie, -	78,000	60
Newtown, -	30,000	20
Canandaigua and Bath, -	50,000	35
Third Great Western, -	105,000	90
*Ancram, -	24,000	20
Susquehannah and Bath, -	300,000	100
*Albany and Bethlehem, -	30,000	5
Fall Hill turnpike and bridge, -	12,500	15
*Chatham, -	10,000	10
*Coxsackie, -	41,000	25
Albany and Delaware, -	150,000	75
Little Delaware, -	100,000	60
Lake Erie, -	200,000	130
Fourth Great Western, -	40,000	30
*Hillsdale and Chatham, -	35,000	20
Cayuga, -	175,000	120
Ontario and Genesee, -	175,000	90
Onondaga salt spring, -	100,000	55
Great Northern, -	150,000	130
Delaware, -	75,000	50
Newburgh and Chenango, -	162,000	80
Neversink, -	162,000	80
Popachton, -	210,000	90
Plattsburgh and Chateaugay, -	55,000	40
Utica, -	30,000	30
Rome, -	20,000	20
Greenfield, -	26,000	20
Farmers', -	100,000	35
Ulster and Delaware First Branch, -	40,000	25
Waterford and Whitehall, -	150,000	60
Waterford, -	60,000	40
Newburgh and New Windsor, -	5,000	5
Schenectady and Ballstown, -	2,000	5
Unadilla, -	62,500	40
Jamaica and Rockaway, -	20,000	15
Canajoharie and Charleston, -	30,000	20
Hamilton and Schanateles, -	84,000	70
Mohawk bridge and Ballston, -	40,000	20
Highland, -	250,000	110
New Baltimore and Rensselaerville, -	20,000	20
Mexico, -	50,000	50
Middleburgh and Rensselaerville, -	15,000	15
Albany and Greene, -	40,000	35
67 turnpikes.		
21 bridges.	\$5,141,750	3,071
— Bridge stock as above,	415,000	
88 companies.		
Total,	\$5,556,750	

From this statement it will be perceived that our system of road-making is rendered interesting at first sight by its very magnitude. Eighty-eight incorporated turnpike road and bridge companies, with a capital of more than five millions and a half of dollars, established within the period of seven years, for the purpose of building more than twenty large bridges, and making more than three thousand miles of turnpike road, whereof twenty-eight roads may be said to be finished, comprising, together, a distance of nine hundred miles of turnpike road complete, are facts that show, in a striking manner, the great and rapid progress of the State in prosperity, in enterprise, in population, in agriculture, in commerce, in wealth, in strength, and in national resource.

The greatest extent of road in continuation, already finished, is from the Massachusetts line, near Lebanon springs, through Albany, Schenectady, and Utica, to Canandaigua, in the county of Ontario, a distance of two hundred and thirty-four miles; which, with a continuation of about ninety miles more, to Black Rock, on Lake Erie, to be made by the Ontario and Genesee company, will intersect the State from east to west by a line of turnpike roads three hundred and twenty-four miles in length.

To give a concise view of the general course and direction of these roads, and, at the same time, to show their commercial importance, let us consider the city of New York as the centre of commerce, or the heart of the State, Hudson river as the main artery, the turnpike roads leading from it as so many great branches, extending to the extremities, from which diverge the innumerable small ramifications or common roads into the whole body and substance; these again send off the capillary branches, or private roads, to all the individual farms, which may be considered as the secretory organs generating the produce and wealth of the State.

As we proceed, then, up the great artery of commerce, the Hudson, the first branch we come to, on the west side, is from Newburgh to Cochection, on the Delaware, which river there divides this State from Pennsylvania. This road, it is understood, will be continued westward by the State, and will open the nearest and most convenient market on the Hudson, for the agricultural produce of the northeastern part thereof. From the Newburgh and Cochection road diverges the Newburgh and Chenango, in a northwestern direction, through the counties of Ulster and Delaware, across the Susquehanna river, at Jericho, to Oxford, in the county of Chenango, where it communicates with other great roads leading to the western counties, as will appear in the sequel.

The next great branches we come to are, from Kingston to Jericho, in Chenango county, on the Susquehanna river; from Kingston to the west branch of Delaware, in the town of Walton, and from Rochester, in Ulster county, to Chenango point.

As we advance up the Hudson we meet, successively, the branches of turnpikes from Catskill to Wattle's Ferry, on the Susquehanna river; from Catskill to the mouth of little Delaware river; from the town of Cossackie, to intersect the great western road at Cherry valley; from the village of Cossackie to intersect the Catskill and Susquehanna road; and from New Baltimore to intersect the Albany and Delaware road.

We arrived next at the city of Albany, and the neighboring villages of Troy, Lansingburgh, and Waterford at the head of the sloop navigation of the Hudson. Here we see a great cluster of ramifications, no less than eight turnpikes proceeding directly from the city of Albany alone towards almost every point of the compass. The first of these I shall mention is the Albany and Delaware; it runs in a direction a little south of west to the town of Otego, on the Susquehanna. Here it is to be observed, that Otego, Wattle's Ferry, Jericho, and Chenango point, where almost all the aforementioned roads terminate, are places on the Susquehanna river, not far from each other, and are connected together by the Unadilla turnpike. All these roads, therefore, from Newburgh, Kingston, Catskill, and Albany, are to be considered as communicating with, and continued by the great road to be made from Jericho to Bath, in Steuben county, and from thence along the head of Chataughque Lake to Lake Erie, at the westernmost point of the State, about three hundred and fifty miles from Hudson river.

Another great branch from the city of Albany, is the great western road to Cherry valley, in Otsego county. This sends off one branch from Duaneburgh to the Mohawk river, at Canajoharie; a second, by the second company from Cherry valley through Cooperstown to the Chenango river, in the town of Sherburn; and is continued by the fourth company to the town of Fabius, in the county of Onondaga. A third branch, by the third company, through the towns of Warren, Otego, Richfield, Plainfield, Bridgewater, Sangersfield, and Hamilton, to Cazenovia; thence to intersect the Seneca turnpike in Manlius, or through Pompey and Marcellus to the outlet of the Schenectates lake. And a fourth branch from the town of Burlington, in Otsego county, to the town of Homer, in Onondaga, where it branches on the right to intersect the Seneca turnpike at the Cayuga bridge, and on the left, along the head of Cayuga lake, to intersect the great road from the Susquehanna, to Bath and Lake Erie.

The next great branch of turnpike road worthy of notice, is the Albany and Schenectady, continued by the Mohawk company to Utica; from thence, by the Seneca to Canandaigua, and from thence by the Ontario and Genesee to Black Rock, on Lake Erie. Of this line of roads the Mexico turnpike may be considered as a branch diverging by the public road from Utica to Rome, and extending from Rome to the mouth of Salmon river, in the town of Mexico on Lake Ontario.

The next in order are the roads from Lansingburgh and Waterford, extending northerly on each side of Hudson river, sending off branches into the State of Vermont, and continued by the great northern road to the north line of the State of the forty-fifth degree of latitude.

And lastly, amongst these important turnpikes may be enumerated the several roads on the east side of Hudson river, extending eastward from Poughkeepsie, Rhinebeck, Hudson, Albany, Troy, and Lansingburgh, to the States of Connecticut, Massachusetts, and Vermont.

This transient review of our turnpike roads will enable us to form a competent idea of the flourishing condition of the State, and the accelerated progress of her improvements. It will enable us to estimate how far these improvements are calculated to favor the new settlements, to promote the increase of the State, and to facilitate transportation of produce and merchandise from its interior and remote parts, as well as to draw large supplies from the neighboring States. For owing to the natural advantages of our geographical position, in relation to the States of New Jersey, Pennsylvania, Connecticut, Massachusetts, and Vermont, a large portion of whose territories are nearer and more convenient to Hudson river, than to any other place of deposit, much of their produce must eventually take that direction; and this will be materially promoted by opening and making good roads.

SIR:

NEW YORK, December 8, 1807.

I hereby do myself the honor to wait on you with the promised information of roads which are immediately connected with the western inland navigation, and of those which, hereafter, may be made, and become connected with the same, and serve as portages.

From the yearly visits I have made to the western part of our State, and my stay on the lakes for several months in each year, as also my frequent tours by the western inland navigation to Lake Ontario and back again, I have obtained a tolerable knowledge of that navigation, and of its great importance for the internal commerce of our State, and in no less degree of that of the United States, at large, for the future; moreover, when that inland navigation is viewed, to what improvements it is capable to be extended: I, therefore, take the liberty to give also some information of that navigation, from which a more comprehensive view may be had of those roads which are immediately connected with the same, and which must be considered the present portages on that navigation between New York and Lake Ontario.

The first road which presents itself, is between the Hudson and the Mohawk, from Albany to Schenectady; its distance is fifteen miles on a well made turnpike. The Mohawk river is, in certain seasons, (in the spring and autumn,) navigable by boats carrying from one hundred to one hundred and twenty-five barrels of potash or flour; or

from three hundred and fifty to four hundred bushels of wheat; but in the summer season these boats are not able to carry more than half that burden, which is occasioned by the shallowness of the water, or numberless shoals and rapids in that river, which, however, may be improved in such a manner as to leave no doubt to float boats over these obstructions with two hundred and fifty barrels, or six hundred bushels of wheat at all seasons by open water; but whether the present canal company will be able to undertake, and make the requisite improvements in that navigation, remains a matter of much doubt; judging from their slow proceedings in the improvement in that navigation, the prospect is not flattering.

At the Little Falls, sixty miles from Schenectady, the first improvement of this navigation (here was formerly a portage of one mile) is visible; the company have erected at this place six locks with a short canal; another short canal is at the German Flats, (Herkimer.) From the locks at the Little Falls to Rome, (Fort Stanwix,) the distance is about forty miles; at Rome, the Mohawk river is but one mile from Wood creek, which creek empties itself into the Oneida lake; at this place there was formerly a portage of one mile; the Mohawk is now united by a canal and lock with Wood creek; from this canal, at Rome, to the Oneida lake, by the serpentine route of Wood creek, the distance is twenty-three miles, of which five miles in that creek have been improved by placing three locks or cross dams in that creek. The country between Rome and the Oneida lake is perfectly level, and the distance, from point to point, but fifteen miles; to render this distance navigable for boats with from one hundred and fifty to two hundred barrels, would require a canal of ten miles, to wit: from the present canal by a canal into Fish creek to a certain point, and thereby into the lake at the junction with Wood creek.

The Oneida lake may be navigated by boats of from forty to sixty tons burden. Its length is, from Wood creek to its outlet (Onondaga river) twenty-two miles, and its circumference about seventy-five miles. This lake concentrates the whole western inland navigation; nothing can pass by water from Lake Ontario to Schenectady but through this lake; hence, it will appear that every road from the interior, striking this lake, facilitates the inland navigation, and this navigation is required by an immense tract of land which lays on each side of it. On the outlet of this lake, where it assumes the name of river Onondaga, lays a bar or shoal across from the shallowness of the water on the same, particularly at a time when the water in the lake is low, boats with but thirty barrels, find it tedious to pass the same; from this outlet to Three River point, the river is in like manner obstructed by shallows, shoals, and rapids, which makes it tedious to boats in coming up, and dangerous in descending it. At Three River point the Seneca unites with that of Onondaga, and assumes the name of Oswego river. The Seneca river forms a vast and extensive communication with all the lakes and waters in the military and Genesee tracts. From Three River point to Oswego, (the harbor of that river on Lake Ontario,) are continual shoals and great rapids in that river, and a fall of twelve feet perpendicular; at which fall there is at present a portage of about one mile. This navigation is extremely dangerous and tedious. Its distance from the two mentioned last points is twenty-four miles; and it will take four boatmen three full days in making these twenty-four miles, and with not more cargo than from twenty-four to thirty barrels. Many boats are lost, and cargoes either damaged or lost altogether. The canal company, since its incorporation, has never undertaken the smallest improvement in the rivers west of the Oneida lake. Their attention has been solely attracted to the improvements in the Mohawk river; from what motives, however, is unknown to me. The whole distance from Lake Oneida to Lake Ontario, by that navigation, is about fifty miles, with its portage at the Oswego Falls.

In consequence of this tedious and dangerous navigation, which is also expensive, on account of lost time, which burdens the produce of the country, as well as its commodities for consumption, it was considered expedient and proper to find out the shortest route between Lake Ontario and Lake Oneida, and to apply to our Legislature for an act of incorporation for a turnpike company, which was obtained at the session before the last, and a company was incorporated by the title of "The Mexico Turnpike Road Company." From the harbor of Salmon creek, on Lake Ontario, fifteen miles east of Oswego, to Rotterdam, on the Oneida lake, distance twenty-two miles from lake to lake, the country is level, and altogether well for a good road; and from Rotterdam, on the Oneida lake, to the canal at Rome, distance twenty-eight miles. This company has formed itself for the sole purpose to facilitate the inland navigation; and by this road, from one lake to the other, the distance will be shortened nearly thirty miles, and will, with much expedition, forward the transportation of merchandise and produce between New York and Lake Ontario; and it will lessen the expenses of transportation by this route more than one-half between these lakes. Thus, this road may be considered as a second portage to the inland navigation. Hence, it appears that, as long as the whole inland navigation is not improved, or, at least, the waters which unite Oneida lake with that of Ontario remain as they are at present, this road will be the portage for that navigation. The portages thus appearing in the whole navigation are two; the one between the Hudson and the Mohawk; the other between Lake Oneida and Lake Ontario, together, forty-seven miles.

Coming on Lake Ontario, we behold an extensive navigation for vessels of any burden, and opens a vast and extensive communication by water, almost without interruption; and the almost only one is at the most westerly point of that lake, at Niagara Falls, where a portage is of eight miles across those falls. After passing this portage, an extensive navigation we have in our sight, and with vessels of two hundred tons burden; and, on passing over another portage between Lake Erie and the Allegany river, this navigation extends even to Pittsburg, on the Ohio. By this route, the salt is now carried from the Onondaga salt works to Pittsburg, on the Ohio.

Among the projects of great roads now on foot in the western part of our State, is one in particular which deserves notice. It is that from Lewiston, Niagara, to Oswego, and from thence to the Oneida lake, and from here to Redfield, to intersect the great State road from Albany at that town, leading through the Black river, and St. Lawrence county, to Kingston, Upper Canada. This road will strike at and along almost all the harbors on Lake Ontario; and, when the same is continued from Niagara to Presque Isle, on Lake Erie, and from there to Pittsburg, on the Ohio, this would open a very extensive communication between the Eastern and Western States, through almost the whole extent, from east to west, of our State, and along our inland navigation; and would also bring every traveller from the most western part, by Niagara, to Kingston and Lower Canada. All the Eastern States are contiguous to our State, and this route is much the shortest to the Ohio. Albany, near the eastern bounds of our State, is on turnpike roads to Lake Oneida, one hundred and thirty-seven miles; and Lake Oneida, by the heretofore mentioned route, to Lewiston, at Niagara, one hundred and fifty-three miles; from the latter to Presque Isle, one hundred and ten miles; and from thence to Pittsburg, on the Ohio, one hundred and twenty miles; in all, from Albany to Pittsburg, five hundred and twenty miles. This contemplated great road through our State, which will link together the Eastern and Western States, and open, by the shortest and most convenient route, a vast intercourse, will be of great importance for our State, and for those west of us, and, perhaps, the only means that our frontiers will be speedily settled. The estimate of the expenses are thus calculated:

From Redfield to Lake Oneida, and from there to Niagara,	-	-	-	\$25,000
And from Niagara to Presque Isle,	-	-	-	15,000
And from the latter to Pittsburg,	-	-	-	20,000
The whole, by estimate,	-	-	-	<u>\$60,000</u>

To make a good road, for this sum, is believed to be practicable. The country is level and highly advantageous for a great road.

Fearful that I have too much intruded with my lengthy communication upon your patience, I close with my apology for this, offering, at the same time, my services for any further information on the subject, whenever you are pleased to command me.

With high respect, I have the honor to be, sir, your most obedient servant,

GEORGE SCRIBA.

SAMUEL OSGOOD, Esq.

D.

STOCKPORT, WAYNE COUNTY, PENNSYLVANIA, *December 10, 1807.*

RESPECTED FRIEND:

I hope thee may pardon the freedom of this address, should the subject be considered as not regularly within the proper routine of public business.

There is a plan projected in this part of the country, of a very important public improvement, that, in the general opinion, meets approbation as promising very great and important advantages to the United States.

It is to form an Appian way or national portage, by the nearest and most eligible route, to unite the navigation of our great western lakes with that of the Atlantic.

The plan projected was to petition Congress to pass a law for the sale of lands on and near those lakes, appropriate fifty per cent. of the proceeds to make the road, the other fifty per cent. to Indian treaties, fortifications, &c.; the road to be made, under the authority of the United States Government, in the most permanent and solid manner, to pay a toll equal to any other turnpike, which toll to belong to the United States Treasury as a fund to the equal benefit of all the States.

We are of opinion, from examining the maps and face of the country, that the most near and eligible route for such a portage will, undoubtedly, be from the east end, or outlet of Lake Erie to the North river, above West Point fort, distance, perhaps, 220 or 225 miles.

The very great and desirable objects contemplated by such an important national improvement, are, to open a communication with an extent of inland navigation for trade, to a distance, and amongst nations or tribes unknown; which great increase of trade will, proportionably, increase our revenue.

That the having a speedy and sure route from the national magazine at West Point to our frontier garrisons, may be of great importance should we be involved in a war.

That we consider such a route could command near all the trade of the British dominions in Upper Canada, and afford us a duty, (as it would be a much cheaper route to supply them than the St. Lawrence.)

It would, also, be attended with many other great advantages that may be contemplated by viewing the map, in which, perhaps, gentlemen may vary in their opinions; exclusive of the great quantities of copper and lead ore, mentioned by Captain Carver, which he considered as an object of profitable trade to the British Government.

I have been requested by the advocates of this plan, to write my acquaintance generally, for their opinions previous to circulating the petition for next Congress.

A letter that I have just received on the subject, from a very respectable and well-informed character in the city of Philadelphia, has the following information:

"I am told that the Secretary of the Treasury is probably now engaged in drawing up a report on such public undertakings as roads, canals, &c., as deserve the aid of Government; probably if he is acquainted with the project of the Appian way in time, he may also introduce it in his report."

The above is the occasion of this address, and, if improper, I hope my freedom may be pardoned, and attributed to my desire to serve the public in promoting so good and valuable an improvement.

By the receipt of this letter I expect to be in the city of Philadelphia, and remain there some time.

A line, by way of answer on this subject, addressed, by post, to care of Hugh Ely, merchant, would be very acceptable to thy real friend

SAMUEL PRESTON.

ALBERT GALLATIN, Esq.

N. B. We calculate that the lands on and near the lakes, with such an improvement, would sell for a sufficiency, more than without the improvement, to make the road.

We also conclude that our citizens are better entitled to the profits of the Indian fur trade, than the Canadians, who are inimical to our Government.

That, by having such a road, we can supply the Indians and settlements of Upper Canada so much cheaper than the British can by way of the St. Lawrence, as to either secure a good duty from them, or monopolize nearly the whole trade; either will add to our revenue, and tend to wither the consequence of Quebec.

If, by a wise policy, we can capture the profits of their trade, we shall have all that may be profitable for us in their whole territory.

The civilizing the Western Indians is certainly a very great national object; introduce the plough, and teach them the art of agriculture; they could live more happy on a very small portion of their lands; would relinquish the most of it, and perhaps, in time, become good subjects to our Government.]

I have written my friends, Robert Brown, Philip Van Cortland, and other members of Congress of my acquaintance, on the subject, to whom I refer.

Thy ready friend,

SAMUEL PRESTON.

#### TURNPIKE ROADS IN NEW JERSEY.

*Extract of a letter from James Ewing, Esq., to the Secretary of the Treasury, dated*

TRENTON, *November 11, 1807.*

With respect to turnpike roads, the principal one is that which leads from this place to New Brunswick, which is nearly completed, and now in operation. The best information respecting it, I presume, you have already received through the collector of the district of Burlington. There is also a company incorporated for continuing this road from Brunswick to Newark, and I am informed the road is in considerable forwardness. There is also a company formed and incorporated for erecting another turnpike from New Brunswick to the bridge over the Dela-

ware at Easton, called the New Jersey turnpike. This is an important road for this State, and the directors have been so obliging as to furnish me with an ample account of the present state of it, which I take the liberty to enclose.

There are several other turnpikes in the State, of minor consequence, being principally for short distances, and made to accommodate particular parts of the country, and to promote the interest of particular towns.

SIR:

SOMERVILLE, *November 9, 1807.*

Your letter to Mr. Campbell requesting answers to certain queries respecting canals and turnpike roads, was, by him, handed to us a few days ago, since which the Board of Directors of the New Jersey Turnpike Company have met and appointed us a committee to answer the same so far as it respects the road they are concerned for; this we have done in the best manner we are able at present to do, and hoping the same may prove acceptable to you, and to those you are to communicate it to,

We remain, sir, your most obedient, humble servants,

ANDREW HOWELL,  
DANIEL LA TOURRETTE.

JAMES EWING, Esq., *Trenton.*

Pursuant to a request of the Secretary of the Treasury of the United States to James Ewing, Esq. of New Jersey, and by him to John Campbell, Treasurer of the New Jersey Turnpike Company, for information relative to turnpike roads, the Board of Directors of the New Jersey Turnpike Company beg leave to make the following reply to the queries proposed.

Answer to query 1st. An artificial road is authorized by an act of the Legislature of the State of New Jersey, passed February 27, 1806, commencing at the city of New Brunswick and ending at the eastern abutment of eastern bridge across the Delaware river, distance, by actual survey on the tract of said artificial road as laid out by the commissioners appointed for that purpose, and a return thereof made to the Secretary's office of said State of New Jersey, forty-three miles and one-third.

2d. The elevation allowed by law, in the progress of the road, is three, four, and five, degrees at different points, in proportion as the natural face of the country presents; the natural elevation of the hills, over which the road passes, none exceed ten degrees, except some short hollows from one to ten chains in length.

3d. Breadth of the road four rods, the shape twenty-eight feet, with a gradual arch of fifteen inches at least rise in the centre, bedded where necessary with stone or other hard substance, and faced with gravel twenty feet wide, from six to twelve inches thick.

4th. Dimensions of the bridges, twenty-two feet wide in the clear, abutments and piers built of stone laid in lime and sand mortar; those now in a finishing state covered with wood.

5th. The road in its course crosses the river Raritan, seven miles above Brunswick, at the village of Bound Brook, at which place some distance of flat land subject to inundation falls in the track of the road; this part of the road and the bridge is erected, and having been considered a very important difficulty is now happily surmounted. The principal difficulty to be surmounted is the Musconetcong mountain, bordering on the line dividing the counties of Hunterdon and Sussex; this pass, from base to base of the mountain, is about one mile, and has been considered the greatest difficulty in the route of the road, but from the advantage of a break therein the road has been so laid as to come within the degrees of elevation allowed by law, or very nearly.

6th. The first section of the road (eleven miles) to the village of Somerville, the erection of which is now in operation, and nearly completed, will, when finished, cost the company about \$3,500 per mile, including all the bridges, which are very numerous, owing to the vicinity of the river Raritan, its branches and their various windings; in the further progress of the road the expense of bridges will be lessened.

7th. Capital now expended, presuming the eleven mile section completed, toll houses built, gates put up, &c., \$40,000, being the whole amount of capital now subscribed. In this section the bridges have amounted to nearly half that sum; the shaping and gravelling the residue of the road from Somerville to Easton may be contracted for at from \$12 to 1,400 per mile, all small bridges and culverts included. The probable additional subscription to complete the road to Easton will be about \$100,000.

8th. Rate of tolls, one cent per mile for one beast.

One cent per mile for every additional beast.

The gross amount of toll, annual expenses, &c., the company are yet ignorant of, not having commenced the receipts of toll; yet the board are well assured, by calculations made, that this section of the board will nett ten per cent. per annum.

9. The act of the Legislature, and the supplement thereto, requires the completion of the road in ten years from the 28th of November, 1806. The act of incorporation to be void after ninety-nine years from the passing thereof. The act required that, at the end of every ten years, an account of the expenditures upon the said road, and the profits arising therefrom, shall be laid before the Legislature, and that the State of New Jersey may, at any time after the expiration of fifty years from and after the passing of the same, repay the proprietors of said road the amount of the sums expended thereon, with twelve per cent. per annum in addition thereto, deducting the amount of toll received, and, in that case, the said road shall become the property of the State of New Jersey, and be under the control of the Legislature thereof.

For a more particular account of the rates of tolls, and satisfactory information of the substance of the charter, &c., you are referred to the act itself, together with the supplement, copies of which are herewith enclosed.

The great advantage the upper part of the States of New Jersey, Pennsylvania, and the western part of New York, will derive from the completion of this road, when connected with those now building from Easton, in Pennsylvania, to the head waters of the Susquehannah, both in lessening the distance, and facilitating the travelling from the back countries to the tide waters, and their proper markets, the board believes will be evident to every person the least acquainted with the geography of the country, and will, therefore, rank this amongst the first roads of the kind in the country meriting the aid of the Legislature of the Union. Under this impression the board fondly indulges the hope that this establishment will be one of the first to be patronized, and, therefore, with pleasure, they have endeavored to give the best information they were able in answer to the questions proposed.

OCTOBER 28, 1807.

1st. New Brunswick and Trenton united by a turnpike twenty-five miles in length.

2d. None over three degrees.

3d. Four rods, thirty-six feet of which is formed from one to three feet above the natural surface, according to the nature of the soil; and faced with an average of six inches of gravel spread fifteen feet wide.



4th. Stone piers and abutments, and white oak timbers covered with three inch white oak plank, each bridge twenty-eight feet wide; the sluices are covered with flag stones and are thirty feet wide.

5th. None except the sand hills of any serious consequence, and they are cut thirty feet deep in some places, twenty-eight feet wide at the bottom, and sloped sufficient to prevent its caving in.

6th. Land, forming, and gravelling, together with other expenses, about \$2,500 per mile.

7th. One week of good weather will complete the whole; amount not ascertained exactly.

For 8th and 9th see the act itself, passed November 14, 1804.

THOMAS HILL, *Agent for the Company.*

AN ACT to incorporate the New Jersey Turnpike Company, with its supplement.

SEC. 1. *Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same,* That George Biddleman, William McCullough, Thomas Stewart, George C. Maxwell, Ralph Hunt, Andrew Howell, George McDonald, John Frelinghuysen, John Campbel, Jacob R. Hardenberg, John Bray, Henry Van Dyke, and John Dennis, Jun. be authorized to receive subscriptions for erecting a turnpike road, four rods wide, beginning in the city of New Brunswick, in Albany or French street, between the bridge and the fork of said street, nearly opposite to the Barrack spring, and next above the house lately occupied by John Parker, deceased, running thence as nearly in a direct line as may be practicable, to Bound Brook village, from thence to Somerville, in the county of Somerset, and from thence, by the most direct practicable route, to the bridge now building across the river Delaware from Philipsburg to Easton; and that they shall give security to the Governor of the State to pay the subscription money, which they shall receive, to the treasurer of the turnpike company, and to perform the other duties required of them by this act, for which services they shall be paid by the turnpike company.

SEC. 2. *And be it enacted,* That such subscriptions shall consist of four thousand shares, of fifty dollars each; that two dollars and fifty cents shall be paid on each share at the time of subscribing, and that as soon as six hundred shares shall be subscribed, the said George Biddleman, William McCullough, Thomas Stewart, George C. Maxwell, Ralph Hunt, Andrew Howell, George McDonald, John Frelinghuysen, John Campbel, Jacob R. Hardenberg, John Bray, Henry Van Dyke, and John Dennis, Jun., or a majority of them, or their survivors, shall call a meeting of the subscribers and stockholders, to be held at Somerville aforesaid, after four weeks' notice in the Trenton and New Brunswick newspapers, and in one of the newspapers printed in the city of New York, to choose a president and seven directors, five of whom shall constitute a board to transact business, and a treasurer to continue in office until the first Tuesday of May then next ensuing; on which day, and also on the first Tuesday in May annually thereafter, there shall be a choice of officers for one year, at such place as the stockholders may, at their last meeting, have appointed; that each stockholder may vote in person or by proxy, and shall have as many votes as he or she may have shares of stock: *Provided, nevertheless,* That no stockholder shall have more than ten votes, although he may have a greater number of shares; that the said president and directors shall be called and known by the name of "The President and Directors of the New Jersey Turnpike Company," and shall have all the powers, rights, and privileges incident to a body politic and corporate for the purposes herein mentioned, for the term of ninety-nine years; and also that they and their successors, by the same name and style, shall be in law capable of suing and being sued, and of purchasing, holding, and conveying any estate, real and personal, for the use of the said corporation: *Provided,* That the real estate so to be holden, shall be such only as may be requisite to promote and attain the objects of this incorporation, and may be relative thereto, which objects are hereby declared to be the erecting and maintaining a good and sufficient turnpike road from New Brunswick to Philipsburgh.

SEC. 3. *And be it enacted,* That the president and directors aforesaid shall have the power to appoint the time and place of all their meetings, and to appoint all such agents and servants as they shall deem necessary for carrying into effect the powers vested by this act in the said company; and if any vacancy or vacancies shall at any time happen in the said office of president, or among the directors, by death, resignation, removal, or otherwise, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen, by such person or persons as the directors for the time being, or the major part of them, may appoint; and that the said president and directors may make such ordinances, by-laws and regulations, relative to their concerns, as they may deem expedient: *Provided,* The same shall not be repugnant to the constitution and laws of this State, or of the United States, which ordinances, by-laws, and regulations, together with all accounts, shall be submitted to the inspection of the stockholders at their annual meeting.

SEC. 4. *And be it enacted,* That Isaac Mickle, Philip I. Schuyler, and Daniel Stewart, be commissioners to lay out said turnpike road, beginning in the city of New Brunswick, in Albany or French street, between the bridge and the fork of said street, nearly opposite the Barrack spring, and next above the house lately occupied by John Parker, deceased, running thence in as direct a line as may be practicable to Bound Brook village, from thence to Somerville, in the county of Somerset, and from thence, by the most practicable route, to the bridge now building across the river Delaware from Philipsburg to Easton, having due regard to the situation and nature of the ground, public convenience, and the interest of the stockholders. Said road shall not pass through, or cross over any burying ground, nor place of public worship, nor dwelling house, without consent of the owner or owners thereof; nor shall it pass through or over any out building of any greater value than three hundred dollars, without such consent; and the said commissioners, or a majority of them, shall within six months thereafter cause an accurate survey of the line of said road, and a map or plot of the said survey, to be correctly laid down on a scale of four inches to the mile, and certify the same under their hands, which they shall file in the Secretary's office of this State, to be entered of record in the said office, a certified copy of said record shall be sufficient and conclusive evidence of said road; and all reasonable charges by the said commissioners for time and expenses shall be paid by the said company. And the said commissioners shall, before they enter upon the duties of their office, take and subscribe an oath or affirmation, faithfully and impartially to execute the same, which oath or affirmation shall be filed with the return of said road: *Provided,* That, in case of the death, resignation, refusal, or inability of either of the said commissioners to fulfil the duties of his or their appointment, that then it shall be lawful for the Governor of this State, or the person administering the Government thereof, to appoint some other disinterested person or persons in his or their place.

SEC. 5. *And be it enacted,* That, in the middle of the said turnpike road, there shall be formed a space or artificial road not less than twenty-eight feet in breadth, the centre of which shall be raised fifteen inches at least above the sides, rising towards the middle by a gradual arch, which artificial road shall be well and sufficiently drained by ditches and subterraneous passages for water a sufficient depth, and the said road shall be sufficiently



bedded with stone or other hard substance, so as to secure a dry and solid foundation for the same at all seasons of the year; and twenty feet thereof shall be faced with gravel or broken stone, so as to form a firm and even surface; and, in its progress, no part of it between the said city of New Brunswick, and the place where the said road shall cross the north branch of the river Raritan, shall rise above an angle of three degrees with the plane of the horizon; and no part of said road between the place where the same shall cross the north branch to the place where the same shall cross the south branch of the river Raritan, shall rise above an angle of four degrees with the plane of the horizon; and in no part thereof from the last mentioned place to the terminating point of said road, shall the same rise above an angle of five degrees with the plane of the horizon; and the said directors shall cause good and sufficient bridges to be erected, where necessary, on the line of said road, to be constructed not less than twenty-two feet in breadth, which road and bridges shall be kept in good and sufficient repair by the said company, and, in case they shall not be so kept, the said corporation, or any of their officers, shall be liable to be proceeded against as in cases of overseers of highways for the neglect of duty; and that, wherever the said road in passing over low grounds or other places, is raised so much at the margin or side of the travelling path, as to render carriages passing thereon liable to be overset, the said company shall cause a good and sufficient railing to be erected and maintained on the sides, so as to prevent horses or carriages from running off.

SEC. 6. *And be it enacted*, That full power and authority be given to the said commissioners, and the said corporation, and to their agents and servants, and to all persons employed by or under them for the purposes contemplated in this act, from time to time, to enter upon and make use of any land which shall be deemed necessary for laying out or making the said road, and for carrying into effect the objects of this law; and also to carry away stone, sand, or gravel, for the use of the said road, subject always to make compensation for all damages thereby occasioned, either by agreement of parties, or by the judgment of indifferent men, chosen by the said company, and the persons who shall have sustained such damages, or as is hereinafter mentioned: *Provided*, That it shall and may be lawful for the said company, their laborers and servants, to quarry, take up, and carry away, or otherwise use at their pleasure, any stone, gravel, sand, or earth, from the bottom of the river Raritan and its branches, or from within the shores or banks thereof, that may be necessary for perfecting the said road, free from any expense or charge whatsoever.

SEC. 7. *And be it enacted*, That if any of the owners of land through which the said road shall pass, shall conceive themselves injured thereby, and not having settled the same agreeably to the provisions of the sixth section of this act, then it shall be lawful for such owners of land to meet at Somerville aforesaid, on thirty days' notice being given in the newspapers printed in New Brunswick and Trenton, and by advertisements signed by the president of the directors, one put up at one of the most public places in New Brunswick, Boundbrook, Somerville, Hunt's mills in Lebanon, in the county of Hunterdon, and Phillipsburgh, and to choose one respectable freeholder in the State, not interested, and the said corporation shall also choose one respectable freeholder of the State, not interested, who, in case of their disagreement, shall have power to choose an umpire, and who, together with said umpire, if chosen, or a majority of them, after having taken an oath or affirmation to act impartially and to the best of their knowledge, shall determine, at the expense of the turnpike company, the amount of compensation which shall be paid by the company to such of the applicants, respectively, as they shall conceive to be injured, on which payment the said company shall become seized of the same estate in the lands, tenements, and hereditaments, which the owner or owners held in the same; but if the owner or owners of any land through which the said road shall pass, will not agree to any of the provisions heretofore mentioned, or refuse or neglect to join in any such choice, or shall be *feme covert*, under age, *non compos mentis*, or out of the State, or in case the men chosen as aforesaid do not decide thereon, then it shall be lawful for one of the justices of the supreme court, upon application of either party, and at the mutual costs and charges of the said corporation and the owners of such land, to direct a special jury of the freeholders of any of the townships in the said county through which the said road shall not run, to be struck before such justice in the manner which special juries are usually struck, who shall view, examine, and survey the said lands, tenements, and hereditaments, and estimate the injury or disadvantage sustained as aforesaid, and shall make an inquisition thereof, under their hands and seals, to be returned to the said justice of the supreme court by the sheriff of the county in which the said inquisition is taken; and it shall be the duty of such sheriff to attend before the said justice, with his books of freeholders, at such place as the said justice shall appoint, upon reasonable notice given to him for that purpose of striking such jury, and also upon like notice to have the said jury upon the premises in question at the time mentioned in such notice, and to administer the oath or affirmation to the said jurors; and the said sheriff and jurors shall be entitled to the like fees, for their services, as are allowed by law in other cases of special juries; and, upon the coming in of such report or inquisition, and the confirmation thereof by the court, and the said directors paying to the owners, respectively, the sums mentioned in such report, in full compensation for the said lands, tenements and hereditaments, privileges, and appurtenances, or for the injury sustained as aforesaid, as the case may be, upon such payment the said company shall become seized in the same estate in the lands, tenements, and hereditaments aforesaid, which the said owners held in the same, and which they shall have taken possession of and paid for as aforesaid, and they, and all who have acted under them, shall be acquitted and freed from all responsibility for and on account of such injury: *Provided*, That *femes covertes*, persons under age, and *non compos mentis*, shall not bear any part of the expenses: *Provided, also*, That the payment or security for payment of damages aforesaid, for lands through which the said road may be laid, to the satisfaction of the person or persons, be made before the company, or any person under their direction, or in their employ, enter upon or break ground in the premises, except surveying and laying out said road, unless the consent of the owner of such land be first obtained.

SEC. 8. *And be it enacted*, That it shall and may be lawful for the said directors to call and demand from the stockholders, respectively, all such sums of money by them subscribed, at such time and in such proportions as they shall see fit, under pain of forfeiture of their shares, and of all previous payments thereon, to the said company.

SEC. 9. *And be it enacted*, That, as soon as the said company shall have completed ten miles of the said road, either at the beginning or terminating point thereof, then it shall be lawful for the directors to give notice to the Governor, or person administering the Government of this State, who shall thereupon forthwith nominate and appoint three commissioners, who shall, at the expense of the corporation, view the same, and report to him, in writing, whether the said road is so far executed in a workmanlike manner, according to the true intent and meaning of this act; and if the said commissioners, or any two of them, report in the affirmative, then it shall be the duty of the Governor, by license, under his hand, to permit the said directors to erect gates and turnpikes across the said road, and to demand and receive toll at the same, at the rates hereinafter specified; and, in like manner, when the remainder of the said road, or any part thereof, shall be made, approved of, and licensed, as aforesaid, to erect other gates and turnpikes, and for passing through the same, to demand and receive toll for each mile of the said road, after the following rates, to wit:

For every carriage, sleigh, or sled, drawn by one beast, one cent.

For every additional beast, one cent.

For every beast, exceeding four, two cents.

For every horse and rider, or led horse, or mule, five mills.

For every dozen of calves, sheep, or hogs, five mills.

For every dozen of horses, mules, or cattle, two cents.

And it shall be lawful for the toll-gatherers to stop any person riding, leading, or driving any horse, cattle, mule, calves, sheep, or hogs, or carriages of burden or pleasure, from passing through the said gates or turnpikes until they shall have respectively paid the toll, as above specified: *Provided*, That nothing in this act shall be construed so as to entitle the said company to demand or receive toll of or from any person passing to or from public worship on the Sabbath day; or to or from any mill to which he may resort for the grinding of grain for his family's use; or horses, carriages, sleighs, or sleds, solely conveying persons to or from a funeral; or any person passing to or from his common business on his farm; or any militiaman passing to or from any training on a muster day appointed by law; or any military officer or soldier, passing or repassing, when called to do duty by the laws of this State or of the United States.

SEC. 10. *And be it enacted*, That no turnpike gate shall be erected, or other obstruction placed on such parts of said road as is at present a highway, and shall be continued as such, between the north branch of Raritan river and the river Delaware, opposite Easton.

SEC. 11. *And be it enacted*, That, before the said company shall receive toll for travelling said road, they shall cause mile-stones or posts to be erected and maintained, one for each and every mile on said road, and on each stone or post shall be fairly and legibly marked the distance the said stone or post is from Brunswick; and shall cause to be affixed and always kept up, at the gates aforesaid, in some conspicuous place, a printed list of the rates of toll which may be lawfully demanded; and also a board, on which shall be printed, in large letters, "*Keep to the right, as the law directs.*"

SEC. 12. *And be it enacted*, That, if any person shall wilfully break, throw down, or deface any of the mile-stones or posts, so erected on said road for the information of the people travelling the same, or shall wilfully tear down or deface any of the printed rates of toll or directions, or shall cut, break down, destroy, or otherwise injure any gates, turnpikes, or bridges that shall be erected in pursuance of this act, or shall forcibly pass the same without having paid the legal toll at such gate or turnpike, such person or persons shall forfeit and pay a fine, not exceeding twenty dollars, besides being subject to an action of damages for the same, to be recovered by the corporation, to their use, with costs of suit. And if any person shall, with his team, carriage, or horse, turn out of said road to pass a gate or gates on private ground adjacent thereto, and again enter on said road, with intent to avoid the toll due by virtue of this act, such person or persons shall forfeit and pay three times as much as the legal toll would have been for passing through said gates, to be recovered by the said corporation, for the use thereof, in an action of debt, with costs of suit.

SEC. 13. *And be it enacted*, That if any toll-gatherer shall unnecessarily delay or hinder any traveller passing at any of the gates, or shall receive more toll than is by this act established, he shall for every such offence forfeit and pay the sum of twenty dollars, with costs of suit, to be prosecuted by and recovered for the sole use of the person so unreasonably hindered or defrauded.

SEC. 14. *And be it enacted*, That the shares in said turnpike road shall be taken, deemed, and considered as personal property, and be transferred in such manner as the directors may appoint: *Provided*, That if the said company shall not commence their operations within two years after the passing of this act, or shall not within one year thereafter complete at least two miles of said road from New Brunswick, and two miles across the Musconetcong mountain, commencing on the west side thereof, or shall not continue to make yearly the same quantity of road from each place as aforesaid, or shall not within seven years afterwards complete the said road according to the intent and meaning of this act, then and in either of these cases this act shall cease, be void and of no effect.

SEC. 15. *And be it enacted*, That all drivers of carriages, sleighs, or sleds, of all kinds, whether of burden or pleasure, or persons on horseback using the said road, shall keep their horses, carriages, sleighs or sleds on the right hand of the said road, in the passing direction, leaving the other side of the road free and clear for other carriages and persons on horseback to pass; and if any person shall offend against this provision, such person shall forfeit and pay the sum of two dollars to any person who shall be obstructed in their passage, and will sue for the same, and shall also be subject to an action of damages for every such offence, to be recovered with costs of suit.

SEC. 16. *And be it enacted*, That at the end of every ten years an account of the expenditures upon the said road, and the profits arising therefrom, shall be laid before the Legislature, and that the State of New Jersey may at any time, after the expiration of fifty years from and after the passing of this act, repay the proprietors of said road the amount of the sums expended thereon, with twelve per cent. per annum, in addition thereto, deducting the amount of toll received, and in that case the said road shall become the property of the State of New Jersey, and be under the control of the Legislature thereof, any thing in this act contained to the contrary notwithstanding.

A. Passed at Trenton, February 27, 1806.

State of New Jersey. A supplement to the act entitled "An act to incorporate the New Jersey Turnpike Company," passed the twenty-seventh day of February, one thousand eight hundred and six.

1. *Be it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same*, That it shall and may be lawful for the commissioners, named in the act for incorporating the New Jersey Turnpike Company, to lay the road of a less width than four rods, where, in passing through any town or village, the situation of buildings erected therein may not admit of such width, any thing in the first section of the before recited act to the contrary notwithstanding.

2. *And be it enacted*, That it shall and may be lawful for the said New Jersey Turnpike Company to commence their operations in erecting and making the road from New Brunswick to the bridge across the river Delaware, opposite Easton, at New Brunswick, and to progress therein towards Easton, at such times, and in such parts as to them may be most expedient, any thing in the proviso in the fourteenth section of the act, to which this is a supplement, to the contrary in any wise notwithstanding.

3. *And be it enacted*, That if the said company shall not complete said road within ten years from the passing of this act, then this act, and the said act entitled an act to incorporate the New Jersey Turnpike Company, passed the twenty-seventh day of February, one thousand eight hundred and six, shall cease, be void, and of no effect.

Passed at Trenton, November 28, 1806.

## TURNPIKES OF PENNSYLVANIA.

SIR:

PHILADELPHIA, *October 28, 1807.*

We have the honor of handing you a report on the formation of the Germantown and Perkiomen Turnpike Road. We trust it will be acceptable and useful at the Treasury, and remain

Very respectfully, sir, your obedient servant,

WILLIAM DARY, }  
SAM. W. FISHER. } *Committee.*

Gen. Wm. MACPHERSON.

PHILADELPHIA, *October 28, 1807.*

The committee, appointed the 29th August, 1807, to attend to an application from the Secretary of the Treasury of the United States, report:

That, being duly impressed by the importance of the object in view, they present the following detail of information and remarks, as replies to the inquiries contained in the circular from the Treasury, so far as relates to artificial roads.

First. Points united and their distances.

Answer. The Germantown and Perkiomen Turnpike Road begins at Vine street, in Philadelphia, and terminates at Perkiomen bridge, being twenty-five and a quarter miles in extent, and is the whole distance originally contemplated by the subscribers, and specified in the act of incorporation. It was begun in a section of five miles from Philadelphia, in the month of August, 1801, and the whole was completed in the month of November, 1804. It passes through Germantown, over Chesnut Hill, by Hilner's marble quarries, and various lime kilns, through Hickory town, and Evansburgh, on the direct road to Reading. Two of the turnpike roads have been made, branching off from this main line since its completion, by two different companies, sanctioned by acts of the Legislature; the first, styled the Cheltenham and Willow Grove Road, diverges at a distance of about three miles and a half from Vine street, and is completed through Milestown to Shoemaker's town, and to the Willow Grove; in all a distance of ten miles on the old road to New York. The second, styled the Chesnut hill and Spring house turnpike, diverges at a distance of nine miles and a half from Vine street, and is completed through White marsh to the Spring House Tavern, a distance of seven and a half miles.

Second. Elevation of the hills over which the road passes; greatest angle of ascent which has been allowed.

Answer. The following is a statement of the principal elevations, *i. e.* Nagle's hill, 4° 58"; Creesham hill, 5° 35"; Chesnut hill, 4° 5" to 4° 13"; Coulston's hill, 6° 29"; Hickorytown hill, 5°; Five mile run hill, 4°; Custer's hill, 4° 52"; Skippack hill, 4° 44"; and Perkiomen hill, 5° 37".

The law limits the greatest angle of ascent to four degrees, and in no case is it exceeded. Embankments have been raised in deep valleys to assist in producing this angle, and the expense has varied according as materials could be procured.

Third. Breadth, form, and materials of the artificial road.

Answer. The breadth is fixed by law to be not more than sixty, nor less than fifty feet, of which twenty-eight feet are required to be made (and are so made) as an artificial road, with a convexity of fifteen inches on the said twenty-eight feet. The natural road being surveyed and levelled, the breadth of twenty-eight feet is formed with the aforementioned convexity, leaving a shoulder or abutment of the natural soil on each side of about twelve or fourteen inches. Good gravel, well sifted or riddled, is laid on eighteen inches thick, preserving the greatest equality of surface possible. Where gravel cannot be procured, pebbles, stone, and gravel from the sides and beds of rivers, broken to an equal and small size, are found to answer well. Lastly, hard iron, or other *solid* stone, is a principal material, and these are laid on twelve inches thick. First, a stratum of six inches deep, broken small enough to pass through a ring of five inches diameter, on which the remaining six inches of stone, broken to a smaller size to pass through a ring of two and a half inches, are laid with the greatest evenness. Here we would observe that experience convinces us that, if the whole body of stone was to be broken down to the smallest size, the road would be more durable, and of an even surface; the larger stones will, in time, work up to the surface by the action of heavy carriages, and prove highly detrimental. It is also of great importance that when stone is used, it should be all, as nearly as possible, of the same quality; hard and soft stones mixed, will always make a bad road; the hard stones resisting friction, curve holes, and pits, and an uneven surface all around them; the water is there retained, and the soft materials being soon ground to earth, produce the greatest injury and inconvenience. It may be added that bad materials well applied, and well taken care of, will keep a better road than good materials, ill applied, and neglected, can do.

Side or summer roads are found a very acceptable accommodation to travellers, and as they save the wear and considerable expense of the artificial road, they may be deemed, on the whole, economical, provided, however, that good and sufficient drains be kept always open on each side, so that no water remain on the surface of the artificial road; this is an essential object of attention at all times. Nothing tends more to the preservation, and, therefore, to decrease the expense of repairing artificial roads, than the use of broad wheels for carriages of great burden, as those employed in conveying marble, iron, timber, &c. and, to encourage the introduction of them, the tolls should be reduced in proportion, as the breadth of the wheels is, to a reasonable extent, increased.

Fourth. Bridges, their dimensions, materials, and construction.

Answer. On this road no bridges of consequence have been constructed, the tract of the old State road having been preserved, little more has been done than to repair, widen, and generally to improve the bridges that had been previously erected. A great number of culverts, and small bridges, over small runs and creeks, have been erected generally with stone, the larger size with stone piers, and covering of the best oak plank three inches thick. In building bridges it is found, by experience, that every stone of the main walls and arches, should be squared, and well bound together; where rough quarry stones have been used, and, as is too often the case, the interstices filled up with rubbish, a few years of frost and floods, and the constant jarring and concussion of heavy loads passing over them, shiver these disjointed structures, and prove that parsimony, in the original construction, is, in fact, the grossest extravagance.

Fifth. Particular obstructions and difficulties surmounted, or to be encountered.

Answer. No obstructions or difficulties, but such as are before referred to, did occur, except from the prejudice and capricious conduct of obstinately ignorant persons living near to the line of the road, who raised very serious opposition, and, by every possible means, endeavored to thwart and counteract the legal operations of the Turnpike Company; but firm conduct on the part of the managers, and strictly enforcing the law, together with the experience of the benefit received, are daily diminishing this evil, and producing acquiescence and approbation.

Sixth. The expenses per mile, and in the whole, and as far as practicable, of every component part of the work in all its details, viz: forming the bed of the road, cutting hills, quarrying, transporting, breaking, laying stone or gravel, &c.

Answer. The total average expense of this road amounts to \$11,287 13 per mile. For the detail, see papers marked A, B, C, and D.

Seventh. The capital already expended, vested, or wanted for completing the work.

Answer. The total of capital expended on the 25½ miles, amounts to \$285,000.

Eighth. Rate and gross amount of tolls; annual expenses of repairs and contingencies; annual net income.

Answer. The rate of tolls is fixed by the act of incorporation; the gross amount annually since the completion of the whole road has been as follows, viz:

From the first Monday in November, 1804, to the first Monday in November, 1805, - - \$18,591 38

From the first Monday, 1805, to the first Monday in November, 1806, - - 19,019 96

Since the road was first completed it has been found necessary to expend a very large sum in improving and repairing (from defects in the original structure) the road, bridges, and culverts.

The permanent expenses may be rated as follows:

- 1st. Repairs necessary to be made, arising from the common use and wear of the road, per annum, - \$4,500
- 2d. Eight gate keepers; five at a salary of \$500 each; one at \$450, and two at \$350 each, - - 3,650
- 3d. The general superintendent; a man of intelligence, respectability, and great firmness, - - 800
- 4th. The treasurer and secretary who gives ample security to the company, and is under the control of the President and managers, - - 600
- 5th. Stationary expenses of meetings and journeys of the managers, ground rents, and incidentals, - 400

\$9,950

Lastly. The greatest embarrassment and injury to this company results from the jealous restrictions of the act of incorporation; they are, indeed, equally injurious to the community as to the company. The limitation for taking toll *only*, for the exact distances travelled, sets *exact* calculation at defiance in most cases, and causes, therefore, constant litigation, and the most vexatious disputes; and it is, under such a law, very difficult, if not absolutely impracticable, to provide a complete remedy for such an evil, and the only one that can prove effectual must be afforded by the Legislature, compelling every person passing through a toll gate, to pay a certain toll without regard to distance; in which case the *average* rate of toll would be as light, on the public at large, as at present, and litigation would cease. The dividends on the capital expended, have, for the two years after the completion of the road, been as follows, viz: Four half yearly dividends, at \$1 75 per cent. only; this proves that the company are entitled to some relief from the Legislature.

WILLIAM DARY, }  
SAM. W. FISHER, } Committee.

A.

*Cost of first section of five miles.*

Forming, shouldering, and gravelling 952 <sup>7</sup> / <sub>10</sub> perches,	-	\$20,850 29	
Gravel,	-	1,379 30	
Screening gravel,	-	11,752 63	
Hauling to the road from gravel pits,	-	2,565 79	
Making 46 perches stone road on part of gravel road,	-	613 80	
		<hr/>	\$37,161 81
Forming, shouldering, and making 647 <sup>2</sup> / <sub>10</sub> perches of stone road,	-	17,918 94	
Expended in improving and perfecting the road after the contractors,	-	5,378 22	
Bridge at five mile run, with one arch,	-	1,899 15	
Three culverts,	-	538 16	
Three toll-houses and gates,	-	2,614 99	
Lowering Nagle's hill,	-	905 88	
Quarrying and other expenses, exploring the country for stone and gravel,	-	654 42	
Tools, and repairing the same,	-	1,846 06	
Surveying, &c.,	-	121 67	
Purchase of a lot, and a strip of land, for the purpose of straightening the road,	-	203 95	
Expenses of the board at their meetings, and committee's expenses to Lancaster,	-	102 66	
Printing and stationary,	-	227 34	
Salary to superintendent,	-	900 00	
Secretary's salary and office rent,	-	555 00	
Five mile-stones, and hauling,	-	46 00	
Fee to counsel and seal for the company,	-	30 00	
Compensation to Dr. Logan for opening extra quarries on his land,	-	100 00	
John Mason for inspecting laborers,	-	131 00	
Ditching and draining, and making summer road,	-	659 98	
Fence round the gravel pits,	-	39 72	
Pump at the gravel pits,	-	7 40	
Repairing bridge in third street,	-	37 18	
Compensation to Charles Browne, for injury done him by changing the direction of the road,	-	46 35	
Labor and other incidental expenses,	-	461 29	
		<hr/>	35,425 36
			<hr/> <u>\$72,587 17</u>

## B.

*Cost of second section.*

Forming, shouldering, and making 1,600 perches of stone road, contractors supplying materials,	-	\$32,855	60
Levelling, on this section,	-	6,852	10
Culverts and water courses,	-	1,044	83
Expended in improving and perfecting sundry parts of the road, after the contractors,	-	8,532	97
Two toll-houses and gates,	-	904	13
Tools, and repairing the same,	-	984	45
Stationary and advertising,	-	\$74	13
Surveying,	-	256	93
			<u>331 06</u>
Compensation to Andrew Heath for his services,	-	200	00
Secretary's salary and office rent,	-	550	00
Superintendent's salary,	-	560	00
Expenses of the board and committees,	-	33	55
Compensation for damages done to the property of sundry persons by blowing rocks in Germantown,	-	147	00
Incidental expenses,	-	82	97
			<u>\$53,078 66</u>

## C.

*Cost of third section.*

Levelling, forming, shouldering, and making 960 $\frac{1}{4}$ perches of stone road,	-	\$23,685	75
Forming, shouldering, and making 620 $\frac{95}{100}$ perches of stone road,	-	11,177	10
Levelling the last mentioned,	-	4,706	47
Building dry walls,	-	298	68
Expended in improving and perfecting parts of the section, after the contractors,	-	1,813	91
Purchase of a small piece of land on this section to accommodate and straighten the road,	-	200	00
Two toll-houses, gates, &c.	-	1,461	50
Superintendent's salary,	-	842	00
Secretary's, &c.	-	595	83
Repairs at Wissahickon bridge, built by the county commissioners,	-	376	01
Tools, and repairing,	-	627	63
Printing, &c.,	-	92	17
Surveyor on this section, his account,	-	160	81
Expenses of the board and committees at their meetings and journeys to view the road, journeys of the latter to Lancaster, carriage hire, &c.,	-	818	47
Proportion of a wagon with broad wheels and cylinder, built in hopes of introducing broad wheel carriages,	-	230	81
Plymouth bridge, one arch and culverts,	-	5,181	75
Fees to counsel, and other incidental expenses,	-	212	98
			<u>\$52,481 87</u>

## D.

*Cost of fourth and fifth sections.*

Levelling, forming, shouldering, and stoning 10 $\frac{1}{4}$ miles,	-	\$76,949	14
Ditching and gravelling,	-	1,976	26
			<u>\$78,925 40</u>
Mason's work, building six bridges and fourteen culverts,	-	12,908	08
Filling bridges and culverts, and digging a foundation at Stony Run bridge,	-	3,206	70
Boards, scantling, plank, and timber,	-	2,719	13
Carpenter's work,	-	1,031	19
Smith's work,	-	267	49
Nails, paint, oil, &c.,	-	116	69
			<u>20,249 28</u>
Purchase of two strips of land to straighten the road,	-	32	00
Dry walls,	-	161	92
Surveying and draughts,	-	186	12
Services of assistant superintendent,	-	434	30
Mile-stones, at \$8,	-	80	00
Digging a small canal in St. Clair's meadow,	-	64	50
Labor, hauling, ploughing the road, rolling the road, making side drains, removing and putting up fences, setting mile-stones, liquors for workmen at raising bridges, hire and repair of log-wagon, fees to counsel, and measuring expenses, &c.,	-	2,648	46
Toll-house, gate, &c.,	-	720	78
Printing, &c.,	-	27	00
Improving and perfecting parts of the road after contractors,	-	1,162	58
Salaries of superintendent and Secretary,	-	1,626	67
			<u>7,144 33</u>
Expenses of the board and committees at their meetings, and on their journeys at sundry times to view the road,	-	369	74
Expenses of commissioners appointed by the Governor to view the sections,	-	33	79
Incidental,	-	129	76
			<u>533 29</u>
			<u>\$106,852 30</u>

AN ACT to enable the Governor of this Commonwealth to incorporate a company to make an artificial road from the city of Philadelphia, through Germantown, to the ten-mile stone on Chesnut Hill, and from thence to the new stone bridge over Perkiomen creek, in the county of Montgomery.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That Benjamin Chew, Jr., Casper W. Hains, Matthew Huston, Samuel Betton, John Fromberger, and Joseph P. Norris, be, and they are hereby, appointed commissioners to do and perform the several duties hereinafter mentioned, that is to say: They shall, on or before the first day of May next, procure two books, and in each of them enter as follows: "We, whose names are hereto subscribed, do promise to pay to the president, managers, and company of the Germantown and Perkiomen turnpike road, the sum of \$100 for every share of stock in the said company set opposite to our respective names, in such manner and proportions as shall be determined by the said president and managers, in pursuance of an act of the General Assembly of this Commonwealth, entitled 'An act to enable the Governor of this Commonwealth to incorporate a company for making an artificial road from the city of Philadelphia, through Germantown, to the ten-mile stone on Chesnut Hill, and from thence to the new stone bridge over Perkiomen creek, in the county of Montgomery.' Witness our hands, the — day of —, in year of our Lord 1801." And shall give notice in three of the public newspapers in the city of Philadelphia, (one whereof shall be in the German language,) for one calendar month at least, of the times when, and places where, the said books will be open to receive subscriptions of stock for the said company, at which times and places three of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, which shall be kept open for the purpose, at least 4 hours in every juridical day, for the space of three days, if three days shall be necessary; and if, at the expiration of the said three first days, the said books shall not have 500 shares therein subscribed, the said commissioners may adjourn from time to time, until the said number of shares shall be subscribed, of which adjournment public notice shall be given, in at least two public papers, and when the said subscriptions in the said books shall amount to the number aforesaid, the same shall be closed: *Provided, always,* That every person offering to subscribe in the said books in his own name, or in the name of any other person, shall previously pay to the attending commissioners \$15 for every share to be subscribed, out of which shall be defrayed the expense attending the taking such subscriptions and other incidental charges, and the remainder shall be deposited in the bank of Pennsylvania, for the use of such corporation, as soon as the same shall be organized, and the officers chosen, as hereinafter mentioned.

SEC. 2. *And be it further enacted by the authority aforesaid,* That when forty persons or more shall have subscribed 250 shares or more of the said stock, the said commissioners may, or when the whole number of shares aforesaid shall be subscribed, they shall certify under their hands and seals, the names of the subscribers, and number of shares subscribed by each subscriber, to the Governor of this Commonwealth; whereupon he shall, by letters patent, under his hand and the seal of the State, create and erect the subscribers, and if the said subscription be not full at the time, then also, those who shall thereafter subscribe to the number aforesaid, into one body politic and corporate, in deed, and in law, by the name, style, and title of "The President, Managers, and Company of the Germantown and Perkiomen Turnpike Road," and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act; and of purchasing, taking, and holding, to them and their successors and assigns, in fee simple, and for any lesser estate, all such lands, tenements, hereditaments, and estate, real and personal, as shall be necessary to them in the prosecution of their works; and of suing, and of being sued; and of doing all and every other matter and thing, which a corporation or body politic may lawfully do.

SEC. 3. *And be it further enacted by the authority aforesaid,* That the commissioners hereinbefore named, shall, as soon as conveniently may be, give thirty days' notice in three public newspapers in Philadelphia, (one whereof shall be in the German language,) of the time and place by them appointed, for the said subscribers to meet, in order to organize the said corporation, and to choose, by a majority of votes of the said subscribers, by ballots to be delivered in person or by proxy duly authorized, one president, twelve managers, one treasurer, and such other officers as shall be deemed necessary to conduct the business of the said company, until the second Monday in November next, and until like officers shall be chosen; and may make such by-laws, rules, orders, and regulations, as do not contravene the constitution and laws of this Commonwealth, and may be necessary for the well-governing the affairs of the said company: *Provided, always,* That no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share by him held under the said number.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the said company shall meet on the second Monday of November, in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such other officers as aforesaid, for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws, at which annual or special meetings they shall have full power and authority to make, alter, or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders, and regulations, made as aforesaid, and to do and perform any other corporate act.

SEC. 5. *And be it further enacted by the authority aforesaid,* That the president and managers, first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed and held, he paying fifteen dollars for each share; which certificate shall be transferable at his pleasure, in person, or by attorney duly authorized, in the presence of the president or treasurer, subject, however, to all payments due, or to grow due thereon. And the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the corporation; and, for every certificate assigned to him as aforesaid, shall be entitled to one share of the capital stock, and of all the estate and emolument of the company, and to vote as aforesaid at the meetings thereof.

SEC. 6. *And be it further enacted by the authority aforesaid,* That the said president and managers shall meet at such times and places as shall be ordained by their by-laws; and, when met, seven members shall form a quorum, and who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents, and other artists and officers, as they shall deem necessary to carry on their intended works, and to fix their salaries and wages; to ascertain the times when, and manner and proportion in which, the stockholders shall pay the moneys due on their respective shares; to draw on the Bank of Pennsylvania for all moneys, as shall have been so as aforesaid deposited, necessary to pay the salaries or wages of persons by them employed, and for the materials provided; which drafts shall be signed by the President, or, in

his absence, by a majority of a quorum, and countersigned by their treasurer; and generally to do all such other acts, matters, and things, as by this act, and by the by-laws, rules, orders, and regulations of the company, they shall be authorized to do.

SEC. 7. *And be it further enacted by the authority aforesaid,* That if, after thirty days' notice, in three of the public newspapers printed in the city of Philadelphia, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, any stockholder shall neglect to pay such proportion or dividend at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, or his assignee, shall, in addition to the dividend so called for, pay after the rate of five per cent. per month, for delay of such payment; and if the same, and the said additional penalty, shall remain unpaid for such space of time as that the accumulated penalties shall become equal to the sums before paid in part, and on account of such shares, the same shall be forfeited to the said company, and may and shall be sold to any person or persons willing to purchase, for such price as can be obtained for the same.

SEC. 8. *And be it further enacted by the authority aforesaid,* That the said road shall be made in, over, and upon, the bed of the present road, beginning at the intersection of Third street and Vine street, in the city of Philadelphia, and extending through Germantown to the ten-mile stone on the top of Chesnut hill, and from thence to the new stone bridge over Perkiomen creek, in the county of Montgomery, as nearly as may be, consistently with economy and utility: *Provided always,* that no surveyor, superintendent, artist, or other person or persons, employed by the said company to lay out the said road, shall enter upon, or go through, any land or lands belonging to any person or persons, without first obtaining permission of the owner or owners thereof.

SEC. 9. *And be it further enacted by the authority aforesaid,* That the said president, managers and company, shall cause a road to be laid out, of not less than fifty nor more than sixty feet in width, in such manner as that the present buildings on said road may not be injured; and at least twenty-eight feet thereof to be made an artificial road, bedded with wood, stone, gravel, or any other hard substance, well compacted together, and of sufficient depth to secure a solid foundation to the same; and the said road shall be faced with gravel or stone, pounded, or other small hard substance, in such manner as to secure a firm, and, as near as the materials will admit of it, an even surface, and so nearly level in its progress as that it shall in no place rise or fall more than will form an angle of four degrees with a horizontal line; and shall forever hereafter maintain and keep the same in good and perfect order, from the city of Philadelphia, by the route or track aforesaid, to the ten-mile stone on the top of Chesnut hill, and from thence to the new stone bridge over Perkiomen creek, in the county of Montgomery; and the said president, managers, and company, shall have power to erect permanent bridges over all the waters crossing the said road.

SEC. 10. *And be it further enacted by the authority aforesaid,* That, so soon as the said president, managers, and company, shall have perfected the said road from the city of Philadelphia to the five-mile stone on the Germantown road, and also, when they shall have completed the succeeding five miles, they shall give notice thereof to the Governor of the commonwealth, who shall, thereupon, forthwith nominate and appoint three disinterested and skillful persons to view and examine the same, and report to him, in writing, whether the said road is so far executed in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report shall, in either case, be in the affirmative, then the Governor shall, by license under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers, and company, to erect and fix so many gates or turnpikes, upon and across the said road, as will be necessary and sufficient to collect the tolls and duties, hereinafter granted to the said company, from all persons travelling on the same, with horses, cattle, carts, and carriages.

SEC. 11. *And be it further enacted by the authority aforesaid,* That, when the said company is licensed in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons, using the said road, the tolls and rates herein after mentioned, and to stop any person riding, leading, or driving, any horses, cattle, hogs, sheep, coach, coachee, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or any other carriage of burden or pleasure, from passing through the said turnpikes, until they shall respectively have paid the same; that is to say: for every five miles in length of the said road, completed and licensed as aforesaid, the following sums of money, and so in proportion for any lesser distance, or for any greater or lesser number of sheep, hogs, or cattle—to wit: for every score of sheep, 6 cents; for every score of hogs, 6 cents; for every score of cattle, 12 cents; for every horse and his rider, or led horse, 3 cents, for every sulkey, chair, or chaise, with one horse and two wheels, 6 cents, and with two horses, 9 cents; for every chariot, coach, phaeton, or chaise, with two horses, and four wheels, 12 cents; for either of the carriages last mentioned, with four horses, 20 cents; for every other carriage of pleasure, under whatever name it may go, the like sums according to the number of wheels and horses drawing the same; for every stage wagon, with two horses, 12 cents; and for every such wagon with four horses, 20 cents; for every sleigh, 3 cents for each horse drawing the same; and for every sled, 2 cents for each horse drawing the same; for every cart or wagon whose wheels do not exceed the breadth of four inches, 3 cents for each horse drawing the same; for every cart or wagon, whose wheels shall exceed in breadth four inches, and not exceed seven inches, 3 cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches, or, being of the breadth of seven inches, shall roll more than ten inches, 2 cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceed twelve inches, or being ten inches, shall roll more than fifteen inches, 1 cent for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than twelve inches, 1 cent for every horse drawing the same. And if any person or persons shall represent to the said company, or any of their officers, that he, she, or they have travelled a less distance than he, she, or they have actually travelled along the said road, with intent to defraud the said company of its toll, or any part thereof, such person or persons shall, for every such offence, forfeit and pay to the use of said company the sum of sixteen dollars; and if any toll-gatherer shall demand and receive toll for a greater distance than the person of whom such toll is demanded shall have travelled along the said turnpike road, or shall demand and receive greater toll from any person or persons than such toll-gatherer is authorized to demand and receive by virtue of this act, such toll-gatherer shall forfeit and pay the sum of twenty dollars, for every such offence, to the use of the overseers of the poor of the township in which the forfeiture is incurred; and for the payment of which the said company shall be responsible.

SEC. 12. *And be it further enacted by the authority aforesaid,* That no wagon or other carriage with four wheels, the breadth of which wheels shall not be four inches, shall be drawn along the said road between the first day of November and the first day of May following in any year, with a greater weight thereon than two and a half tons, or with more than three tons the residue of the year; that no such carriage, the breadth of whose wheels shall not be seven inches, or being six inches or more, shall not roll at least ten inches, shall be drawn along the said road between the said first days of November and May, with more than three and a half tons, or with more than four tons during the residue of the year; that no such carriage, the breadth of whose wheels shall not be ten inches



or more, or being less, shall not roll at least twelve inches, shall be drawn along the said road between the first days of November and May, with more than five tons, or with more than five and a half tons during the residue of the year; that no cart or other carriage with two wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road with a greater weight thereon than one and a quarter tons, between the said first days of November and May, or with more than one and a half tons during the residue of the year; that no such carriage, whose wheels shall not be the breadth of seven inches, shall be drawn along the said road with more than two and a half tons, between the first days of November and May, or with more than three tons during the residue of the year; that no such carriage whose wheels shall not be of the breadth of ten inches, shall be drawn along the said road between the said first days of November and May, with more than three and a half tons, or with more than four tons during the residue of the year; that no greater weight than seven tons shall be drawn along the said road in any carriage whatever, between the said first days of November and May, nor more than eight tons during the residue of the year; that no cart, wagon, or carriage of burden whatsoever, whose wheels shall not be of the breadth of nine inches, shall be drawn or pass in or over the said road or any part thereof, with more than six horses, nor shall more than eight horses be attached to any carriage whatsoever, used on the said road. And if any wagon or other carriage, shall be drawn along the said road by a greater number of horses, or with a greater weight than is hereby allowed, the owner or owners of such carriage shall forfeit and pay four times the customary toll to the use of the company: *Provided, always,* That it shall and may be lawful for the said company, by their by-laws, to alter any or all of the regulations herein contained, respecting the burdens on carriages to be drawn over the said road, and to substitute other regulations, if upon experience such alterations should be found conducive to the public good: *Provided, always,* That such regulations shall not lessen the burdens of carriages above described.

SEC. 13. *And be it further enacted by the authority aforesaid,* That all such carriages as aforesaid, to be drawn by oxen in the whole, or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse in charging all the aforesaid tolls, and every mule is equal to one horse.

SEC. 14. *And be it further enacted by the authority aforesaid,* That if the said company shall neglect to keep the said road in good and perfect order, for the space of five days, and information thereof shall be given to any justice of the peace of the neighborhood, within the county where the repair ought to be made, such justice shall issue a precept to be directed to any constable, commanding him to summon three disinterested persons, to meet at a certain time in the said precept to be mentioned, at the place in said road which shall be complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto within the said county, and the said justice shall, at such time and place, on the oaths or affirmations of the said persons, inquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made under the hands of himself and a majority of the said persons, and if the said road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates, shall cease to be demanded, paid, or collected, until the said defective part or parts of the said road shall be put in good and perfect order and repair as aforesaid. And if the same shall not be so put into good and perfect order and repair before the next general court of quarter session of the peace, to be held for the county in which the defect is proved to be, the aforesaid justices shall certify and send a copy of the inquisition aforesaid to the justices of the said court, and the said justices shall, thereupon, cause process to issue, and bring in the body or bodies of the person or persons intrusted by the company with the care and superintendence of such part of the said road as shall be so found defective, and shall proceed upon such inquisition in the same manner and form as upon indictments found by the grand inquest for the body of the county against supervisors of the highways for neglect of their duty; and if the person or persons intrusted by the said company as aforesaid, shall be convicted of the offence by the said inquisition charged, the said court shall give such judgment, according to the nature and aggravation of the neglect, as, according to right and justice, would be proper in the case of supervisors of the highways neglecting their duties; and the fines and penalties so to be imposed, shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said court, and shall be paid to the supervisors of the highways of the township wherein the offence was committed, to be applied to repairing the public roads within such township.

SEC. *And be it further enacted by the authority aforesaid,* That if any person or persons whomsoever, owning, riding in, or driving, any sulkey, chair, chaise, phaeton, cart, waggon, wain, sleigh, sled, or other carriage of burden or pleasure, or owning, riding, leading, or driving, any horse, mare, gelding, hogs, sheep, or other cattle, shall therewith pass through any private gates or bars, or along or over any private passage, way, or other ground, near to or adjoining any turnpike or gate erected, or which shall be erected in pursuance of this act, with an intent to defraud the company and avoid the payment of the toll or duty for passing through any such gate or turnpike; or if any person or persons shall with such intent, take off, or cause to be taken off, any horse, mare, or gelding, or other cattle, from any sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, or practise any other fraudulent means or device, with the intent that the payment of any such toll or duty may be evaded or lessened, all and every person or persons, in all, or every, or any, of the ways or manners aforesaid offending, shall, for every such offence respectively, forfeit and pay, to the president, managers, and company, of the Germantown and Perkiomen Turnpike Road, the sum of \$10, to be sued for and recovered with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations as debts under twenty pounds may be sued for and recovered: *Provided, always,* That if any person or persons shall be prosecuted under this section of the act, and the said prosecution shall not be sustained on the part of the prosecutors, then, and in such case, the person or persons prosecuted as aforesaid, shall receive from the company the sum of \$10, in lieu of damages arising from delay and a vexatious prosecution, recoverable as other fines under this act.

SEC. 16. *And be it further enacted by the authority aforesaid,* That the president and managers of the said company shall keep fair and just accounts of all moneys received by them from the said commissioners, and from the subscribers to the said undertaking on account of the several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also all moneys by them expended in the prosecution of their said work, and shall once at least in every year submit such accounts to a general meeting of the stockholders until the said road shall be completed, and until all the costs, charges, and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if, upon such liquidation, or whenever the capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will be insufficient to complete the said road according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers, and company, at a stated or special meeting to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the



work, and to receive and demand the moneys subscribed for such shares in like manner, and under the like penalties as are herein before provided for the original subscriptions, or as shall be provided by their by-laws.

SEC. 17. *And be it further enacted by the authority aforesaid,* That the said president, managers, and company shall also keep a just and true account of all and every the moneys received by their several and respective collectors of tolls at the several and respective gates or turnpikes on the said road from the beginning to the end thereof, and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted among all the subscribers to the said company's stock; and shall on the first Monday in November and May in every year publish the half yearly dividend made of the said clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

SEC. 18. *And be it further enacted by the authority aforesaid,* That the said president and managers shall at the end of every year from the date of the incorporation, until the whole road shall be completed, lay before the General Assembly of this commonwealth an abstract of their accounts, showing the whole amount of capital expended in prosecution of the said work, and of the income and profits arising from the said tolls for and during the said respective periods, together with an exact account of the cost and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after the said road shall be completed from beginning to end thereof it shall appear from the average profits at the end of the said two years that the said clear income and profits thereof will not bear a dividend of six per cent. per annum on the whole capital stock of the said company so expended, then it shall and may be lawful for the said president, managers, and company to increase the tolls herein above allowed so much upon each and every allowance thereof as will raise the dividend up to six per cent. per annum; and at the end of every year after the said road shall be completed they shall render unto the General Assembly a like abstract of their accounts; and if at any time the said clear income and profits thereof shall exceed a dividend of nine per cent. per annum, the surplus above that amount, when sufficient shall arise, shall be appropriated by the said president and managers to the purchase of such share or shares of the said stock as the money arising from the said surplus as aforesaid will be found adequate to purchase, until all the said shares shall be so purchased. And the said subscribers shall determine by lot from time to time whose share or shares shall be paid off by the money arising as aforesaid; for which shares the said company shall pay the sums which were originally paid for each respective share; and when the whole number of shares shall be purchased as aforesaid, then the said road shall be free, and no toll whatever shall be exacted.

SEC. 19. *And be it further enacted by the authority aforesaid,* That the said company shall cause posts to be erected and continued at the intersection of every public road falling into and leading out of the said turnpike road, with a board and index-hand pointing to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town, village, or place to which such road leads, and the distance thereof in computed miles.

SEC. 20. *And be it further enacted by the authority aforesaid,* That the said company shall cause mile-stones to be placed on the side of the said road beginning at the distance of one mile from Philadelphia, and extending thence to the termination of the turnpike aforesaid, whereon shall be marked, in plain legible characters, the respective number of miles which each stone is distant from the bounds of the city of Philadelphia, and at every gate or turnpike by them to be fixed on the said road shall cause the distance from Philadelphia and the distance from the nearest gates or turnpikes in each direction to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates or some other conspicuous place for the information of travellers and others using the said road; and if any person shall wilfully destroy the said posts, boards, index-hands, or mile-stones, or deface the same, or deface the directions made on the said gates or other conspicuous places as aforesaid, or shall, without permission of the acting superintendent of the said road, throw out upon the road or within the limits of the same, and suffer to remain for the space of one day any mould, dirt, shavings, weeds, or rubbish of any kind, such person being convicted thereof by the evidence of one or more credible and disinterested witnesses before any disinterested justice of the peace of the county, he or she shall be adjudged by the said justice to pay a fine not exceeding five dollars, to be recovered with costs, as debts under five pounds are by law recoverable, which fine, when recovered, shall be paid by the said justice to the treasurer of the said company, for the use of said company.

SEC. 21. *And be it further enacted by the authority aforesaid,* That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the road free and clear for other carriages to pass and to repass; and if any driver shall offend against this provision, he shall forfeit and pay the sum of two dollars to any person who shall be obstructed in his passage and will sue for the same, to be recovered with costs before any justice in the same manner as debts under forty shillings are by law recoverable.

SEC. 22. *And be it further enacted by the authority aforesaid,* That if the company shall not proceed to carry on the said work within two years after the passing this act, or shall not within ten years afterwards complete the said road according to the true intent and meaning of this act, then in either of those cases, all and singular the rights, liberties, privileges, and franchises hereby granted to the company, shall revert to this commonwealth.

SEC. 23. *And be it further enacted by the authority aforesaid,* That if the Legislature should at any time, after the year 1820, think proper to take possession of the said road, three persons shall be appointed by the Governor, and three by the president and managers of the said company, and three by the judges of the supreme court, who, or any six or more of them not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the Governor of this commonwealth, who shall cause the same to be laid before the Legislature at their next session, and whenever the amount so certified shall be paid by the State to the said company, their right to take toll on the said road, together with all their right, title, claim, and interest therein, shall cease and determine.

ISAAC WEAVER, JUN.,

*Speaker of the House of Representatives.*

JOHN WOODS,

*Speaker of the Senate.*

Approved, February 12, 1801.

THOMAS McKEAN,

*Governor of the Commonwealth of Pennsylvania.*

Supplement to the Germantown and Perkiomen Turnpike act: Passed 1806.

SEC. 2. *And be it further enacted by the authority aforesaid,* That so much of each and every of the incorporating acts of the before recited companies as subjects them severally to a penalty for taking tolls in advance, as is hereby further altered and supplied, shall be, and the same is hereby, repealed.

Extract from the minutes of the Germantown and Perkiomen Turnpike Road Company.

JOSEPH BULLOCK, *Secretary.*

PHILADELPHIA, August 20, 1807.

In compliance with the request contained in your note of the 7th instant, and with the wishes of the Secretary of the Treasury, the "Presidents and Directors of the Susquehannah and Lehigh," and of "the Susquehannah and Tioga Turnpike Road Companies," with peculiar pleasure communicate to you the following statement of their several undertakings in Pennsylvania, which, they flatter themselves, will come expressly within the description contained in the resolution of the Senate of the United States, of "objects of public improvement, which require and deserve the aid of the General Government;" that they require such aid, the unfinished state in which they remain, and their deficient capital abundantly prove; that they deserve it, will not be doubted by those who consider an attention to the interior improvement of the United States, and to the facility of the domestic intercourse between their citizens as among the best means of promoting national and individual prosperity.

The two incorporated companies above referred to may be considered as parts of one entire undertaking, having in view, as they connect with others, one great object, viz: to open a direct turnpike communication between the city of Philadelphia and the head of the Seneca lake, in the State of New York; a communication which, in its direction, would be the nearest and best from Philadelphia, and from New York to the shores of Lake Ontario above Sodus bay, and to Upper Canada as well as to Niagara, with its connexions and dependencies; and the safest at all times, being, in its whole distance, through a fertile and increasingly populous country, no part of which, in case of a foreign war, would be subject to the inconveniences of a frontier exposure.

The distance from Philadelphia to the head of the Seneca lake, by the route contemplated, is but two hundred and twelve miles, which distance has been, at different times, and with different views, apportioned into sections, and companies organized or authorized by the Legislature for turnpiking the whole, except in Pennsylvania that part of the road which is between Bethlehem and Weiss's ferry, (twenty-five miles,) and in New York State, from the State line to Newtown, (six miles;) both which sections are in an open country, through which there is now a good road.

From the head of the Seneca lake to the bay of Sodus, on Lake Ontario, is seventy miles through a fine country; so that from the city of Philadelphia to Sodus bay, on that lake, communicating with and bounding on Upper Canada, is, in the whole distance, but two hundred and eighty-two miles, admitting, in all its extent through Pennsylvania, (and we believe also through New York,) of a good road.

To dwell on the immense importance of such a communication to the United States, to the States of Pennsylvania and New York, to the city of Philadelphia, or, to the interior country, would be superfluous to the enlightened Legislature for which the communication is intended, and might be deemed improper from us.

The section of road first undertaken with a view of ultimately uniting the aforesaid points, was that authorized by an act of the Legislature of Pennsylvania, passed March 19, A. D., 1804, "enabling the Governor to incorporate a company by the name of "the President, Managers, and Company of the Susquehannah and Lehigh Turnpike, to make an artificial road from Nescopeck, on the northeast branch of the Susquehannah, to a place called Lausanne, on the north side of Nesquehoning creek, near its entrance into the river Lehigh, a distance of thirty miles." This distance was in part through a mountainous country, but, being about the middle ground, and that which presented the greatest obstacles from its thin population, it was determined to commence the great object in view by first completing this section, which would demonstrate, at the same time, the practicability and the expense of the remainder, and would also immediately open, by this short portage, the water communication from Newtown, on the Tioga, to Philadelphia.

It was accordingly undertaken in the autumn of 1804 and was completed in 1805, so that there is now a good turnpike road through an heretofore almost impassable wilderness, by which the produce of the northeast branch of the Susquehannah, at Nescopeck, may be brought to Lausanne, at the head of the Lehigh navigation, and thence, in times of fresh, and when the navigation of that river shall be improved, at all times to Easton, Trenton, Philadelphia, &c.

The success of this first section of road, and its great benefit to all the surrounding country, induced an application to the ensuing Legislature for a continuance of it to Berwick (on the west side of the Susquehannah, opposite to Nescopeck) or Whopehawly, a few miles above it, to that point on the State line which is nearest to Newtown, on the Tioga, in the State of New York. An act was accordingly passed on the 28th March, 1806, authorizing a company called the "President, Managers, and Company of the Susquehannah and Tioga Turnpike" for this purpose, which was duly organized, and under whose direction the road is now progressing from Berwick as fast as the limited subscription to its stock (which appears in the schedule hereunto annexed) will admit. This section (which consists of seventy-one miles from Berwick to that point on the State line nearest to Newtown, on the Tioga,) terminates near the seventy-mile stone on the line of the State of New York, from whence there is so good a road of six miles to Newtown that a turnpike was not at present deemed necessary. From Newtown to the head of the Seneca lake (eighteen miles) a company is authorized, by an act of the Legislature of the State of New York, to make an artificial road, which would thus terminate at its northern extremity the communication proposed. The experience obtained in making the first section of thirty miles, and the information of the surveyor, who has explored the whole of the section from Berwick to the State line, justify us in the opinion that this last might be completed, as the law requires, at an average rate of \$1,000 per mile, amounting, for the whole, to \$71,000, of which sum individuals have subscribed, payable in money and in land, one hundred and thirteen shares at \$100 each, leaving a deficiency (to complete the whole number of shares contemplated) of five hundred and ninety-seven shares at \$100 per share, equal to \$59,700.

The completion of the whole of this section, or at least the opening of it, so as to admit the free passage of wagons, is essential to every part of the proposed plan, because its northern commencement is at that point, to and from which the greatest intercourse is contemplated, and a considerable part of its progress is through a country yet but thinly settled and without any good roads. It is believed that \$200 per mile, being \$14,200, would enable the company to open the road so as to answer every purpose of advantage, except the immediate receipt of toll, which, in a national view, would probably be the last consideration, as it has been of individual attention in every part of this important undertaking; the patrons of which, while they had no doubt that, in a few years, this receipt would amount at least to the legal interest of the money expended, were generally stimulated by considerations more

interesting, and involving their individual interests in the increased prosperity which would be given to the agricultural interests of the State and the commercial benefits to its capital.

At the same session of the Legislature of Pennsylvania, viz: on the 17th of March, 1806, an act was also passed authorizing the president and managers of the Susquehannah and Lehigh Turnpike Company, to extend the section of the thirty mile road, from its termination at Lausanne to Weiss's ferry, formerly called Fort Allen, on the Lehigh, where there is a good bridge over that river; the distance of this section is five miles, and the number of shares authorized to be subscribed for its completion is sixty, at \$100 per share, making \$6,000, which would be amply sufficient for the object. No part of this section, which, though small, is a very important one, has been yet undertaken, nor shares subscribed; a part of it, of about one and a half miles, is among the worst pieces of road in the whole distance, being through a very narrow defile between the mountain and the river Lehigh, which rises suddenly from its banks.

The same act last mentioned also authorizes a branch road to be made from the main section of thirty miles to any point on the Susquehannah, within three miles above the mouth of Whopehawly creek, and a subscription for making said branch road not to exceed fifty shares at \$100 each. This subscription has not yet been made, nor any part of it.

From the termination of the five mile section at Fort Allen, on the Lehigh, the distance to Bethlehem is twenty-five miles through an old settled country, with a road sufficiently good to satisfy the inhabitants, and for which no turnpike has been thought necessary. From Bethlehem to the Spring House tavern, a well known stage road, (thirty-four miles,) an act of assembly authorizes a turnpike road, not yet commenced. The last section from the Spring House tavern over Chestnut hill, and through Germantown to Philadelphia, (eighteen miles,) has a good turnpike road now completed.

Thus it appears, that, in the whole distance of two hundred and twelve miles from Philadelphia to the head of the Seneca lake, in the State of New York, by the route proposed, there are but thirty-one miles for which legislative sanction has not been obtained for the formation of a turnpike road, on principles which it is believed would combine national and individual utility. That a very considerable progress has been made in the several sections of this great work, the practicability of the whole demonstrated, and its expense ascertained, by the completion of several parts, to be very moderate, and trifling, indeed, when compared with the numerous and extensive benefits necessarily flowing from it.

These benefits are, however, at present out of the reach of attainment by individual exertion and capital only, both of which have been extended as far on these objects in Pennsylvania as they will go; it is, therefore, with peculiar pleasure that the friends of interior improvement see, at a moment when their assistance is so necessary, the views of the Government of the United States directed towards them, and encouraged by its request for information, they venture further in taking the liberty of suggesting to the Secretary of the Treasury their opinion that the application of such means as the policy and liberality of the Government of the United States should devote to these objects, would probably be best applied by the Government becoming interested in the stocks of the several companies whose objects require and deserve its support. Then would the funds, they might thus devote, be directed under the superintendence of individuals who would be proportionably interested in their faithful and economical application to the objects intended, and without any compensations or salaries but such as were absolutely necessary to those employed in the actual superintendence and completion of the respective works.

The advocates for internal improvement, from such a union of capital, zeal, and economy, would soon see realized those important advantages to the Union, to the separate States, and to individuals, which have at all times, and in all countries, been the certain consequences of the improvement of their roads and rivers; of the extent of these benefits, the intelligent members of our State Legislature have been generally very sensible, but local interests, or other causes, have hitherto frustrated from this quarter the application of that aid which the extensive views, the liberal policy, and greater ability of the Government of the United States will, we trust, speedily supply.

We are, respectfully, &c.

PETER BROWNE,

*President Susqu. and Tioga T. R. Com.*

THOMAS STEWARDSON,  
BENJAMIN R. MORGAN,  
JOS. BENNET EVES,  
WM. TURNBULL,  
CALEB CRESSON, JUN.,  
JOHN ASHLEY,  
ANTHONY MORRIS,  
SAMUEL M. FOX,  
LEVI HOLLINGSWORTH, *Managers.*  
THOMAS C. JAMES, *Treasurer.*

ANTHONY MORRIS,

*President Susqu. and Lehigh T. R. Com.*

BENJAMIN R. MORGAN,  
WM. TURNBULL,  
THOMAS DOBSON,  
SAMUEL HODGDEN,  
ROBERT E. GRIFFITH,  
LEVI HOLLINGSWORTH,  
GODFREY HAGA, *Managers.*  
THOMAS C. JAMES, *Treasurer.*

Attest:

BLATHWAITE SHOBER, *Secretary.*

General WILLIAM McPHERSON.

*Answers to questions annexed to the resolutions of the Senate of the United States, relative to the Susquehannah and Lehigh turnpike road.*

ANSWER 1. From Lausanne, near the Turn Hole on the river Lehigh, to the falls of Nescopeck, on the river Susquehannah, the distance is thirty miles.

ANS. 2. The general elevation of the ascents of the mountains is six degrees, and of the hills near the large streams about five degrees; no particular degree of elevation being required by the act of incorporation.

ANS. 3. The breadth of the road is twenty feet exclusive of the ditches. The form is the segment of an arch rising from about fourteen to sixteen inches. The materials bedded with stone, in all places where stone was convenient, and the soil required it; in the low lands, where stone could not be regularly procured, with logs, when necessary.

ANS. 4. There are four bridges on the road all of wood, three of which are framed and one of logs; dimensions from twelve to eighteen feet in breadth.

ANS. 5. The chief obstructions and difficulties which have all been surmounted were rising the mountains with an easy ascent, and the removal of large trees by the roots, and of heavy rocks or stones.

ANS. 6. The general expense by contract was one thousand dollars per mile, excepting three miles up the ascent of the Broad mountain, which cost fifteen hundred dollars per mile, exclusive of one large bridge over the Nescopeck creek, which cost about seven hundred dollars.

ANS. 7. The capital already expended (raised by the liberality of individual enterprise) amounts to upwards of twenty-five thousand dollars. There remains due to the contractors who made the road, the sum of ten thousand dollars and upwards; such deficit occurring in the stock of the company, in consequence of the whole number of shares contemplated not being subscribed.

ANS. 8. The rates of tolls, as fixed by law for every five miles, are as follow, viz: for every score of sheep, 4 cents; every score of hogs, 6 cents; every score of cattle, 12 cents; every horse or mule, with its rider, &c., 3 cents; every sulkey, chair, or chaise, with two wheels and one horse, 6 cents, or, with two horses, 9 cents; for every chair, coach, phaeton, chaise, stage-wagon, coachee, or light wagon, with two horses and four wheels, 12 cents, or with four horses, 20 cents, &c. *Vide* act of incorporation.

The gross amount of tolls from November, 1806, when toll was first taken, to July, 1807, inclusive, being nine months, is one thousand three hundred and thirty-four dollars, seven cents; one-half of the amount of tolls for the first year is to be paid by contract for keeping the road in complete repair for the aforesaid term, but, after that period, it is presumed it can be done at a much smaller expense; and a great increase of tolls is confidently expected as soon as the road is opened from Nescopeck to the New York line. The nett annual income cannot be ascertained until the expiration of the year.

ANS. 9. The only act of the Legislature on this subject is that under which the company is incorporated, passed March 19, 1804, authorizing a subscription of two hundred and fifty shares, at one hundred dollars each, with liberty to extend the capital stock, if insufficient to complete the road. The number of shares subscribed is two hundred and sixty-seven; but as the whole of these will probably never be paid up, and as the road will cost upwards of thirty-five thousand dollars, there will remain a deficiency, without legislative aid, of at least one hundred shares, or in cash, as before stated, ten thousand dollars and upwards.

The style of the company is "The President, Managers, and Company, of the Susquehannah and Lehigh Turnpike Road."

The limitation of dividends arising from the tolls is to 9 per cent. on the capital stock.

*Answers to queries relative to the "Susquehannah and Tioga Turnpike road."*

ANSWER 1. From Nescopeck, on the northeast branch of the river Susquehannah, (opposite to Berwick,) to that point on the State line which is nearest to Newtown, on the Tioga, in the State of New York, being a continuation of the Susquehannah and Lehigh turnpike road, distance seventy-one miles.

ANS. 2. The only mountains of any consequence, in the whole distance, are the Nob mountain and the Bald or North mountain, the ascent of which will require an elevation of not more than six degrees, or twenty-one inches in a perch. The act of incorporation requires no particular degree of elevation.

ANS. 3. Breadth of the road required to be formed by an arch of about sixteen inches, is twenty feet exclusive of the ditches on each side, bedded, where necessary, with wood, stone, gravel, or other proper and convenient materials, a sufficient depth to secure a solid foundation, but in many parts, over a hilly country, the solid substance of the natural soil requires no artificial bed.

ANS. 4. Eight bridges only, over streams of any magnitude, will be requisite in the whole distance, to wit:

- Over Huntingdon creek, a bridge of seventy-six feet long;
- Over South branch of Loyalsock, a bridge of one hundred feet long;
- Over middle branch of Loyalsock, a bridge of forty feet long;
- Over middle branch of Tawandee, a bridge of forty feet;
- Over main branch of Tawandee, a bridge of sixty-five feet,
- Over Sugar creek, a bridge of forty feet;
- Over Jack creek a branch of Sugar creek, a bridge of twenty-five feet;
- Over Bentley's creek, a bridge of twenty feet.

The above bridges to be generally about eighteen feet in width.

ANS. 5. No obstructions or difficulties but such as are common to the making of roads through all parts of the country which are not generally improved or settled, except the Bald or North mountain, and the Nob mountain, over both which the ascent required will not exceed an elevation of six degrees, or twenty-one inches in the perch.

ANS. 6. The general expense averaged at one thousand dollars per mile, which is founded on the experience acquired in the undertaking of a similar road from the Lehigh to Nescopeck, and on the proposals made for a part of the road now under consideration.

ANS. 7. The capital expended is yet but small, being confined to the exploring the best ground, laying down the track of the road, &c.

The whole sum wanted for completing the turnpike road, as the act directs would be, for 71 miles, at one thousand dollars per mile, - - - - - \$71,000  
Of which sum individuals have subscribed 113 shares at \$100 per share, - - - - - 11,300

Total deficit, - - - - - \$59,700

But it is believed that to open the road only the whole distance, (without at present turnpiking it,) so as to admit of the passage of wagons, would not require, including all expenses, more than two hundred dollars per mile, or fourteen thousand two hundred dollars.

ANS. 8. The rates of toll are the same as those annexed to the communication from the Susquehannah and Lehigh turnpike. *Vide* act of incorporation.

The gross amount not ascertained.

ANS. 9. Company incorporated by the name of "The President, Managers, and Company of the Susquehannah and Tioga Turnpike Road," March 28, 1806; which authorizes a capital stock of sixty thousand dollars, to be composed of six hundred shares at one hundred dollars each, with liberty to increase the stock, if necessary; deficient to make up the number of shares mentioned in the act, four hundred and eighty-seven shares, at one hundred dollars each, forty-eight thousand seven hundred dollars.

The dividends to which the company are entitled from the receipt of tolls cannot exceed nine per cent.

PHILADELPHIA AND LANCASTER TURNPIKE COMPANY, *September 7, 1807.*

Your communication of the 7th ultimo, enclosing the copy of a letter from the Secretary of the Treasury, and certain queries respecting canals and artificial roads, to which answers are requested, was duly received at the office of the Philadelphia and Lancaster Turnpike Road. Observing that these queries are made to assist the Secretary in reporting to the Senate of the United States upon the subject of canals and artificial roads, with a view that Congress may afford aid and assistance to such public undertakings, it gives me pleasure, on behalf of the managers of the Philadelphia and Lancaster Turnpike Company, to communicate all the information in my power.

The subscribers to this company were incorporated by letters patent from the Governor of Pennsylvania, by virtue of an act of the Legislature, passed the 9th April, 1792, by the name and style of the "President, Managers, and Company of the Philadelphia and Lancaster Turnpike Road." Of this assembly we believe the honorable Secretary was a member. The capital stock of the company was to consist of one thousand shares of three hundred dollars each, making three hundred thousand dollars, with power to increase the same, if necessary. The object in view was to make an artificial road from the western side of the river Schuylkill, opposite to Market street, to the borough of Lancaster, crossing the Conestoga at Witmer's bridge, a distance of sixty-two miles and eighty perches. The law requires the road to be fifty feet wide—twenty-one feet whereof, at least, to be made an artificial road, to be bedded with wood, stone, gravel, or other hard substance, of an even surface, rising towards the middle by a gradual arch, and in no place to make an angle of more than four degrees with the horizon.

The work was commenced in the month of February, 1793, and completed in December, 1795; since when it has been much improved. The artificial part is twenty-four feet wide, is all made of pounded stone, except the two first miles, which are of coarse gravel; the stone is laid eighteen inches deep in the middle, decreasing to twelve inches at the edges, thereby forming the gradual arch required.

The summer or side road is thirteen feet, and generally ditched. The principal hills in the track of the road are the North and South Valley hills and the Conestoga hills.

The road no where runs more than four degrees above the horizon. This, however, is too much; it ought never to exceed three or three and a half degrees. The great bridges are the "Permanent Bridge," over the Schuylkill, at the beginning of the road; over the Great Brandywine, at Downingtown, and over the Conestoga, near Lancaster. The first of these was lately erected, by a separate company, at an immense expense. It is one of the finest bridges in the United States, and cost near three hundred thousand dollars. The superstructure is of wood, resting on large piers and abutments of solid masonry. It is five hundred and fifty feet in length, abutments and wings seven hundred and fifty feet, and forty-two feet in width; has three arches, the middle one one hundred and ninety-four feet ten inches span, the other two one hundred and fifty feet each; and from the surface of the water to the platform is thirty-one feet. The whole is covered with a shingle roof.

The bridge at Downingtown was erected by the turnpike company at an expense of about twelve thousand dollars, and is built of limestone. It is a strong and elegant piece of masonry of three arches.

The bridge over the Conestoga is of stone, and is private property, belonging to Abraham Witmer, who built it at his own expense. It is a large well built bridge of nine arches.

Besides these there are several bridges upon this road, built at the expense of the turnpike company, all of stone. Those over the Little Brandywine, the Pequa creek, and other streams, are large and well built; indeed, every stream has its stone bridge of different sizes, depending upon the quantity of water and the ground. The swamps or morasses were all filled up with repeated additions of stone to the required height and solidity.

The one thousand shares first contemplated were insufficient; two hundred additional shares were therefore created, making, in the whole, three hundred and sixty thousand dollars. This sum still proved insufficient. The work, nevertheless, was completed by loans; all which have been finally discharged about three months since by the stockholders, making the whole capital expended amount to upwards of four hundred and sixty-five thousand dollars, averaging about seven thousand four hundred and ninety dollars per mile. The stone used was of various kinds and qualities. Of these the dark blue lime-stone is the best. The white lime stone is too soft. Quarrying cost from fifteen to twenty cents per perch. The expense of hauling necessarily depends upon the distance, &c. A four-horse team costs from four to five dollars per day. Stone costs, delivered, from fifty to eighty-seven cents per perch; and, when the distance exceeds three miles, one dollar has been paid. Breaking stone to the size of a hen's egg costs from twenty to twenty-five cents per perch; for breaking and spreading thirty-three cents has been paid. The best gravel near the city costs from eighty-five to one hundred cents per cubic yard, screened and delivered.

The copy of the act of incorporation, herewith, shows the rate of tolls.

There are thirteen toll-gates on the road, and the keeper of each receives from two hundred and fifty to three hundred and fifty dollars per annum.

The amount received from the toll-gatherers, after deducting their respective salaries, is as follows:

For 1799,	-	-	-	\$14,386 80	For 1804,	-	-	-	\$20,144 90
1800,	-	-	-	17,627 29	1805,	-	-	-	22,866 29
1801,	-	-	-	21,158 38	1806,	-	-	-	22,573 47
1802,	-	-	-	20,336 52	1807, for the first six months of,				18,972 14
1803,	-	-	-	24,913 21					which far exceeds any preceding year.

The annual repairs are about eight thousand dollars.

The salary of the treasurer, office rent, fire wood, lights for toll-houses, &c. are about one thousand five hundred dollars per annum, making, with the salaries of the toll-gatherers, amounting to three thousand seven hundred and fifty dollars, but deducted as aforesaid, an annual expenditure of about thirteen thousand two hundred and fifty dollars.

The dividends to the 1st of January, 1803, did not average two per cent. on the capital. The road being now, however, completed, and in good repair, the prejudices against the turnpike having, in a great measure, vanished, and the travelling fast increasing, it is confidently believed that the road will hereafter yield from four to five per cent. per annum on the capital stock, and the market price is accordingly near to par, and the stock difficult to be obtained.

On behalf of the managers:

WILLIAM MCPHERSON, Esq.

ELLISTON PEROT, *President.*

AN ACT to enable the Governor of this commonwealth to incorporate a company, for making an artificial road from the city of Philadelphia to the borough of Lancaster.

Whereas, the great quantity of heavy articles, of the growth and produce of the country, and of foreign goods, which are daily transported between the city of Philadelphia and the western counties of the State, requires an amendment to the highway, which can only be effected by artificial beds of stone and gravel, disposed in such manner as to prevent the wheels of carriages from cutting into the soil, the expenses whereof will be great, and it is reasonable that those who will enjoy the benefits of such highway should pay a compensation therefor; and there is reason to believe that such highway will be undertaken by an association of citizens, if proper encouragement be given by the Legislature.

SEC. 1. *Be it therefore enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That Elliston Perot, Henry Drinker, Jun., Owen Jones, Jun., Israel Whelen, and Cadwallader Evans, of the city of Philadelphia, gentlemen; and Edward Hand, John Hubble, Paul Zantinger, Matthias Slough, and Abraham Witmer, of the county of Lancaster, gentlemen, be, and they are hereby, appointed commissioners, to do and perform the several duties hereinafter mentioned, that is to say, they shall, on or before the 1st day of May next, procure two books, and in each of them enter as follows: "We, whose names are hereto subscribed, do promise to pay to the president, managers, and company of the Philadelphia and Lancaster Turnpike Road Company, the sum of three hundred dollars, for every share of stock in the said company set opposite to our respective names, in such manner and proportions, and at such times, as shall be determined by the said president and managers, in pursuance of an act of the General Assembly of this commonwealth, entitled 'An act to enable the Governor of this commonwealth to incorporate a company, for making an artificial road from the city of Philadelphia to the borough of Lancaster.' Witness our hands, the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand seven hundred and ninety-two;" and shall thereupon give notice, in three of the public papers in the city of Philadelphia, one whereof shall be in the German language, and in the public paper printed in Lancaster, for one calendar month at least, of the times and places in the said city and borough respectively, when and where the said books shall be open to receive subscriptions of stock for the said company; at which respective times and places some three of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, which shall be kept open for the purpose, at least six hours in every juridical day, for the space of three days, if three days shall be necessary; and on the first of the said days, any person, of the age of twenty-one years, shall be at liberty to subscribe in his own name, or in the name or names of any other person or persons, by whom he shall be authorized, for one share; on the second day, for one or two shares; on the third, for one, two, or three shares; and on any succeeding day, while the said books shall remain open, for any number of shares in the said stock; and if, at the expiration of the said three first days, the said book opened at Philadelphia shall not have six hundred shares therein subscribed, and the said book open at Lancaster, shall not have four hundred shares therein subscribed, the said commissioners respectively may adjourn, from time to time, until the said numbers of shares shall be subscribed, of which adjournments public notice shall be given in at least one public paper in each place; and when the said subscriptions, in the said books, shall amount to the respective numbers aforesaid, the same shall respectively be closed; and if, on that day, and before the said subscriptions shall be declared to be full, applications shall be made to subscribe more shares than will fill the said books, or either of them, to the numbers aforesaid respectively, then the said commissioners respectively shall apportion the whole number of shares unsubscribed, at each respective place, on the morning of that day, among all those who shall have subscribed, or offered to subscribe, as aforesaid on that day, by deducting from the subscribers of more shares than one, such proportion of the shares by them respectively subscribed, as will, with the least fraction, and leaving every person one or more shares, come nearest to the exact number of shares aforesaid: *Provided always,* That every person offering to subscribe in the said books in his own name, or any other name, shall previously pay to the attending commissioners thirty dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions, and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen, as hereinafter mentioned.

SEC. 2. *And be it further enacted by the authority aforesaid,* That when one hundred persons or more shall have subscribed five hundred or more shares of the said stock, the said commissioners, respectively, may, or when the whole number of shares aforesaid shall be subscribed, they shall certify, under their hands and seals, the names of the subscribers, and the number of shares subscribed by or apportioned to each subscriber, to the Governor of this commonwealth; and thereupon it shall and may be lawful for the Governor, by letters patent, under his hand and the seal of the State, to create and erect the subscribers, and if the said subscriptions be not full at the time, then also those who shall after subscribe to the numbers aforesaid, into one body politic and corporate, in deed and in law, by the name, style, and title of "The President, Managers, and Company of the Philadelphia and Lancaster Turnpike Road;" and by the said name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act; and of purchasing, taking, and holding, to them, and their successors and assigns, in fee simple, or for any lesser estate, all such lands, tenements, hereditaments, and estate, real and personal, as shall be necessary to them in the prosecution of their works; and of suing and being sued, and of doing all and every other matter and thing, which a corporation or body politic may lawfully do.

SEC. 3. *And be it further enacted by the authority aforesaid,* That the seven persons first named in the said letters patent shall, as soon as conveniently, may be after sealing the same, give notice in three of the public papers in Philadelphia, and in that printed at Lancaster, one whereof at Philadelphia shall be in the German language, of a time and place by them to be appointed, not less than twenty days from the time of issuing the first notice; at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose, by a majority of votes of the said subscribers, by ballots, to be delivered in person, or by proxy, duly authorized, one president, twelve managers, one treasurer, and such other officers as they shall think necessary to conduct the business of the said company for one year, and until other such officers shall be chosen; and shall or may make such by-laws, rules, orders, and regulations, not inconsistent with the constitution and laws of this commonwealth, as shall be necessary for the well ordering the affairs of the said company: *Provided, always,* That no person shall have more than ten votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled unto, and that each person shall be entitled to one vote for every share by him held under the said number.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the said company shall meet on the second Monday of January in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing other such officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as

they shall be summoned by the managers, in such manner and form as shall be prescribed by their by-laws; at which annual or special meetings they shall have full power and authority to make, alter, or repeal, by majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations, as aforesaid, and to do and perform any other corporate act.

SEC. 5. *And be it further enacted by the authority aforesaid,* That the president and managers, first to be chosen as aforesaid, shall procure certificates to be written, or printed, for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and counter-signed by the treasurer, and sealed with the common seal of the corporation, to each person, for every share by him subscribed and held, he paying to the treasurer, in part of the sum due thereupon, the sum of forty-five dollars for each share, which certificate shall be transferable at his pleasure, in person, or by attorney, in the presence of the president or treasurer, subject, however, to all payments due and to grow due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for the purpose, shall be a member of the corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid at the meetings thereof.

SEC. 6. *And be it further enacted by the authority aforesaid,* That the said president and managers shall meet at such times and places, and be convened in such manner as shall be agreed on for transacting their business, at which meetings five members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with and appoint all such surveyors, engineers, superintendents, and other artists and officers, as they shall judge necessary to carry on the intended works, and to fix their salaries or other wages, to ascertain the times, manner, and proportions, when, and in which, the stockholders shall pay the moneys due on their respective shares, in order to carry on the work; to draw orders on the treasurer for all moneys necessary to pay the salaries of persons by them employed, and for the labor and materials done and provided, which orders shall be signed by the president, or, in his absence, by a majority of a quorum, and counter-signed by their clerk; and generally to do and transact all such other acts, matters, and things, as by the by-laws, rules, orders, and regulations of the company shall be committed to them.

SEC. 7. *And be it further enacted by the authority aforesaid,* That if any stockholder, after thirty days notice in three of the public papers printed in the city of Philadelphia, as aforesaid, of the time and place appointed for the payment of any proportion or dividend of the said capital stock, in order to carry on the work, shall neglect to pay such proportion at the place appointed, for the space of sixty days after the time so appointed, every such stockholder, or his assignee, shall, in addition to the dividend so called for, pay after the rate of five per centum per month for every delay of such payment; and if the same, and the said additional penalty, shall remain unpaid for such space of time, as that the accumulated penalties will become equal to the sums before paid in part, and on account of such share, the same shall be forfeited to the said company, and may and shall be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor.

SEC. 8. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers, their superintendents, surveyors, engineers, artists, and chain-bearers, to enter into and upon all and every the lands, tenements, and enclosures, in, through, and over which the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road, and to survey, lay down, ascertain, mark, and fix such route or tract for the same, as, in the best of their judgment and skill, will combine shortness of distance with the most practicable ground from the west side of Schuylkill river, opposite to the city of Philadelphia, so as to pass near to or over the bridge on Brandywine creek, near Downing's town; from thence to Witmer's bridge, on Connestogoe creek, and from thence to the east end of King street, where the buildings cease in the borough of Lancaster.

SEC. 9. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers, by and with their superintendents, engineers, artists, workmen, and laborers, with their tools and instruments, carts, wagons, wains, and other carriages, and beasts of draught or burden, to enter upon the lands in, over, contiguous, and near to which the route and tract of the said intended road shall pass, first giving notice of their intention to the owners thereof, or their representatives, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, by appraisalment to be made in the manner hereinafter directed, and upon a reasonable agreement, if they can agree, or, if they cannot agree, then upon an appraisalment to be made, upon oath or affirmation, by three indifferent freeholders, or any two of them agreeing, to be mutually chosen; or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of the county not interested on either side, and tender of the appraised value, to dig, take and carry away, any stone, gravel, sand, or earth, there, being most conveniently situated for making or repairing the said road.

SEC. 10. *And be it further enacted by the authority aforesaid,* That the said president, managers, and company shall have power to erect permanent bridges over all the waters crossing the said route or tract, betwixt the river Schuylkill and Connestogoe, wherever the same shall be found necessary, and shall cause a road to be laid out fifty feet wide, twenty-one feet whereof in breadth, at least, shall be made an artificial road, which shall be bedded with wood, stone, gravel, or any other hard substance, well compacted together, a sufficient depth to secure a solid foundation to the same; and the said road shall be faced with gravel, or stone pounded, or other small hard substance, in such manner as to secure a firm, and, as near as the materials will admit, an even surface, rising towards the middle by a gradual arch, and so nearly level in its progress as that it shall in no place rise or fall more than will form an angle of four degrees, with a horizontal line, and shall forever hereafter maintain and keep the same in good and perfect order and repair, from the city of Philadelphia to Witmer's bridge, and thence to the borough of Lancaster.

SEC. 11. *And be it further enacted by the authority aforesaid,* That so soon as the said president, managers, and company, shall have perfected the said road for any distance from the city of Philadelphia, not less than ten miles, towards the said borough, and so from time to time any other like distance, progressively, they shall give notice thereof to the Governor of the commonwealth, who shall thereupon forthwith nominate and appoint three skilful and judicious persons to view and examine the same, and to report to him, in writing, whether the said road is so far executed in a masterly, workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the Governor shall, by license, under his hand and the lesser seal of the commonwealth, permit and suffer the said president, managers, and company, to erect and fix such and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling in the same, with horses, cattle, carts, and carriages.



SEC. 12. *And be it further enacted by the authority aforesaid,* That the said company having perfected the said road, or such part thereof, from time to time, as aforesaid, and the same being examined, approved, and licensed, in manner aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding, leading, or driving any horses, cattle, hogs, sheep, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, from passing through the said gates or turnpikes, until they shall respectively have paid the same; that is to say, for every space of ten miles in length of the said road, the following sums of money, and so in proportion for any greater or lesser distance, or for any greater or lesser number of sheep, hogs, or cattle, viz: for every score of sheep, one-eighth of a dollar; for every score of hogs, one-eighth of a dollar; for every score of cattle, one-quarter of a dollar; for every horse and his rider, or led horse, one-sixteenth of a dollar; for every sulkey, chair, or chaise, with one horse and two wheels, one eighth of a dollar; for every chariot, coach, stage, wagon, phaeton, or chaise, with two horses and four wheels, one-quarter of a dollar; for either of the carriages last mentioned, with four horses, three-eighths of a dollar; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and horses drawing the same; for every cart or wagon, whose wheels do not exceed the breadth of four inches, one-eighth of a dollar for each horse drawing the same; for every cart or wagon, whose wheels shall exceed in breadth four inches, and not exceed seven inches, one-sixteenth of a dollar for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches, or, being of the breadth of seven inches, shall roll more than ten inches, five cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceed twelve inches, or being ten inches, shall roll more than fifteen inches, three cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than twelve inches, two cents for every horse drawing the same.

SEC. 13. *And be it further enacted by the authority aforesaid,* That no wagon or other carriage with four wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road between the 1st day of December and the 1st day of May following, in any year or years, with a greater weight thereon than two and a half tons, or with more than three tons during the rest of the year; that no such carriage, the breadth of whose wheels shall not be seven inches, or, being six inches or more, shall not roll at least ten inches, shall be drawn along the said road between the said 1st day of December and May, with more than three and a half tons, or with more than four tons during the rest of the year; that no such carriage, the breadth of whose wheels shall not be ten inches or more, or, being less, shall not roll at least twelve inches, shall be drawn along the said road between the said 1st days of December and May, with more than five tons, or with more than five and a half tons during the rest of the year; that no cart, or other carriage with two wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road with a greater weight thereon than one and a quarter tons, between the said 1st day of December and May, or with more than one and a half tons during the rest of the year; that no such carriage, whose wheels shall not be of the breadth of seven inches, shall be drawn along the said road with more than two and a half tons between the said 1st days of December and May, or with more than three tons during the rest of the year; that no such carriage, whose wheels shall not be the breadth of ten inches, shall be drawn along the said road between the said 1st days of December and May, with more than three and a half tons, or with more than four tons during the rest of the year; that no greater weight than seven tons shall be drawn along the said road, in any carriage whatever, between the said 1st days of December and May, nor more than eight tons during the rest of the year; that no cart, wagon, or carriage of burden whatsoever, whose wheels shall not be of the breadth of nine inches at least, shall be drawn or pass in or over the said road, or any part thereof, with more than six horses, nor shall more than eight horses be attached to any carriage whatsoever, used on the said road; and if any wagon or other carriage shall be drawn along the said road by a greater number of horses, or with a greater weight than is hereby permitted, one of the horses attached thereto shall be forfeited to the use of the said company, to be seized and taken by any of their officers or servants, who shall be at liberty to choose which of the said horses they may think proper, excepting the shaft or wheel horse or horses. *Provided, always,* That it shall and may be lawful for the said company, by their by-laws, to alter any or all the regulations herein contained, respecting the burdens on carriages to be drawn over the said road, and to substitute other regulations, if, upon experience, such alterations shall be found conducive to the public good.

SEC. 14. *And be it further enacted by the authority aforesaid,* That all such carriages as aforesaid, to be drawn by oxen in the whole, or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse, in charging all the aforesaid tolls, and every mule as equal to one horse.

SEC. 15. *And be it further enacted by the authority aforesaid,* That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of five days, and information thereof shall be given to any justice of the peace of the neighborhood, such justice shall issue a precept, to be directed to any constable, commanding him to summon three judicious freeholders to meet at a certain time, in the said precept to be mentioned, at the place in the said road which shall be complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall, at such time and place, by the oaths or affirmations of the said freeholders, inquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made, under the hands of himself and of a majority of the said freeholders; and if the said road shall be found by the said inquisition to be out of order and repair, according to the true intent and meaning of this act, he shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates, for passing the interval of road between them, shall cease to be demanded, paid, or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair, as aforesaid; and if the same shall not be so put into good and perfect order and repair before the next ensuing court of quarter sessions of the county wherein the same shall be, the said justice shall certify and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue, and bring in the bodies of the person or persons intrusted by the company with the care and superintendence of such part of the said road as shall be so found defective, and shall proceed upon such inquisition, in the same manner and form as upon indictments found by the grand inquest for the body of the county, against supervisors of the highways, for neglect of their duty; and if the person or persons, intrusted by the said company as aforesaid, shall be convicted of the offence by the said inquisition charged, the said court shall give such judgment, according to the nature and aggravation of the neglect, as, according to right and justice, would be proper in the case of supervisors of the highways neglecting their duty; and fines and penalties so to be imposed shall be recovered in the same manner as fines for misdemeanors are usually recovered in the said courts, and shall be paid to the supervisors of the highways of the place wherein the offence was committed, to be applied to repairing such highways as the township or county is bound to maintain and repair at the public expense thereof.



SEC. 16. *And be it further enacted by the authority aforesaid,* That the president and managers of the said company shall keep fair and just accounts of all moneys to be received by them from the said commissioners, and from the subscribers to the said undertaking, on account of their several subscriptions, and of all penalties for delay in the payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also of all moneys by them to be expended in the prosecution of their said work, and shall, once at least in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges, and expenses of effecting the same shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if, upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers, and company, at a stated or special meeting, to be convened according to the provisions of this act, or their own by-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the moneys subscribed for such shares in like manner and under the like penalties as are hereinbefore provided for the original subscriptions, or as shall be provided by their by-laws.

SEC. 17. *And be it further enacted by the authority aforesaid,* That the said president, managers, and company shall also keep a just and true account of all and every the moneys to be received by their several and respective collectors of tolls, at the several gates or turnpikes on the said road, from beginning to end; and shall make and declare a dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the subscribers to the said company's stock; and shall, on every the second Monday in January and July in every year, publish the half-yearly dividend to be made of the said clear profits among the stockholders, and of the time and place, when and where the same will be paid, and shall cause the same to be paid accordingly.

SEC. 18. *And be it further enacted by the authority aforesaid,* That the said president and managers shall, at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the General Assembly of this commonwealth an abstract of their accounts, showing the whole amount of their capital expended in the prosecution of the said work, and of the income and profits arising from the said toll, for and during the respective periods, together with an exact account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if, at the end of two years after the said road shall be completed, from the beginning to the end thereof, it shall appear, from the average profits of the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall and may be lawful to and for the said president, managers, and company, to increase the tolls herein above allowed, so much upon each and every allowance thereof, as will raise the dividends up to six per centum per annum; and at the end of every ten years after the said road shall be completed, they shall render to the General Assembly a like abstract of their accounts for the three preceding years; and if, at the end of any such decennial period, it shall appear from such abstract that the clear profits and income of the said company will bear a dividend of more than fifteen per centum per annum, then the said toll shall be so reduced as will reduce the said dividend down to fifteen per centum per annum.

SEC. 19. *And be it further enacted by the authority aforesaid,* That the said company shall cause posts to be erected at the intersection of every road falling into and leading out of the said turnpike road with boards, and an index hand, pointing to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town, village, or place, to which such roads lead, and the distance thereof, in computed miles.

SEC. 20. *And be it further enacted by the authority aforesaid,* That the said company shall cause mile-stones to be placed on the side of the said road, beginning at the distance of one mile from the east side of Schuylkill, and extending thence to the borough of Lancaster, whereon shall be marked, in plain legible characters, the respective number of miles which each stone is distant from the west bounds of the city of Philadelphia; and at every gate or turnpike by them to be fixed on the said road, shall cause the distance from Philadelphia, and the distances from the nearest gates or turnpikes in each direction to be marked in legible characters, designating the number of miles and fractions of a mile on the said gate, or some other conspicuous place; and also to cause to be affixed at such places a printed list of the rates of toll, which, from time to time, may lawfully be demanded, for the information of travellers and others using the said road.

SEC. 21. *And be it further enacted by the authority aforesaid,* That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road, in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass; and, if any driver shall offend against this provision, he shall forfeit and pay the sum of two dollars, to any person who shall be obstructed in his passage; and will sue for the same, to be recovered, with costs, before any justice, in the same manner as debts under ten pounds are by law recoverable.

SEC. 22. *And be it further enacted by the authority aforesaid,* That if the said company shall not proceed to carry on the said work within two years after the passing of this act, or shall not, within seven years afterwards, complete the said road, according to the true intent and meaning of this act, then, in either of those cases, it shall and may be lawful for the Legislature of the commonwealth to resume all and singular the rights, liberties, privileges, and franchises, hereby granted to the company.

WILLIAM BINGHAM,  
Speaker of the House of Representatives.  
SAMUEL POWELL,  
Speaker of the Senate.

Approved, April 9, 1792.

THOMAS MIFFLIN,  
Governor of the Commonwealth of Pennsylvania.

AN ACT to extend, for a limited time, an act entitled "A further supplement to the act entitled an act for making an artificial road from the city of Philadelphia to the borough of Lancaster, and for other purposes."

SEC. 1. *And be it enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by authority of the same,* That the act, entitled "A further supplement to the act entitled an act for making an artificial road from the city of Philadelphia to the borough of Lancaster," passed the 4th day of April, in the year of our Lord one thousand seven hundred and ninety-eight,

which, by its own limitation, was to continue in force during the term of two years and no longer, be, and the same is hereby, declared to be continued in force for seven years from the passing of this act, and from thence to the next session of the General Assembly, and no longer.

SEC. 2. *And be it further enacted by the authority aforesaid*, That the president and managers of the said turnpike road, for the time being, shall and may, and they are hereby authorized and empowered to grant, demise, and to farm, let, to any person or persons with whom they can agree, the tolls and duties which they, by virtue of the act incorporating them, or by any supplementary act, are authorized to demand and receive for passage in upon and along the said road, at any gate or turnpike over or by the side of the same road, or any part of the same, for any term not exceeding seven years, under such rents and convenient reservations and conditions as the said president and managers at any meeting of their board shall agree upon, which grants and demises shall have the same construction, force, and effect as other like grants and demises made between private persons have and receive at law.

CADWALADER EVANS, JUN.  
*Speaker of the House of Representatives.*  
ROBERT HARE,  
*Speaker of the Senate.*

Approved, April 11th, 1799.

THOMAS MIFFLIN,  
*Governor of the Commonwealth of Pennsylvania.*

I, Matthew Irwin, master of rolls, &c., for the State of Pennsylvania, do hereby certify the above to be a true copy, or exemplification, of a law enrolled in my office.

Witness my hand and seal of office, this 13th May, 1799.

MATTHEW IRWIN, *M. R.*

A further supplement to the act entitled "An act for making an artificial road from the city of Philadelphia to the borough of Lancaster;" for the more effectual preventing evasions of the salutary regulations intended in and by the act for making an artificial road from the city of Philadelphia to the borough of Lancaster.

SEC. 1. *And be it therefore enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same*, That if any person or persons whatsoever, owning, riding in, or driving any sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, or owning, riding, leading, or driving any horse, mare, gelding, hogs, sheep, or other cattle, shall therewith pass through any private gate or bars, or along or over any private passage, way, or other ground, near to or adjoining any turnpike or gate, erected, or which shall be erected in pursuance of the act to which this is a supplement, with an intent to defraud the company, and evade the payment of toll or duty for passing through any such gate or turnpike; or if any person or persons shall, with such intent, take off, or cause to be taken off, any horse, mare, gelding, or other cattle, from any sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, practise any other fraudulent means or device with the intent that the payment of any such toll or duty may be evaded or lessened; or if any person or persons having, claiming, or taking the benefit of any exemption or privilege, by virtue of this act, or of the said recited act, or any clause, matter, or thing herein or therein contained, not being entitled thereto, or committing any fraud or abuse thereof, either by him, her, or themselves, or by giving any licence to any other person or persons not entitled to such privilege or exemption, whereby, or by means whereof the said tolls or duties might be lessened or evaded, or with any such intent, all and every person and persons, in all and every or any of the ways or manners aforesaid offending, shall, for every such offence, respectively forfeit and pay to the president, managers, and company of the Philadelphia and Lancaster turnpike road, any sum not less than four, nor more than fifteen dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations as debts under twenty pounds may be sued for and recovered.

SEC. 2. *And be it further enacted by the authority aforesaid*, That if any person or persons shall wilfully break, deface, or pull up any mile-stone placed, or which shall be placed in pursuance of the said recited act, on the side of the road laid out in pursuance thereof, or shall obliterate the letters or figures inscribed thereon or therein, or if any person or persons shall break, pull down, destroy, or injure any post erected, or to be erected, in pursuance of the said recited act, at the intersection of any road falling into and leading out of the said turnpike road, or the board or index hand affixed thereto, in conformity to the directions of the said recited act, or if any person or persons shall obliterate the letters or figures inscribed or fixed thereon, or if any person or persons shall destroy or obliterate, or in any wise injure or deface the letters, figures, or other characters marked at any turnpike or gate erected or to be erected in pursuance of the said recited act, for all or any of the purposes therein mentioned, or the whole, or any part or parts of any printed list of the rates of tolls, affixed or to be affixed, in pursuance of the directions of the said recited act, at any such gate or turnpike, he, she, or they so offending in the premises, shall, and each of them shall, for every such offence, severally and respectively forfeit and pay to the said president, managers, and company, the sum of twenty dollars, to be sued for and recovered with costs of suit, before any justice of the peace, in like manner as aforesaid.

SEC. 3. *And be it further enacted by the authority aforesaid*, That, for the purpose of ascertaining the weight that may be drawn along the said road, in any cart, wagon, or other carriage of burden, it shall and may be lawful for the said president, managers, and company, to erect and establish scales and weights at or near such and so many of the gates erected, or to be erected in pursuance of the said recited act, as they may think proper; and where there may seem reasonable cause to suspect that any cart, wagon, or other carriage of burden carries a greater weight than is or shall be by law allowable for their toll-gatherers, or other persons in their service or employment, to prevent the same from passing such gate or turnpike until such cart, wagon, or other carriage of burden shall be drawn into the scales, fixed or erected at or near any such gate or turnpike, and the weight or burden drawn therein ascertained by weighing; and if the person or persons driving, or having care or charge of any such cart, wagon, or other carriage of burden shall refuse to drive the same into any such scales for the purpose aforesaid, the person or persons so refusing shall forfeit and pay to the said president, managers, and company any sum not less than five nor more than ten dollars, to be recovered in the manner herein before mentioned.

SEC. 4. *And be it further enacted by the authority aforesaid*, That if any action or suit shall be brought or prosecuted by any person or persons, for any thing done in pursuance of this or the said recited act, or former supplement thereto, in relation to the premises, every such suit or action shall be commenced within six months next after the fact committed and not afterwards; and the defendant or defendants in such action or suit may plead the

general issue, and give this and the said recited act and former supplement, and the special matter in evidence, and that the same was done in pursuance and by the authority of this and the said recited act and former supplement; and this act shall be and continue in force during the term of two years and no longer.

GEORGE LATIMER,  
*Speaker of the House of Representatives.*  
ROBERT HARE,  
*Speaker of the Senate.*

Approved, April 4th, 1798:

THOMAS MIFFLIN,  
*Governor of the Commonwealth of Pennsylvania.*

I, Matthew Irwin, Esq., master of rolls for the State of Pennsylvania, do hereby certify the preceding writing to be a true copy or exemplification of a certain law enrolled in my office.

In witness whereof, I have hereunto set my hand and seal of office the 5th day of April, A. D. 1798.

MATTHEW IRWIN, *M. R.*

AN ACT to enable the President, Managers and Company of the Philadelphia and Lancaster Turnpike Road to increase the width of the said road in certain cases.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That the president, managers, and company of the Philadelphia and Lancaster Turnpike Road be, and they are hereby, authorized and empowered, whenever the turnpike road has been laid out on the ground of any road heretofore laid out and opened of a greater width than fifty feet, to increase the width of the said turnpike road to the same extent, on the same ground as the former road had been laid out and opened: provided the same shall not exceed sixty-eight feet.

SEC. 2. *And be it further enacted by the authority aforesaid,* That in such other places as the said president, managers and company shall deem necessary, and the owners of the land shall be willing to sell them the ground requisite therefor, they be, and hereby are, in like manner authorized and empowered to increase the width of the said road, so as not to exceed sixty-eight feet: *Provided always,* That the said additional width of the road shall be under the same regulations, and kept in good and perfect order and repair, under the same forfeitures and penalties, as the other parts of the said road by law are subject to.

SEC. 3. *Provided always, and be it further enacted by the authority aforesaid,* That it shall not be lawful for the said turnpike company, from and after the passing of this act, to ask, demand, or receive from or for any persons or things passing along the said road, eastward of the creek known by the name of the Five Mile, or Indian creek, any toll for a greater distance than they shall actually travel: *And provided also,* That it shall not be lawful for the said company to ask, demand, or receive from or for persons living on or adjacent to the said road, who may have occasion to pass by the said road upon ordinary business relative to their farms or occupations, and who shall not have any other convenient road or way by which they may pass, any toll for passing on or by the said turnpike.

GEORGE LATIMER,  
*Speaker of the House of Representatives.*  
ROBERT HARE,  
*Speaker of the Senate.*

Approved, April 17, 1795.

THOMAS MIFFLIN,  
*Governor of the Commonwealth of Pennsylvania.*

By the Board:

WILLIAM GOVETT, *Secretary.*

A BY-LAW of the President, Managers, and Company of the Philadelphia and Lancaster Turnpike Road.

By virtue, and in pursuance of the proviso of the thirteenth section of the Act of Incorporation of the said company, the following resolution is declared to be a by-law of the said corporation.

*Resolved,* By the president, managers, and company of the Philadelphia and Lancaster turnpike road, that from and after the first day of March next, no wagon or carriage with four wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road between the first day of December and the first day of May following, in any year or years, with a greater weight thereon than two tons; or with more than two and a half tons during the rest of the year.

Extract from the Minutes,

WILLIAM GOVETT, *Secretary.*

PENNSYLVANIA, ss.

*In the name and by the authority of the commonwealth of Pennsylvania, Thomas M'Kean, Governor of the said commonwealth, to all to whom these presents shall come, sends greeting:*

Whereas, during the last session of the General Assembly of this commonwealth, an act was passed in the following words, to wit: "An act to render perpetual a certain act respecting the Philadelphia and Lancaster Turnpike Road."

SEC. 1. *Be it enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That the act entitled "A further supplement to the act entitled 'An act making an artificial road from the city of Philadelphia to the borough of Lancaster, for the more effectual preventing evasions of the salutary regulations, intended in and by the act for making an artificial road from the city of Philadelphia to the borough of Lancaster,'" passed on the fourth day of April, in the year of our Lord one thousand seven hundred and ninety-eight, be, and the same hereby is, except so much thereof as limits its continuance to the term of two years, rendered perpetual.

SEC. 2. *And be it further enacted by the authority aforesaid,* That instead of the power and authority given and allowed to the president, managers, and company of the Philadelphia and Lancaster turnpike road, in and by the thirteenth section of the act entitled "An act to enable the Governor of this commonwealth to incorporate

a company for making an artificial road from the city of Philadelphia to the borough of Lancaster," to seize and take, by any of their officers and servants, one of the horses attached to any wagon or other carriage, which shall be drawn along the said road, contrary to the provisions and intentions of the said section, any person or persons offending against the said section or transgressing against the provisions and restrictions therein imposed, shall forfeit and pay to the president, managers and company aforesaid, for every offence, the sum of ten dollars, to be recovered as other penalties are directed to be recovered in the said recited act, or by distress and sale according to law, in case of neglect or refusal forthwith to pay the said penalty; and the power and authority to take and seize a horse, as is provided and directed in and by the said thirteenth section, is hereby annulled and made void. *Provided, nevertheless,* That no part of this act shall have any force or effect, until the said president, managers and company shall, in writing, under their corporate seal, to be deposited in the office of the secretary of this commonwealth, declare their consent and agreement hereto; and as soon as the said company shall so consent and agree, the Governor shall declare this act to have full operation and effect.

SIMON SNYDER,  
*Speaker of the House of Representatives.*  
P. C. LANE,  
*Speaker of the Senate.*

Approved, April 11, 1807.

THOMAS McKEAN.

And whereas, the President, Managers, and Company of the Philadelphia and Lancaster Turnpike road, have fully complied with the proviso contained in the second section of the aforesaid act of the General Assembly.

Now, therefore, know ye, that, in pursuance of the directions to me given, by the said act of the General Assembly, I, the said Thomas M'Kean, Governor of the said commonwealth, do, by these presents, declare and make known, that from and after the day of the date hereof, the said act of the General Assembly, and every part thereof, is to have full operation and effect.

Given under my hand, and the great seal of the State, at Lancaster, this tenth day of June, in the year of our Lord, one thousand eight hundred and seven, and of the commonwealth the thirty-second.

By the Governor:

THOS. M. THOMPSON, *Secretary.*

JULY 20, 1807.

#### TURNPIKE ROADS IN MARYLAND.

COLLECTOR'S OFFICE,

SIR:

BALTIMORE, *October 24, 1807.*

Enclosed I transmit you, in the temporary absence of the collector, a letter received from Richard Caton, Esq., President of the Falls Turnpike Company.

I have the honor to be very respectfully, sir, your obedient servant,

JOHN BRICE, *Deputy Collector.*

ALBERT GALLATIN, Esq., *Secretary of the Treasury.*

SIR:

BALTIMORE, *October 13, 1807.*

In conformity to your request, expressed by your letter of the 3d of August last, I have subjoined some observations on the Falls turnpike road, so as to meet the questions asked by the Secretary of the Treasury, and transmitted by you to me.

I am, with respect, sir, your obedient servant,

RICHARD CATON.

Mr. J. BRICE, JUN., *Deputy Collector, Baltimore.*

First. The Falls turnpike road unites, by the most direct route the trade of the north, with Baltimore; it is in a direct line to Hanover and Carlisle. The latter place must, one day, become a middle point of trade for the Genesee, and many of the counties of Pennsylvania lying west of the Susquehanna; from whence it will be carried, by the nearest road, to some Atlantic port, which is Baltimore, by the Falls turnpike. There is a road at present in use to Carlisle, called "the Reisterstown road," which enjoys this trade, only because the Falls road is not opened; for it will appear, by casting an eye on the map of the United States, that a line stretched from Baltimore on the east side of Jones's falls (which is the ground occupied by the Falls road) to Carlisle, will cover Hanover. By the Falls road, the distance from Baltimore to the line of Pennsylvania, on a direction to Hanover, is thirty-one and a half miles. By the Reisterstown road to the same point, on the line of the State of Pennsylvania, the distance is said to be near thirty-five miles.

Second. There are no hills on the route to Pennsylvania, by the Falls turnpike road, which cannot be ascended with four degrees: to this limit the charter confines the company.

Third. The breadth of the Falls turnpike road is, by law, required to be sixty feet, of which at least eighteen feet must be of stone pounded; for, although gravel may, in some places, make a hard foundation, it is not found in sufficient extent of country to make any considerable distance of road.

Fourth. The bridges of the Falls road already constructed are of stone. Their dimensions are generally small, not exceeding arches of ten feet. There will be required three bridges over the stream of Jones's falls, that are intended to be built of wood, resting on an abutment of stone at each end of the bridge: one of these bridges will have a span of fifty feet; one of forty feet; and one of thirty feet. They will cost, on an average, \$1,500 each.

Fifth. No natural difficulties lie in the way of a completion of the Falls turnpike road; some prejudices to turnpikes generally, and a rival interest of the Reisterstown Road Company, have impeded its progress; but these time and good sense will subdue.

Sixth. The whole of the expenses per mile, for forming the road agreeably to the charter; for reducing hills to an ascent, not exceeding four degrees; for stoning it with pounded stone, on an average twenty-two feet wide, and ten to twelve inches deep; for covering the surface of these stones with an inch or two of gravel or sand; and for building the whole of the bridges, will not exceed \$7,500 per mile.

Seventh. The capital already expended on the Falls turnpike road amounts to nearly \$30,000. There is required about \$38,000 in addition to complete the work. This money will eagerly be subscribed when the company can get

get permission from the Legislature of Maryland to make a good road from the end of the Falls turnpike to a road which leads to the State line of Pennsylvania, at the distance of nine miles from the end of the Falls turnpike. These nine miles the company offer to straighten, shape, level, and bridge; and when so done, to give it to the county as a free road. Hitherto the Legislature have refused the permission, its members alleging that it will draw the trade from the Reistertown road. The application must, however, prevail, as it is founded on justice and public utility. When such a law shall be obtained, it is thought that individuals will readily subscribe what money may be necessary.

Eighth. Not having finished the road, the toll-gates are not erected, and, consequently, the road derives no revenue. The rates of tolls are the same as are granted to all the roads chartered by the State of Maryland, viz: for the whole extent of the Falls road, which somewhat exceeds nine miles, one-sixteenth of a dollar for a single horse; one-eighth of a dollar for every horse in a wagon, the wheels of which do not exceed four inches; and in a like ratio for other things passing the gate. The toll on wagons decreases in proportion to the breadth of the wheels.

It is probable that the Falls turnpike road will be very lucrative; for, taking it as a general rule, that short roads are profitable, and long roads the reverse, the rule is in favor of the falls road: but there is a more solid reliance. The Falls turnpike road passes by a number of mills which are daily supplying Baltimore with flour, and receiving from thence wheat. Along the Falls are nearly all the quarries, which supply stone to the city for buildings. It passes two of the richest valleys in the country, that on the stream of Jones's falls, and that on the Western run. In addition to these, it will command, notwithstanding, the local interest of a rival road, the trade of the north, which passes through Hanover, because it is the shortest approach from thence to Baltimore.

The wagons which pass to Baltimore from the mills, and stone quarries, will generally have broad wheels, as it is found to be an object in the saving of tolls; from this circumstance, the Falls road will be kept in repair at a very moderate expense. Materials are abundant; in no case will they be required to be hauled more than half a mile.

Ninth. The charter of the Falls Turnpike Road Company is unlike others granted by the State; its duration is perpetual; its profits may be divided to any extent; but it insures no dividend, by allowing an augmentation of the present tolls, should they be inadequate to the repairs, and a dividend of ten per cent., as granted by the State to the other roads. This conditional augmentation of toll is rather a nominal than a real benefit; for it has already been proven, that wagons will avoid the road under the present tolls; and they will be more inclined to do so should they be augmented.

The affairs of the Falls Turnpike Road Company are administered by a president and six managers chosen annually by the stockholders; each share is entitled to a vote as far as ten shares; persons holding beyond that number have no votes beyond ten. A share is \$100.

RICHARD CATON.

BALTIMORE AND REISTERTOWN TURNPIKE ROAD OFFICE,

November 16, 1807.

SIR:

In the absence of the president, I herewith transmit you the answers to the several questions propounded by the Secretary of the Treasury under a resolution of the Senate of the United States.

I have the honor to be, very respectfully, sir, your most obedient servant,

JOHN F. HARRIS, *Secretary.*

J. BRICE, JUN. Esq., *Deputy Collector, Baltimore.*

BALTIMORE AND REISTERTOWN TURNPIKE ROAD COMPANY.

*Answer to queries respecting artificial roads.*

BALTIMORE, November 16, 1807.

1st. Baltimore and a point in the Pennsylvania line toward Hanover are united; distance about thirty-five miles; and Baltimore and a point in the Pennsylvania line towards Petersburg are united; distance about forty-five miles. The road forks at Reistertown, sixteen miles from Baltimore.

2d. The greatest elevation of the hills is twenty-four feet perpendicular above the bed of the road. The greatest angle of ascent which has been allowed, is three and a half degrees.

3d. Breadth of the road, including the ditches, is sixty-six feet. Breadth of the artificial road, exclusive of the ditches, is forty feet. The form convex, twenty-four feet in width along the middle of the road, and one foot in depth, is bedded with stone broken small enough to pass through a ring of three inches diameter. The rest is clay.

4th. The largest bridge is twenty-one feet wide in the clear, built of stone, supported by three semi-circular arches; the largest arch is twenty-four feet, the other two arches are each sixteen feet diameter. All the bridges are built of stone.

5th. Particular difficulties surmounted, and to be encountered, are cutting through hills and filling up valleys.

6th. Expense per mile about \$10,000 for forming the bed of the road, cutting hills, quarrying, transporting, breaking, and laying stone; all which labor is farmed out together by the mile.

7th. Capital already expended, about \$200,000; vested, \$420,000. Ten miles of the road are completed, and the work is progressing.

8th. Rate of tolls will be seen in the substance of the charter; amount of tolls, annual expense of repairs, and contingencies, and annual net income, cannot be stated as tolls, have been received only on ten miles, and for ten months.

9th. Substance of the charter. Enclosed are the laws of Maryland on the subject. In the absence of the president.

JOHN F. HARRIS, *Secretary.*

AN ACT to incorporate companies to make several turnpike roads through Baltimore county, and for other purposes. Passed January 2, 1805.

SECTION 1. *Preamble.*—Whereas it is represented to this General Assembly that, by the several laws heretofore passed on this subject, the desirable object contemplated by the Legislature has not been obtained, and the public expectation almost entirely frustrated; therefore,

SEC. 2. *Be it enacted by the General Assembly of Maryland,* That the three following companies shall be incorporated, to wit: One for making a turnpike road from the city of Baltimore, through New Market, to and through Fredericktown, and from thence to and through Middletown, and from thence to Boonsborough; one for making a turnpike road from Baltimore, through Reisterstown, to the Pennsylvania line towards Hanover town, and through Westminster to the Pennsylvania line towards Petersburg, as shall be agreed upon by a majority of the stockholders; and one other company for making a turnpike road from Baltimore towards Yorktown, to the Pennsylvania line.

SEC. 3. *And be it enacted,* That subscription books be opened for a capital stock of two hundred and twenty thousand dollars, in shares of twenty dollars each, and that subscriptions be taken in for one hundred thousand dollars of the same at the city of Baltimore, under the direction of James Carey, Luke Tiernan, George F. Warfield, and Francis Hollingsworth; for fifty thousand dollars at Fredericktown, under the direction of John Schley, Henry Ridgely Warfield, and David Levy; for twenty thousand dollars at Middletown, under the direction of Frederick Stemple, Joseph Swearingen, and Samuel Shoup; and for fifty thousand dollars at Elizabethtown, under the direction of Thomas Sprigg, Nathaniel Rochester, Charles Carroll, Jacob Zeller, and Elie Williams, for the first before-mentioned road; and for a capital stock of one hundred and sixty thousand dollars, in shares of twenty dollars each, at the city of Baltimore, under the direction of William Owings, Solomon Etting, David Williamson, Edward Johnson, Doctor John Cromwell, and Charles Carnan, for the second before-mentioned road; and for a capital stock of one hundred thousand dollars, in shares of twenty dollars each, at the city of Baltimore aforesaid, for the third before-mentioned road, under the direction of James Winchester, Joseph Thornburgh, Thomas McEldry, Nicholas Merriman, of Elijah and David McMechin, who are hereby appointed commissioners for the purposes aforesaid, who shall, for each of the companies for which they are respectively appointed, on or before the first Monday of April next, procure books, and in each enter as follows, to wit: "We, whose names are hereunto subscribed, do promise to pay to the president, managers, and company of the, [here insert the name of the company] the sum of twenty dollars for every share of stock in the said company set opposite to our respective names, agreeably to an act of the State of Maryland entitled "An act to incorporate companies to make several turnpike roads through Baltimore county, and for other purposes. Witness our hands, this ——— day of ———, eighteen hundred and ———," and shall give notice in two of the public newspapers in Baltimore, one in Easton, and both in an English and German newspaper in Fredericktown and Elizabethtown, for one month at least, of the times when, and places where, the said books will be open to receive subscriptions of stock for such respective company or companies, at which times and places at least two of the said respective commissioners shall attend for each of the said respective companies, and shall permit and suffer all persons who shall offer to subscribe in person, or by attorney duly authorized, in the said books, which shall be kept open for that purpose, at least four hours every day, Sundays excepted, for the space of three days, if three days shall be necessary: *Provided, nevertheless,* That the said commissioners shall not permit any one person or company to subscribe for more than twenty-five shares during the first day on which the said books shall be opened in either of the respective companies, nor more than fifty shares on the second day on which the said books shall be opened; and if, at the expiration of the said three first days, the said books shall not have for each respective road the full number subscribed, the said respective commissioners may adjourn, from time to time, until the number of shares respectively shall be subscribed, of which adjournment public notice shall be given in at least two of the public papers of the city of Baltimore; one in Easton, and in an English and German paper in Frederick and Elizabethtown; and when the said subscriptions in the said books shall amount to the said respective numbers aforesaid, the same shall be closed: *Provided always,* That every person offering to subscribe in the said books in his own name, or in the name of any other person, shall, upon subscribing, pay to the attending commissioners one dollar for every share to be subscribed, out of which shall be defrayed the expense attending the taking such subscription, and other incidental charges, and the remainder shall be deposited in one or more of the banks of Baltimore, for the use of each respective corporation for which the same shall be taken, as soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

SEC. 4. *And be it enacted,* That when one hundred persons or more shall have subscribed two thousand five hundred shares or more of the said stock, of the first before-mentioned company, and when one hundred persons or more shall have subscribed two thousand five hundred shares or more of the said stock of the said second before-mentioned company, and when eighty persons or more shall have subscribed two thousand shares or more of the said stock of the said third before-mentioned company, the said commissioners heretofore named for each respective road shall, as soon as conveniently may be, give thirty days notice in two of the newspapers of the city of Baltimore; one in Easton, and in an English and German paper in Frederick and Elizabethtown, of the time and place by them appointed for the subscribers to meet, in order to organize the said corporation, and to choose, by a majority of votes of the said subscribers, by ballot, to be delivered in person, or by proxy, duly authorized, one president, eight managers, one treasurer, and such other officers as shall be deemed necessary to conduct the business of each of the said companies, until the third Monday in October next, and until like officers shall be thereafter chosen, and make such by-laws, rules, orders, and regulations as do not contravene the constitution and laws of this State, and may be necessary for the well governing the affairs of the said companies: *Provided always,* That no person shall have more than twenty-five votes in any election, or in determining any question arising at such meeting, whatever number of shares he, she, or they may be entitled to notwithstanding, and that each person be entitled to one vote for every share so held under the said number twenty-five.

SEC. 5. *And be it enacted,* That the stockholders in the said respective companies shall be, and they are hereby, incorporated and constituted three separate and distinct bodies politic; the first before-mentioned by the name of The President, Managers, and Company of the Baltimore and Fredericktown Turnpike Road, the second before-mentioned company by the name of The President, Managers, and Company of the Baltimore and Reisterstown Turnpike Road, and the third before-mentioned company by the name of The President, Managers, and Company of the Baltimore and Yorktown Turnpike Road, and by the same names, the said subscribers and their successors, shall have succession during the continuance of this incorporation, and shall have all the privileges and franchises of, or incident to, a corporation, and shall be capable of taking and holding the said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions on the original terms, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing and taking to them, and their successors, in fee simple, and for any lesser estate, all such lands, tenements, hereditaments, and estate, real and personal, as shall be necessary to them in the prosecution of their works, provided the said real estate shall not exceed twenty acres in any one lot or parcel, and of suing and being sued, answer and being answered; and each of the said companies shall have power to make a seal, and alter, and break, and renew the same, according to their will and pleasure.

SEC. 6. *And be it enacted,* That the sums so subscribed shall be paid to the managers elected agreeably to this act, in the manner following, to wit: one-fourth part thereof (including the one dollar paid to the commissioners at the

time of subscribing) at the end of one month after the election of managers; one-fourth part at the end of six months after the election of managers; and the remainder in such sums, and at such times, as the managers may appoint; they giving two months' notice of the payments so required in each of the aforementioned papers.

SEC. 7. *And be it enacted*, That the first before-mentioned company shall meet on the first Monday in October next, and on the first Monday in October in each succeeding year; the second before-mentioned company shall meet on the second Monday in October next, and on the second Monday in October in each succeeding year; and the third before-mentioned company shall meet on the third Monday in October next, and on the third Monday in October in each succeeding year, for the purpose of choosing such other officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned, in such manner and form as shall be prescribed by their respective by-laws; at which annual or special meetings they shall have full power and authority to make, alter, or repeal, by a majority of votes, in manner aforesaid, all such by-laws, rules, orders, and regulations, made as aforesaid, and to do and perform any other corporate act herein authorized.

SEC. 8. *And be it enacted*, That the respective presidents and managers first chosen as aforesaid, shall procure certificates for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said respective company, to each person or persons for every share by him, her, or them subscribed and held, he, she, or they having paid to the commissioners aforesaid one dollar for each share, which certificate shall be transferable at his, her, or their pleasure, in person or by attorney duly authorized, in the presence of the president or treasurer, subject, however, to all payments due, and to become due thereon, and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for that purpose, shall be a member of the corporation, and for every certificate assigned to him, her, or them, as aforesaid, shall be entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid at the meetings thereof.

SEC. 9. *And be it enacted*, That the said respective presidents and managers shall meet at such times and places as shall be ordained by their respective by-laws, and, when met, five members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and, a quorum being formed, they shall have full power and authority to appoint all such surveyors, engineers, superintendents, and other officers, as they shall deem necessary to carry on their intended works, and to fix their salaries and wages, and to draw on the bank for all moneys as shall have been so as aforesaid deposited by the commissioners aforesaid, which drafts shall be signed by the said respective presidents, or, in their absence, by a majority of a quorum, and countersigned by their treasurer, and, generally, to do all such other acts, matters, and things, as by this act, and the respective by-laws, rules, orders, and regulations of the company, they shall be authorized to do.

SEC. 10. *And be it enacted*, That, after thirty days' public notice in all the public papers aforesaid of the time and place appointed for the payment of any proportion of the said capital stock of either of the said companies, any stockholder shall neglect to pay such proportion, at the place appointed, for the space of thirty days after the time so appointed, every such stockholder, his, her, or their assignee, shall, in addition to the payment so called for, pay at the rate of five per cent. per month for delay of such payment; and, if the same, and the said additional penalty, shall remain unpaid for such space of time as that the accumulated penalties shall become equal to the sums before paid, in part, on account of such share or shares, the same shall be forfeited to the said company, and may and shall be sold and assigned by the president and managers of said company to any person willing to purchase the same, for such price as can be obtained for the same, and the purchaser or purchasers aforesaid shall have all the benefit and advantage of such assignment and purchase as if he, she, or they had been an original stockholder.

SEC. 11. *And be it enacted*, That the said roads shall be made in, over, and upon the beds of the present roads, as laid out and confirmed by the commissioners of review, and the several acts of Assembly relating to the same, and also upon every extension of the said roads as established by this law: *Provided always*, That, should it appear, on a resurvey of any part of the extension of said roads by sworn surveyors, that a considerable saving in distance would thence arise to the public, and in expense to the company or companies, that in all such cases it shall be lawful to depart from the tract of the road so originally laid down, and improve the shorter and less expensive route: *Provided, also*, That, in all such deviations, the road shall not be diverted or taken from any town or village through which it now passes, nor shall it pass through the meadows, gardens, orchards, or grain fields, whilst the grain or crop is growing therein, without the consent of the proprietor or proprietors thereof: *And provided, also*, That no deviations shall be made from the bed of the Reistertown and Yorktown turnpike roads, as now laid out and confirmed.

SEC. 12. And whereas Baltimore county has, from time to time, laid out and expended considerable sums of money in turnpiking said roads, and it is reasonable and just that the said county should be reimbursed the value to the company of the said turnpike improvements made thereon: Therefore,

*Be it enacted*, That the levy court of Baltimore county, at their next meeting after the respective presidents and managers shall have been chosen, shall be, and they are hereby, authorized and directed to appoint three persons, such as they may deem suitable, for each of the respective roads aforesaid, due notice of which appointment, in writing, with the names of the persons appointed, shall be given to the presidents, respectively; and, upon such notice being given, the said respective presidents and managers shall forthwith appoint a like number, on the part of their respective companies, within ten days after being informed as aforesaid of the appointments by the levy court, and shall immediately give notice thereof to the said persons appointed by the levy court, which six commissioners, so appointed for each respective road, shall, within ten days after the notice aforesaid, meet, and proceed to choose, from out of the next adjoining county to that respective road, three other persons such as they may deem suitable, which nine persons, after being duly qualified before some justice of the peace truly and impartially to estimate the value of the aforesaid turnpike improvements to the respective companies, shall compose a commission, neither of which shall be interested in the stock of the said road which they may be appointed to value, and shall proceed to value and determine the then value of the said improvements on the said roads, and deliver a copy of their said award, within twenty days after the day of the first meeting of said commissioners, under their respective hands and seals, or, in case of disagreement, a majority of the said commissioners shall sign and seal the same, and deliver one such copy thereof to the clerk of the levy court of Baltimore county, and another to the president and managers of the company for the road for which they shall have been appointed, each, provided they accept to act under such appointment, under the penalty of five hundred dollars, one-half thereof to the use of the said county, and the other half for the use of the said company, to be recovered as other fines and forfeitures are for the uses aforesaid under this act; and the said road shall, upon the returning and the filing of said award with the clerk of Baltimore county levy court, be the property of the said company, they first paying each commissioner, so chosen to determine the value of each respective road, the sum of five dollars for each day by him employed in viewing said road, and in making such valuation; and, if it shall so happen that any of the said commissioners shall die, resign, or refuse to act, the justices of the levy court, or such person as they may appoint for that purpose, and the companies, respectively, shall forthwith proceed to fill up such vacancies.



Sec. 13. *And be it enacted*, That the certificates of shares, to the amount of the valuations aforesaid for each respective road, shall be made out by the respective companies, in the name of the levy court of Baltimore county, and delivered to the said court, and all dividends or profits arising on said shares shall be paid to the levy court of Baltimore county, to be appropriated by the said levy court in such manner to the use of the said county as they think proper.

Sec. 14. *And be it enacted*, That the levy court shall have all the privileges of voting at elections as any individual or company holding a like number of shares of the said stock would have.

Sec. 15. *And, whereas*, the road leading towards Fredericktown was laid out and confirmed by the commissioners of review only so far as the line of Baltimore county, and the road from the end of the aforesaid road through Anne Arundel county to the Anne Arundel county line, on a direction towards Fredericktown, was laid out by commissioners appointed by law for that purpose, and from thence through part of Baltimore county, and partly through Frederick county, to Fredericktown, was laid out by commissioners appointed by law for that purpose, which said roads have been opened and put into their present state of improvement at the expense of the said counties: *And, whereas*, it is reasonable and just that the said counties should be paid the value of the said improvements: *Therefore be it enacted*, That the present rights of the said counties to the said road, and improvements made thereon, shall be ascertained in the same manner as is herein before directed, for ascertaining the value of the turnpike roads in Baltimore county, and the President, Managers, and Company of the Baltimore and Fredericktown Turnpike Road shall pay the amount of the said valuations to the levy court of each respective county, or their orders, on or before the end of two years from the time the said respective valuation or valuations shall be made and returned to the said president and managers, and the respective levy court aforesaid, the said respective parts of the said road shall thereupon be vested in the said President, Managers, and Company of the Baltimore and Fredericktown Turnpike Road during the continuance of this act of incorporation.

Sec. 16. *And be it enacted*, That in all cases where stone, gravel, earth, or sand, not already quarried or dug for the use of the owner, or for sale, shall be necessary for making or repairing either of the said turnpike roads, the president and managers of the company, or a majority of them, or any person authorized by them, may agree with the owner or owners of said materials for the purchase of the same, or with the said owner or owners of the land on which the same may be, for the purchase of said land, and in case of disagreement, or in case the owner should be a *feme covert*, under age, or *non compos*, or out of the State or county, the president of the company, or any person authorized by him for that purpose, shall apply to a justice of the peace for the county wherein the said materials may be, which justice shall thereupon issue his warrant, directed to the sheriff of the county, commanding him to summon twelve disinterested persons, qualified to serve as jurors in the county court, to meet at the place where the said materials may be, and the said sheriff shall qualify the said persons, either by oath or affirmation, (as the case may be,) justly, truly, and impartially, to value the damage which may be sustained by the owner or owners of the materials required by such company; and the said persons shall, after valuing the damage which may be sustained by the owner or owners of such materials, and return, under their hands and seals, to the justice who issued the warrant, one copy of their said valuation, one other copy to the president of the company, and one other copy to the owner or owners of the said materials, if such owner shall reside in the county where the said materials may be, and shall not be under any legal disability to receive the money adjudged, and give sufficient discharges therefor, and the president and managers shall pay, or secure to be paid, the damages so adjudged before they shall proceed to remove the said materials; and if the owner or owners of such materials shall reside out of the county, or be under any legal disability, then the president and managers shall enter into bond, conditioned for the payment of the damages assessed to the person or persons who may be duly authorized to receive the same, and shall lodge said bond, and a copy of the said valuation, in the office of the clerk of the county court, to be by him recorded, and upon such bond, or an office copy thereof, suit or suits may be instituted against the obligors therein named, by any person or persons entitled to receive such damages; and the justice and sheriff shall be entitled to receive the same fees for services under this act as they are allowed in similar cases; and the persons summoned as jurymen to value the damages sustained as aforesaid, shall each receive one dollar for every day he shall attend for that purpose, which fees and allowance shall be paid by the president and managers of the company at whose instance the persons may have been summoned.

Sec. 17. *And be it enacted*, That the said presidents, managers, and companies shall have power to erect permanent bridges over all the waters crossing the said roads, wherever the same shall be found necessary, and shall cause the said roads to be kept open to the same width, and in the same place, as they were originally laid out and confirmed by the commissioners of review, and acts of Assembly, heretofore passed, relating thereto, and shall cause twenty feet thereof, in breadth at least, to be made an artificial road, which shall be bedded with wood, stone, or gravel, or any other hard substance, well compacted together, a sufficient depth to secure a solid foundation to the same; and the said road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm, and as near as the materials will reasonably admit, an even surface, and so nearly level in its progress as that it shall in no place rise or fall more than will form an angle of four degrees, with a horizontal line, except over the Catoctin and South mountains, where it may rise or fall to an angle of six degrees, with a horizontal line, and shall forever hereafter, during the continuance of said incorporation or incorporations, maintain and keep the same in good and perfect order and repair.

Sec. 18. *And be it enacted*, That it shall and may be lawful for the levy court of Baltimore county to keep up the respective turnpike gates on the said respective roads, as the same are now set up and established, and appoint toll-gatherers to receive the tolls, and to take at each of the said gates or turnpikes the same tolls that are now established at said gates or turnpikes, until the said companies shall have completed the distance of ten miles of each or either of the said roads from the city of Baltimore, when it shall and may be lawful for the said companies to establish and set up gates, appoint toll-gatherers, and receive tolls agreeably to the provisions of this act; provided that it shall be the duty of the first before-mentioned company to complete and keep in repair, from their intersection, as well the road leading into Pratt street as the road leading into Baltimore street, in the manner prescribed in this act; and provided, also, that no turnpike or gate shall be set up on or across the said road between the intersection of the road leading from Montgomery court-house to the city of Baltimore and Ellicott's lower mills on Patapsco falls.

Sec. 19. *And be it enacted*, That as soon as either of the said presidents, managers, and company shall have perfected either of the roads for any distance from the city of Baltimore, not less than ten miles, and so on, from time to time, any other like distance progressively, they shall give notice thereof to the Governor of this State, who shall thereupon forthwith nominate and appoint three skilful and judicious persons to view and examine the same, and report to him in writing, whether the said road is so far extended in a masterly workmanlike manner, according to the true intent and meaning of this act, and if their report shall be in the affirmative, then the Governor shall, by licence under his hand and the seal of the State, permit and suffer the said presidents, managers, and companies, to erect and fix on such and so many gates or turnpikes upon and across the said road as will be necessary and



sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling on the same with horses, cattle, wagons, carts, and carriages.

SEC. 20. *And be it enacted*, That the said respective companies, having perfected either of the said respective roads, or such parts thereof, from time to time, as aforesaid, and the same being examined, approved, and licensed, in manner as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned, and to stop any person riding, leading, or driving any horses, cattle, hogs, sheep, sulkey, chair, chaise, phaeton, coach, coachee, cart, wagon, wain, sleigh, sled, or other carriage of pleasure or burden, from passing through the said gates or turnpikes, until they shall have respectively paid the same; that is to say, for every space of ten miles in length of the said road, the following sum of money, and so in proportion for any greater or lesser distance, or for any greater or lesser number of sheep, hogs, or cattle, viz: for every score of sheep, one-eighth of a dollar; for every score of hogs, one-eighth of a dollar; for every score of cattle, one-fourth of a dollar; for every horse and his rider, or led horse, one-sixteenth of a dollar; for every chair or chaise, with one horse and two wheels, one-eighth of a dollar; for every chariot, coach, stage, wagon, phaeton, or chaise, with two horses and four wheels, one-quarter of a dollar; for either of the carriages last mentioned, with four horses, three-eighths of a dollar; for every other carriage of pleasure, under whatsoever name it may go, the like sums, according to the number of wheels and horses drawing the same; for every cart or wagon whose wheels do not exceed in breadth four inches, one-eighth of a dollar for each horse drawing the same; for every cart or wagon, whose wheels shall exceed in breadth four inches, and not exceeding seven inches, one-sixteenth of a dollar for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, shall roll more than ten inches, five cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceeding twelve inches, or being ten inches, shall roll more than fifteen inches, three cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than twelve inches, two cents for every horse drawing the same.

SEC. 21. *And be it enacted*, That for the purpose of ascertaining the weight that may be drawn along the said road in any cart, wagon, or other carriage of burden, it shall and may be lawful for the said president, managers and company, to erect and establish scales and weights at or near such and so many of the gates erected, or to be erected in pursuance of this act, as they may think proper, and where there may seem reasonable cause to suspect that any cart, wagon, or other carriage of burden, carries a greater weight than is or shall be by law allowable, it shall be lawful for the toll-gatherers, or other persons in their service or employment, to prevent the same from passing such gate or turnpike, until such cart, wagon, or carriage of burden, shall be drawn into the fixed or erected scales at or near any such gate or turnpike, and the weight or burden drawn therein ascertained by weighing; and if the person or persons driving or having care or charge of any such cart, wagon, or other carriage of burden, shall refuse to drive the same into any such scales for the purpose aforesaid, the person or persons so refusing shall forfeit and pay to the said president, managers and company, any sum not less than five dollars, nor more than eight dollars, to be recovered in the manner hereinafter mentioned.

SEC. 22. *And be it enacted*, That no wagon, or other carriage with four wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road with a greater weight thereon than three tons; that no such carriage, the breadth of whose wheels shall not be seven inches, or being six inches or more, shall roll at least ten inches, shall be drawn along the said road with more than five tons, that no such carriage, the breadth of whose wheels shall not be ten inches or more, or being less shall not roll at least twelve inches, shall be drawn along the said road with more than eight tons; that no cart or other carriage with two wheels, the same breadth of wheels as the wagons aforesaid, shall be drawn along the said road with more than half the burden or weight aforesaid; and if any cart, wagon, or carriage of burden whatsoever, shall be drawn along the said road with a greater weight than is hereby allowed, the owner or owners of such carriage, if the excess of burden shall be three hundred weight or upwards, shall forfeit and pay four times the customary tolls, for the use of the company: *Provided always*, That it shall and may be lawful for the said company, by their by-laws, to alter any or all the regulations herein contained respecting the burdens of carriages to be drawn over the said road, and to substitute other regulations, if upon experiment such alteration shall be found conducive to the public good: *Provided, nevertheless*, That such regulations shall not lessen the burdens of carriages above described.

SEC. 23. *And be it enacted*, That the treasurer of the western shore be and he is hereby constituted a court of inspection, and it shall and may be the duty of the respective companies, once every year, (and oftener if required by the court,) to lay before the same a correct and methodical account of their disbursements and expenditures, and of the amount of the tolls collected and received on their respective roads for and during the twelve months preceding, and whenever the tolls shall, during two following years, exceed ten per centum, free of all charges on the institution, the said court shall, at their discretion, hold the excess thus arising above the said ten per centum, in reserve, to meet any future deficiency, or if in their judgment a continuance of the then tolls would produce a like annual excess, to lower the tolls, or any of them, so as to bring the aggregate on the roads respectively to ten per centum per annum; and the said court may, in their discretion, on the representation of the aforesaid companies, revise the tolls herein established, so as to render them in their operation more favorable to the commerce and the industry of the citizen.

SEC. 24. *And be it enacted*, That the stockholders of the present companies shall be entitled to receive ten per centum per annum, and no more, over and above all charges and deductions whatsoever; and the president and managers of the respective companies shall keep a just and true account of all and every the moneys received by their several and respective collectors of tolls at the several and respective gates and turnpikes on the said roads from the beginnings to the ends thereof, which account shall be upon oath, or affirmation, as the case may be, and shall make a dividend of the clear profits and income thereof, not exceeding ten per centum in any year, among all the stockholders of every description, and shall, on the first Monday in November and May in every year, publish the half-yearly dividend made of the said clear profits as aforesaid, and of the time and place when and where the same shall be paid, and shall cause the same to be paid accordingly.

SEC. 25. *And be it enacted*, That all such carriages as aforesaid to be drawn by oxen in the whole, or partly by horses and partly by oxen, two oxen shall be estimated as equal to one horse in charging all the aforesaid tolls, and every mule as equal to one horse.

SEC. 26. *And be it enacted*, That if the said companies, after any of the said roads are completed as aforesaid, shall neglect to keep the said roads in good and perfect order for the space of fifteen days, and information shall be given to any justice of the peace of the neighborhood, within the county where the repair ought to be made, such justice shall issue a precept, to be directed to any constable, commanding him to summon three disinterested persons, to be named by the said justice in the said precept, to meet at a certain time in the said precept to be mentioned, at the place in the said road which shall be complained of, of which meeting notice shall be given to the keeper of the gate or turnpike nearest thereto, and the said justice shall, at such time and place, on the oaths or

affirmations of the said persons, inquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid, and shall cause an inquisition to be made and certified under the hands of himself and a majority of the said persons; and if the road shall be found by the said inquisition to be out of order and repair, contrary to the true intent and meaning of this act, the said justice shall certify and send one copy of the said inquisition to each of the keepers of the turnpikes or gates between which such defective place shall be, and from thenceforth the tolls hereby granted to be collected at such turnpikes or gates shall cease to be demanded, paid or collected, until the said defective part or parts shall be put in good and perfect order and repair as aforesaid; and if the same shall not be put in good and perfect order and repair before the next county court of the said county, the aforesaid justice shall certify and send a copy of the inquisition aforesaid to the judges of the county court, who shall thereupon cause to be brought before them the body or bodies of the person or persons intrusted by the company with the care and superintendence of such part of the said road as shall be found defective; and if the said person or persons intrusted by the company or companies aforesaid, shall be convicted of the offence by the said inquisition charged, the said court shall fine the said person or persons, according to the nature and aggravation of the neglect, in their discretion, not exceeding one hundred dollars, for every week such place shall have been out of order and repair; and in case the said company should neglect to have the said place repaired within fifteen days after the aforesaid fine shall have been laid, then the said court shall proceed to fine the said president, managers and company, in their discretion, not exceeding two hundred dollars, for the use of the county under the direction of the levy court.

Sec. 27. *And be it enacted*, That if any person or persons whomsoever, riding in or driving any sulkey, chair or chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, riding or leading any horse, mare or gelding, or driving any hogs, sheep, or cattle, shall therewith pass through any private gates or bars, or along or over any private gates or bars, or along or over any private passage, way, or other ground near to or adjoining any turnpike gate erected, or which shall be erected in pursuance of this act, or heretofore erected, with an intention to defraud the company, and avoid the payment of the toll or duty for passing through any such gate or turnpike; or if any person or persons shall, with such intent, take off, or cause to be taken off, any horse, mare or gelding, or other cattle, from any wagon, or carriage of burden or pleasure, or practise any other fraudulent means or device, with the intent that the payment of any such tolls or duty may be evaded or lessened, all and every person or persons, in all, every or any of the ways or manners aforesaid offending, shall, for every such offence, respectively, forfeit and pay to the said respective president, managers and company, of the road on which said fraud shall or may be practised, any sum not exceeding ten dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner as debts of a similar amount may be sued for and recovered: *Provided always*, That if any person or persons shall be prosecuted under this section, and the said prosecution shall not be sustained on the part of the prosecutor, then and in such case the person or persons prosecuted as aforesaid shall receive from the company the sum of twenty dollars, in lieu of damages from delay and vexatious prosecution, recoverable as other fines under this act; and if any toll-gatherer shall knowingly demand and receive any greater toll from any person or persons than such toll-gatherer is authorized to demand and receive by virtue of this act, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offence, to the use of the county in which the forfeiture is incurred, and for the payment of which the said company shall be responsible.

Sec. 28. *And be it enacted*, That the presidents and managers of the said companies shall keep fair and just accounts of all moneys received by them from the said commissioners, and from the subscribers to the said undertakings on account of the several subscriptions, and of all penalties for delay in payment thereof, and of the amount of the profits on the shares which may be forfeited as aforesaid, and also all moneys by them expended in the prosecution of their said work, and shall, once at least in every year, submit such account to a general meeting of the stockholders, until the said road or roads shall be complete, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained; and if upon such liquidation, or when the capital stock of the said company shall be nearly expended, it shall be found that either of the said capital stocks will be insufficient to complete that respective road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers, and company, at a stated or special meeting to be convened according to the provisions of this act or their own by-laws, to increase their number of shares to such an extent as shall be deemed sufficient to accomplish the works and receive subscriptions on original terms, and demand the money subscribed for such shares, in like manner and under like penalties as are herein before provided for the original subscriptions, or as shall be provided by their by-laws.

Sec. 29. *And be it enacted*, That the court of inspection aforesaid shall, at the end of every third year from the date of those incorporations, until two years next after the whole of either of the said roads shall be completed, lay before the General Assembly an abstract of the accounts of the corporations, on the oath or affirmation of the persons intrusted by the companies respectively with keeping of the said accounts, showing the whole amount of their capitals expended in the prosecution of either of the said works, and of the income and profits arising from the said tolls, for and during the said respective periods, together with an exact account of the costs and charges of keeping the said roads in repair, and all other contingent costs and charges, so that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after either of the said roads shall be completed from the beginning to the end thereof, it shall appear from the average profits of the said two years, that the said clear income and profits will not bear a dividend of ten per centum per annum on the capital stock of the said company so expended, then it shall and may be lawful to and for the said president, managers and company, to increase the tolls herein before allowed so much upon each and every allowance thereof as will raise the dividends up to ten per centum per annum; and at the end of every three years thereafter the said companies shall, on the oath or affirmation of the said persons respectively employed to keep the accounts of the said company or companies, render such like statements to the General Assembly; and if at the end of such triennial period there shall be a surplus of tolls over and above satisfying the aforesaid ten per centum upon all or either of the said roads, the said court of inspection shall have power, and is hereby authorized, to receive such surplus, and to employ the same in purchasing out the stock of the said roads respectively.

Sec. 30. *And be it enacted*, That the General Assembly of Maryland may at any period after all or either of the roads shall have been completed, one year's notice being given to the stockholders, pay all or either of the said companies the amount of the cost of the road or roads of such company or companies, with such an interest thereon as shall make it equal, with the tolls received, to ten per centum, from the investments of their moneys, and that thenceforward the tolls shall be subject to the regulation of the Legislature.

Sec. 31. *And be it enacted*, That the said companies shall cause posts to be erected and continued at the intersection of every public road falling into, and leading out of, the said turnpike roads, with a board and index hand pointing to the direction of such roads, on both sides whereof shall be inscribed, in legible characters, the name of the town, village or place to which such road leads, and the distance thereof in computed miles; and the said companies shall cause mile-stones to be placed at the side of the said road or roads, beginning at the distance of one mile from the bounds of the city of Baltimore, and extending thence to the termination of each or either of

the said respective roads, whereupon shall be marked, in plain legible characters, the respective number of miles which each stone is distant from the city of Baltimore aforesaid; and at every gate or turnpike by them to be fixed on the said road, shall cause the distance from Baltimore, and the distance from the nearest gates or turnpike in each direction to be marked in legible characters, designating the number of miles and fractions of a mile on the said gates or some other conspicuous place, for the information of travellers and others using the said road; and if any person shall wilfully destroy the said posts, boards, index hands or mile-stones, or deface the same, or deface the directions made on the said gates or other conspicuous place as aforesaid, or shall, without permission of the acting superintendent of the said road, throw out upon the road, or within the limits of the same, and suffer to remain for the space of one day, any mould, dirt, weeds, or rubbish of any kind, such person being convicted thereof by the evidence of one or more credible and disinterested witnesses before any justice of the peace of the said county, he or she shall be adjudged by the said justice to pay a fine not exceeding ten dollars, to be recovered, with costs, as debts under ten pounds are by law recoverable, which fine, when recovered, shall be paid to the treasurer of the company, for the use of the said company.

SEC. 32. *And be it enacted*, That all wagoners and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road in the passing direction, leaving the other side of the road free and clear for other carriages to pass and repass; and if any driver shall offend against this provision, he shall forfeit and pay the sum of ten dollars to any person who shall be obstructed in his passage, and will sue for the same, to be recovered, with costs, before any justice, in the same manner as debts under ten pounds are recoverable.

SEC. 33. *And be it enacted*, That it shall not be lawful for any of the said companies to ask, demand, or receive of, or from any person or persons living on or adjacent to the said road, within three miles of any of the said gates or turnpikes, any toll for passing the said gate more than once in twenty-four hours.

SEC. 34. *And be it enacted*, That no toll-gate shall be erected within the distance of one mile from any of the towns or villages in this act mentioned.

SEC. 35. *And be it enacted*, That either of the said presidents and managers of any of the said turnpike roads for the time being, shall and may, and they are hereby authorized and empowered to grant, demise, and to farm-let, to any person, or persons with whom they can agree, the tolls and duties which they, by virtue of this act or their own by-laws, are authorized to demand and receive for passage in, upon and along, the said road, at any such gate or turnpike, over or upon the same, or any part of the same, for any term not exceeding seven years, under such rents, reservations and conditions, as the said president and managers, at any meeting of their board, shall agree upon, which grants and demises shall have the same construction, force and effect, as other like grants and demises made between private persons have and receive.

SEC. 36. *And be it enacted*, That if, by the termination of any of the said roads, it should so happen that a fractional part may remain, over and above the even ten miles, measuring from the outlines of the city of Baltimore aforesaid, that it shall and may be lawful for the said companies, on the same being completed agreeably to this act, to make application to the Governor and Council, who shall thereupon have the same examined and licensed as aforesaid to receive tolls in the same proportions on the aforesaid fractional part of said road as is hereinbefore allowed to be received on other parts of the said road.

SEC. 37. *And be it enacted*, That all and every provision of this act, so far as the same relate to the Reister-town and Yorktown roads shall remain suspended, and shall not be carried into execution until after the first day of January, eighteen hundred and eight: *Provided*, That the persons named in the third section of this act may, at their discretion, proceed to open books for subscriptions for said roads on the day, or days therein directed, or defer to do the same until the first day of January, eighteen hundred and eight; of which determination and day or days appointed, they shall give a previous notice of at least one month in the several papers therein mentioned.

SEC. 38. *And be it enacted*, That the levy court of Baltimore county shall continue to receive all the tolls which are or may be established on the Reisterstown and Yorktown roads under existing laws; and the several laws now in force, authorizing the courts of justice to sentence criminals to labor on the public roads of Baltimore county, and the several provisions thereof, shall be in full force and operation until, by the provisions of this act, the property in the said roads shall be transferred to the respective incorporated companies as herein directed, and until provision shall be otherwise made by law.

SEC. 39. *And be it enacted*, That, if the first before-mentioned company shall not proceed to carry on the said work within two years from the passing this act, or shall not complete the same as far as Fredericktown in six years, as far as Middletown in two years thereafter, and to Boonsborough in two years thereafter; and if the two remaining companies shall not proceed to carry on the work in their two respective roads in five years from the passage of this law, and shall not in five years thereafter complete the same, then the right of the said company or companies to such road or roads, not finished as aforesaid, shall revert to the counties respectively.

#### FIRST SUPPLEMENT.

A supplement to an act entitled "An act to incorporate companies to make several turnpike roads through Baltimore county, and for other purposes." Passed January 19, 1805.

SECTION 1. Whereas, by an act entitled "An act to incorporate companies to make several turnpike roads through Baltimore county, and for other purposes," passed at the present session of Assembly, a company has been incorporated for the purpose of making a turnpike road from Baltimore to Boonsborough, in Washington county, under the style and name of "The Baltimore and Fredericktown Turnpike Company;" and as it is deemed highly proper to extend the great and important advantages resulting from turnpikes to the citizens of the western part of the State in general; therefore,

SEC. 2. *Be it enacted by the General Assembly of Maryland*, That the said company be authorized and empowered to extend the said turnpike road from Boonsborough to Hagerstown, and from Boonsborough to Williamsport, under the same regulations and restrictions, and entitled to the same tolls and immunities, and advantages, as they are authorized to take and receive by the act to which this is a supplement, provided a majority of the stockholders of the said company shall agree to the extension of said road within two years from their first meeting, and provided the said extension shall be completed in twelve years from the date hereof.

SEC. 3. *And be it enacted*, That, if either of the said companies, in the said original act mentioned, shall not proceed to commence and carry on the work on said roads respectively, within the time limited by said act, or shall not within the time therein also limited to complete said roads respectively, according to the true intent and meaning of the said original act, and this supplement thereto, then, and in either of those cases, all and singular the rights, liberties, privileges, and franchises, by the said original act, or by this supplement, granted on, in, and to the

said road, wherein such default shall have been made as aforesaid, shall revert to the respective counties through which it passes, any thing in the said original act to the contrary notwithstanding.

#### SECOND SUPPLEMENT.

A supplement to an act entitled "An act to incorporate companies to make several turnpike roads through Baltimore county, and for other purposes." Passed January 25, 1806.

SECTION 1. Whereas it is represented to this General Assembly, that, in pursuance of the powers vested in the commissioners of the Baltimore and Reistertown Turnpike Road, by the act to which this is a supplement, that they have opened subscription books, and that there has been subscribed the amount of the capital stock authorized by said act on said road, and they have petitioned that they may be permitted immediately to commence turnpiking the same; and this Assembly being of opinion that their prayer is reasonable: Therefore,

SEC. 2. *Be it enacted by the General Assembly of Maryland,* That so much of an act entitled "An act to incorporate companies to make several turnpike roads through Baltimore county, and for other purposes," as restrains the President and Managers of the Baltimore and Reistertown Turnpike Road from commencing their work on said road, until the first day of January, eighteen hundred and eight, or that is in anywise inconsistent with this act, shall be, and the same is, hereby repealed.

SEC. 3. *And be it enacted,* That it shall and may be lawful for the commissioners mentioned in the act to which this is a supplement, and they are hereby required, to hold their first election for managers on the first Monday in April next, under the regulations and restrictions, and to be conducted in the manner prescribed in the act to which this is a supplement.

SEC. 4. *And be it enacted,* That the proceedings of the said commissioners, in taking the subscriptions aforesaid, be, and they are hereby confirmed and declared to be as binding on the subscribers as though they had been made on the day or days prescribed in the aforesaid act.

#### THIRD SUPPLEMENT.

A further supplement to an act entitled "An act to incorporate companies to make several turnpike roads through Baltimore county, and for other purposes." Passed January 25, 1806.

SECTION 1. Whereas, by an act entitled "An act to incorporate companies to make several turnpike roads through Baltimore county and for other purposes," passed at the late session of Assembly, a company has been incorporated for the purpose of making a turnpike road from Baltimore through Westminster in Frederick county, under the style and name of the Baltimore and Reistertown Turnpike Company; and as it is deemed highly proper to extend the great and important advantages resulting from turnpikes to the citizens of the western part of the State in general: Therefore,

SEC. 2. *Be it enacted by the General Assembly of Maryland,* That the said company be authorized and empowered to extend the said turnpike road from Westminster to the forks of the road where Stern's tavern now is, thence on to Taneytown, thence on to Emmetsburg, and thence to the Pennsylvania line, under the same regulations and restrictions, and entitled to the same tolls, immunities, and advantages, as they are hereby authorized to take and receive by the act to which this is a supplement, provided a majority of the stockholders of said company shall agree to the extension of the said road within three years from their first meeting, and provided the said extension shall be completed in twelve years from the date hereof.

SEC. 3. And whereas, by the act passed at the present session of Assembly, it is provided that a new election shall be held for managers of the Baltimore and Reistertown Turnpike Company, on the first Monday in April next, and the election being held on so late a day may much impede the operations of the company: Therefore,

*Be it enacted,* That it shall and may be lawful to hold the election of managers of the Baltimore and Reistertown Turnpike Company on the third Monday in February next, any thing in the aforesaid act to the contrary notwithstanding.

ELLCOTT'S LOWER MILLS, 9th month.

Friend JOHN BRICE:

I received thine of the 4th of August last, respecting information, on behalf of the Secretary of the Treasury, on the subject of the Baltimore and Fredericktown Turnpike Road. I have enclosed the turnpike law which authorizes that and other roads leading into the city of Baltimore to be made, together with a plat showing the distance and bearings of the several points as laid down thereon; as also the distance on the old routes, as far as known to our board of managers; also what they might be shortened as far as yet known, and still further. Improvements may probably be made to the westward of Fredericktown, beyond which the survey has not been fully-examined, and confirmed. The first contract was made on the first twenty miles, on the 4th of July, 1805, and cost about \$9,000 per mile, on an average, and the gates up and toll receiving on the 24th of April, 1807; we have contracted for seventeen miles further, ten of which is now nearly completed, which will cost about \$7,000 per mile, including all expenses; and as we get more into the interior of the country, where provisions are cheaper, hope to experience a still further reduction of expense.

It may be observed that, from Boonsborough to Cumberland, a distance of seventy-four and a half miles, as the road now runs, is as yet without any provision by law for its improvement, further than as common county roads in other part of the State, and not laid out on the best ground, in many places which it is capable of; and, to bring into full operation the benefits contemplated by the General Government by the road leading from Fort Cumberland to the Ohio, it becomes necessary that the State of Maryland should either take this matter upon her own account, or put it in the power of Congress to promote a design which it is the interest of the Union to carry into effect.

I am, respectfully,

JONATHAN ELLCOTT.

JOHN BRICE, Esq., Baltimore.

[NOTE. The turnpike law, referred to in the within, does not accompany it.]

*Answers to the queries respecting artificial roads, so far as relate to the Baltimore and Fredericktown turnpike road, by Jona. Ellicott.*

Answer first is shown by the plat herewith enclosed.

Second. The greatest angle from a horizontal line, which has been taken on this road in passing any hill, has not exceeded four degrees; and although the law authorizing this road admits of six degrees over the South mountain, still, as the same force will propel so much greater a load on a four degree hill than the same force would on an angle of six degrees, we shall rather submit to some loss of distance than exceed four degrees to the termination of the road. And from a survey which has been made, it is believed that, from the termination of the road at Boonsborough to Fort Cumberland, no part need exceed four degrees, and the distance be considerably shorter than the present route.

Third. Breadth sixty-six feet through Baltimore and Anne Arundel counties; sixty through Frederick county. The form which seems most approved is, in the greater part of the way, six inches convexity in twenty-two feet; but in particularly level places, and at the foot of hills, nine inches. Depth of stone from ten to twelve inches, broken to pass through a three inch ring. The most approved materials for the stoned part of the road is the hardest kind of black stone. There is a kind of granite which approaching to flint is also very good. Flint will do, but is by no means equal to the foregoing. Limestone will also do, but is not hard enough. The most approved covering on the surface of the road is clean washed sand or gravel from the creeks or rivers. Where the stone are broken to pass through a three inch ring, this kind of a covering makes a road very little inferior, in point of evenness on the surface, to the best gravel, and seems (if I may so term it) to be the proper cement for a stoned turnpike road, which is vastly superior in point of durability, when made of the best kind of stone, to the best gravel road.

Fourth. We have so far made our bridges and culverts, excepting some small culverts, of the same width in the clear, of the stoned part of the road; and, except in two instances, where circumstances forbid of stone arch, the wing walls also arching against the bank, by which means there is a considerable saving of stone work, as much thinner walls will support a given height of bank in this than in the usual way of straight wing walls; and in this way they answer without battering, and the wing walls, circling towards each side of the road, supports the bank without requiring the walls so long as in the usual way. We generally raise our parapet walls about three feet above the surface of the road.

Fifth. No material difficulties do appear.

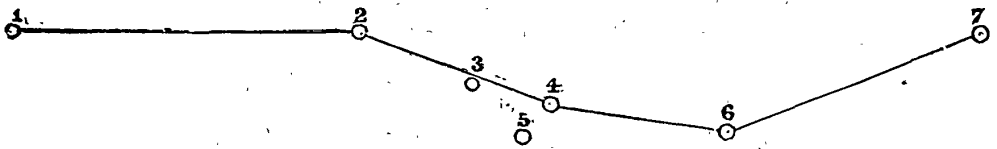
Sixth. Our first twenty miles cost about nine thousand dollars per mile. The next seventeen, which is contracted for, will cost, we expect, about seven thousand dollars per mile, including all expenses. We have, in most instances, contracted for forming and graduating the bed of the road to a survey thereof previously made, and to which survey we strenuously adhere, unless some unforeseen difficulty should arise, which rarely has as yet. That of quarrying, transporting stones or gravel, is so extremely variable as to the kind of quarry from which they are to be taken, the distance of conveyance, the kind of road, &c. &c., that it would be difficult to answer this query with precision. The same observations will apply to breaking stone on the road; the contractors have given from two to six dollars per perch in length of the road, according to the quality of the stone. The most economical way of getting a road made, which we have found at its value, is for those who have the letting of it out to be previously well informed of every different circumstance, of distance of stone from the road, quality of stone, whether to be blown out of solid rock, or to be taken in a loose state from the quarry, or on the surface of the ground, the quantity and distance of every cubic yard of earth to be removed in levelling the road fit for receiving the stone, &c. &c. These bring a number of contractors into competition for the section or miles of road to be contracted for, or any other part of this query; each one judging for himself of all those different circumstances, some one will be likely to perform the service to be done on reasonable terms; if not, the work lays until some person will, which we have not found long. We have given for mason work, in building bridges, from two to two and a half dollars per perch, measuring the solid contents of stone work, and adding one-half the contents of the arch to determine its contents, the mason finding every thing except centres for the arches over eight feet span. The quarry right is also found him; and, in case the stone are hauled above two miles, a reasonable allowance is to be made him for extra hauling. Dry walls are made at one dollar and twenty cents per perch, the mason finding every thing except quarry right.

Seventh. We have now expended about two hundred and sixty thousand dollars, and have five hundred thousand dollars subscribed, which, in all probability, will be sufficient to complete the work to Boonsborough, a distance of about sixty-two miles.

Eighth. The rates of toll are as in the law herewith sent. Our road has been in operation so short a space of time, and that at a season of the year when much the least travelling may be expected, that this query cannot be answered with precision; but have little doubt when it becomes complete to Fredericktown, will yield ten per cent. on the capital expended, without any increase of toll which the law authorizes. If does not appear that any heavy repairs will be necessary, particularly where the road is made of good hard stone.

Ninth. Answered as above.

Straight line from Baltimore to Fredericktown,	42 $\frac{1}{4}$ miles;	the road as will be made,	43 $\frac{1}{2}$ miles.
Straight line from Fredericktown to Williamsport,	24 $\frac{1}{2}$ miles;	the road as now runs,	27 $\frac{1}{2}$ miles.
Straight line from Williamsport to Hancock,	21 $\frac{1}{2}$ miles;	the road as now runs,	23 $\frac{3}{4}$ miles.
Straight line from Hancock to Cumberland,	31 $\frac{3}{4}$ miles;	the road as now runs,	40 $\frac{1}{2}$ miles.
	120 miles.		135 miles.



1 Baltimore. 2 Fredericktown. 3 Boonsborough. 4 Williamsport. 5 Hagerstown. 6 Hancock. 7 Cumberland, or Washington.

Scale of 20 miles per inch.

## D. No. 5.

## TURNPIKE ROADS IN VIRGINIA.

*Manchester Turnpike Road.*

1. The Manchester turnpike road commences at Manchester, extending on the principal route from the capital of Virginia into the western parts of this State, Tennessee, and Kentucky, and terminates at Falling creek, a distance of about twelve miles.

2. Road passes over a very level country, particular angle not correctly ascertained; the only hill in the whole distance is made easy for wagons carrying one hundred bushels of coal weighing about four tons.

3. One-half the distance forty feet wide, the residue thirty-six, raised about two feet in the centre, with a ditch on each side, and covered with gravel.

4. One stone arch of moderate size, several smaller culverts of stone.

5. Want of foundation principal obstruction, together with inexperience in the business.

6. The whole road has been finished at an expense of fifty thousand dollars. A contract for the last four miles was made at three thousand dollars per mile, exclusive of stone work, and condemnations of land, and gravel. Stone work may be done at three dollars thirty-three cents per perch, the mason furnishing every thing necessary.

7. This question answered above.

8. Toll for loaded wagons the full distance, twenty-five cents; returning wagons, with less than five hundred pounds, pass toll free. Coal wagons returning pay twelve and a half cents, although empty. Toll for each horse, mule, or ox, for full distance, three cents. Expense of repairs yet unknown, as also net income.

9. For charter, see act of Virginia Legislature, 1801 and 1802.

This road commands so great a portion of the business of the western with the eastern country, that it should merit the attention of the Government. All the produce of the southwestern part of this State, which cannot be transported by the navigation of the James and Appomatox rivers, and of a part of the North Carolina and Tennessee, would take this direction if a suitable extension of improvements could be made. It is a post road, and may be improved for a considerable distance at a very moderate expense. The burden of wagons not being so great as to do much injury after passing the coal works, for whose convenience the road already made was undertaken, the company who have finished this work were desirous of obtaining an extension of their charter to a further distance of ten or twelve miles, but have been discouraged from so doing, since the Legislature of this State have manifested so strong a disposition to repeal or intermeddle in charters.

There is another turnpike road, commenced at the city of Richmond, by a company incorporated under an act of the Legislature of Virginia; but they have made very little progress as yet. This road, however, is intended to unite the coal works of Ross and Currie, on Deep run, a distance of twelve miles from the city, and is constructed, as far as it has progressed, upon the same principles as that of Manchester. A more minute account of it could not be obtained now, as the president, who is the active director, is and has been absent all the summer.

## E.

WASHINGTON, March 16, 1808.

SIR:

I have the honor of your letter of the 29th of July, 1807, transmitting to me a copy of the resolutions of the Senate of the United States of the 2d of March, 1807, together with a list of queries respecting artificial navigation, and canals, to which you request my answer and opinion.

In order to give you all the information on this subject which you wish, and I possess, and in the most condensed form, I ask your permission to depart from the order which your questions demand, and, after treating the subject generally, to enter upon an account of those works, in detail, with which my personal experience has made me more particularly acquainted.

The most striking circumstance, in a view of the Atlantic States of the Union, in relation to the improvement of their internal navigation, is the uniformity of the natural arrangement of the rivers and mountains, and that this arrangement differs from that of every other country in which artificial navigation has been attempted. In other countries the general course of all the rivers is between the mountains and along the valleys; in this the general course of all the rivers is across that of the mountains and of the valleys. Our mountains, from their termination to the southwest in Georgia, hold a course to the east of north; the general direction of our principal rivers is to the east of south; and on inspection of the map it will be observed that, as the direction of the mountains to the northeast of the Delaware becomes more easterly, so do our rivers acquire a more southern course, always crossing the mountains at nearly the same angle.

Our rivers may be divided into three classes:

*Primary rivers*, that discharge their water immediately into the ocean. Of these the relative magnitude might be rated according to the surface they respectively drain;

*Secondary rivers*, or such as fall into the first, above their tide water; and

*Creeks*, properly so called, which rise below the falls of the first rivers, or, rather, collect the water of the level land below the falls, and discharge it into the tide waters.

Of our primary rivers, the Susquehannah is the principal. By a great degree of geographical injustice, this mighty river loses its name at the foot of its falls, and is called the Chesapeake Bay from thence to the ocean; although its width, compared with its length, forbids the term of bay to be applied to what is called the Chesapeake. All of these rivers cross, in the greatest part of their course, the direction of the mountains.

Of the secondary rivers, many of which are of great importance and magnitude, some, and perhaps the greatest number, hold a course parallel to the mountains, as the Shenandoah, the Conogochague, the Lehigh, &c., draining the valleys, and receiving away the torrents of the mountains.

The third order of our water courses rise either in the lowest ridge of our hills, which I will call the granite ridge, and over which all our principal rivers, from Georgia to the Hudson, fall, and then run through the alluvial country which lies between the granite ridge and the ocean. Such rivers are, the Nottoway, the Blackwater, the Meherrin, the Annacosta, (eastern branch of Potomac,) the Elk river, and the very important creek in the State of Delaware, the Christiana; or they are merely drains of the alluvial country, assuming an appearance of importance below the head of the tide, above which they are mere torrents, almost dry in the autumn. Such streams are all the rivers of the eastern shore of the Chesapeake, and of the lower part of the Jerseys, and innumerable water courses, forming large estuaries in the Southern States.

Our great northwestern lakes, from their first source to the eastern end of Lake Erie, may be considered as part of the great river St. Lawrence, following the direction of the rest of our rivers, until opposed by the northern

extremity of the Allegany. From thence its course follows the valley west of the Allegany, through Lake Ontario, to the ocean, receiving the waters of the northern extremity of the mountain in its course.

This general view of the construction of our country was necessary, in order to understand the general principles on which our artificial navigation can be so conducted as to be useful, or even practicable, and to explain why connexions of waters, which, on the map, appear advantageous and feasible, would be useless, and perhaps impracticable, by any effort of art.

Two principal objects will dictate all the exertions towards the improvement of our internal navigation, which can, for many years to come, be attempted.

1. To carry our produce by water to the nearest port for its exportation, and the importation of foreign articles.

2. To exchange, by internal commerce, the articles reciprocally deficient on lines parallel to the seacoast. Canals, the use of which arises from manufacturing activity, will not probably be soon required.

The first object, as all our principal rivers run seaward, and generally by the shortest course, must be attained by the natural or improved navigation of the rivers themselves, or by canals cut parallel to them. The second may often require a navigation parallel to the valleys, so as to communicate one principal river with another.

The former attempt at improved navigation has already been made on many of our principal rivers; the latter has been seldom undertaken, and only once above the falls of both primary rivers, in the canal intended to join the Susquehannah and Schuylkill, and the Schuylkill and Delaware rivers, above Philadelphia.

The general construction of our country opposes to artificial navigation, in either of these directions, difficulties, which in no part of the world exist in so uniform and certain a degree. Canals, parallel to our rivers, have three formidable obstacles to encounter and overcome.

1. The rapid descent of the ravine cut through the mountains by the river itself, along which the canal must be carried; or, if the ravine be quitted, difficulties on the high levels, which, the further you go from the river, are always intersected by the more numerous ravines, and embarrassed by the difficulty of returning to the ravine of the river.

2. The invariably rocky nature of the ground, which is uniformly of granite in all its varieties; and the numerous fissures which carry off the water, and require lining.

3. The difficulty of keeping off the land water, and of crossing the lateral branches and torrents of the river.

On the other hand, canals parallel to our mountains must necessarily cross the ridge or spur of the mountain, which divides the waters of two primary rivers. On this ridge, above the falls, the water requisite to supply the canal is always scanty; often there is none; and though a tunnel, or a steam engine, or, in the last resort, a railroad, are certain means of obviating the difficulty, they are expensive, inconvenient, and imperfect. Below the granite ridge the difficulty is less. There may always be found a supply of water from the ridge itself, and the feeders, though carried through rocky and expensive ground, are themselves useful, as small canals, as far as they extend; and besides, below the ridge the soil is easily cut and embanked.

Having so frequently mentioned the granite ridge, I will here trace its extent as far as my knowledge of our country enables me to do it.

The granite ridge forms the shore of the north side of Long Island opposite to the island of New York. All the south of the island is alluvial, and is the first margin of alluvial soil below the granite ridge. This margin of alluvial soil, beginning at Long Island, widens as it extends to the southwest, until, in Georgia, it becomes more than 200 miles in width. Staten Island and Bergen Point are two spurs of the same ridge, which continues nearly in the line of the post road to Trenton, where the river Delaware falls over it, having worn down the rocks more deeply there than in many other of our rivers. The Delaware runs in its general direction, for 60 miles under the foot of the ridge, as far as Newcastle, leaving it only for a short distance at particular bends of the river. At Philadelphia the ridge crosses the peninsula to Gray's ferry, on Schuylkill. The softer granite of Schuylkill has been worn down so as that the falls are four miles from its lower edge. From Philadelphia, the ridge runs with the post road to Havre de Grace, where it is visible on both shores, although the tides extend six miles above, to the foot of the falls.

The Susquehannah, by the name of the Chesapeake, may be considered as running under the foot of the granite ridge almost as far as Baltimore, which city is built upon the foot of the ridge. At the river Patuxet, on the post road, the ridge appears again, but is lost under the incumbent soil, and is not again visible until it appears at Georgetown. The harder granite of the Potomac has resisted the force of the water more than the granite further to the northeast, and the tide reaches only three miles above its outrunnings. From the Potomac, the falls of Rappahannock, at Fredericksburg; of James River, at Richmond; Appomattox, at Petersburg; Roanoke, at Halifax; beyond which point my personal observation does not extend, point out the course of this ridge in a line nearly parallel to the Blue Ridge, diverging to the eastward as it extends southward.

#### *I. Of the improvement of the natural navigation of our rivers leading to the sea, and the canals cut parallel to them.*

The natural difficulties of the navigation of our rivers are, in spring, the dangers of wreck in the wild waters of our rapids; in autumn, the obstructions created by rocky shoals; and, in most of them, rapids and falls impracticable at all times. The least expensive and most obvious means of removing the former, are the blowing of the most prominent rocks so as to straighten the channel, and procure a passage at low water. This has, in almost all our rivers, been attempted, on a greater or less scale, and with various degrees of success; when injudiciously performed, and in rivers of rapid descent, and liable to great variations in the quantity of their water, more injury has been done than advantage obtained. Many of our worst obstructions act as natural dams, which, holding up the water, create a large extent of excellent navigation above them. Of this, the James river, above Westham, and the Susquehannah, above Chickisalonga and Hunter's falls, are instances in point. Such obstructions when removed, let down the water rapidly from above without supplying deeper navigation below. In a river of much magnitude, as the Susquehannah, indeed no gap or sluice artificially cut can materially affect the rapidity of the stream; but, in lesser rivers, great care is required not only to prevent lowering the water above, but to avoid giving a new direction to the current, more mischievous in its effects than that which has been changed. But with whatever judgment the natural navigation of a river, perplexed by rapids and shoals, may be conducted, and however its descent may be thereby facilitated, its ascent cannot possibly be rendered more easy in the same degree. Thus, for instance, although by the moneys expended by the State of Pennsylvania and the Susquehannah Canal Company on the natural navigation of the Susquehannah, below Wright's ferry, it has been rendered much less dangerous to run down the distance of forty-one miles, almost the whole of which is a tremendous rapid from Columbia to the tide, and thereby to carry lumber, iron, and agricultural produce to Havre de Grace, and thence to Baltimore; yet, so difficult is the upstream navigation by the same route, even with the assistance of the Susquehannah canal, that the returns in imported articles have been generally purchased in Philadelphia, and conveyed to Colum-



bia or Middletown, above the rapids, by the Lancaster turnpike, thence to be boated to the country watered by the upper branches of the Susquehanna. And although the Philadelphia market has hitherto offered more advantages to the buyers of imported goods than that of Baltimore, yet the expense of transporting them seventy-two miles by land to Columbia, would, if there were a good navigation from Havre de Grace upwards, destroy this advantage.

The difficulty of carrying canals parallel to our great rivers; the scarcity of engineers possessing knowledge and integrity; the want of capital; and, above all, the erroneous dread of bold measures, and the fear of uselessly expending money in works hitherto unknown among us, has deterred those interested in improving our navigation, from deserting the beds of our rivers, while it was practicable to keep them. They have, therefore, had recourse to canals only where navigation was otherwise impossible—where obstructed by rocks, or broken by a cascade.

There cannot, however, be a reasonable doubt that if in England where, compared with the United States, the quantity of water in the rivers varies little between the driest and wettest period of the year, a canal running parallel to a river furnishes a much more certain and safe and equal and cheap navigation than the river itself. It is infinitely more the case here. Unfortunately those of our canals which have been cut to pass the rapids and falls of our rivers, partake, in a great measure, of the inconveniences of the rivers themselves; some wanting water when the river is low, some incapable of being entered excepting at a particular height of the water in the river; some subject to constant accumulation of bars, and all of those with which I am acquainted much less useful than the money expended on them ought to have made them.

Those canals of which I now particularly speak, are the James river canal, the Potomac canal, the Conewago and Susquehanna canals. Of the canals north of the Delaware and south of Virginia, I have not sufficient knowledge, nor can I speak of the Appomattox canal. It is, I believe, not liable to the same strictures, in all points, which I shall make upon the others; but, though I am well acquainted with the grounds, I have not seen the manner in which the work has been executed.

One great and fatal error has been interwoven into the scheme of the other canals, excepting only that of the Potomac. They have been dug as much with a view to the erection of mills as to the purposes of navigation. To fit them for mill races, their descent is rapid, and their current strong. They are liable, of course, to the variation of the quantity of water in the river; they bring down with their current the alluvium of the river; bars are formed in them as well by this alluvium as by the land wash; and their banks, where they are not of rock or walled, are liable to perpetual wear by the current. The canal is, besides, itself an inconvenient rapid to those who would ascend it.

Besides these inconveniences, the contracts binding the company to furnish the millers the water, when it rises above a certain gageselle, for an annual rent, or on other fiscal and permanent terms, binds the canal company to the original construction of the work, and forbids future improvement. For instance, if a lock were found to be useful above the highest mill, it could not be erected, because it would rob the mills below of their stipulated water; the inclination of the canal cannot be lessened, because it would have the same effect. In the James river canal, more than in any other which I have seen, this error, though now generally considered as a very great advantage, will, at some future period, be discovered and deplored. The Potomac canal, more especially that of the Little falls, has the same defect of a too rapid descent, although the object of a mill race is placed by their charter out of view. But its principal defect is of another kind, to which that of James river is also, but in a less degree, subject. It requires the wash of all the hills and ravines of the north bank, which ought to be discharged through culverts, or carried over bridges; and that legislative impartiality, which has required the canal to enter the river at the very head of the tide, in order that Virginia might have an equal chance of becoming the depôt of its commerce with Maryland, has very much injured its utility to the country at large.

In a still greater degree than the Potomac canal, the Susquehanna canal, beginning at the Maryland and Pennsylvania line, and ending at the head of the tide, has the defect not only of receiving the land wash of the hills and ravines, but also two considerable rivers, the Conewago and Octararo, partaking thus of all the danger arising from their inundations, and receiving their alluvium. This canal is also applied to the purposes of a mill race. Other inconveniences attend it, which arise from the most unfriendly nature of the river, and the local feelings of the State Legislature of Pennsylvania and Maryland, at the period of the incorporation of the company.

The Conewago canal, about one hundred and fifty miles higher up the Susquehanna, is also a mill race, and is the property of an individual. It is of difficult entrance, which is to be regretted, as it ought to be the means of passing a short, but very dangerous fall of the river, interrupting a long extent of very good navigation.

Having thus pointed out the general and common defects of these canals, to which I may add the general want of proper slopes to their banks, I will now enter upon the very thankless task of giving an honest opinion respecting them in detail, viewing only the *public interests*, and perfectly conscious of the bearing of what I shall say upon private feelings. These feelings, however, are extremely short-sighted; for nothing could be more advantageous to the individuals, most interested, than those measures which would most benefit the public.

The James river and Appomattox canals stop short of tide water. The most important of these canals is that of James river. Upon the coal mines of James river our Atlantic seaports will soon become dependent for their chief supply of fuel. That dependence exists already, in respect to the fuel required for a variety of manufactures, and even the smiths, within ten miles of our seaports, require already, in order to carry on an advantageous business, a supply of Virginia coal. There are three means (and I think only three) by which the Virginia coal can be brought to the tide: 1st, by a small canal and railroad immediately from the mines south of the river to the shipping tide water at Amptill or its neighborhood, along the valley of Fall's creek, distance, I believe, twenty miles. This is a route easily practicable, and at a moderate expense; for Fall's creek rises in the coal mines themselves; 2d, by the turnpike road to Manchester, opposite Richmond. This road has been sometime completed, and is of the highest utility; 3d, by James river to the head of the falls, and thence by the canal to Richmond. This is, for two-thirds of the coal country, the best and most obvious route; for from all the mines the coal may easily be brought to the river on railroads, and thence boated, independently of the cheaper conveyance which Tuckahoe creek might be made to yield, to a great extent of coal land now little worked. But of what adequate use is this navigation in boats, carrying at an average two hundred bushels of coal only, when, if the canal were well constructed, one thousand bushels might be as easily and cheaply conveyed, and when, on their arrival at Richmond, they must be unloaded again, loaded into carts, and carried down by a bad road to the tide at Rocket's, to be shipped. The Manchester turnpike, with all its expense of wagons, horses, and drivers, and the consequent waste of *labor, capital, food, and forage*, is a better, and I am told, as cheap a mode of conveyance.

The means by which the canal itself may be made much more useful, I will not consume your time and patience in detailing; what is most important, taking the whole subject into view, is to connect the canal, such as it is, with the tide.

In the year 1796, Mr. Weston, then engineer to the western navigation companies of the State of New York, was called to Richmond to give his advice and opinion on this subject. It amounted to this: to connect the basin with the foot of the falls by a succession of ten or eleven locks in one tier. With all deference to his talents,



I cannot help remarking, that of all expensive projects of which I ever heard, this would have been the most useless; for, independently of the excessive inconvenience and detention which such a tier of locks at the most busy part of a navigation would occasion, the boats would arrive at their foot in a very considerable rapid, now impracticable, and which could only be made practicable by blowing up the rocky bed of the river. When arrived there, two miles of tide water must be encountered, to navigate which these boats are wholly unfit. I cannot help thinking that the present mode of conveying the coal to Rocket's is not much less eligible. I refrain from stating many other objections which are professional, and which I believe were, as well as those already mentioned, as evident to Mr. Weston as to myself; but objections of another nature, more powerful than mere physical difficulties, opposed every project excepting that which he proposed.

In order to connect the basin of James river canal with the tide, a very simple means is offered by the nature of the ground. To do this it will be necessary to form a capacious basin at Rocket's, communicating with the tide by one or more locks. To carry a canal from thence along the level bank of James river to Schokoe creek, a cheap aqueduct of one arch thirty feet span, will carry the work across the creek into the back street. The canal will then go up the back street mounting by successive locks, not more than two in each tier into the basin. The canal from Rocket's to the basin on Shockoe hill should be of nine feet draught of water, and the locks one hundred feet long and eighteen feet wide. This canal would of course bring vessels, which navigate our coasts and bays, and run out to the West India islands, into the basin on Shockoe hill.

The Legislature of the State of Virginia (for the commonwealth is deeply interested in the stock) had, from time to time, expressed great anxiety on the subject of completing this canal. But the dread of unforeseen difficulties and risks in carrying the work below the basin, and the value and productiveness of the stock in its present state, have hitherto overbalanced this anxiety. But, considering Richmond as the principal source of fuel to the cities on our seacoast, at least until the mines of Cape Breton shall supply us, I feel a national sentiment in deeply regretting the very fatal policy which maintains and supports the error and the mutilation of this most important work. I will not, at the same time, deny that when it is considered that those who projected, and have executed the canal, were men of no acquaintance either with general science, or with this particular branch of art, and knew nothing of canals but from books or hearsay, they have already done wonders. They deserve the thanks of their State, and of the Union. But the work should not stop where they have left it. Nature has perhaps done for Richmond more than for any other site where a city has been planted. For ten miles above the city, on both sides, and upon several islands of the stream, there are innumerable mill seats, supplied with water by one of the noblest rivers in the Union. Immediately above the head of the falls lies an inexhaustible treasure of coal. Every art and manufacture to which human ingenuity can employ fire and water may be here carried on with the least expense. From above an easy and wide spreading navigation collects on this spot all the raw materials which our climate can produce; below, a river capable of bearing sea vessels sufficient for every trade, but that across the ocean, is ready for the exportation of its merchandise. The town itself is placed on healthy and commanding ground; but, to improve these advantages to the utmost extent to which our population is equal, nothing would so much contribute as the completion of the Richmond canal.

I have dwelt specially on the coal trade to which this canal is subservient, as of first rate national importance. It is of no less importance to the State of Virginia as a means of conveyance of agricultural produce. As you will receive answers in detail to your queries relative to the amount of all the sorts of produce carried upon it, and of its actual trade, I will not add any thing further to what I have already said on the subject, but to observe that at some distant period the Chickahominy, a river rising in the coal country, and discharging itself into James river, thirty miles below Richmond, where ships may take in their cargoes, offers a means of carrying down the coal destined for distant exportation.

A canal has often been projected for passing the falls of the Rappahannock at Fredericksburg. There is no reasonable hope, however, that this work can soon be executed. The ravine of the river at the falls on either side is so abrupt, rocky, and irregular, that very great expense must be incurred to effect it, an expense not likely to be repaid by its trade for many years.

A canal to connect the Rappahannock with the Potomac, a few miles below Fredericksburg, across the northern neck, has also been spoken of. It would be a highly useful work, but would require a tunnel of two or three miles. I believe it could be executed at an expense not greater than the tolls would remunerate. Such a canal, however, does not belong to the class of which I am now speaking.

The Potomac canal consists of two parts: one to pass the Great falls, fourteen miles above Georgetown, the other to pass the Little falls. The errors committed in the construction of the work have been enumerated above. The trade of this canal, especially during the year 1807, has been so great that there appears every prospect of its becoming a productive work *in those years* in which there is a considerable and equal quantity of water in the river. But upon this circumstance it must always depend. The information respecting it, which can be obtained from the company on the spot, renders it unnecessary for me to say more upon it.

No attempt at the improvement of the navigation of any of the rivers of Maryland, between the Susquehanna and the Potomac has been made, nor is there in the prospects of advantage to be derived from the navigation of the two Patuxets, the Patapsco, or the lesser rivers falling into the Chesapeake, any thing which could at present tempt capital into such undertakings.

But the Susquehanna itself has been for many years the object of almost all the attention directed in the States of Maryland and Pennsylvania to the improvement of our internal navigation; about six miles above Havre de Grace this mighty river meets the tide. The place is now known by the name of Smith's ferry. The map of the river from thence up to Wright's ferry, (Columbia,) in Pennsylvania, which I made in the year 1801, when directing the works carried on for the improvement of the natural bed of the river, and which, by favor of the Governor of Pennsylvania, I am able to exhibit with this memoir, will explain the nature of this part of the river very minutely, being drawn to a very large scale. The whole of this extent is one tremendous rapid, which, in fact, continues to the northwest side of the Chickalunga hills, three miles above Columbia. The rapid is not every where of equal velocity, or equally dangerous. Wherever the river crosses a valley of limestone or slate, the rocks are worn down into a smoother and wider bed; but when it has to cross a ridge of granite, its course is immediately broken by irregular masses and range of rocks; its bed is narrow, and enclosed by narrow precipices, and its torrent furious and winding,

The Chickisahinga falls can be descended without danger, and no attempt to open them has been thought necessary. The ridge of granite hills, through which they break, bounds on the northwest the beautiful limestone valley of Columbia; across this valley the river runs rapidly, but smoothly. Another narrow ridge of granite hills crosses the river immediately below Columbia, over which the river falls rapidly, and then enters the wider limestone valley, known by the name of the Jockara valley. The river spreads here to the width of three miles; its stream is gentle, though rapid, and it abounds in beautiful and fertile islands. It then suddenly contracts, and is received into the narrow ravine which it has sawed down in the granite hill, called Turkey hill. From its first entrance into the

Turkey hill to the tide, there is no part that deserves the name of a sheet of smooth water. When the river is full, the whole ravine, about half a mile in width, contains only one furious torrent, in which few rocks comparatively are to be seen above the water; but the danger is not the less, and very skillful pilots, and many and stout hands are required to carry a boat or an ark safely down. But in the autumn and in a dry season, the river itself can for six miles be scarcely seen, and its bed appears a barren and dry waste of irregular rocks, among which the loud roaring of water is only *heard*; for from the Turkey hill to near the mouth of Conestogo, the whole river is discharged through a channel generally about sixty feet wide, in the greatest part of which the depth and the rapidity of the torrent is such that it has not been fathomed. About a mile below the mouth of Conestogo a narrow limestone valley touches the river on the northeast side; but on the west shore not a trace of limestone is to be seen. Four miles below Burkhalter's ferry, the river arrives at the high range of granite hills, abounding in copper, in which the gap mine is situated, and at a place called McCall's ferry, it narrows to the width of sixteen perches. Here I attempted to find bottom with a line of one hundred and eighty feet, but failed, notwithstanding every precaution taken to procure a perpendicular descent of the weight attached to it. Through this pass the water is rapid, but smooth and safe. The river rises here rapidly, and very suddenly after the fall of rain above; and it will never be possible to erect a safe bridge at this place, so often mentioned as the most practicable. The obstructions to navigation by three rapids below McCall's, is not so considerable as to endanger the arks and boats that descend, until they arrive at the Baldfriar falls, below Peach bottom, and about eight miles above the tide. From McCall's to the slate valley of Peach bottom, the river is filled with islands called the Bear islands. Across the valley of Peach bottom, and above the Baldfriar falls, the river is wide and safe. The best natural navigation, and that always pursued by boats descending by the natural bed of the river, is on the west side from the foot of the Bear islands. Above that point to Columbia the best passage is on the east side. The most dangerous falls below Peach bottom, were Amos and Hector's falls, on which many wrecks annually occurred until the late improvements of the navigation were made.

From this description it may easily be imagined that if the descent of the river, with boats loaded with produce, was dangerous and difficult, the ascent was still more so. The natural obstructions were, besides, increased by fish dams in every part of the river, and the rival interests of the States of Pennsylvania and Maryland prevented for many years every attempt at artificial improvement of the bed of the river. In the mean time each State took measures to go as far towards rendering the navigation of this river useful to their respective interests as their means and limits would permit, and a company was incorporated in Maryland to make a canal from the Maryland line to the tide, to pass all the obstructions in the river of the eight lowest miles; and in Pennsylvania two companies were also incorporated, the one to connect the Susquehannah with the Schuylkill by a navigation taken out above all the dangerous falls, and the other to connect the Schuylkill with the Delaware. The objects of none of these companies were advantageously accomplished. The Susquehannah Canal Company have, however, completed a navigable canal, liable to the objections which I have above noticed. The Pennsylvania companies have made considerable progress in the works under the direction of a very able engineer, Mr. Weston, but have not completed either canal so as to render them at all useful or productive.

At last, in the year 1801, the States of Maryland and Delaware having passed laws incorporating a company for the purpose of cutting a canal between the Chesapeake and Delaware, a former law of Pennsylvania, appropriating \$10,000 to the removal of obstructions in the Susquehannah, went into effect; and the late Colonel Frederick Autes, than whom no man was better fitted to accomplish its object, was charged with its execution. But he died on his arrival at the river, and the direction devolved upon me. The enclosed report to the Legislature on this subject details the extent of the work executed, and the principles on which I proceeded in the attempt to make a practicable and safe navigation both up and down the river. I will here only repeat, that all my exertions were bent to force, through all obstructions, a channel, clear of rocks, of forty feet wide, close to the eastern shore, and never leaving any rock, upon which a vessel could be wrecked, between the channel and the shore; so that, in the most violent freshets, a boat should always be safe, by keeping close in shore. Rocks of immense magnitude were therefore blown away, in preference to following a crooked channel, more cheaply made, but more difficult and dangerous, and varying in safety and practicability according to the degree of the rise of the river. There is, however, one part of the navigation in which the bed of the river must forever be pursued, namely, from the Indian Steps above McCall's, to below the Gap at McCall's—a part of the navigation of which, if art can conquer it, must be undertaken in a state of the country infinitely more abounding in wealth and population than at present.

## II.—Of the Chesapeake and Delaware canal.

Having now answered that part of your inquiry which relates to the general subject of canals, I come to the particular merits of the Chesapeake and Delaware canal, of which you have requested me to give special information, together with my opinion on its location, unbiassed by any interests but those of the public.

The very able report of the committee to whom your letters to the president and directors of the company was referred, and who did me the honor to confer with me on the subject, conveys to you all the information which can be given on the history of the company, their pecuniary resources and difficulties, the motives that directed their choice in the location of the work, and the system under which it was begun and pursued. Every thing, also, that can be collected by the most indefatigable inquiry, as to the probable proceeds of the canal, and the advantages it offers to those who have adventured in it, is also detailed; and there remains to me only the task of giving you that professional information which, as engineer to the company, I have obtained, and to explain to you the means of executing it, as far as they are determined, by the nature of the soil and the levels of the country.

The alluvial land lying below that part of the granite ridge which crosses the peninsula from the ferry opposite to Havre de Grace, and reaches the shores of the Delaware at Wilmington, may be considered as a regular inclined plane, sloping gradually to the southeast at the rate of about six inches in a mile. Immediately below the granite ridge, that is, along the foot of Gray's hill, Iron hill, and along the south bank of the Christiana creek, which runs parallel to and close under the ridge, its highest inequalities seldom exceed eighty feet, nor does the common surface fall below seventy feet above the tide of the Chesapeake at high water. This plane extends from the granite ridge to the ocean, and the only considerable depressions to be found in it are the beds of the land drains, which are worn down into it, and produce the appearance of valleys; but there are no insulated hills whatever, and the valleys are merely depressions of the ground below the plane. Hence it is evident that, by going round the heads of the water courses, a line of canal may be found across the peninsula, between any two points on the opposite bays, in which the variation of level on the summit will be very small; and that, by making the bank out of the spoils of the cut, a canal may be made at the smallest possible expense of digging and removing earth, and at no expense whatever for works in masonry, excepting at each end, where the descent requires the construction of locks; for, by following the ridge dividing the waters, which drain into opposite creeks, the necessity of culverts and aqueducts is wholly avoided. The soil is also of the kind most easily cut, being generally a sandy loam on and near the surface, and beds of good clay are found in abundance for all purposes of puddling.

The advantage of so level and soft a surface for the cut is counterbalanced by the total absence of water to supply it. This circumstance is very important in determining the choice of the line of the canal, among so many that are equally practicable; for, as all its water must be brought from the higher grounds upon the ridge, its location ought to be as near to the ridge as possible, in order that the feeder may be short, and the leakage and evaporation of a long feeder avoided. The location of the two ends of the canal does not, however, entirely depend upon its general course along the summit; and a great variety of terminations have been proposed, as equally eligible, both on the Chesapeake and Delaware side. The former, after long and careful examination, has been decided in favor of Welch point, where there has, within the memory of man, been no diminution in the depth of the water, which is below the deposit of alluvium from Elk creek, and where the water is so wide and so deep as to furnish a very capacious basin for many years to come, for the inconsiderable land wash of Back creek, and the small drains in the neighborhood. But on the Delaware side much difference of opinion has prevailed. The summit level of the canal, in every case, must reach the principal road leading from Christiana bridge down the peninsula, near a tavern called the Bear. This place is only two miles distant from Hamburg or Red Hook, on the bay of Newcastle; and a cheap and short cut might be made to either of these points, especially to Red Hook, did not two considerations forbid it—the broad and wild water of the bay, and its shallowness at a great distance from the shore, there being only four feet six inches at low water. Newcastle is the next eligible point. Newcastle is situated on a prominent point, which is swept both by the flood and the ebb tide. There will, therefore, be always deep water at the *outer* wharves and piers at that place, and less than twenty-one feet has not been found on the outside of any of the piers lately erected, or formerly and even at present at the wharves, excepting only where the eddy occasioned by the piers has accumulated soft banks of mud.

There could not be a moment's hesitation in fixing the termination of the canal at Newcastle, unless the following reasons should be thought to outweigh the advantages of the best water in the Delaware, and the shortest navigation across the peninsula, which this point offers. It is, in the first place, feared that, in time of war, when the canal would be invaluable as a means of conveyance of military stores and bodies of men, an enemy's ship of war might destroy the works at Newcastle, in a sudden incursion, and return to sea before the mischief could be prevented. It is further urged, that the mouth of the canal on the river, below the tide, would be liable to be filled up, as are all places on the Delaware where there is an eddy, in a very short time. And it is also alleged, that Newcastle is situated so far below Philadelphia (thirty-three miles) that, unless with a favorable wind, dull sailing vessels cannot reach Newcastle in one tide, when they might reach the mouth of Christiana, four miles higher up the river, and go up the creek with the flood. The first argument appears to me to be deserving of consideration, in a national point of view, and a small fort would be necessary to defend the mouth of the works against an enemy who should attempt to land to blow them up. But they could not be injured, even by shells, beyond the destruction of the gates, which a few hours could put again into repair. To obviate the second objection, it would be necessary to place the tide lock as far out as possible, and to carry out and wharf the side of the canal below the lock as far into the river as the most projected wharf. The line of the wharves is now limited to six hundred feet beyond the lowest street, called Water street, and unless further protruded into the river by a law of the State, this distance presents no formidable difficulty to the work, and places the utmost extension of the wharves beyond the present time. The third objection is not without foundation. But the narrow and crooked navigation of Christiana creek presents infinitely more causes of delay than the distance of four miles in the bold navigation of the Delaware. There is, however, in these objections, enough to render it an object of infinite importance, both to the nation and to the company, to avail themselves of both the eastern terminations of the canal, and to make a cut also from the Bear to the Christiana creek, about three miles above Wilmington, on a line not altogether so favorable nor so short as that to Newcastle, but presenting no difficulties of importance whatsoever. From the point (Mendenhall's) at which the termination is proposed, ten feet may be carried out to the river Delaware. The objections to this termination are—the tedious and very crooked navigation of the creek, for seven miles, to the Delaware; the draw-bridge at Wilmington, which must be passed; but, more than any other, the opposition of the tides of Delaware and Christiana creek: for if a boat comes into the canal at Welch point at high water, and passes across in six hours, she will find half flood in Christiana, and must wait the ebb to go down. On her arrival in the Delaware, in two and a half or three hours, she will have again to wait three or four hours for the flood, to proceed to Philadelphia, or up the Brandywine to the celebrated mills, the interests of which are well worthy of attention. Whereas, a vessel arriving at Newcastle, and finding the flood tide running, which will always happen if she comes to Welch point with a flood tide, may at once proceed up the Delaware, or up the Brandywine or Christiana creek, without delay. It must also be mentioned that, without a favorable tide, it is difficult to work down the Christiana creek against the wind, which is always unfavorable in some reach or other of its crooked navigation; when, on the contrary, there is ample room in the Delaware to use all advantages of wind and tide.

On the other hand it must be urged in favor of Christiana creek, that there is navigable water for boats drawing eight feet, above the proposed termination of the canal, as far as Christiana bridge, and that the navigation may be pushed still higher; that the little town of Newport is now the depôt of the produce of a very extensive and fruitful country, extending into Lancaster county, and is twenty miles nearer to Lancaster than Philadelphia; and that, to connect so important a field of productive business immediately with the canal, it may be worth while to incur an increased expense, and some inconvenience and delay in the mere thoroughfare navigation; and it may be added, that the large fixed capital of the town of Wilmington, far exceeding that of Newcastle, demands from the good policy as well as good will of the company or the nation, some consideration.

Well aware of the thankless task of giving a decisive and honest opinion on either side, I content myself with furnishing the materials of determination to you, and proceed to describe the nature and principles of the work actually executed in the feeder, and proposed for the canal.

Between the waters of the Chesapeake and the Delaware there are three streams which, rising in the high land above the canal, may be brought down to it as feeders: the Christiana creek, the Whiteclay creek, and the Elk itself.

The Elk and the Whiteclay are nearly equal in the regular quantity of water they supply; the Christiana is both smaller and more irregular. The Elk descends in a very crooked and rapid stream, eighty-four feet in four miles from Elk forge to the tide near Elkton, and unites with the wide water of the Chesapeake at Turkey point. The ridge that separates its waters with those of the Delaware, terminates in a high insulated hill, called Gray's hill, which is united to the high land by a low and narrow ridge, crossing the post road on the boundary line of Delaware and Maryland. The Christiana creek is the first water falling from the highland into the Delaware. It collects all the water that fall around the high insulated hill called Iron hill, at the northeast foot of which it turns to the northeast, and running in that direction to the foot of the Granite ridge, into the Delaware, receives the Whiteclay, Redclay, and Brandywine, in its course, and also numerous land drains from the level land to the south-east. Of these three streams it has been ascertained that they may all be brought to the canal, but the Elk with the least expense, and the shortest cut. The valleys in which they all run having been worn in deep and rocky land, and

branching into deep ravines the beds of rapid rivulets, offer great difficulties to the work necessary to divert their course. In the Elk feeder the canal is cut in the rock for about half a mile, and embankments are made across several valleys; but the principal difficulty and expense consisted in cutting through a tongue of high land, called Bellhill, through which the digging is thirty feet for near half a mile, and again through the dividing ridge, to the depth of twenty-five feet for about half that distance; these two difficulties have been conquered. Another smaller hill remains to be cut through; but it may be avoided by a circuitous cut, much less expensive, but also much less eligible. On the Delaware side of the ridge, the feeder is cut through a swampy flat of more than a mile in length, whilst the descent is only six inches. The general elevation of the flat is eighty-six feet above the tide, and as the head of the feeder at Elk forge is only eighty-four feet, it could have little descent, and falls only two inches in a mile. It has, on this account, been made a spacious canal of three feet six inches in water, twenty-two feet six inches on the surface, and twelve feet at the bottom, affording as far as it goes a good and valuable inland navigation. The feeder is six miles in length; at the end of five miles is a lock for the passage of boats, and a side cut to communicate with a reservoir. A continuous valley offers the means of making a reservoir of more than a hundred acres. It has been proposed to embank thirty acres for this purpose. The lock is of ten feet lift. The reservoir will be level with the upper feeder; of course ten feet above the level of the canal, and under such a head, will give the canal as plenteous and rapid supply as wanted. Below the lock the feeder is five feet deep, and twenty-seven feet on the surface of the water; it will join the canal about a mile west of Aikentown. In the construction of the feeder permanence has been a very principal consideration. All the culverts are of solid masonry; no land water can run into the cut, the banks are sloped as two to three, the embankments are well puddled, and the piers of the bridges are of hewn stone.

From the description which I have given of the soil of the peninsula, it is evident that the amount of digging constitutes the chief expense of the canal. To lessen this amount, and to shorten the canal, it is proposed to quit the level in three places, and to cross three land drains that lead into Christiana creek, one at Aikentown, and two between Aikentown and the Bear. Small aqueducts and short embankments only are necessary to effect this. If the canal should terminate at Newcastle, a narrow marsh must also be crossed; if at Christiana, deeper cutting must be encountered. But neither of these difficulties increase the expense of the canal more than \$7,500 each, beyond that of the same length of the general cut.

On all other points the report of the committee furnishes ample information; and I will only add, that neither in Europe nor in our own country, do I know a line of inland navigation, which, by so short a distance, and at so easy an expense, unites such extensive and productive ranges of commercial intercourse.

With the highest respect, I am yours,

B. H. LATROBE.

ALBERT GALLATIN, Esq., *Secretary of the Treasury.*

APRIL 1, 1808.

P. S. In the questions proposed to me by you, the subject of artificial roads was comprehended; but being informed by you that the canal companies of Pennsylvania and Maryland had transmitted to you ample accounts of their undertakings, and as in their works, experience has taught a system and mode of execution of the most perfect kind, I have refrained from adding any thing to the information thus acquired. It has, however, occurred to me that a few remarks upon railroads might not be unacceptable to you, especially as the public attention has been often called to this sort of improvement, and the public mind filled with very imperfect conceptions of its utility.

Railroads may be constructed of iron or of timber.

The most durable (but also the most expensive) railroads consist of cast iron rails let down on stone foundations; such roads will last for ages. Cast iron rails secured on beds of timber are sufficiently durable for our country, and of moderate expense. Railroads, entirely of timber, are fit only for temporary purposes.

A railroad consists of two pair of parallel ways, one pair for going and the other for returning carriages; single roads, with occasional passing places, are applicable to some situations, and are of course less expensive. I will concisely describe the road best adapted to the objects that in our country can be attained by it. The rails are of cast iron, and consist of a tread and a flanch, forming in their section the letter L. The tread is three inches wide, the flanch is two inches high. The rails need not be more than five-eighths of an inch average thickness, and they may be cast in lengths of five to six feet. Each rail will, at six feet length, contain two hundred and twenty-five cubic inches, which, at four inches to the pound, is fifty-six pounds each rail, or one hundred weight for every six feet in length of the road, to forty-four tons per mile.

In order to form a road of these rails, they must be laid at the distance of from three and a half to five feet (according to the carriage that is to run upon them) parallel to each other; the ends of every two forming rails, being let and pinned down into a piece of timber lying across the roads; the holes for the pins must be cast in the rails. These pieces of timber may be of any form, provided they are level at the top, and they cannot be a great part of the expense of the road in any situation. The most durable timber is certainly the best; but no timber can be very durable, in the situation it must occupy on the surface, and is partly or wholly covered with earth. The perfection of the road consists in the parallel rails being laid perfectly level with each other across the road, and perfectly jointed. In most parts of the Union the rails could, I think, be delivered at from \$80 to \$90 per ton, and in many at \$60, but taking \$80 as the average on the spot, the road will cost—

Rails delivered, forty-four tons at \$80,	-	-	-	-	\$3,620
Leveling the road very uncertain; but I will suppose as an average for leveling and filling in with good gravel or broken stone, at \$2 50 per perch or per mile,	-	-	-	-	800
Timber and bedding 50 cents per rail,	-	-	-	-	440
Incidents and superintendence,	-	-	-	-	140
					<u>\$5,000</u>
For a set of returning ways,	-	-	-	-	5,000
					<u>\$10,000</u>

The carriages which travel on these roads may be of various dimensions agreeable to the material to be conveyed, and the necessary angle of the road. They have low cast iron wheels fast upon the axle, which turns round. Thus the two wheels on the axle make the same number of revolutions in the same space of time; the carriage necessarily goes straight forward, and cannot be thrown off the ways by any small obstruction on one side.

The principle upon which such astonishing loads may be drawn on ways by a single horse, is the diminution of friction in the greatest possible degree. On a good railroad, descending under an angle of only one degree, one horse may draw eight tons in four wagons of two tons each without difficulty. The astonishing loads drawn upon railroads by single horses in England has induced many of our citizens to hope for their early application to the use of our country. I fear this hope is vain, excepting on a very small scale, and that chiefly in the coal country near Richmond; for it is evident that upon a railroad no other carriage but that which is expressly constructed for the purpose, can be employed; and that to render a railroad sufficiently saving of the expense of common carriage, to justify the cost of its erection, there must be a very great demand for its use. But the sort of produce which is carried to our markets is collected from such scattered points, and comes by such a diversity of routes, that railroads are out of the question as to the carriage of common articles. Railroads, leading from the coal mines to the margin of James river, might answer their expense, or others from the marble quarries near Philadelphia to the Schuylkill. But these are the only instances, within my knowledge, in which they at present might be employed.

There is, however, a use for railroads as a temporary means to overcome the most difficult parts of the artificial navigation; and for this use they are invaluable, and in many instances offer the means of accomplishing distant lines of communication which might remain impracticable, even to our national means, for centuries to come.

## F.—No. 3.

Sir:

WASHINGTON, December 8, 1807.

By your letter of the 29th of July, I am happy to find that the attention of Congress is directing itself towards the opening of communications through the United States by means of roads and canals; and it would give me particular pleasure to aid you with useful information on such works, as I have long been contemplating their importance in many points of view.

But a year has not yet elapsed since I returned to America, and my private concerns have occupied so much of my time, that, as yet, I have acquired but very little local information on the several canals which have been commenced.

Such information, however, is, perhaps, at present, not the most important branch of the subject, particularly as it can be obtained in a few months at a small expense, whenever the public mind shall be impressed with a sense of the vast advantages of a general system of cheap conveyance. I hope, indeed, that every intelligent American will, in a few years, be fully convinced of the necessity of such works to promote the national wealth, and his individual interest. Such conviction must arise from that habit of reflection which accompanies the republican principle, and points out their true interest on subjects of political economy. From such reflections arises their love of agriculture, and the useful arts, knowing them to augment the riches and happiness of the nation; hence also their dislike to standing armies and military navies, as being the means of increasing the proportion of non-productive individuals whose labor is not only lost, but who must be supported out of the produce of the industrious inhabitants, and diminish their enjoyments.

Such right thinking does great honor to our nation, and leads forward to the highest possible state of civilization, by directing the powers of man from useless and destructive occupations to pursuits which multiply the productions of useful labor, and create abundance.

Though such principles actuate our citizens, they are not yet, in every instance, aware of their best interests; nor can it be expected that they should perceive, at once, the advantages of those plans of improvement which are still new in this country. Hence the most useful works have sometimes been opposed, and we are not without examples of men being elected into the State Legislatures for the express purpose of preventing roads, canals, and bridges being constructed. But in such errors of judgment our countrymen have not been singular. When a bill was brought into the British Parliament, fifty years ago, to establish turnpike roads throughout the kingdom, the inhabitants, for forty miles round London, petitioned against such roads; their arguments were, that good roads would enable the farmers of the interior country to bring their produce to the London market cheaper than they who lived nearer the city, and paid higher rents; that the market would be overstocked, the prices diminished, and they unable to pay their rents or obtain a living. The good sense of Parliament, however, prevailed, the roads were made, the population and commerce of London increased, the demand for produce increased, and he who lived nearest to London still had a superior advantage in the market.

In like manner I hope the good sense of our Legislature will prevail over the ignorance and prejudice which may still exist against canals. And here an important question occurs, which it may be proper to examine with some attention in this early stage of our public improvements, whether, as a system, we should prefer canals to turnpike roads. Our habits are in favor of roads; and few of us have conceived any better method of opening communications to the various parts of the States. But in China and Holland canals are more numerous than roads; in those countries the inhabitants are accustomed to see all their productions carried either on natural or artificial canals; and they would be as much at a loss to know how we, as a civilized people, could do without such means of conveyance as we are surprised at their perseverance and ingenuity in making them.\* England, France, and the principal States of Europe, commenced their improvements with roads; but as the science of the engineer improved, and civilization advanced, canals were introduced, and England and France are now making every exertion to get the whole of their heavy productions water-borne; for they have become sensible of the vast superiority of canals over roads.

Our system, perhaps, ought to embrace them both; canals for the long carriage of the whole materials of agriculture and manufactures, and roads for travelling, and the more numerous communications of the country. With these two modes in contemplation, when public money is to be expended with a view to the greatest good, we should now consider which object is entitled to our first attention. Shall we begin with canals, which will carry the farmer's produce cheap to market, and return him merchandise at reduced prices? Or shall we first make roads to accommodate travellers, and let the produce of our mines and forests labor under such heavy expenses that they cannot come to market?

To throw some light on this interesting question, I will base my calculations on the Lancaster turnpike road. There the fair experiment has been made to penetrate from Philadelphia to the interior country; and the mode of calculation here given will serve for drawing comparisons on the utility of roads and canals for all the great leading communications of America.

From Philadelphia to the Susquehannah, at Columbia, is 74 miles; that road, if I am rightly informed, cost, on an average, 6,000 dollars a mile, or 444,000 for the whole. On it, from Columbia to Philadelphia, a barrel of

\* The royal canal from Canton to Peking is 825 miles long; its breadth, 50 feet; its depth, 9 feet.

flour, say 200 weight, pays one dollar carriage. A broad wheel wagon carries 30 barrels, or three tons, and pays for turnpike three dollars; thus far, each ton carried, the turnpike company receives only one dollar.

I will now suppose a canal to have been cut from Philadelphia to Columbia, and, with its windings, to make 100 miles, at \$15,000\* a mile; or, for the whole, \$1,500,000. On such canal, *one man, one boy, and horse* would convey 25 tons 20 miles a day,† on which the following would be the expenses:

One man,	-	-	-	-	-	-	-	\$1 00
One horse,	-	-	-	-	-	-	-	1 00
One boy,	-	-	-	-	-	-	-	50
Tolls for repairing the canal,	-	-	-	-	-	-	-	1 00
Tolls for passing locks, inclined planes, tunnels, and aqueducts,	-	-	-	-	-	-	-	1 00
Interest on the wear of the boat,	-	-	-	-	-	-	-	50
								Total,
								\$5 00

This is equal to 20 cents a ton for 20 miles, and no more than one dollar a ton for 100 miles, instead of ten dollars paid by the road. Consequently, for each ton carried from Columbia to Philadelphia on the canal, the company might take a toll of six dollars instead of one which is now got by the road; and then the flour would arrive at Philadelphia for seven dollars a ton instead of ten, which it now pays. The merchandise would also arrive at Columbia, from Philadelphia, for three dollars a ton less than is now paid, which cheap carriage, both ways, would not only benefit the farmer and merchant, but would draw more commerce on the canal than now moves on the road, and thereby add to the profits of the company.

But to proceed with my calculation. I will suppose that exactly the same number of tons would move on the canal that are now transported by the road. Again, let it be supposed that, at one dollar a ton, the turnpike company gains five per cent. per annum on their capital of \$444,000, or \$22,900, consequently, 22,200 tons must be carried, which, at \$6 a ton to the canal company, would have given \$133,300 a year, or eight and a half per cent. for their capital of \$1,500,000.

The reason of this vast difference in the expense of carriage by roads or canals, will be obvious to any one who will take the trouble to reflect that, on a road of the best kind, four horses, and sometimes five, are necessary to transport only three tons. On a canal one horse will draw twenty-five tons, and thus perform the work of forty horses. The saving, therefore, is in the value of the horses, their feeding, shoeing, gear, wagons, and attendance. These facts should induce companies to consider well their interests, when contemplating an enterprise of this sort, and what would be their profits, not only in interest for their capital, but the benefit which their lands would receive by the cheap carriage of manure, and of their productions.

In considering the profit to accrue to a company from a canal instead of roads, there is another important calculation to be made; and for that purpose I will proceed with the Lancaster turnpike, supposing it to extend to Pittsburg, three hundred and twenty miles, on which, the carriage being at the rate now paid from Columbia to Philadelphia, that is, \$10 a ton for seventy-four miles, the ton from Pittsburg would amount to \$42; at which price, a barrel of flour would cost \$4 in carriage, an expense which excludes it from the market. Thus, grain, the most important and abundant production of our interior country, and which should give vigor to our manufactures, is shut up in the districts most favorable to its culture; or, to render it portable, and convert it into cash, it must be distilled, to brutalize and poison society. In like manner, all heavy articles of little moneyed value can only move within the narrow limits of one hundred miles; but were a canal made the whole distance, and by one or more companies, they might arrange the tolls in the following manner, so as to favor the long carriage of heavy articles:

The expense of man, boy, and horse, as before stated, would cost only \$3 to boat one ton of flour three hundred miles; this is 30 cents a barrel. Suppose, then, that the company received 70 cents a barrel, or \$7 a ton, flour could then come from Pittsburg to Philadelphia for one dollar a barrel, the sum which is now paid from Columbia. Thus, the canal company would gain \$7 a ton by a trade which could never move through a road of equal length. Here we see that on canals the tolls may be so arranged as to draw to them articles of little moneyed value; and it would be the interest of the company or companies to make such regulations. But on turnpike roads no such accommodation of charges, in proportion to distance, can be effected, because of the number of horses, which cannot be dispensed with.‡ Even were the roads made at the public expense, and toll free, still the carriage of one ton for three hundred miles would cost at least \$35. But were canals made at the public expense, and no other toll demanded than should be sufficient to keep them in repair, a ton in boating and tolls would only cost \$3 for three hundred miles; and for \$35, the sum which must be paid to carry one ton three hundred miles on the best of roads, it could be boated three thousand five hundred miles, and draw resources from the centre of this vast continent.

But, striking as this comparison is, I will still extend it. The merchandise which can bear the expense of carriage on our present roads to Pittsburg, Kentucky, Tennessee, or any other distance of three hundred miles, and which for that distance pays \$100 a ton, could be boated on canals ten thousand miles for that sum.

As these calculations are founded on facts which will not be denied by any one acquainted with the advantages of canals, it is the interest of every man of landed property, and particularly of the farmers of the back countries, that canals should be immediately constructed, and rendered as numerous as the funds of the nation will permit, and the present population requires; and, as inhabitants multiply most towards the interior, and must extend westward, still moving more distant from the seacoast and the market for their produce, it is good policy and right that canals should follow them. In twenty-five years our population will amount to fourteen millions, two-thirds of whom will spread over the Western countries. Suppose, then, that \$3,500,000 were annually appropriated to canals; such a sum would pay for three hundred miles of canals each year; and in twenty years we should have six thousand miles circulating through, and penetrating into the interior of the different States. Such sums, though seemingly large, and such works, though apparently stupendous, are not more than sufficient to keep pace with the rapid increase of our population, to open a market, and carry to every district such foreign articles as we near the coast enjoy. With this view of the subject arises a political question of the utmost magnitude to these States, which is, that, as

\* On averaging the canals of America, 15,000 dollars a mile will be abundantly sufficient to construct them in the best manner, particularly if made on the inclined plane principle with small boats, each carrying six tons.

† One horse will draw on a canal from 25 to 50 tons, 20 miles in one day. I have stated the least they ever do, and the highest rate of charges, that no deception may enter into their calculations.

‡ In my work on small canals, published in 1796, page 140, there is a table showing a mode of regulating the boating and tonnage in such manner that a ton may be transported one thousand three hundred miles for \$5; yet by this method canal companies would gain more toll than by any other means yet practised.



our national debt diminishes, and the treasury increases in surplus revenue, will it not be the best interest of the people to continue the present duties on imports, and expend the products in national improvements?

To illustrate this question, I will state some examples of the rate of duties, and the expense of carriage, to prove that, by keeping on the duties, and making canals with the revenue, goods, in a great number of instances, will be cheaper to the consumer than by taking off the duties, and leaving the transport to roads.

*First example.*

Brown sugar pays in duty two and a half cents per pound, or for one hundred pounds,	- \$2 50
It pays for wagoning three hundred miles,	- 5 00
Total,	- <u>\$7 50</u>

By the canal, it would cost, in boating, 15 cents for three hundred miles; consequently, the boating and duty would amount to \$2 65; therefore, by keeping on the duty, and making the canal, sugar would arrive at the interior, three hundred miles, \$2 35 the hundred weight cheaper than if the duties were taken off, and the transport left to roads.

*Second example.*

One bushel of salt, weighing fifty-six pounds, paid in duty	- - - - \$0 20
To carry it three hundred miles by roads, the expense is	- - - - 2 50
Total,	- <u>\$2 70</u>

By the canal, it would cost, for boating three hundred miles,  $7\frac{1}{2}$  cents. By keeping on the duties, and making the canals, it would arrive to the interior consumer  $6\frac{1}{2}$  cents the bushel cheaper than were the duties taken off, and the transport left to roads.

*Third example.*

Molasses pays 5 cents a gallon duty; this is, for one hundred pounds,	- - - - \$0 75
It pays for wagoning three hundred miles,	- - - - 5 00
Total,	- <u>\$5 75</u>

By the canal, the carriage would cost 15 cents, and it would arrive at the interior at \$4 10 the hundred weight, or 27 cents a gallon cheaper than were the duties taken off, and the transport left to roads.

Numerous other articles might be stated to show that the real mode of rendering them cheap to the interior consumer is to keep on the duties, and facilitate the carriage with the funds so raised.

These, however, may be considered as partial benefits, and not sufficiently general to warrant keeping on the duties: but there is a point of view in which I hope it will appear that the advantages are general, and will be felt throughout every part of the States. It is by reducing the expense of all kinds of carriage, and thus economise to each individual more than he now pays in duty on the foreign articles he consumes; for example, wood for fuel is an article of the first necessity; it cannot bear the expense of transport twenty miles on roads; at that distance it is shut out from the market, and the price of fuel is consequently raised to the amount of carriage; were a cord of wood carried twenty miles on roads, it would pay for wagoning at least \$3; on a canal it would pay 20 cents; thus, on only one cord of wood, there is an economy of \$2 80.

Which economy would pay the duty on fourteen pounds of tea, at 20 cents the pound duty; or one hundred and forty pounds of sugar, at 2 cents the pound duty; or fifty-six pounds of coffee, at 5 cents the pound duty; or fourteen bushels of salt, at 20 cents the bushel duty; or fifty-six gallons of molasses, at 5 cents the gallon duty.

I will now suppose a city of fifty thousand inhabitants who, for their household and other uses, will consume fifty thousand cords a year, on which there would be an economy of one hundred and forty thousand dollars; a sum, in all, probably equal to the duties paid by the inhabitants; for the duties divided on the whole of the American people, is but \$2 28 to each individual; here I have estimated each person to pay \$2 80; yet this estimate is made on one cord of wood to each inhabitant of a city; were I to calculate the economy on the carriage of building timber, lime, sand, bricks, stone, iron, flour, corn, provisions, and materials of all kinds which enter or go out of a city, it would be five times this sum; and thus the towns and cities are to be benefited. The farmer or miller who lives twenty miles from a market, pays at least 22 cents to wagon a barrel of flour that distance; by the canal it would cost two cents, the economy would be 20 cents; at one hundred miles the economy would be 100 cents, and at one hundred and fifty miles it would be 150 cents; beyond this distance the flour cannot come to market by roads; yet, at this distance, the economy of 150 cents on the carriage of one barrel of flour would pay the duty on seven and a half pounds of tea; or seventy-five pounds of sugar; or thirty pounds of coffee; or seven and a half bushels of salt; or thirty gallons of molasses.

Thus it is, that the benefits arising from a good system of canals are general and mutual; therefore, should peace and the reduction of the national debt give an overflowing treasury, I hope you and the majority of Americans will think with me that the duties should not be taken off, nor diminished; for such an act, instead of relieving the people, would really oppress them, by destroying the means of reducing the expense of transport, and of opening to them a cheap mode of arriving at good markets. To proceed with these demonstrations, let us look at the rich productions of our interior country: wheat, flour, oats, barley, beans, grain, and pulse of all kinds, cider, apples, and fruits of all kinds, salt, salted beef, pork and other meats\*, hides, tallow, beeswax, cast and forged iron, pot and pearl ashes, tanner's bark, tar, pitch, rosin and turpentine, hemp, flax and wool, plaster of Paris, so necessary to our agriculture, coals and potter's earth for our manufactures, marble, lime, and timber for our buildings.

All of these articles are of the first necessity; but none of them can bear the expense of \$5 the hundred weight, to be transported three hundred miles on roads; yet on canals they would cost, in boating, only 15 cents the hundred weight for that distance.

There is another great advantage to individuals and the nation arising from canals, which roads can never give. It is that when a canal runs through a long line of mountainous country, such as the greater part of the interior of America, all the grounds below for half a mile or more may be wanted and converted into meadows, and other profitable culture. How much these conveniences of irrigation will add to the produce of agriculture, and the beauties of nature, I leave to experienced farmers and agricultural societies to calculate. In Italy and Spain it is the prac-

\* Animals are now driven to market 300 or more miles at a considerable expense and loss of flesh, principally for two reasons, first, the expense of transporting the salt to the interior, and secondly, the expense of carrying the salted meats to market.

tice to sell water out of the canals for watering meadows and other lands. In such cases tubes are put into the canal, under the pressure of a certain head of water, and suffered to run a given time for a fixed price; the moneys thus gained add much to the emoluments of the canal companies.

But, with all these immense advantages, which canals give, it may be a question with many individuals, whether they can be constructed in great leading lines from our seacoasts and navigable rivers, to the frontiers of the several States, or pass our mountains, and penetrate to the remote parts of our interior country. Should doubts arise on this part of the plan, I beg leave to assure you that there is no difficulty in carrying canals over our highest mountains, and even where nature has denied us water; for water is always to be found in the valleys, and the canal can be constructed to the foot of the mountain, carrying the water to that situation. Should there be no water on the mountain or its sides, there will be wood or coals; either, or both of which, can be brought cheap to the works, by means of the canal. Then with steam engines, the upper ponds of canal can be filled from the lower levels, and, with the engines, the boats can, on inclined planes, be drawn from the lower to the upper canal; for this mode of operating it is necessary to have small boats of six tons each. As the steam engines are to draw up and let down the boats on inclined planes, no water is drawn from the upper level of canal, as when locks are used; consequently when the upper ponds have been once filled, it is only necessary that the engine should supply leakage and evaporation. There is another mode of supplying the leakage and evaporation of the higher levels; on the tops and sides of mountains there are hollows or ravines, which can be banked at the lower extremity, thus forming a reservoir to catch the rain or melted snow. From such reservoirs, the ponds of canal can be replenished in the dry months of summer. This mode of reserving water is in practice in England for canals, and in Spain for irrigation. In this manner I will suppose it necessary to pass a mountain eight hundred feet high; then four inclined planes, each of two hundred feet rise, would gain the summit, and four would descend on the other side. Total, eight inclined planes, and eight steam engines. Each steam engine, of twelve horses power, would cost about \$10,000, in all \$80,000; each would burn twelve bushels of coals in twelve hours, or ninety-six bushels for the eight engines, for one day's work.

The coals, in such situations, may be estimated at twelve cents a bushel, or, -	-	-	\$11 52
At each engine and inclined plane, there must be five men; total, forty men, at one dollar each,	-	-	40 00
Total,			<u>\$51 52</u>

For this sum they could pass five hundred tons in one day, over the eight inclined planes,	-	-	-
which, for each ton, is only,	-	-	10 cents.
Suppose the mountain to be twenty miles wide, boating for each ton would cost, -	-	-	20
Total,			<u>30 cents.</u>

A ton for passing over the mountain, which will be, more or less, according to circumstances. These calculations being only intended to remove any doubts which may arise on the practicability of passing our mountains.

Having thus, in some degree, considered the advantages which canals will produce in point of wealth to individuals, and the nation, I will now consider their importance to the Union, and their political consequences.

First. Their effect on raising the value of the public lands, and thereby augmenting the revenue.

In all cases where canals shall pass through the lands of the United States, and open a cheap communication to a good market, such lands will rise in value for twenty miles on each side of the canal. The farmer who will reside twenty miles from the canal, can, in one day, carry a load of produce to its borders; and were the lands six hundred miles from one of our seaport towns, his barrel of flour, in weight two hundred pounds, could be carried that distance for sixty cents, the price which is now paid to carry a barrel fifty miles on the Lancaster turnpike. Consequently, as relates to cheapness of carriage, and easy access to market, the new lands which lie six hundred miles from the seaports, would be of equal value with lands of equal fertility, which are fifty miles from the seaports. But, not to insist on their being of so great a value until population is as great, it is evident that they must rise in value in a three or fourfold degree; every lineal mile of canal would accommodate twenty-five thousand six hundred acres; the lands sold by the United States in 1806, averaged about two dollars an acre; and certainly every acre accommodated with a canal, would produce six dollars; thus, only twenty miles of canal, each year, running through national lands, would raise the value of five hundred and twelve thousand acres at least four dollars an acre, giving two million and forty-three dollars to the Treasury, a sum sufficient to make one hundred and thirty-six miles of canal. Had an individual such a property, and funds to construct canals to its centre, he certainly would do it for his own interest. The nation has the property, and the nation possesses ample funds for such undertakings.

Second. On their effect in cementing the Union, and extending the principles of confederated republican Government, numerous have been the speculations on the duration of our Union, and intrigues have been practised to sever the Western from the Eastern States. The opinion endeavored to be inculcated was, that the inhabitants behind the mountains were cut off from the market of the Atlantic States; that, consequently, they had a separate interest, and should use their resources to open a communication to a market of their own; that, remote from the seat of Government, they could not enjoy their portion of advantages arising from the Union, and that, sooner or later, they must separate and govern for themselves.

Others, by drawing their examples from European Governments, and the monarchies which have grown out of the feudal habits of nations of warriors, whose minds were bent to the absolute power of the few, and the servile obedience of the many, have conceived these States of too great an extent to continue united under a republican form of Government, and that the time is not distant when they will divide into little kingdoms, retrograding from common sense to ignorance, adopting all the follies and barbarities which are every day practised in the kingdoms and petty states of Europe. But those who have reasoned in this way have not reflected, that men are the creatures of habit, and that their habits as well as their interests may be so combined, as to make it impossible to separate them without falling back into a state of barbarism. Although in ancient times some specks of civilization have been effaced, by hordes of uncultivated men, yet, it is remarkable that since the invention of printing, and general diffusion of knowledge, no nation has retrograded in science or improvements; nor is it reasonable to suppose that the Americans, who have as much if not more information in general than any other people, will ever abandon an advantage which they have once gained. England, which at one time, was seven petty kingdoms, has, by habit, long been united into one. Scotland, by succession, became united to England, and is now bound to her by habit, by turnpike roads, canals, and reciprocal interests. In like manner all the counties of England, or departments of France, are bound to each other; and when the United States shall be bound together by canals, by cheap and easy access to market in all directions, by a sense of mutual interests arising from mutual intercourse and mingled commerce, it will be no more possible to split them into independent and separate Governments, each lining its frontiers with fortifica-



tions and troops, to shackle their own exports and imports to and from the neighboring States, than it is now possible for the Government of England to divide and form again into seven kingdoms.

But it is necessary to bind the States together by the people's interest, one of which is to enable every man to sell the produce of his labor at the best market, and purchase at the cheapest. This accords with the idea of Hume, "that the government of a wise people would be little more than a system of civil police; for the best interest of man is industry, and a free exchange of the produce of his labor for the things which he may require."

On this humane principle, what stronger bonds of union can be invented, than those which enable each individual to transport the produce of his industry twelve hundred miles for sixty cents the hundred weight? Here, then, is a certain method of securing the Union of the States, and of rendering it as lasting as the continent we inhabit.

It is now eleven years that I have had this plan in contemplation for the good of our country. At the conclusion of my work on small canals, there is a letter to Thomas Mifflin, then Governor of the State of Pennsylvania, on a system of canals for America. In it I contemplated the time when "canals should pass through every vale, wind around each hill, and bind the whole country together in the bonds of social intercourse;" and I am happy to find that, through the good management of a wise administration, a period has arrived when an overflowing treasury exhibits abundant resources, and points the mind to works of such immense importance. Hoping speedily to see them become favorite objects with the whole American people,

I have the honor to be your most obedient servant,

ROBT. FULTON.

To ALBERT GALLATIN, Esq., *Secretary of the Treasury.*

10th CONGRESS.]

No. 251.

[1st SESSION.]

BURR'S CONSPIRACY—LETTERS FROM M. NIMMO AND JNO. SMITH.

COMMUNICATED TO THE SENATE, APRIL 8, 1808.

*To the Senate of the United States:*

APRIL 8, 1808.

Agreeably to the request of the Senate, in their resolution of yesterday, I have examined my papers, and find no letter from Matthew Nimmo, of the date of November 28, 1806, nor any other from him, of any date, but that of January 23, 1807, now transmitted with all the papers in my possession which accompanied it; nor do I find any letter from John Smith, of Ohio, bearing date at any time in the month of January, 1807.

Having delivered to the Attorney General all the papers respecting the conspiracy of Aaron Burr, which came to my hands during, or before, his prosecution, I might suppose the letters above requested had been delivered to him; but I must add my belief that I never received such letters, and the ground of it. I am in the habit of noting daily, in a list kept for that purpose, the letters I receive daily, by the names of the writers, and dates of time and place, and this has been done with such exactness, that I do not recollect ever to have detected a single omission. I have carefully examined that list from the 1st of November, 1806, to the last of June, 1807, and I find no note, within that period, of the receipt of any letter from Matthew Nimmo, but that now transmitted; nor of any one of the date of January, 1807, from John Smith, of Ohio. The letters noted, as received from him within that period, are dated at Washington, February 2, 2, 7, and 21, which I have examined, and find relating to subjects entirely foreign to the objects of the resolution of the 7th instant; and others dated at Cincinnati, March 27, April 6, 13, and 17, which, not being now in my possession, I presume have related to Burr's conspiracy, and been delivered to the Attorney General. I recollect nothing of their particular contents. I must repeat, therefore, my firm belief that the letters of Nimmo, of November 28, 1806, and of John Smith, of January, 1807, never came to my hands, and that if such were written, (and Nimmo's letter expressly mentions his of November 28,) they have been intercepted, or otherwise miscarried.

TH: JEFFERSON.

[NOTE.—None of the letters that may have accompanied this message are now on the files of the Senate.]

10th CONGRESS.]

No. 252.

1st SESSION.]

COMPLAINT OF THE LEGISLATURE OF THE MISSISSIPPI TERRITORY AGAINST PETER B. BRUIN, JUDGE OF THAT TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 11, 1808.

*Resolutions of the Legislative Council and House of Representatives of the Mississippi Territory, relative to the conduct of Peter B. Bruin, presiding Judge of said Territory.*

COUNCIL CHAMBER, *March 1, 1808.*

Whereas, the honorable Peter B. Bruin, presiding judge of this Territory, has, for a number of years past, neglected to discharge the duties required by law, and the nature of his office, in frequently failing to hold the superior and circuit courts of this Territory, by reason whereof justice has been most shamefully delayed; and

whereas the said Peter B. Bruin has, of late years, been addicted to drunkenness, especially during the terms of the courts, and has frequently appeared on the bench in such an extreme state of intoxication as to disqualify him entirely from performing the solemn and important duties of his office; in consequence of which, the court has often been compelled to adjourn from day to day, and finally to close their session before the business of the term was completed; all which doings of the said Peter B. Bruin, has tended to degrade our courts of justice, and to work a manifest injury to the people of this Territory; in consideration of which the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened, are constrained by a sense of their duty, to pass a vote of censure on the official conduct of the said Peter B. Bruin, and to solicit his removal from office: Wherefore,

*Resolved by the Legislative Council and House of Representatives of the Mississippi Territory, in General Assembly convened,* That George Poindexter, Esq., our territorial delegate in Congress, be instructed, and he is hereby required and directed to impeach the honorable Peter B. Bruin, presiding judge of this Territory, on the charges of neglect of duty and drunkenness on the bench, which said charges we pledge ourselves, in behalf of the people of this Territory, to substantiate and make good.

*Resolved,* That copies of these resolutions be transmitted one to the President of the United States, one to the President of the Senate, one to the Speaker of the House of Representatives, and one to our delegate in Congress.

JOHN ELLIS, *Speaker of House of Representatives.*

JOSHUA BAKER, *President of Legislative Council.*

JOSHUA DOWNS, *Secretary.*

Attest:

[10th CONGRESS.]

No. 253.

[1st SESSION.]

### APPLICATION FOR A DIVISION OF THE INDIANA TERRITORY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 11, 1808.

Mr. LYON, from the committee to whom was referred the petitions of the people of the counties of Randolph and St. Clair, in the Indiana Territory, made the following report:

That the petitioners state many inconveniences, hardships, and privations, as well as the discouragement of emigration into their country, under which they labor, in consequence of a connexion which they call unnatural, between the two very distant settlements, whose country, by the compact between the United States and the State of Virginia, is ordained to constitute two separate and distinct States.

Among the disadvantages, they state that the inhabitants of their two large and populous counties are subject to be called from one hundred and eighty to one hundred and fifty miles through a wilderness (which, for want of wood and living water, must long remain dreary and difficult to pass through) to attend as suitors, witnesses, &c., as the general court, which is held at Vincennes, has cognizance of every matter in controversy exceeding the value of fifty dollars.

They state, also, that the country, which is to constitute the Eastern State, having three-fifths of the representation in the Territorial Legislature, with all the officers for the administration of the Territorial Government, appointed by the President of the United States, they who live in the country which is to constitute the Western State, are oppressed with taxes, the avails thereof are expended in the country which is to form the Eastern State, and at the discretion of those over whom they can have no control. They pray for a dissolution of this connexion, and the establishment of a new Territorial Government, consisting of the country, which, by the compact, is designated for the Western State, as it is marked out on the map of the United States.

The committee, however, considering the press of important business which must occupy the attention of the National Legislature, during the short time proposed for the continuance of the session, the unpromising aspect of our fiscal concerns, and particularly the impolicy of increasing the number of Territorial Governments without its being manifestly necessary, are of opinion that it is inexpedient, at this time, to grant the prayer of the petitioners.

[10th CONGRESS.]

No. 254.

[1st SESSION.]

### INQUIRY INTO THE CONDUCT OF HARRY INNIS, DISTRICT JUDGE OF THE UNITED STATES FOR THE DISTRICT OF KENTUCKY.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 19, 1808.

Mr. ROWAN, from the committee appointed "to inquire into conduct of Harry Innis, district judge of the United States for the district of Kentucky, relative to his having, whilst in the tenure of his office as aforesaid, been party or privy to a project, on the part of Spain, or her subjects, to dismember these United States, or to the seduction of the State of Kentucky from this Union; or relative to his having been party or privy, during the time aforesaid, to a project of France, or her citizens, to embroil these United States in a war with Spain; or relative to his having illicitly corresponded with both or either of the Governments aforesaid, or their subjects or citizens, upon one or both projects aforesaid; or relative to his having known and concealed from this Government one or both the said projects;" made the following report:

That they have considered the same, and the accompanying documents, which documents are the only evidence which, the committee are informed, can be obtained material to the inquiry, and are of opinion that the said Harry Innis has not so acted as to require the interposition of the constitutional powers of this House.

Sir:

FRANKFORT, *February 27, 1808.*

By direction of the Legislature of this State, I have the honor of enclosing to you a resolution respecting the honorable Harry Innis; the copy of a letter from Joshua Barbee to said Innis; and a copy of the report of the select committee appointed to inquire into the conduct of Benjamin Sebastian, to which you are requested to give your attention.

I have the honor to be, with due regard and consideration, your obedient servant,

CHRISTOPHER GREENUP.

Honorable JOHN ROWAN.

*Resolution respecting the Honorable Harry Innis.*

IN GENERAL ASSEMBLY, *February 17, 1808.*

Whereas the House of Representatives did, at the last session, appoint a committee to examine into and report on the conduct of Benjamin Sebastian, one of the judges of the court of appeals of this State, in relation to the said Sebastian being a Spanish prisoner while holding his office aforesaid, in which report there were circumstances implicating Harry Innis, a district judge of the United States in and for the Kentucky district, as detailed by himself when called on as a witness on the part of this commonwealth against the said Sebastian; and these circumstances, in the conduct of the said Harry Innis, are deemed sufficient, by the present General Assembly, to call forth the public expression of their opinion: Therefore,

*Resolved by the Senate and House of Representatives,* That an inquiry ought to be instituted by the constituted authority into the conduct of the said Judge Innis; and, also,

*Resolved,* That the Governor be requested to transmit to each of the Representatives of this State in the Congress of the United States, a copy of said report, as also a copy of a letter from Joshua Barbee to the said Judge Innis, dated Danville, January 4, 1807, together with these resolutions, to be laid by them before the House of Representatives in Congress, and that our said Representatives from this State do request an inquiry to be made into the conduct of said Judge Innis.

HENRY CLAY,  
*Speaker of the House of Representatives.*  
GREEN CLAY,  
*Speaker of the Senate, pro tempore.*

Approved, February 19, 1808.

CHRISTOPHER GREENUP,  
*Governor of the Commonwealth of Kentucky.*

By the Governor:

ALFRED W. GRAYSON, *Secretary.*

I, William C. Greenup, Secretary of the State of Kentucky, do certify the foregoing to be a true copy from the original enrolled resolution filed in my office.

Given under my hand and seal of office, this 26th day of February, 1808.

WILLIAM C. GREENUP.

*Copy of a letter from Joshua Barbee to Judge Innis.*

Sir:

DANVILLE, *January 4, 1807.*

In answer to yours of the 19th ultimo, wherein you say a piece had appeared, addressed particularly to you, in the "Western World," and, among other things, had charged you with being instrumental in aiding and sending three men with secret despatches for General Wilkinson to New Orleans, in the spring of 1788, in a canoe, I have to observe that, at your instance, I went to Wilkinson's about the 1st of March, 1788; that he employed me to go in a canoe with two others to New Orleans; that we left his house in Woodford county, and took water at General Scott's, about the 20th of the same month; that we went to New Orleans, and, while there, I delivered letters or packets to the Governor and Daniel Clarke, now deceased, having on our way down called at Natchez, where I delivered one to the commandant at that post; that these letters or packets (whichever they were) were handed to me, and I believe, written by Wilkinson.

Your request me to state particularly what agency you had, if any, in the business; also whether there were any secret injunctions given me by you, in your presence, or by any other person. The only agency that I know of was that of informing me that Wilkinson wanted to employ a person, on whom dependence might be placed, to make the tour aforesaid, and that, if I was disposed to be employed, I must go to Wilkinson and make my bargain with him; after which I do not recollect our speaking on the subject; and, as to the secret injunctions, if I had any, they were not given by you nor in your presence, consequently not pertinent to your case.

It having become too common to publish letters of this kind, and without an objection being made known to you, this might make its appearance in a newspaper; I cannot consent to this letter being published, as I have objections to my name becoming the subject of comment and animadversion. I am, sir, yours, &c.

JOSHUA BARBEE.

A copy. Attest: WILLIAM C. GREENUP, *Secretary.*

STATE OF KENTUCKY, ss.

I, Christopher Greenup, Governor of the commonwealth aforesaid, do certify all whom it may concern, that William C. Greenup, Esquire, who attests the resolutions respecting an inquiry to be made into the conduct of the honorable Harry Innis, judge of the district court for the district of Kentucky, was, at the time of attesting the same, and still is, the Secretary of the State aforesaid, duly commissioned and sworn.

In testimony whereof, I have caused the seal of the said commonwealth to be affixed to these presents.

Given under my hand, at Frankfort, this 27th day of February, A. D. 1808, and in the sixteenth year of the commonwealth.

CHRISTOPHER GREENUP.

By the Governor:

WILLIAM C. GREENUP, *Secretary.*

## STATE OF KENTUCKY.

IN THE HOUSE OF REPRESENTATIVES, *December 6, 1806.*

Mr. POPE, from the select committee appointed to inquire into the charges against Benjamin Sebastian, one of the judges of the court of appeals, reported the following resolution, viz:

The committee to whom was referred the information communicated to the House, charging Judge Sebastian with having received a pension from the Spanish Government, have had the same under consideration, and report that they have, with circumspection and attention, examined the various evidence brought before them, which is as follows:

*The evidence given on the inquiry into the charge against Benjamin Sebastian, Esquire, one of the judges of the Kentucky court of appeals, before a special committee, appointed by the House of Representatives for that purpose, on the 27th day of November, 1806.*

Mr. THOMAS BULLITT, of lawful age, being first duly sworn, deposed: that, in the year 1800 or 1801, he was spoken to by Judge Sebastian to receive money for him at New Orleans, which, he said, was coming to him annually, and, upon his, the said Bullitt, agreeing to do so, Judge Sebastian gave a draught on Don Andre Armisto, not as an officer, but in the form which draughts are commonly drawn for money, without a consideration stated; which draught he forwarded by a Mr. Smith, and was paid off; and that Judge Sebastian informed him that he drew two thousand dollars annually, *for life*, in consequence of his, the said Sebastian, having been active in some commercial arrangements with the Spanish Government, and the people of the Western country; and that, in the year 1802, he also got a second draught from Judge Sebastian for two thousand dollars, which was presented and paid. He also said that he had seen a letter from Governor Carondelet to Judge Sebastian, requesting him, the said Sebastian, to appoint an agent or agents to meet Gayoso at Madrid, which letter was dated previous to the draughts, and, in consequence of which letter, Judge Sebastian said he was induced to take his first trip to New Orleans. Mr. Bullitt, upon being interrogated whether this letter did not go to implicate Judge Sebastian, as an officer under Spain, he answered in the negative. Mr. Bullitt also stated that Judge Sebastian told him that, while he was making those commercial arrangements, for which he became entitled to the annuity, a courier arrived at New Orleans, giving information of the negotiation of peace between America and Spain, which put a stop to the arrangements. Mr. Bullitt was also interrogated whether or not the annuity spoken of was in consequence of any moneyed or property consideration? He answered that he understood that it was in consequence of Judge Sebastian's own personal services, in bringing about the before-mentioned commercial arrangements.

Examined and signed by

THOMAS BULLITT.

Mr. CHARLES WILKINS, being duly sworn, deposed: that, in the fall of 1804, he went to Natchez, and on examining the papers of John A. Seitz, deceased, deposited in the house of J. & C. Wilkins, at Natchez, found among them a draught on "the Spanish Governor at New Orleans, or any other person authorized, drawn by Benjamin Sabastian, for the amount of his, the said Benjamin Sabastian's pension," but did not recollect the date of the draught. Mr. Wilkins being interrogated whether or not the word "pension" was made use of in the draught? he answered that he was confident it was. Mr. Wilkins was also asked if Don Andre Armisto was not the Secretary to the colony of Louisiana? he answered that he was. It was also inquired of Mr. Wilkins, if the hand-writing of the draught, and the letter produced by him, did not appear to be the same? he also answered that it did appear to be the same.

Examined and signed by

CHARLES WILKINS.

The letter referred to in the foregoing deposition, is in the following words and figures, to wit:

DEAR SIR:

LOUISVILLE, *February 18, 1804.*

The intelligence of your having safely arrived at Natchez about a month ago, gave me very considerable pleasure, not only because you were thus far secure from the dangers of a hazardous voyage, but also that you would soon have it in your power to determine whether the application to be made on my account would be productive or not. As this subject is all-important to me, and, of course, I feel considerable solicitude about it, the sooner you can inform me of the true situation of the business the better; for if you succeed, I shall be eased of a great weight of anxiety; and if you do not, I must immediately make the necessary preparations to descend the river myself for the purpose of collecting proof of my situation, and lay a statement of the business before the minister. If the person who was authorized to have transacted this affair in New Orleans should be gone hence before you arrive there, it is probable the application must be made at the Havana; and if this idea had suggested itself to you, I have flattered myself that that circumstance would hasten your departure from Natchez; or that you would devise some mode whereby application at New Orleans might be made, through the agency of some confidential person.

Accept the warmest wishes for your prosperity and happiness,

Of your sincere friend, and humble servant,

BEN. SEBASTIAN.

Messrs. JOSEPH H. DAVIESS, THOMAS BULLITT, JOHN ALLEN, and JOHN POPE, proved that the body and signature of the said letter were in the hand-writing of Judge Sebastian.

Mr. JAMES T. MARTIN, being duly sworn, deposed as follows: In the year 1805, I received, from the agent of Messrs. John and Charles Wilkins, at Natchez, a trunk, delivered to me as the property of the late John A. Seitz, who died at Orleans, in July, 1804. The trunk contained a number of papers relative to the concern of said Seitz; among which I discovered a draught signed "Sebastian" as the drawer; but I did not know the hand-writing of Judge Sebastian, nor am I confident that it was signed Benjamin Sebastian; but I recollect perfectly the substance of the address of the draught is contained, and I believe expressed in the following words: "To the proper officer in the Spanish Government for paying off such claims."

The trunk that contained the above paper, I forwarded to John Clay, in New Orleans, in October, 1805, accompanied with a letter, in which I requested him, as well as I recollect, to give it the first conveyance to Mr. Francis West, of Philadelphia.

JAMES T. MARTIN.

*Before the committee on the inquiry into the charge against Judge Sebastian.*

NOVEMBER 28, 1806, A. M.

Mr. THOMAS BULLITT was again called upon, and stated on oath, as follows: that the letter spoken of yesterday by him from the Baron of Carondelet to Judge Sebastian, was on the subject of commercial arrangements, and that the name of Mr. Innis, Mr. Nicholas, and some other person not recollected, were in it; and who were requested, jointly with Judge Sebastian, to appoint an agent or agents to meet Gayoso at Madrid; and that commercial arrangements appeared to be the only object of that letter; and that Judge Sebastian informed him, that he, the said Sebastian, insisted on the articles of their commercial arrangements being signed, stating that the treaty might not be ratified; and, if it was not, they would have their operation; and, if it was, they would do no harm. The Governor answered, he would not do any thing further in the business.

Examined and signed by

THOMAS BULLITT.

His Excellency C. GREENUP, Esq., was duly sworn, and deposed as follows: that he knew nothing of Judge Sebastian's receiving money from the Spanish Government until yesterday, on the receipt of Judge Sebastian's resignation, in which he stated the commercial arrangements, and the money which he had received in consequence of them; but that he saw a memorial in 1799 or 1800, concerning a negotiation with Spain for a grant of land, in which memorial some expressions were contained like the following: That the memorialists were dissatisfied with their Government, and were more pleased with the mild and pacific Government of His Catholic Majesty; and that Judge Sebastian told him that the Baron of Carondelet assured him, the said Sebastian, that upon a proper company being formed a grant of land would be made to them.

Examined and signed,

CHRISTOPHER GREENUP.

Mr. RICHARD STEELE was also duly sworn, and deposed, that the memorial alluded to by Governor Greenup was drawn up by Judge Sebastian, as he conceived from the hand-writing and conversation which he had had with Judge Sebastian on that subject; and that he, as one of the company, did refuse to have any thing further to do with it, in consequence of its stating that the memorialists were dissatisfied with the Government of their country, and were more pleased with the Government of Spain; which expressions were afterwards, at a meeting of the company, expunged; and that Judge Sebastian refused to be their agent, or to have any thing more to do with it, in consequence of those expressions in the memorial being stricken out. Mr. Steele also stated that Messrs. Grayson, of Bardstown; A. Steele, of Shelbyville; Doctor F. Ridgely, now of Woodford county; and the late John A. Seitz, then of Lexington, are directors; and that upon Judge Sebastian's withdrawing from the company, Doctor John Watkins was appointed agent to carry the scheme into effect.

Examined and signed by

R. STEELE.

Mr. WINGFIELD BULLOCK, being also sworn, deposed, that he was one of the memorialists spoken of by Mr. Steele, and at a meeting of a company held at Frankfort, previous to the one alluded to by Mr. Steele, it was proposed to strike out of the memorial the expressions of their being dissatisfied with their Government, and were more pleased with that of Spain; which proposition was warmly opposed by Judge Sebastian; and upon which he withdrew his name, and had nothing more to do with the company.

Mr. DANIEL WEISIGER, being also duly sworn, deposed, that he was administrator with the honorable Harry Innis, of the late Samuel M. Brown, deceased, and then Judge Sebastian had a claim against the estate of said Brown, amounting to about \$1,500, which he, the said Sebastian, informed him was sent by some person from New Orleans, for the support and education of his son, then at Judge Sebastian's, over whom Judge Sebastian had the control; and that a Mr. Griffith, who came up from New Orleans with the said Brown's boat, accounted to Judge Sebastian for \$300, part of said \$1,500; and that the balance remained unaccounted for, as the estate of Brown was insolvent.

The deposition of HARRY INNIS, who being sworn, deposeth, and answereth to the following questions:

Do you or do you not know of Mr. Sebastian's receiving money from the Spanish Government, or of any officer of that Government, and at what time?

Have you any knowledge of any negotiation which was entered into, or attempted, by Mr. Sebastian and the Spanish Government at New Orleans, or with any officer of that Government? If you have, depose as to these facts.

Answer to the first interrogatory. The deponent saith he had very little knowledge; and that the first intimation which he ever received upon that subject was from Mr. Wilkins, in Lexington, some time in August last; that as Mr. Wilkins has deposed to the fact, and any thing detailed by this deponent as coming from that gentleman would be hearsay, the deponent conceives it improper to relate it; that Mr. Wilkins informed this deponent of a letter signed by Mr. Sebastian, which he had in his possession, and which he found among the papers of Mr. Seitz, relative to a money transaction which he promised to show this deponent, and give him a copy; that the next day Mr. Wilkins showed the original letter which was signed with Mr. Sebastian's name, but had no direction, it being supposed to have gone under a cover; which letter, this deponent, from his knowledge of Mr. Sebastian's hand-writing, believes to be his; and Mr. Wilkins gave the promised copy, after comparing.

This deponent further states that he had no communication with Mr. Sebastian, after receiving the said copy, till the Saturday of the first week of the session of the court of appeals, in October last, when, in an interview in this town, this deponent mentioned the information he had received from Mr. Wilkins respecting the bill for a pension, and showed him a copy of the letter. Mr. Sebastian read the letter, said he had no recollection of having written such a letter, and acknowledged that he had given Mr. Seitz the bill; and then observed that the pension had been given to him in consequence of the business which induced him to go to New Orleans in 1795.

Answer to the second question. I have. But, before this deponent proceeds to answer the question, he requests to be indulged with making some preliminary observations on the state of the public mind in this country in the year 1794 respecting the navigation of the Mississippi. This deponent observes that it must be known and recollected by some of the committee, the violent heat that pervaded this State, arising from the publications and proceedings of the democratic society in Lexington and some other places; that it must be known and recollected that the French minister, Genet, had sent his emissaries to this State to excite the people of Kentucky to offensive measures against the Spanish province of Louisiana; that officers were appointed to command an army to be raised for that purpose; and that report said it was to consist of two thousand men. The truth of these facts the depo-

ment has no doubt can, if necessary, be proved; and this deponent is of opinion that the proceedings of the people in the Western country induced Spain to accede to the treaty at the time she did.

The deponent further states that such was the heat of the public mind at that period, respecting the navigation of the Mississippi, that he avoided all the meetings of the democratic societies, lest their measures should lead to acts which would attract the notice of the General Government, and prosecutions be instituted, which could only be done in the court in which this deponent presides.

That this deponent is convinced that the anxiety which appeared to pervade this State at that period, as expressed by the democratic societies, induced the President of the United States to send a messenger (to wit, Colonel James Innis) to this State, to communicate, through the Executive, to the people of Kentucky the situation of the pending negotiation between the United States and Spain respecting the navigation of the Mississippi; that the messenger arrived in this place on the 25th day of December, 1794, and in the course of that winter made a communication to Governor Shelby, and that this communication quieted the public mind for the present; that the harvest of 1795 was very abundant, and in the fall of that year a general murmur pervaded the people of this country respecting their crops, on account of the probability of having no opportunity of exporting their produce the ensuing season; that, some time in November, or early in December, 1795, this deponent and William Murray, Esq., received a letter from Mr. Sebastian, requesting us to meet him at Colonel George Nicholas's house, in Mercer county, on a day stated in the letter, observing that he had business of importance to communicate, which related to us all. This deponent and Mr. Murray went to Colonel Nicholas's, where we were met, agreeably to appointment, by Mr. Sebastian, who submitted to us a letter he received from the Baron de Carondelet, then Governor of Louisiana, to which this deponent refers, and makes a part of this deposition, in the words and figures following:

SIR:

NEW ORLEANS, *July 16, 1795.*

The confidence reposed in you by my predecessor, Brigadier General Miro, and your former correspondence with him, have induced me to make a communication to you highly interesting to the country in which you live, and to Louisiana.

His Majesty, being willing to open the navigation of the Mississippi to the people of the Western country, and being also desirous to establish certain regulations, reciprocally beneficial to the commerce of both countries, has ordered me to proceed on the business, and to effect, in a way the most satisfactory to the people of the Western country, his benevolent design.

I have, therefore, made this communication to you, in expectation that you will procure agents to be chosen and fully empowered by the people of your country to negotiate with Colonel Gayoso on the subject, at New Madrid, whom I shall send there in October next, properly authorized for that purpose, with directions to continue in that place, or its vicinity, until the arrival of your agents.

I am, by information, well acquainted with the character of some of the most respectable inhabitants of Kentucky, particularly of Innis, Nicholas, and Murray, to whom I wish you to communicate the purport of this address; and, should you and those gentlemen think the object of it as important as I do, you will doubtless accede, without hesitation, to the proposition I have made of sending a delegation of your countrymen, sufficiently authorized to treat on a subject which so deeply involves the interest of both our countries.

I remain, with every esteem and regard, sir, your most obedient, humble servant,  
THE BARON OF CARONDELET.

LOUISIANA, *July 19, 1797.*

The deponent further states, that, after deliberating on the contents of the letter, it was the unanimous opinion of the four persons referred to in the letter, that, from the situation of the pending treaty between the United States and Spain, of which no communication had been received for nearly twelve months, and the uncertainty when it would terminate; that, as it was a subject in which all the Western people were greatly interested; that, as it had excited great heat in the minds of the people of this country; that, as we had no power to appoint agents to meet Colonel Gayoso, as was requested; that, under these existing circumstances, it would not be prudent to communicate the subject matter of the letter; yet that it was advisable to know what was the object of the Spanish Government upon that important subject. To accomplish this object, it was thought advisable that, as the communication was made to Mr. Sebastian, he ought to meet Colonel Gayoso; and, in consequence of this opinion, Mr. Sebastian descended the Ohio. On Mr. Sebastian's return from New Orleans, in 1796, he informed this deponent that Colonel Gayoso was at the mouth of the Ohio river, waiting an answer to the baron's letter; that the severity of the weather induced them to go to New Madrid, where a conference took place on the subject of the letter; that, among the concessions which were stipulated, Gayoso proposed to reduce the duty of six per cent. import and six per cent. export, amounting to twelve per cent., to four per cent.; that he, Mr. Sebastian, insisted that, as the Spanish Government had come forward upon the principle of conciliating the people of the Western country, no duty ought to be exacted from them, because they claimed as a right the free and undisturbed navigation of the Mississippi river. Finding Gayoso fixed and immovable on that point, he proposed to go to New Orleans and refer the point in dispute to the Governor General, which being acceded to, he descended the river to New Orleans with Colonel Gayoso. Upon their arrival at New Orleans, the Governor had a private interview with Mr. Sebastian, and requested information as to the point in dispute between him and Colonel Gayoso. Mr. Sebastian stated the demand of four per cent. import; to which the Governor replied, that Colonel Gayoso was wrong, and that he would release it, as the plan was altogether conciliatory; but observed that he was then pressed by public business, yet would attend to him on a particular day, which he named; that, a day or two preceding the time fixed for the interview, he received a message to immediately wait on the Governor; upon repairing to the Government house, the Governor informed him that a courier had arrived from the Havana, informing that a treaty of friendship, limits, and navigation had been entered into by His Catholic Majesty and the United States, which put an end to their business; that Mr. Sebastian then showed this deponent a paper, in his hand-writing, containing the concessions which had been stipulated by Gayoso, and which he believes is the same paper now in his hands, and here presented to the committee, which is in the words and figures following:

“His Catholic Majesty having taken into consideration the relative situation of his province of Louisiana and its dependencies, and that part of the United States of America lying west of the Apalachian mountains, and being of opinion that a commercial intercourse between the two countries will be productive of the harmony and reciprocal interest thereof, has been pleased to concede to the people of the said Western country, during his pleasure, the following privileges:

“1. The people of the Western country shall henceforth freely use, and exclusively enjoy, for the purposes of commerce, the navigation of the river Mississippi, and all the ports and places thereon under the Government of

His Catholic Majesty, subject to the same regulations and restrictions, and no other by which the commerce of the subjects of His Catholic Majesty is now governed. And whereas, the people of the said Western country are now subject to the payment of six per centum *ad valorem* on all the produce of the said Western country imported into the Government of Louisiana and its dependencies; and also to the payment of the same duty on the exportation thereof; and His Majesty being willing to remove every obstacle to that friendly intercourse which he is desirous to establish and maintain with the said Western people, does hereby concede that the said Western people shall hereafter be subject to the payment of a duty of four per centum only, whether the produce imported be disposed of in the markets of Louisiana, or exported to foreign markets; and that the duty to be thus paid by the said Western people shall be regulated by the valuation of their produce hereto annexed.

"2. That there may be no obstruction or impediment to the fullest and most advantageous enjoyment of the privileges hereby granted to the people of the said Western country by His Catholic Majesty, such of the Western people as may choose to reside in the Government of Louisiana for the purpose of carrying on commerce, shall henceforth be permitted to acquire, by purchase or otherwise, both real and personal property in any port or place on the said river Mississippi, or at any other place within the Government of the said province of Louisiana and its dependencies, and shall be protected by the said Government in the enjoyment thereof; the said residents being amenable during their residence to the same laws and regulations by which the subjects of the said province are governed; and should the said residents or any of them die in the said province, or think proper to remove to the United States or elsewhere, their property, both real and personal, shall in the first case be disposed of according to the will of the decedent, and, where no will has been made, shall descend to and be distributed among the legal representatives of the deceased, agreeable to the laws of the said province, and in the last case the removing resident shall have the liberty of disposing of the absolute estate, in the whole or any part of the property which he has either carried to, or acquired in the said province, and to transport the proceeds thereof free from duty to any part of the world.

"3. His Catholic Majesty, to evince to the said Western people his disposition to encourage the commerce of their country, hereby permits them, when they cannot get a satisfactory market for their produce in the province of Louisiana or its dependencies, to export the same to the Havana, or to any other port or place either in the United States or Europe, and the said produce being exported to the Havana or to any of the said ports in the Spanish dominions, having paid the duty in the province of Louisiana, and the proprietor thereof taking from the proper officer in the said province authentic documents of the payment, shall not again be subject to the payment of any duty in any port or place in the said Spanish dominions to which the said produce shall be exported; but the same may be disposed of in such port or place under the same rules and regulations which at present govern the disposal of the produce of Louisiana.

"4. To prevent any misconception or improper use of the privileges hereby granted, it is explicitly declared that the importation of all articles of commerce, of what nature or description soever which are not actually the production of the said Western country, is absolutely prohibited; and if any person shall hereafter attempt, under any pretext whatsoever, to introduce into the province of Louisiana and its dependencies down the Mississippi, the products or manufactures of any other country, (unless specially permitted by the Government) the same are hereby declared to be contraband, and liable to seizure.

"5. As the commutation of the products of one country for those of another is the foundation of commerce, His Majesty, in order to establish that reciprocity of interest between his dominions and the said Western country, without which no commercial intercourse can be permanent, will cause a preference to be always given in his markets to the products of the Western country, and therefore expects that the people of the said Western country, acting under the influence of the same principle, will, in the purchase of such articles of commerce as they may need, whether foreign or domestic, prefer his markets to any other. And, as a further inducement thereto, His Majesty, contrary to a long established rule of his Government, does henceforth permit the people of the said Western country to carry out of his dominions whatever money may remain to them after completing their purchase, free from any duty or impost whatsoever."

This deponent having detailed every thing which occurred within his knowledge respecting Mr. Sebastian's receiving a pension, and the object which had induced him to descend the Mississippi in the latter end of 1795, or beginning of 1796, addressed this committee, and stated that he was going to make a communication which was not pertinent to the subject of the testimony he had already given, but had relation to the same matter; that he was induced to do it in consequence of the slanders which had been falsely and lavishly heaped upon him by the publications in the Western World; that he had been charged as a disorganizer of the Government; that he had been charged in an indirect manner as having improperly received Spanish money, on account of his intimacy with and friendly agency towards General Wilkinson after he had joined the army. To make this communication was a duty he owed to his own character, and to the memory of the late Colonel Nicholas, whose character has also been attacked in the Western World; that he made a solemn appeal to the chairman of the committee, to his country, and to his God, that the accusations were false; that the communication he was about to make was of a delicate nature, as it related to this deponent, because, from the circumstances which attended it, much must depend upon his own veracity, as he could only prove the facts by circumstantial evidence, to wit: the declarations of Colonel Nicholas in his lifetime on the same subject.

This deponent then proceeded to state, that a certain Thomas Power, whom this deponent never saw, came from Louisiana in the summer of 1797, and made a communication to Mr. Sebastian in writing, which has a reference to the same characters that were named in the letter of the Baron de Carondelet, hereinbefore inserted; that Mr. Sebastian came to this deponent's house some short time after receiving the communication, and showed it to him; upon which this deponent observed that it was a dangerous project, and ought not to be countenanced, as the Western people had now obtained the navigation of the Mississippi, by which all their wishes were gratified. Mr. Sebastian concurred in sentiment, but observed that Power wished a written answer, and requested me to see Colonel Nicholas, saying, that whatever we did he would concur in. I promised to visit the Colonel in two or three days. This deponent never had any communication with Mr. Murray upon the business, nor does he know that Mr. Sebastian ever did inform Mr. Murray of it.

This deponent rode to Lexington, and had a conference with Colonel Nicholas respecting the communication from Power, who agreeing with the deponent that the proposition ought to be rejected, he, Colonel Nicholas, instantly wrote an answer, which was copied by this deponent, signed by both of us, and directed by me; that a copy of our joint answer was taken possession of by me, and has been ever since in my possession, except for a short time that I left it in the hands of Mr. Morrison in August last, to have copied, as being the executor and friend of Colonel Nicholas he wished to have a copy; Mr. Morrison having previously informed me that Colonel Nicholas in his lifetime had related all the circumstances to him, and that he had communicated it to James Ross, Esq., of Pennsylvania, when in this country, in, I believe, 1798, who was then a Senator in the Congress of the United States.



This deponent, since making this communication, recollects that Mr. Sebastian informed him when he gave up the original paper to be submitted to Colonel Nicholas, Mr. Power requested it to be returned to him with our answer, which was done, but not until this deponent took a copy, which, with the answer, are as follows:

"His Excellency the Baron de Carondelet, Commander-in-chief and Governor of His Catholic Majesty's provinces of West Florida and Louisiana, having communications of importance, embracing the interests of said provinces, and at the same time deeply affecting those of Kentucky and the Western country in general, to make to its inhabitants, through the medium of the influential characters in this country, and judging it, in the present uncertain and critical attitude of politics, highly imprudent and dangerous to lay them on paper, has expressly commissioned and authorized me to submit the following proposals to the consideration of Messrs. S. N. I. and M. and also of such other gentlemen as may be pointed out by them, and to receive from them their sentiments and determination on the subject.

"1. The above-mentioned gentlemen are immediately to exert all their influence in impressing on the minds of the inhabitants of the Western country a conviction of the necessity of their withdrawing and separating themselves from the Federal Union, and forming an independent Government wholly unconnected with that of the Atlantic States. To prepare and dispose the people for such an event, it will be necessary that the most popular and eloquent writers in this State should, in well-timed publications, expose, in the most striking point of view, the inconveniences and disadvantages that a longer connexion with, and dependence on, the Atlantic States must inevitably draw upon them, and the great and innumerable difficulties in which they will probably be entangled if they do not speedily recede from the Union; the benefits they will certainly reap from a secession ought to be pointed out in the most forcible and powerful manner; and the danger of permitting the federal troops to take possession of the posts on the Mississippi, and thus forming a cordon of fortified places round them, must be particularly expatiated upon. In consideration of gentlemen devoting their time and talents to this object, His Excellency the Baron de Carondelet will appropriate the sum of one hundred thousand dollars to their use, which shall be paid in drafts on the royal treasury at New Orleans; or, if more convenient, shall be conveyed at the expense of His Catholic Majesty into this country, and held at their disposal. Moreover, should such persons as shall be instrumental in promoting the views of His Catholic Majesty hold any public employment, and in consequence of taking an active part in endeavoring to effect a secession, shall lose their employments, a compensation, equal at least to the emoluments of their office, shall be made to them by His Catholic Majesty, let their efforts be crowned with success, or terminate in disappointment.

"2. Immediately after the declaration of independence, Fort Massac should be taken possession of by the troops of the new Government, which shall be furnished by His Catholic Majesty, without loss of time, with twenty field pieces, with their carriages and every necessary appendage, including powder, balls, &c., together with a number of small arms and ammunition, sufficient to equip the troops that it shall be judged expedient to raise. The whole to be transported at his expense to the already mentioned Fort Massac. His Catholic Majesty will further supply the sum of one hundred thousand dollars for the raising and maintaining the said troops, which sum shall also be conveyed to, and delivered at Fort Massac.

"3. The northern boundary of His Catholic Majesty's provinces of East and West Florida shall be designated by a line commencing on the Mississippi, at the mouth of the river Yazoo, extending due east to the river Confederation or Tombigbee: *Provided, however*, that all His Catholic Majesty's forts, posts, or settlements, on the Confederation or Tombigbee, are included on the south of such a line; but should any of His Majesty's forts, posts, or settlements, fall to the north of said line, then the northern boundary of His Majesty's provinces of East and West Florida shall be designated by a line beginning at the same point on the Mississippi, and drawn in such a direction as to meet the river Confederation or Tombigbee, six miles to the north of the most northern Spanish fort, post, or settlement on the said river. All the lands to the north of that line shall be considered as constituting a part of the territory of the new Government, saving that small tract of land at the Chickasaw Bluffs, on the eastern bank of the Mississippi, ceded to His Majesty by the Chickasaw nation in a formal treaty, concluded on the spot in the year 1795, between His Excellency Señor Don Manuel Gayoso De Lemos, Governor of Natchez, and Augliakabee, and some other Chickasaw chiefs; which tract of land His Majesty reserves for himself. The eastern boundary of the Floridas shall be hereafter regulated.

"4. His Catholic Majesty will, in case the Indian nations south of the Ohio should declare war or commit hostilities against the new Government, not only join and assist it in repelling its enemies, but if said Government shall, at any future period, deem it necessary to reduce said Indian nations, extend its dominion over them, and compel them to submit themselves to its constitution and laws, His Majesty will heartily concur and co-operate with the new Government in the most effectual manner in attaining this desirable end.

"5. His Catholic Majesty will not either directly or indirectly interfere in the framing of the constitution or laws which the new Government shall think fit to adopt, nor will he at any time, by any means whatever, attempt to lessen the independence of the said Government, or endeavor to acquire an undue influence in it, but will, in the manner that shall hereafter be stipulated by treaty, defend and support it in preserving its independence.

"The preceding proposals are the outlines of a provisional treaty, which His Excellency the Baron de Carondelet is desirous of entering into with the inhabitants of the Western country, the moment they shall be in a situation to treat for themselves. Should they not meet entirely with your approbation, and should you wish to make any alterations in, or additions to them, I shall, on my return, if you think proper to communicate them to me, lay them before His Excellency, who is animated with a sincere and ardent desire to foster the promising and rising infant country, and at the same time promote and fortify the interests of his beneficent royal master, in securing, by a generous and disinterested conduct, the gratitude and affections of a just, sensible, and enlightened people.

"The important and unexpected events that have taken place in Europe since the ratification of the treaty concluded on the 27th of October, 1795, between His Catholic Majesty and the United States of America, having convulsed the general system of politics in that quarter of the globe, and wherever its influence is extended, causing a collision of interests between nations formerly living in the most perfect union and harmony, and directing the political views of some States towards objects the most remote from their former pursuits, but none being so completely unhinged and disjointed as the cabinet of Spain, it may be confidently asserted, without incurring the reproach of presumption, that His Catholic Majesty will not carry the above-mentioned treaty into execution; nevertheless the thorough knowledge I have of the disposition of the Spanish Government justifies me in saying that, so far from its being His Majesty's wish to exclude the inhabitants of this Western country from the free navigation of the Mississippi, or withhold from them any of the benefits stipulated for them by the treaty, it is positively his intention, so soon as they shall put it in his power to treat with them, by declaring themselves independent of the Federal Government, and establishing one of their own, to grant them privileges far more extensive, give them a decided preference over the Atlantic States in his commercial connexions with them, and place them in a situation infinitely more advantageous, in every point of view, than that in which they would find themselves were the treaty to be carried into effect."

THOMAS POWER.



To which the following answer was returned:

DECEMBER 1, 1806.

"SIR: We have seen the communication made by you to Mr. Sebastian. In answer thereto, we declare unequivocally, that we will not be concerned either directly or indirectly in any attempt that may be made to separate the Western country from the United States; that whatever part we may at any time be induced to take in the politics of our country, that her welfare will be our only inducement, and that we will never receive any pecuniary or other reward for any personal exertions made by us to promote that welfare.

"The free navigation of the Mississippi must always be the favorite object of the inhabitants of the Western country; they cannot be contented without it, and will not be deprived of it longer than necessity shall compel them to submit to its being withheld from them.

"We flatter ourselves that every thing respecting this important business will be set right by the Governments of the two nations; but if this should not be the case, it appears to us that it must be the policy of Spain to encourage, by every possible means, the free intercourse with the inhabitants of the Western country, as this will be the most efficient means to conciliate their good-will, and to obtain without hazard, and at reduced prices, those supplies which are indispensably necessary to the Spanish Government and its subjects."

The original communication and joint answer of Colonel Nicholas and this deponent were forwarded to Mr. Sebastian, who has since informed this deponent that both were given to Mr. Power. Whether the letter was signed also by Mr. Sebastian this deponent does not know; it was sent open to him, nor does he recollect that Mr. Sebastian ever informed him that he had signed it.

This deponent says that the reasons why he and Colonel Nicholas did not communicate the subject to the Executive of the United States, were these: 1st. That it was well known that neither of us approved of Mr. Adams's administration, and that we believe he kept a watchful eye over our actions; that the communication must depend on his opinion of our veracity; and it would have the appearance of courting his favor. 2d. That we both had reason, and did believe that the then administration were disposed, upon the slightest pretext, to send an army to this State, which we considered would be a grievance upon the people, and, therefore, declined making any communication upon the subject, as we apprehended no danger from the Spanish Government.

This deponent requests the committee to summon Mr. Morrison, to prove the declarations of Colonel Nicholas respecting the transactions which relate to that gentleman, if any doubt exists as to the truth of the statement herein made.

HARRY INNIS.

DECEMBER 1, 1806.

This deponent requested that the committee would permit an address from the Democratic Society of Lexington, bearing date the 13th of December, 1793, and addressed to the people west of the Allegany and Apalachian mountains, and a remonstrance from the people of Kentucky to the President and Congress of the United States, on the subject of the navigation of the Mississippi, as also a letter signed Auguste Lachaise, dated, as is supposed from other papers, some time in May, 1794, addressed to the Democratic Society in Lexington, stating that two thousand brave Kentuckians had been recruited to march against the Spaniards in Louisiana, to assist the French to regain that country, in support of the statement made by this deponent in his deposition relative to the state of the public mind in Kentucky, in the year 1794, which was accordingly ordered, and the papers read.

HARRY INNIS.

*To the inhabitants of the United States, west of the Allegany and Apalachian mountains:*

FELLOW-CITIZENS:

DECEMBER 13, 1793.

The Democratic Society of Kentucky having had under consideration the measures necessary to obtain the exercise of your rights to the free navigation of the Mississippi, have determined to address you upon that important topic. In so doing they think that they only use the undoubted right of citizens to consult for their common welfare. This measure is not dictated by party or faction; it is the consequence of unavoidable necessity. It has become so from the neglect shown by the General Government, to obtain for those of the citizens of the United States who are interested therein the navigation of that river.

In the present stage, when the rights of man have been fully investigated and declared by the voice of nations, and more particularly in America, where those rights were first developed and declared, it will not be necessary to prove that the free navigation of the Mississippi is the natural right of the inhabitants of the country watered by its streams. It cannot be believed that the beneficent God of nature would have blessed this country with unparalleled fertility, and furnished it with a number of navigable streams, and that that fertility should be consumed at home, and those streams should not convey its superabundance to other climes. Far from it: for if we examine the wise diversity of the earth as to climate and productions, lands, seas, and rivers, we must discover the glorious plan of infinite beneficence to unite by the exchange of their surplus, various nations, and connect the ends of the earth in the bands of commerce and mutual good offices. From the everlasting decrees of Providence, then, we derive this right; and it must be criminal either to surrender or suffer it to be taken from us, without the most arduous struggles. But this right is ours, not only from nature, but compact. We do not mean to urge this, as if a compact could give an additional sanction to a natural right, but to show that our claim is derived from every source which can give it validity. The navigation of the Mississippi was solemnly given and confirmed by Great Britain to the citizens of the United States, by the provisional articles entered into at Paris, between the two nations. More than eleven years have since elapsed, during which we have been denied the exercise of a right, founded upon such irrefragable grounds. What has been done by the former or present Government, during this period, on our behalf? In the former we have been able to learn of no attempt to procure from the King of Spain even an acknowledgment of our right. Repeated memorials were presented to Congress upon the subject, but they were treated with a neglect bordering on contempt. They were laid upon the table, there to rest in endless oblivion. Once, indeed, we know, this subject was introduced into Congress, under the former Government; but it was by an unwarrantable and disgraceful proposition to barter away our rights. The proposition was not adopted; the attempt being rendered abortive by the spirited and patriotic opposition of a part of the Union. The time at length came, when the voice of the people called for a change in the General Government, and the present constitution of the United States was adopted. We then flattered ourselves that our rights would be protected; for we were taught to believe, that the former loose and weak confederation having been done away, the new Government would possess the requisite energy. Memorials upon the subject were renewed. Six years have passed away, and our right is not yet obtained. Money is to be taken from us by an odious and oppressive excise, but the means of procuring it by the exercise of our just right is denied. In the mean while, our brethren on the Eastern waters pos-

sess every advantage which nature or compact can give them. Nay, we do not know that even one firm attempt to obtain it has been made. Alas! Is the energy of our Government not to be exerted against our enemies? Is it all to be reserved for her citizens?

Experience, fellow-citizens, has shown us that the General Government is unwilling that we should obtain the navigation of the river Mississippi. A local policy appears to have an undue weight in the councils of the Union. It seems to be the object of that policy to prevent the population of this country, which would draw from the Eastern States their industrious citizens. This conclusion inevitably follows from a consideration of the measures taken to prevent the purchase and settlement of the lands bordering on the Mississippi. Among those measures, the unconstitutional interference which rescinded sales, by one of the States, to private individuals, makes a striking object. And perhaps the fear of a successful rivalry, in every article of their exports, may have its weight. But, if they are not unwilling to do us justice, they are at least regardless of our rights and welfare. We have found prayers and supplications of no avail, and should we continue to load the table of Congress with memorials, from a part only of the Western country, it is too probable they would meet with a fate similar to those which have been formerly presented. Let us, then, all unite our endeavors in the common cause. Let all join in a firm and manly remonstrance to the President and Congress of the United States, stating our just and undoubted right to the navigation of the Mississippi, remonstrating against the conduct of Government with regard to that right, which must have been occasioned by local policy or neglect, and demanding of them speedy and effectual exertions for its attainment. We cannot doubt that you will cordially and unanimously join in this measure. It can hardly be necessary to remind you that considerable quantities of beef, pork, flour, hemp, tobacco, &c., the produce of this country, remain on hand for want of purchasers, or are sold at inadequate prices. Much greater quantities might be raised if the inhabitants were encouraged by the certain sale which the free navigation of the Mississippi would afford. An additional increase of those articles, and a greater variety of produce and manufactures, would be supplied, by means of the encouragement, which the attainment of that great object would give to emigration. But it is not only your own rights which you are to regard: remember that your posterity have a claim to your exertions to obtain and secure that right. Let not your memory be stigmatised with a neglect of duty. Let not history record that the inhabitants of this beautiful country lost a most invaluable right, and half the benefits bestowed upon it by a bountiful Providence, through your neglect and supineness. The present crisis is favorable. Spain is engaged in a war which requires all her forces. If the present golden opportunity be suffered to pass without advantage, and she shall have concluded a peace with France, we must then contend against her undivided strength.

But what may be the event of the proposed application is still uncertain. We ought, therefore, to be still upon our guard, and watchful to seize the first favorable opportunity to gain our object. In order to this, our union should be as perfect and lasting as possible. We propose that societies should be formed, in convenient districts, in every part of the Western country, who shall preserve a correspondence upon this and every other subject of general concern. By means of these societies we shall be enabled speedily to know what may be the result of our endeavors, to consult upon such further measures as may be necessary to preserve union, and, finally, by these means, to secure success.

Remember that it is a common cause which ought to unite us, that that cause is indubitably just, that ourselves and posterity are interested, that the crisis is favorable, and that it is only by union that the object can be achieved. The obstacles are great, and so ought to be our efforts. Adverse fortune may attend us, but it shall never dispirit us. We may for a while exhaust our wealth and strength, but until the all-important object is procured we pledge ourselves to you, and let us all pledge ourselves to each other, that our perseverance and our friendship will be inexhaustible.

JOHN BRECKENRIDGE, *Chairman.*

Test:

THOMAS TODD, }  
THOMAS BODLEY, } *Clerks.*

*To the President and Congress of the United States of America. The remonstrance of the subscribers, citizens of the Commonwealth of Kentucky, sheweth:*

That your remonstrants have observed, with concern and indignation, the injuries and insults offered to the United States by the King of Great Britain. He has violated, in important parts, that treaty of peace, the observance of which might have obliterated the remembrance of former injuries. He has, by means of his agents, supplied arms, ammunition, clothing, and provision to those merciless savages who have so long ravaged the western frontier of these States. He has interposed, unsolicited, and negotiated truces for Portugal and Holland, with the piratical States, in order to turn the rapine of those African barbarians solely on the American commerce. His vessels of war, and the piratical vessels of his subjects, by his orders, in violation of the law of nations, have despoiled the commerce, and insulted the neutral flag of America. He has made no compensation for the property of citizens of these States, carried away by his troops contrary to treaty, and, that we might escape no species of injury which could be heaped on the weakest and most despicable of nations, he holds within the territory of the United States, in defiance of treaty and of right, posts fortified and garrisoned by his armies.

That these injuries and insults call loudly for redress, and that we will, to the utmost of our abilities, and in any mode that can be devised, support the General Government in the firmest and most effectual measures to obtain full satisfaction for all our wrongs.

That your remonstrants, and the other inhabitants of the United States, west of the Allegany and Apalachian mountains, are entitled, by nature and stipulation, to the free and undisturbed navigation of the river Mississippi; and that, from the year 1783 to this day, they have been prevented uniformly, by the Spanish King, from exercising that right. Your remonstrants have observed, with concern, that the General Government, whose duty it was to have preserved that right, have used no effectual measures for its attainment; that even their tardy and ineffectual negotiations have been veiled with the most mysterious secrecy; that that secrecy is a violation of the political rights of the citizen, as it declares that the people are unfit to be entrusted with important facts relative to their rights, and that their servants may retain from them the knowledge of those facts. Eight years are surely sufficient for the discussion of the most doubtful and disputable claim. The right to the navigation of the Mississippi admits neither of doubt nor dispute. Your remonstrants, therefore, conceive that the negotiations on that subject have been unnecessarily lengthy, and they expect that it be demanded categorically of the Spanish King whether he will acknowledge the right of the citizens of the United States to the free and uninterrupted navigation of the river Mississippi, and cause all obstructions, interruption, and hindrance to the exercise of that right, in

future, to be withdrawn and avoided; that immediate answer thereto be required, and that such answer be the final period of all negotiations upon this subject.

Your remonstrants further represent, that the encroachment of the Spaniards upon the territory of the United States, is a striking and melancholy proof of the situation to which our country will be reduced, if a tame policy should still continue to direct our councils.

Your remonstrants join their voice to that of their fellow-citizens in the Atlantic States, calling for satisfaction for the injuries and insults offered to America; and they expect such satisfaction shall extend to every injury and insult done or offered to any part of America, by Great Britain and Spain; and as the detention of the posts, and the interruption to the navigation of the Mississippi, are injuries and insults of the greatest atrocity, and of the longest duration, they require the most particular attention to those subjects.

*To the Democratic Society of Lexington.*

CITIZENS:

Events, unforeseen, the effects of causes which it is unnecessary here to develop, have stopped the march of two thousand brave Kentuckians, who, strong in their courage, in the justice of their rights, their cause, the general assent of their fellow-citizens, and convinced of the brotherly dispositions of the Louisianians, waited only for their orders to go, by the strength of their arms, take from the Spaniards the despotic usurpers of the empire of the Mississippi, ensure to their country the navigation of it, break the chains of the Americans, and their brethren the French, hoist up the flag of liberty in the name of the French republic, and lay the foundation of the prosperity and happiness of two nations situated so, and destined by nature to be but one, the most happy in the universe.

Citizens: The greater attempts you have made towards the success of that expedition, the more sensible you must be of the impediments which delay the execution of it; the more energetic should your efforts be towards new means of success. There is one from which I expect the greatest advantages, which you may render decisive by an address to the National Convention, or to the executive council of France. In the name of my countrymen of Louisiana, in the name of the interest of yours, I dare once more ask you this new proof of your patriotism.

Being deprived of my dearest hopes, of the pleasure, after fourteen years absence, and three years of proscription, to return to the bosom of my family, my friends, and my countrymen, I have only one path to follow, that of going to France, and express to the representatives of the French people, the cry, the general wish of the Louisianians, to make part of the French republic, to inform them of the most ardent desire which the Kentuckians have had, and will continue to have, forever, to take the most active part in any undertaking tending to open to them the free navigation of the Mississippi.

The French republic, in their sublime constitutional act, have proffered their protection to all those nations who had the courage to shake off the yoke of tyranny. The Louisianians have the most sacred right to it. They are French, but have been sacrificed to despotism by arbitrary power. The honor, the glory, the duty of the National Convention is to grant them their powerful support.

Every petition or plan relative to that important object would be considered in the highest degree; the address of the Democratic Society of Lexington would give it a greater weight.

Accept, citizens, the farewell, not the last, of a brother who is determined to sacrifice every thing in his power for the liberty of his country, and the prosperity of the generous inhabitants of Kentucky.

Salut en la patrie,

AUGUSTE LACHAISE.

*Endorsement on the back.*

This letter was written previous to the 14th of May, 1794. The Democratic Society acted on it that day. An address was prepared and presented; and on the 19th of May an answer returned.

JOSEPH HAMILTON DAVIESS deposed, that no information has been derived by this deponent from the papers of the late Colonel Nicholas, this deponent's testator, relative to any connexion between any citizen and the Spanish Government. This deponent does not believe he has seen any letter from Judge Sebastian on the subject of the present inquiry, other than that in possession of the committee.

J. H. DAVIESS.

DECEMBER 1, 1806.

JOHN BROWN deposes and saith, that he has no personal knowledge of the business upon which it is said Mr. Sebastian went to New Orleans in the years 1795-6, or relative to his having at any time received a pension from the Government of Spain; that Mr. Sebastian never made to him any communication whatever on those subjects; nor did he ever receive any information respecting them from any quarter, until he read certain publications which appeared in the *Western World* since the fourth of July last; that in or about the month of August last, Mr. Innis did make a communication to this deponent relative to the business on which he, said Mr. Sebastian, had gone to New Orleans; and also stated some information which he said had been given to him by Charles Wilkins relative to said pension; but as the communications then made to this deponent, are, as he believes, substantially contained in the testimony delivered by Mr. Innis to this committee, he deems it unnecessary to state them; that he heard Mr. Sebastian had been in Philadelphia on his return from New Orleans in 1796, but he did not call on this deponent, then attending Congress in that city; and he has been informed that he did not call on any of the then members of the Kentucky delegation at that place; some time after, Mr. Genet arrived at Philadelphia, and during the continuance of the war between France and Spain, he informed this deponent that he had it in contemplation to raise an army, to consist of recruits from Kentucky, Tennessee, the Creek and other Indian tribes, for the conquest of Louisiana in behalf of France. Shortly after he understood from one of the heads of departments that he was apprized of the project of Genet; that he was absent from Kentucky from the autumn of 1792, till about August 1795; and therefore, has no personal knowledge of the progress of any agent of Genet, in issuing commissions or enlisting men; but during that time he received letters from Kentucky containing information on that subject, and without delay gave extracts from them to the then Secretary of State, for the information of the President of the United States.

J. BROWN.

THOMAS TODD, being sworn, was interrogated by Mr. Grundy. Do you know any thing of money being received by Mr. Sebastian from, or his having any negotiation with, the Spanish Government or any of its officers? If you do, at what time did you come to the knowledge of it?

The deponent says, that in the month of August last, in a conversation with Mr. Innis, as to the statements published in the *Western World*, he showed to this deponent a copy of the concessions which some short time before, as this deponent understood, had been sent to Mr. Innis by Mr. Sebastian. Mr. Innis at the same time showed this deponent the papers relative to the proposition made by Power, and the answer. That, in the course of the said month of August, at Lexington, Mr. Innis mentioned to this deponent the conversation which he had with Mr. Charles Wilkins of that place, showed this deponent the copy of a letter from Mr. Sebastian to John A. Seitz, who had previously died at New Orleans, and informed this deponent that the original letter was in the possession of Mr. Wilkins, and that Mr. Wilkins had seen, among Mr. Seitz's papers, a draft drawn by Mr. Sebastian on some officer of the Spanish Government, in favor of Mr. Seitz for his (Mr. Sebastian's) pension. That the papers above alluded to, and the information coming from Mr. Wilkins, was the first knowledge I had of the real cause of Mr. Sebastian's having descended the Ohio and Mississippi rivers. That, at the commencement of the last October term of the court of appeals, this deponent mentioned to Mr. Sebastian the above circumstances; he then acknowledged that he had drawn such a draft in favor of Mr. Seitz, and stated that in consequence of a letter which he had received from the Governor of New Orleans, he had in the fall or winter of 1795-6 descended the Ohio, and at or near its mouth had met with Gayoso. That they entered on the business, and he received the concessions before alluded to; that a difference in opinion took place between him and Gayoso as to the duty which should be paid by the people of the Western country, who might export produce down the Mississippi; Gayoso insisting that they should pay four per cent. as an acknowledgment for the permission given them; he (Mr. Sebastian) insisting that as it was a conciliatory measure on the part of the Spanish Government, that no duty ought to be exacted; and that it was at length agreed to descend the river and submit the difference to the Governor at New Orleans. They did so, and in some short time after their arrival, he (Mr. Sebastian) had an audience with the Governor, who decided against Gayoso. That the Governor appointed a day when he should again attend, in order to complete the business; but previous to the day appointed, a courier arrived at New Orleans with the intelligence that the treaty of friendship, limits, and navigation had been entered into between the Governments of the United States and Spain. That the Governor sent for him and informed him of that circumstance, and observed to him that the business as to the concessions was at an end; but that he had it in charge from the King to inform whoever should come on that business, should be entitled to two thousand dollars a year. That upon this ground he had drawn, in favor of Mr. Seitz, the draft before alluded to.

Upon being further questioned, at what time was Mr. Sebastian appointed a judge of the court of appeals? at what times was he absent, and how long?

This deponent says that Mr. Sebastian was appointed a judge of the court of appeals in the year 1792, shortly after the commencement of this Government; that from the record book of the court of appeals, it appears that he qualified as judge on the 7th day of January, 1793. From the same record book it appears that he was absent at the May term of the court of appeals 1796; that this absence was, as this deponent was informed, and believes, in consequence of his having descended the Ohio and Mississippi rivers, in the fall or winter 1795-6. That it also appears from the said record book he was also absent at the May and October terms of the court of appeals in 1798; this deponent was informed, and believes, that this absence was from his having also descended the said rivers in that year.

Question. Were you not clerk of the Kentucky convention in the year 1788?

Answer. I was.

Question. Did not General Wilkinson produce a lengthy memorial, and read the same in that convention, and then state that he had before that time presented to the Governor or Intendant at New Orleans a copy thereof?

Answer. He did.

Question. Was that paper deposited and left with you as clerk, as other papers produced in like manner generally are?

Answer. It was not.

Question. At what time were you first informed that a negotiation of any kind, unauthorized by Government, had been carried on, or attempted, between the officers or agents of the Spanish Government, and any individuals or set of men in the Western country?

Answer. Not until I saw the papers before stated in the month of August last.

Question. Did Mr. Sebastian, at the time he explained himself to you as to the drafts drawn in favor of Mr. Seitz, speak of his having drawn drafts in favor of any other person?

Answer. He did not.

Question. Do you recollect the substance or object of the memorial read by General Wilkinson?

Answer. I do not; but upon reading the letters published in the newspapers, as having passed between Colonel Marshall and General Washington, it appears to me to be tolerably accurately stated in Colonel Marshall's letter.

THOMAS TODD.

Colonel JOSEPH CROCKETT, being duly sworn to give evidence before the special committee appointed by the the House of Representatives, for the inquiry into the charge against Judge Sebastian, deposes and saith, that he was in the Kentucky convention, held at Danville in the year 1788, when General Wilkinson produced a memorial, which he read to the said convention as handed to him, sheet by sheet, by Judge Sebastian; and that the said memorial never was read or handed into the clerk's table of the said convention.

JOSEPH CROCKETT.

DECEMBER 1, 1806.

STATE OF KENTUCKY, *Clerk's office of the Court of Appeals, sct:*

At the request of a special committee appointed to inquire into certain charges alleged against Mr. Benjamin Sebastian, late judge of the court aforesaid, I do hereby certify that from an examination of the order books of said court, I find that Mr. Sebastian qualified as a judge of said court on the 7th day of January 1793; and that he hath attended the respective terms of said court ever since the May term in 1796, and the May and October terms in 1798 excepted.

Given under my hand, as clerk of the court aforesaid, this 1st day of December, 1806.

ACHILLES SNEED.

AUDITOR'S OFFICE, *November 29, 1806.*

I do hereby certify that it appears from the books and records in my office, that the honorable Benjamin Sebastian has regularly drawn his salary as one of the judges of the court of appeals for the State of Kentucky, from the 18th day of July, 1792, to the 1st day of October in the present year.

Given under my hand, as auditor of public accounts for the State of Kentucky, the date above.

GEORGE MADISON.

Whereupon your committee does not hesitate to declare, as their opinion, that the information given to the House of Representatives is substantially true and correctly detailed; and that the said Judge Sebastian is guilty of having for several years received from the Spanish Government a pension, paid in cash annually, to the amount of \$2,000.

Your committee further report, as their opinion, that whilst Judge Sebastian was in the exercise of his office in this State, and drawing his annual salary therefrom, he was employed in carrying on, with the agents of the Spanish Government, an illicit, unjustifiable, and highly criminal intercourse, subversive of the duty he owed to the constituted authorities of our country, and highly derogatory to the character of Kentucky.

And the same being read, was unanimously agreed to, the following members being present: Messrs. Atkinson, Barnes, Bartlett, Blackburn, Brents, Buford, Bullock, Cosby, Crabtree, Crist, Davidge, Dougherty, Ewing, Field, Fletcher, Ford, Grundy, Holton, Hopkins, Jones, Kercheval, Lowe, Manifee, Marshall, Mills, Miller, McKee, McMillin, McClanahan, McIntire, Moderill, J. Morgan, D. Morgan, Pitts, Pope, Pollock, Porter, Polk, Ray, Reed, Rennick, Robinson, Rogers, Russell, Rutter, Semple, Simpson, South, Spalding, J. Thompson, G. C. Thompson, Trapnall, and Woodford—53.

Whereupon, Mr. Grundy moved the following resolution:

Whereas it appears to this House that since the institution of the inquiry into the charges exhibited against Benjamin Sebastian, Esq., that the said Sebastian has resigned his office of Judge of the Kentucky court of appeals: *Resolved, therefore*, That any further proceeding to effect the removal of the said Sebastian from office is rendered unnecessary.

Extracts, &c.

Attest:

THOMAS TODD,  
*Clerk of the House of Representatives.*

IN THE HOUSE OF REPRESENTATIVES, December 6, 1806.

*Resolved*, That the printers who were employed to print the proceedings on the inquiry into the conduct of Benjamin Sebastian, are hereby requested to subjoin, at the end of each copy of said proceedings, the resolutions lately adopted, expressive of our attachment to the Union, and our approbation of the present administration of the Federal Government.

Extract, &c.

Attest:

THOMAS TODD,  
*Clerk of the House of Representatives.*

IN GENERAL ASSEMBLY, December 4, 1806.

Whereas it is considered of importance that citizens living under the same Government should be correctly informed of the views and intentions of every portion of the community; and as the sentiments of the people of Kentucky may be misunderstood by those who, from their remote situation, have not an opportunity of judging of the disposition which the citizens of this State entertain towards the General Government; and as an expression of the public will, through their representatives, is deemed the most effectual mode to prevent any misapprehension of our sentiments, which might be occasioned by the conduct of individuals, or might grow out of misrepresentations.

*Resolved, therefore, by the General Assembly*, That the people of Kentucky feel the strongest attachment to the Federal Government, and consider a dismemberment of the Union as the greatest evil which could befall them, and would view with abhorrence any individual or set of individuals, who should attempt to separate us from those whose interests are so intimately connected with our own, and for whom the people of Kentucky entertain an unchangeable attachment, arising from a lively recollection of their united efforts for liberty.

*Resolved*, That the people of Kentucky have an entire confidence in the present administration of the General Government, and have no doubt that such measures will be pursued as are best calculated to secure us peace and tranquillity, and at the same time preserve our national honor from insult.

*Resolved*, That the Governor of this State be requested to transmit copies of the foregoing resolutions to the President of the United States, to the Executives of the different States, and to our present Senators and Representatives in Congress.

Passed unanimously.

IN THE HOUSE OF REPRESENTATIVES, December 11, 1806.

*Resolved*, That Joseph M. Street & Co. be requested to annex the depositions of Charles Wilkins and James Morrison, this day laid before this House, to each of the one thousand two hundred copies of the report of the committee appointed to inquire into the conduct of Judge Sebastian.

Extract, &c.

Attest:

THOMAS TODD,  
*Clerk of the House of Representatives.*

In the month of August last, Judge Innis called on me in Lexington, to inquire into the circumstances relative to a pension which it was said Judge Sebastian had received from the Spanish Government at New Orleans.

Judge Innis said, Mr. Morrison, of Lexington, had communicated to him information which he had received from me; but believing Judge Sebastian incapable of any thing inconsistent with his character, induced him to think that which he had received could not be correct. I immediately detailed to him all the knowledge I possessed, and the manner by which I procured it, (which will appear by a reference to my testimony, given before a committee of the House of Representatives of this date, 27th of November, 1806.) Judge Innis expressed his surprise and regretted that he, Judge Sebastian, had suffered himself to become the pensioner of Spain, and observed to me, that there were some circumstances attending this transaction which I had not been informed of, and that but two or three persons now living were acquainted with. He, Judge Innis, then communicated to me the substance of the letter from the Baron of Carondelet to Mr. Sebastian, which had a reference to Colonel Nicholas, Mr. Murray, and Colonel Innis, in the year 1795; the result of the conference between Sebastian and Gayoso at New Madrid, and as nearly as he said he could recollect, the purport of the concessions to be made by the Spanish Government to the people of the Western country, &c. Judge Innis proceeded to communicate the substance of the propositions made by a certain Thomas Power to the abovementioned gentleman in the year 1797, and the reply thereto by Colonel Nicholas and himself. Judge Innis further observed, that copies of Power's communications, and the answer, would be left with Mr. James Morrison, in Lexington, to take copies; and that Mr. Morrison should be instructed to show them to me for my perusal. I called upon Mr. Morrison in one or two days after the conversation between Judge Innis and myself, and was put in possession of the papers alluded to above. I read

them with attention, and believe them to be correct copies of the letter, &c., communicated to the committee by Judge Innis, on the 28th of November, 1806. The reading of the papers shown to me by Mr. Morrison induced us to converse freely upon the subject. He detailed to me the substance of frequent conversations between him, Mr. Morrison, and Colonel Nicholas, about this transaction; and communicated to me the reasons assigned by Colonel Nicholas for withholding this information from the President of the United States, all of which agree substantially with the information given by Judge Innis to the committee of the House of Representatives of this State, on the 28th of November, 1806. Judge Innis assured me that he never heard that Judge Sebastian had been in the receipt of a pension from the Government of Spain, and observed that he feared Judge Sebastian had acted indiscreetly.

CHARLES WILKINS.

Colonel George Nicholas informed me of certain propositions having been made by the Baron of Carondelet, through the agency of a certain Thomas Power, in the year 1797, to him, Benjamin Sebastian, Harry Innis, and William Murray; that he had never seen Power, but received from Judge Innis the object of his mission to Kentucky; that he at once expressed his disgust and abhorrence of the views of the Spanish Governor, with which opinion Judge Innis concurring, he immediately prepared a concise answer, which was to be forwarded by the latter to Mr. Sebastian, to be delivered by him to the said Power; that he was convinced, from the purport of the propositions, that improper representations had been made to the Spanish Governor, of the views, disposition, and intentions of the citizens of Kentucky; that the answer which they had given would, in his opinion, prevent a similar application; but that should he be mistaken, he was determined to have Power, or any other person who might again be sent by the Spanish Governor, apprehended and detained as a prisoner, until the Executive was fully apprized of all the circumstances; and that he had taken care Power should be correctly informed of such determination. He then went on, in consequence of some questions which I asked, to state the reasons which had prevented him from giving the Executive information of the hostile disposition of the Spanish Government. Amongst others, he observed that the General Government was leaning strongly in favor of monarchical principles; that the Executive was deeply prejudiced against the leading men in our State; that he would lay hold of the information with pleasure and avidity, and make it the basis for increasing the army, and thereby strengthen the hands of those who were opposed to our republican form of Government; that the means of discharging the public debt would thereby be completely perverted; that our citizens would be saddled with troops, and burdened with taxes for the support of Government; and that he was well assured, from information which he could not disbelieve, that the Executive was thirsting for a plausible pretext to send an army into our country, as he had declared, not only to curb the licentiousness of the press, but to check a daring disposition in our citizens to intermeddle with the affairs of the General Government. He stated further, that, having a perfect knowledge of the temper and attachment of our citizens to their constitution, and how impossible it would be for the Spanish Government to effect a change in its favor, and that however fortunate that Government or its agents might be in corrupting one or two solitary and discontented individuals, the mass was immovable; that it was, as it had been ever since he became a citizen of Kentucky, his intention to be watchful and attentive to the conduct of certain individuals; that, from his situation, no movement or attempt to alienate the citizens from our Government, and attach them to the Spanish interest, could take place without his knowledge; and that if he ever discovered such attempts were making, he would be the first to raise his voice against the authors, and to give the Executive every information he was possessed of. He remarked, that he had often debated with himself whether it would not still be proper to give our Government information of the facts which had come to his knowledge; and that he was never more at a loss to make up an opinion; but that, from the circumstances before stated, he had hitherto been prevented. He said he had no doubt but that our Government was already possessed of imperfect information on the subject; and that the motives of a communication from him would probably be misconstrued, and considered as a dereliction of the republican principles which he had avowed; and for which he knew he was denounced by the Executive.

In a conversation with James Ross, Esq., of Pittsburgh, in the year '98, (a day or two after Colonel Nicholas had been endeavoring to convince him, by a lengthy and detailed account, of the causes which induced himself and others in Kentucky to condemn certain acts of the then administration,) I stated to him, that I believed the citizens of Kentucky were as firmly attached to the General Government as those of any State in the Union; and that as an evidence in support of that position, I observed, that Colonel Nicholas and some others equally suspected, and obnoxious to the administration, and who were believed to be in the Spanish interest, or deeply disposed to insurrection, had convinced me that their intentions and views had been shamefully misrepresented; and in support of this opinion, I then informed him of the rejection of Carondelet's alluring proposition, with his \$100,000; that on the same, or succeeding day, I stated to Colonel Nicholas the substance of the conversation which I had with Mr. Ross, and of having communicated the proposition by the Baron of Carondelet, &c. &c. He replied that he was much pleased that I had done so, observing that he had only been prevented from making that gentleman acquainted with all the circumstances, from an idea that he might probably suppose he was solicitous of enhancing or raising himself in his opinion by a display of his patriotism and disinterestedness; but that now Mr. Ross (a Senator in Congress of the United States, and known to be highly in the confidence of the Executive,) was in possession of the facts, and would no doubt make them known, which relieved him of great solicitude; and he was conscious it would be highly gratifying to Judge Innis that the Executive would gain the information through a channel that could not be questioned, and would no doubt keep a watchful eye over our Spanish neighbors.

It may not be improper here to observe, that I had a conversation with Judge Innis relative to the overtures made by the Spanish Government, through Power, &c., but was ignorant of the papers being in his possession, until informed by himself, in July last, and at my request he placed them in my hands, in the succeeding month, until I had taken copies; the first was a letter from the Baron of Carondelet to Mr. Sebastian, dated at New Orleans, 16th July, 1795; the second, without date, consisting of propositions, or rather concessions, by His Catholic Majesty, in favor of the citizens of the United States west of the Apalachian mountains; the third, propositions to the people of the Western country, by the Baron of Carondelet, signed by Thomas Power, and dated at Louisville, July 19th, 1797; and the fourth, an answer without date. The two first were in the hand-writing of Mr. Benjamin Sebastian, the third in that of Judge Innis, and the fourth in that of George Nicholas.

JAMES MORRISON.

FRANKLIN COUNTY, ss.

Personally came before me, the subscriber, a justice of the peace for said county, the abovementioned James Morrison, who made oath that the foregoing statement contains the truth, to the best of his recollection and belief.

Given under my hand, this 6th day of December, 1806.

THOMAS LOVE, J. P.

Attest:

WILLIAM C. GREENUP, *Secretary.*

[10th CONGRESS.]

No. 255.

[1st SESSION.]

## CITY OF WASHINGTON—PUBLIC BUILDINGS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 21, 1808.

Mr. STANFORD, from the committee to whom was recommitted the bill to make good a deficit in the appropriation of 1807, and to make a further appropriation for completing the south wing of the capitol, and for other purposes, "with instructions to make to the House a detailed report of the circumstances which produced the deficit for the public buildings, and how far it may be consistent with the public interest to abolish the office of surveyor of the public buildings," made the following report:

That they have made every research in their power into the causes and circumstances which produced the deficit for the public buildings for the year 1807, and find that, by an act of 1802, the offices of the then commissioners of the city were abolished, and the office of superintendent created; and that on this officer were devolved all the powers and duties which the commissioners had before exercised. The superintendent is, then, at this time, under the general control and direction of the President, the only proper officer to disburse the moneys, and through whose hands must pass all accounts and other charges upon the funds of the city. So soon, therefore, as it appeared to him probable the appropriations of the year 1807, particularly that for the south wing of the capitol, might be exceeded, he did not fail to suggest his fears, and to give to the surveyor of the public buildings due precaution against such consequence. All this will appear in more satisfactory detail in a letter from the superintendent, which accompanies this report, to which the committee beg leave to refer.

The surveyor of the public buildings appears not to be an officer recognized by the law, but has been employed and appointed by the President alone, as the principal architect, to design, direct, and combine the whole into one general system, and see to its due execution; and withal, it appears also to form contracts with the different subordinate mechanics, and with other persons, for the various materials wanted in the progress of the work. This gentleman, keeping mainly in view the more appropriate duties of his own profession, that of executing the work in a style and character which should do honor to his art, and that of accomplishing it also within a time more limited than had been anticipated in the earlier part of the season, appears not to have been impressed with the probability (if, indeed, it should be considered as coming within his province to be so, or to guard against such impropriety) that the expenditure would exceed the general appropriations for the different objects of the public work, till it had actually happened so on a principal one, or was certain to do so to a considerable amount; and when thus informed by the superintendent, and that he (the superintendent) should pass no account, as such could not pass the treasury if he did, which exceeded the funds placed in his hands for such object. At this stage of the business, when Congress was in a few weeks to be in session, the surveyor laid a state of the case before some of the principal mechanics, and a number of them, to whom the greater part of the excess was likely to be due, voluntarily came forward, and, rather than stop and proceed to the measurement of their work while in an unfinished state, agreed to progress with it at their own risk, and in the fullest confidence that Congress would not receive the benefit of their labor without remuneration, and that, under the circumstances of the case, an appropriation would be in due time made to indemnify them. A certificate of some of those mechanics to this effect accompanies this report, to which the committee also beg leave to refer.

To these considerations may be also added another circumstance which contributes to the largeness of the present deficit. In the appropriation of the year 1806, a considerable deficit also occurred, (which, too, had grown, in part, out of a train of deficits of years still preceding,) the accounts for which, as the superintendent in his letter states, were not presented in form to him for payment till in the year 1807, and were accordingly paid out of the appropriations of that year. Thus, then, the deficit of the last year, (if fair to estimate the probable amount of all preceding deficits, and to take also into view a considerable quantity of materials remaining now on hand for future public use,) the actual amount of what seems to be the present deficit would be greatly diminished. The committee, however, feel it their duty to say that the surveyor of public buildings appears to have pursued the duties coming within the scope of his professional business and charge with a laudable zeal, and with an integrity which not a shadow of reason appears to them to question.

As to the propriety of abolishing the office of surveyor of public buildings, the committee, not finding such an officer recognized by law, cannot perceive how the President, under whose general control all the public works of the city are conducted, can dispense with the employment of some such principal architect. If he can, it is now, and will be at other times, in his power to do so. It is an office, indeed, which must cease with the appropriations that sustain it.

Upon the whole, the committee not having been able to discover that the sacred principle of the constitution, which enjoins that no money shall be drawn from the treasury but in consequence of appropriations made by law, has been at all violated; and although a debt has been incurred, and the public faith in a manner pledged beyond the real amount of actual appropriation in the present instance, believe the whole has happened under circumstances forming an apology not slight in its nature, and the force of which, it may be presumed, the House will at once see. They, therefore, beg leave, with the accompanying documents, to offer the same bill which they before reported to the House.

SIR:

SUPERINTENDENT'S OFFICE, WASHINGTON, April 15, 1808.

In reply to your letter requiring "information of the circumstances which produced the deficit in the appropriation for the public buildings," I have the honor to state that the moneys which have been appropriated for these buildings, and the ways between the same, have been placed in my hands by the President of the United States, to be disbursed under his direction, and accounted for with the Treasury Department; that, in the execution of this agency, I was obliged, by its nature and necessary connexion with the duties and province of the architect or surveyor of the works, to rely very much on him, as well in certifying and attesting claims for materials and workmanship, as in so regulating our operations that the cost of the work of each season should be commensurate with or within the limit of the appropriation made to cover it; and the state of the funds was, for that purpose, from time to time, communicated to the architect.

This system was pursued with the desired effect until the close of the year 1806, when, after the appropriation of that year had been wholly disbursed, and my accounts made up, I found there were some unsatisfied claims, but supposed the amount was as small as could be expected in transactions of that kind and extent. In that supposition, however, I was disappointed; for it appears that a considerable portion of the appropriation for 1807 (which



I understood and expected was made as adequate only to cover the works of that year) has been paid for prior claims, though not presented to me till 1807. This circumstance, and the state of our funds early last fall, convinced me that the then unexpended balance would be insufficient for effecting the contemplated objects of the season, particularly that the portion of that balance applicable to the south wing of the capitol would fall far short of preparing it for the reception of the Representatives, without incurring debt, and I accordingly apprized the architect of my apprehensions; and then, as well as often subsequently, gave him a view of the funds, and invited his attention thereto, from time to time, so as to avoid unauthorized debts by exceeding the appropriations, which would not only be a violation of a principle of Government which could not be too sacredly regarded, but would also be in contravention of the strict and often repeated injunction of the President of the United States, never to let the cost of the work of any season exceed the amount of the appropriation.

The surveyor was doubtless fully impressed with the necessity and propriety of being governed by these obligations and considerations of duty, and stated that he hoped and believed that, when the account of the south wing should be justly credited with various articles wholly charged, when purchased, to that account, but afterwards partially applied to other objects and uses, there would be found fairly applicable to that wing a sum nearly, if not quite, sufficient to put it into a state of timely preparation for the ensuing session of Congress; but that the little time within which a great deal of work was to be done would not admit of making such measurements and returns as would show the precise state of things before the close of the season. The south wing fund soon after appeared on the face of my books to be wholly disbursed, and I declined charging any further sums to that fund; but, in consequence of the assurance of the surveyor that it would be entitled, as before stated, to considerable credits, I made advances, on account of many persons who had mixed claims, out of the north wing fund, and in that way kept the workmen together, and the work progressing until Congress met, and time was afforded for an apportionment and separation of those mixed transactions, and an accurate arrangement of all the accounts. By these, as taken from the measurements and certified returns of the surveyor, it appears that a much larger debt or deficit has been incurred than he had, I believe, ever conceived, certainly than he ever expressed to me an idea of. This error or misconception of the amount of debt was in a great degree caused by the circumstance of an immense amount of stonecutters' and other work done by contract not having been previously measured, in consequence of a difficulty alleged to attend the measurement of such work in a progressive and unfinished state. Payments on account to a large amount had been made to these contractors, on estimates certified to me from time to time, and known by all parties to be within the amount due; but until accurate measurements were made, none of us supposed the balances due from the public were so large.

I have only to add, that, although this excess is only now discovered, it may fairly be considered as arising out of the works of five years, amounting to between three and four hundred thousand dollars, and of a nature and magnitude hardly susceptible of precision or exactness, in all their unforeseen and various ramifications. It is also a just consideration that in the amount of that excess is included materials now on hand and requisite for public use, but which, if put into market, would reimburse a large portion of the deficit.

I have the honor to be, very respectfully, sir, your most obedient servant,  
 THOMAS MUNROE.

The Hon. RICHARD STANFORD.

SIR:

WASHINGTON, April 6, 1808.

At your request, we, whose names are hereunto subscribed, willingly state that, in the course of the year 1807, and a considerable time previous to the completion of the public works on which we were engaged, we were apprized that the appropriation of moneys by Congress was exhausted, and that we proceeded in the execution of the work committed to us, in full confidence that, unless our work were insufficiently or unfaithfully performed, we should not be permitted by the National Legislature to lose the reward of our labor or the value of our materials.

GEORGE BLAGDEN, *Stonecutter.*  
 THOMAS MACHEN, *Stonemason.*  
 S. MEADS, *Foreman of carpenters.*  
 HENRY INGLE, *Cabinetmaker and ironmonger.*  
 GRIFFITH COOMBE, *Lumber merchant.*

B. HENRY LATROBE, Esq.,  
*Surveyor public buildings U. S. at Washington.*

The principal part of the workmen are at present absent from the city.

B. H. LATROBE.

10th CONGRESS.]

No. 256.

[1st SESSION.]

BRIGADIER GENERAL JAMES WILKINSON.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 25, 1808.

Pursuant to the resolution of the House, calling on me for testimony relative to General Wilkinson's receipt of money from the Spaniards, I now lay before it some original papers, corroborating the statement which I have already given:

No. 1. The first is the translation of a letter, in Spanish, from Thomas Power to D. Thomas Portell, dated at New Madrid, June 27, 1796, and containing the reasons why it was proper for Portell to deliver to Power, without an order in writing from General Wilkinson, a sum of money which had been placed for that purpose in Portell's hands by the Spanish Government of New Orleans. The original letter is subjoined in the hand-writing of Mr. Power, with which I am acquainted.



This letter explains the deposition of Mr. Derbigny, and also makes mention of the letter in cipher from General Wilkinson to Gayoso, then Governor of Natchez, of which a translation, in the hand-writing of Gayoso, has heretofore been laid before the House. It may be proper to add that I am well acquainted with the hand-writing of Gayoso, in which the translation is written, and that he has been dead more than eight years.

No. 2. A translation of Portell's answer to the foregoing, dated New Madrid, on the same day, June 27, 1796. The original is subjoined in the hand-writing of Portell, with which I am acquainted.

The object of this correspondence seems to have been to furnish Portell with the means of explaining to his superiors his motives for delivering the money without a written order.

Nos. 3 and 4 are two original papers in the hand-writing of Philip Nolan, with which I am well acquainted. Nolan was the confidential agent of General Wilkinson in 1796, and has been dead several years.

These two papers are stated by Mr. Power to be secret instructions given to him by General Wilkinson, after the latter received money from Portell, mentioned in Nos. 1 and 2. The instructions, according to Mr. Power's statement were given in the hand-writing of Nolan, as a measure of precaution against the danger of detection. The six hundred and forty dollars, of which they make mention, are stated by Mr. Power to be a part of the sum received, for Wilkinson, of Portell, which Power, after his arrival in Kentucky, was obliged to use for the expenses of his journey.

No. 5. Is the translation of a letter to the Baron de Carondelet from Mr. Power, dated at New Orleans, May 9, 1797, after his return from Kentucky. The original letter in Spanish is subjoined. It is in Mr. Power's hand-writing, with which I am acquainted. It explains the affair of the six hundred and forty dollars, mentioned in the secret instructions, Nos. 3. and 4, and refers to and quotes those instructions as the instructions of General Wilkinson.

No. 6. Is the translation of the Baron de Carondelet's answer to this letter. The answer is in Spanish, and in the hand-writing of Don Andres Armesto, secretary to the Government, which I know. It is signed by the Baron de Carondelet, with whose signature I am acquainted.

DANIEL CLARK.

No. 1.

*Translation of a letter from Thomas Power to Don Thomas Portell, commandant of New Madrid, dated*

*NEW MADRID, June 27, 1796.*

Having received verbal instructions from Mr. James Wilkinson, the American General, to take charge of the money, which, by a letter he received from the secretary of the Government, Don Andres Armesto, under date of 7th or 8th of March last, of which I was bearer, he has advice, is deposited in this post, and being informed, by the official letter which you have received on this business from the Governor General of the province, of which you will be pleased to furnish me a copy, that said money is not to be delivered without an express order from the said Mr. Wilkinson, I find myself forced to relate circumstantially some particulars to smooth and remove the difficulty which the want of a written order on the part of the aforesaid General Wilkinson presents. Although this relation may appear an abuse of the confidence with which the Governor General of the province and the Governor of Natchez, and particularly General Wilkinson, have honored me, I am persuaded that the urgency of the case which offers will serve me as an excuse and justification.

You are not ignorant of the fact, that Don Manuel Gayoso de Lemos being here in the month of September, of the year last past, he intrusted to me some despatches of the greatest importance for General Wilkinson, which I carried to Cincinnati, and I returned with the answers in the month of November. By order of the said Don Manuel Gayoso, I made immediately another journey to the Ohio, and I ascended it to Red Bank in search of Sebastian, who came with me to the mouth of the Ohio, where we met with the Governor of Natchez. At the end of December, I accompanied this gentleman to Natchez, and I went thence to New Orleans.

The principal object of my going down was to take charge, by order of General Wilkinson, of the money which you have now in deposit for him, which is shown by the letters which he wrote to the Governors of this province and of Natchez; but, at my arrival, the money had been already sent off in one of His Majesty's galleys for this place, which I learned from the Baron de Carondelet, the intendant, and Don Andres de Armesto. I repeatedly treated on this business with the two last of these persons, urging forcibly the necessity of sending sugar, coffee, and powder to New Madrid, to form a cargo to take to Kentucky with Wilkinson's money, hiding, by this means, the true intention of the voyage, and giving it the appearance of a commercial speculation. All this Wilkinson had before represented as indispensable for many reasons, particularly in order to avoid a misfortune similar to that which had already occurred. At last the secretary told me that the barge in which Mr. Aaron Gregg, the American officer, was to go up, was destined for this service, and that as for the crew, he would permit me to choose among the Creoles, residents in this post, those who might appear to me most worthy of confidence, so that I left New Orleans with the belief that at my return to this post I should find every thing disposed conformable to what I have just related. On arrival at Greenville, informed General Wilkinson of the steps which I had no doubt had been taken, from whence has resulted, that he, like myself, was impressed with the belief that all the measures for executing this service with success had been taken. I cannot communicate all the motives why Wilkinson has not given me an order in writing; but one of them was, that he did not know the sum of money which you had to deliver to his order, the Governors not having written a word to him on the subject, the secretary only saying that his money was deposited in New Madrid, without expressing the sum. In the letters in cipher, from General Wilkinson for the Governors, which are here enclosed, he tells them that he has sent me to bring the aforesaid money, informing you that the No. 1, is for the Governor General of the province, and the No. 2 for Don Manuel Gayoso. I will add that General Wilkinson, when I represented to him that on presenting myself without his order in writing some difficulty might arise, authorized me, if the case required it, to write an order that you should deliver his money, specifying the sum there might be, signing it in his name, and giving you a receipt therefor. I cannot omit that the commission of General Wilkinson was so sudden, so urgent, that it was extended even to limiting my return to my destination by the first of August, of which I advise you that you may endeavor not to delay the service. I believe that the Governor General is not ignorant of the embarrassments of General Wilkinson, nor can he be ignorant that, for a long time past, he has been expecting this money, the delay of which has been the cause of much trouble to him, involving him in great difficulties; and I can assure you, confidently, that he will be very much disgusted with any delays in the expedition which might be productive of serious injury. As for the mode of carrying the money, it is evident that to take it openly would be too scandalous a thing, if I were not to say that it would be madness. The unhappy result of the expedition of the unfortunate Henry Owen ought to serve as a beacon, in order not to lose ourselves on the same rock, and to make us take another course less dangerous. I would wish you to put a bag of one thousand dollars in a barrel of coffee or sugar, so that although the

difference of the respective gravity between silver, sugar, and coffee be very great, the quantity being so small it will not be easily known. It will likewise be prudent to carry some barrels without money in order to sell them before arriving at Cincinnati, if it should so happen that any one should offer to buy these goods, because not to sell them when it might be done to advantage would excite suspicion; and to complete the disguise it would be well to take a certain quantity of powder and rum. If these dispositions should appear defective, I beg you to make such changes as may be to your mind. God preserve you many years.

## No. 2.

*Translation of a letter from Don Thomas Portell to Mr. Thomas Power, dated*

NEW MADRID, June 27, 1796.

Having well considered the contents of your letter of this day, I mention that I agree in every thing to the whole of the reflections you place before me; although at first sight it appears that I ought to await the decision of the Governor General, as he prescribes to me in his official letter of the 20th January of the present year, and of which I enclose you a copy, which you request of me. The circumstances which you expose are such, that they leave me nothing more to do than to tell you to forward me a memorandum of the number of pounds of coffee, sugar, barrels in which to fill the powder and rum you desire for your expedition, because, as soon as I receive it, I will get it ready as you desire, informing you that for the merchandise you must sign me an acknowledgment of having received it, and for the money a receipt as the attorney of General Wilkinson.

In order that the barge may be ready, and as you may want it, I have written an official letter to the Lieutenant Colonel Vincente Folch, that he may send it as soon as possible, because as nothing was said to me of what you have now mentioned respecting it, Mr. Francis Langlois asked it of me for an affair of service, and took it loaded with corn to the Fort of San Fernando, and it has not been returned, although I have required it, thinking it might be wanted here; Don Vincente Folch having answered me, that if I had not orders to keep it, there were none to return it.

The two letters in cipher remain in my hands, which I shall forward by the first safe opportunity, with the distinction you point out, No. 1 to the Governor General, and No. 2 to the Governor of Natchez.

As for packing the money and arranging the barrels, as soon as they are ready, between you and myself, all this may be done without any one else acquiring a knowledge of it. God preserve you many years.

## No. 3.

*Instructions from General Wilkinson to Thomas Power.*

To proceed to Gallipolis: to make application and propositions to the leading characters there to induce them to move to New Madrid, with all the French of that settlement: to urge this point in such measure as to attract the attention of the public officers there, whose report to the Executive will immediately follow, and will account for his frequent missions to that place: to return as rapidly as possible; to load with flour and proceed without a moment's delay to New Orleans; in the route to see Newman, and to enter on the subject of his desertion: to inform him of the facts which have transpired, and the opinions prevalent: to urge his return, as the request of all his friends; to assure him of safety, and of such reward as he may demand; also, that being pardoned for the imputed offence, no further process can lay against him for the same; that the oath which he was suborned to take, being made while in duress, is in itself a nullity, and cannot be offered in crimination of him: it will be necessary that he should take down his examination, founded on the interrogations furnished him; and if they prove material to the crimination of Wane and his associates, then he must embark N——n under a fictitious name at New Orleans for Philadelphia; and having arrived there, must lodge him in some retired place, and call upon me, under cover of the night, for further advice. You will hear of me at ———. If N——n cannot be prevailed upon to return under dispositions favorable to my views, then let his declaration on oath be circumstantially taken to all the points enumerated in the interrogations, in the presence of Dr. Flowers, Col. Bruin, Daniel Clark, or any three or four of the most notorious, and of the most respectable Americans of the Natchez district. Let these gentlemen certify to two copies, and to the original, and let them be transmitted to me through different channels. P. to take charge of the original. Mr. P. must take with him credentials from the Government of Louisiana, acquitting him of any political connexion or agency injurious or hostile to the interests of the United States. He must carry to Philadelphia testimonials of his family and character, addressed to as many of the native respectable merchants of that city as possible: these may be readily procured from New Orleans and the Havana.

It is indispensable that P. should meet me in Philadelphia; for the rest let him rely on my friendship and address. To collect from Bradford every information respecting the Pittsburg insurrection, which may be employed, should it be found necessary, to disgrace certain persons: to bear no paper about him which carries my name upon it.

## No. 4.

Employ the six hundred and forty dollars, *avec le cargaison*, to pay expenses and lay in a cargo of best flour *pour la ville*, where it will help to reimburse. In making your settlement, take care to secure me the six hundred and forty dollars advanced, and bring them with you. I have urged peremptorily the necessity of your presence at the metropolis. Bring me N——n if, upon examination, you find his presence of more consequence than his deposition, when taken as directed. I believe he was caused to desert by O'Hara: probe him to that point. You are to bring me papers, but my name is not to be written or spoken. You must do the needful below to expose and detect past treachery or indiscretion, and to prevent either in future. I have referred particularly on this head. I shall expect you impatiently. Should I continue where I am, I shall wish you near me. If I cross the water you are to accompany: bring every credential of family and fortune to repulse the insinuations of ———. Trust something to my address, and put faith in my honor and affections to the grave.

## No. 5.

*Letter from Thomas Power to the Baron de Carondelet, dated*

NEW ORLEANS, May 9, 1797.

Enclosed your excellency will receive the documents relative to my last confidential expedition, made by your excellency's order, on the Ohio, of which I have already given you a narrative, as well verbal as in writing. The remarks which follow will serve for its elucidation.

I left New Madrid with ten oarsmen and a patron; the provisions which were delivered to the crew were, biscuit for a month; meat for a month; rum for fifteen days.

To disguise, as far as possible, the true object of the expedition, we had hired the people under the same conditions as are common in commercial voyages, so that the monthly rations allowed by the king did not even last fifteen days. The reason why I issued to the crew two extraordinary allowances of liquor daily, counting from the day we left Red Bank until our arrival at the falls of Ohio, was to encourage them to row with vigor, that Lieutenant Steel, whom I thought in pursuit of me, might not again take me, because had I fallen into his hands a second time I was lost. As respects the one hundred and fifty dollars, for the horse which I bought to make the journey from Frankfort to Cincinnati, and the expenses which accrued on this journey, they were indispensable for a double motive: to carry my complaint against Steel, for having offered so great an insult to our flag, and to give advice of my arrival to the American general, Mr. James Wilkinson, that he might take the necessary measures. I have to add that, the motive which has induced me to dispose of the merchandise which I received of J. and A. Hunt, in exchange for the coffee and sugar, was to give credit to the opinion which I myself had raised, that I had come to purchase horses to take to Natchez, in order to better the breed in that district. Besides this, as the occurrence with Steel had awakened suspicions, excited apprehensions, and attracted the attention of the inhabitants of the Western country, all had their eyes directed on me, so that I found myself obliged to do something which should please them, that it might serve me as a safe conduct to quit those parts, which by this means I happily effected. The mare, of which the statement No. 1 makes mention, was lost on my arrival at New Madrid in the woods, where she died of thirst, the excessive frosts having entirely frozen up the waters. The stud horse I delivered on going down to Don Manuel Gayoso de Lemos, but he returned him to me a short time since, and I have him carefully kept until your excellency is pleased to make some disposition respecting him. Of the sum of \$9,640, which I was to deliver to Mr. James Wilkinson, I have only delivered him nine thousand, having retained the \$640 to avoid the unfortunate result with which I was threatened, and likewise to provide what was necessary for the crew during the voyage. The following are the documents which are enclosed:

- No. 1. The account sale of the merchandise laden, &c.
- No. 2. Account of the expenses for the crew.
- No. 3. Account and expenditure of the \$640.
- No. 4. Statement which shows in what manner the merchandise has been made use of.
- No. 5. Statement which shows what is due to me.
- No. 6. Invoice of J. and A. Hunt.

All which are accompanied with the obligation of Mr. N. Welch for \$105, and the two receipts of Mr. Boyd, the one for \$466 $\frac{2}{3}$  for the value of a horse, the other for \$200, for the value of a mare. The balance which appears in my favor, according to the statements Nos. 3 and 4, as well as the account of my monthly pay for fourteen months, I beg your excellency will be pleased to direct that it should be remitted to me, or delivered to Mr. Philip Nolan, to whom I have given advice on the subject.

Mr. James Wilkinson, in the instructions which he has given me, directs that I should present to your excellency the account of the expenses to which the \$640 have been applied, (and I have done so in the statement No. 3,) that he may be reimbursed said amount. The instruction says, "in making your settlement take care to secure me the six hundred and forty dollars advanced, and bring them with you." Although he charged me to take them to him to the United States, I am of opinion that no one is better suited to remit them than Mr. Philip Nolan, as your excellency has now resolved that I should remain in this province; your excellency will please to suffer me to assure you that in every particular I have acted with prudence, with honor, and the disinterestedness of an honest man, as well as with the zeal and fidelity which the King's service requires, and with the vigilance and activity, [here there is a line unintelligible.] I deserve nothing and expect nothing for having fulfilled the obligations of a good subject to His Majesty, unless your excellency will be pleased to procure me opportunities of displaying the inclination I feel of sacrificing myself for the prosperity of my country and glory of my sovereign.

God preserve your excellency many years.

THOMAS POWER.

No. 6.

*Answer to the foregoing, dated*

NEW ORLEANS, *May 28, 1797.*

There remains in my hands the six documents relative to the account of the last expedition which you made on the Ohio, and which you enclosed to me in your official letter of the 9th instant; and they are as follows:

- No. 1. Account sales of the effects laden at New Madrid.
- No. 2. Another of the expenses of the crew.
- No. 3. Account of the expenditure of the \$640.
- No. 4. Statement which shows how the merchandise has been employed.
- No. 5. Statement which shows the balances due to you, &c.
- No. 6. Original invoice of J. & A. Hunt.

On account of it there will be delivered to you \$1,000, that you may make preparations for your journey in the new commission which I entrust to your care.

It is necessary to see how you can get rid of the horse with the least possible loss, as well as to recover the debt of Nicholas Welch, or have it recovered, for which purpose I enclose you his obligation; and likewise the proceeds of the merchandise, which, to the amount of \$353, you delivered to Don Pedro Derbigny, in order to give an account to the court without these balances, which cause trouble and appear speculations, when they are no more than the effect of necessity, and the difficulty which these commissions cause in places where there are no resources, when you have to deceive the vigilance of spies.

As you finish these matters, and as soon as your present commission is fulfilled, you will give me advice.

God preserve you many years.

BARON DE CARONDELET.

To THOMAS POWER.

10th CONGRESS.]

No. 257.

[2d Session.

## INSURRECTIONARY COMBINATIONS IN THE NEIGHBORHOOD OF LAKE CHAMPLAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 30, 1808.

NOVEMBER 30, 1808.

*To the House of Representatives of the United States:*

According to the request of the House of Representatives, expressed in their resolution of the 25th instant, I now lay before them the copy of my proclamation of the 19th of April last.

TH: JEFFERSON.

## A PROCLAMATION,

*By the President of the United States of America.*

Whereas information has been received that sundry persons are combined, or combining and confederating together on Lake Champlain, and the country thereto adjacent, for the purposes of forming insurrections against the authority of the laws of the United States, for opposing the same and obstructing their execution, and that such combinations are too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by the laws of the United States.

Now, therefore, to the end that the authority of the laws may be maintained, and that those concerned directly or indirectly in any insurrection or combination against the same, may be duly warned, I have issued this my proclamation, hereby commanding such insurgents, and all concerned in such combination, instantly and without delay to disperse and retire peaceably to their respective abodes; and I do hereby further require and command all officers having authority, civil or military, and all other persons, civil or military, who shall be found within the vicinage of such insurrections or combinations, to be aiding and assisting by all the means in their power, by the force of arms or otherwise, to quell and subdue such insurrections or combinations, to seize upon all those therein concerned who shall not instantly and without delay disperse and retire to their respective abodes, and to deliver them over to the civil authority of the place to be proceeded against according to law.

In testimony whereof, I have caused the seal of the United States to be affixed to these presents, and signed the same with my hand.

Given at the city of Washington, the nineteenth day of April, one thousand eight hundred and eight, and in the year of the sovereignty and independence of the United States the thirty-second.

TH: JEFFERSON.

By the President.

JAMES MADISON,  
*Secretary of State.*

10th CONGRESS.]

No. 258.

[2d Session.

## CUMBERLAND ROAD.

COMMUNICATED TO CONGRESS, DECEMBER 13, 1808.

*To the Senate and House of Representatives of the United States:*

DECEMBER 13, 1808.

I now transmit to both Houses of Congress a report of the commissioners appointed under the act of March 29, 1806, concerning a road from Cumberland to Ohio, being a statement of the proceedings under the said act, since their last report communicated to Congress, in order that Congress may be enabled to adopt such further measures as may be proper under existing circumstances.

TH: JEFFERSON.

AUGUST 30, 1808.

The undersigned, two of the commissioners under the law to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, report to the President of the United States, that, having in May last resumed the duties assigned them, they have extended the location of the route to the Ohio river, which, with the other parts heretofore reported, completes the location, grading, and marking the whole route from Cumberland to the river Ohio, agreeably to the plat, courses, and distances thereof, which accompany this report.

The first report of the commissioners on this subject states the reasons and necessity for adopting, as a crossing place on the Ohio river, a point opposite the lower end of Wheelen island. On approaching the Ohio with the location, it was found that this point could be reached on a route somewhat shorter than by passing through the town of Wheelen. It was, however, also ascertained that the portage between the Monongahela and the Ohio rivers would not be lengthened by passing through the town which lies on the east bank of the Ohio, and affords as eligible a port for embarkation as the lower point. In consideration whereof, and that many important advantages would be presented to emigrants, traders, and others, in a choice of supplies of boats, stores, and other accommodations along the shore through the town a mile in length, which could not be otherwise as conveniently obtained, and that as the grounds on the town route, being level nearly the whole way, held a decided preference, the commissioners were of opinion

that the town route was entitled to a preference, inasmuch as it was best calculated to secure public benefit and guard against private injuries.

In reporting the parts which require the most immediate amelioration, the commissioners have to state that the part from Brownsville to the Ohio, like the other part of the route reported, occupies but little of the old road; that it passes through a country formed wholly of hills and hollows, more irregular in their bearings, and, consequently, rendering the location more difficult and tedious than that heretofore reported, and confining the route, in many places, to the sides of hills which, from necessity, were crossed obliquely.

From these circumstances, and that of the rough, stony state of the more level parts in the mountains, it is not supposed that the balance of the funds appropriated will be adequate to the expense of rendering the whole way barely passable, and much less to make it conveniently so; neither is it believed that a road on these sideling grounds, barely of sufficient width to pass a wagon, would remain passable half a year without the precaution of well-secured conduits, which an uncovered road of common width will not admit. If this opinion should lead to a question, how the present roads through that country are kept in passable order, the fact of their direction being principally adapted to the crossing of the hills nearly at right angles, or along their tops over the centre of all the knobs, to save the necessity of digging, will furnish the answer; while, at the same time, it accounts for the steepness of the hills on these roads, and the great difficulty and sufferings experienced in passing them. Under all the existing circumstances relative to the application of the remaining funds, the commissioners are impressed with a belief that, instead of using the money towards making the whole way merely passable, the improvement of a few difficult places, which, in that way, may be rendered useful to the intercourse on roads now in use, would be much more advisable, as much more benefit would result from it.

Among those places which, in the opinion of the commissioners, have the highest claim to immediate attention, are the crossing of the mouth of Dunlap's creek, between Brownsville and Bridgeport, and the crossing of Wheelen creek, between the town and the lower point of the island. At both these creeks bridges are much wanted. The next object is what is called the Dug hill, near the town of Wheelen, where considerable difficulty and hazard is encountered for want of a safe pass across that hill.

As bridges built with wood, when supported by stone pillars and abutments, and judiciously constructed and secured from the weather, may answer every purpose for many years, it is conceived that the combination of economy and usefulness in this sort of bridge will recommend their adoption for the present.

From a rough estimate of the probable expense of these ameliorations, it is supposed that for a bridge over Dunlap's creek, \$2,500, and over Wheelen creek, \$4,000 may suffice, with the voluntary aid which will be afforded by the inhabitants of the respective places; and that \$1,500 may be usefully and effectually applied in cutting and forming a secure and easy pass over Wheelen hill. It is suggested for consideration, whether the most eligible application of any surplus fund would be in making and perfecting as much road, by way of sample, as it is competent to, near Cumberland, or where the Virginia line intersects the western route at Gwynn's tavern.

It is found that, from Cumberland to Brownsville, there is an abundance of stone, in convenient situations, for the purposes of bridges and covering the road. The grounds from Brownsville to Wheelen are not so conveniently stored, but afford very ample supplies.

The object of this establishment being to afford safety and facility in the intercourse upon it, the commissioners trust it will not be deemed presumptuous in them to suggest their ideas of the mode of making the road best calculated to accomplish this important object, and which the peculiarity of the grounds seem to require.

The law directs the whole width of the road to be sixty-six feet. Although it is essential to a great highway to have sufficient space for the admission of sun and air, it is not supposed to be intended that the whole breadth should be reduced to a form passable with wagons or other carriages, or even single horse. It is thought that forty feet, and not less, will be amply sufficient for this great thoroughfare; twenty feet of which to be covered one foot deep at least, with broken stone so reduced as to pass through a gauge ring of three inches diameter; the covered part to be in the centre of the forty feet, with cross conduits at suitable distances, well paved and arched; ten feet on each side of the covered part to be level crosswise of the road, except only such inclination as may be necessary to prevent water from lying on the uncovered part. Stone arches are deemed the most eligible mode of bridging all the streams on the way, except the two creeks already mentioned, and the Big and Little Youghagana, where wooden bridges are for the present thought most advisable; and except also the Monongahela river, the size of which, and the high floods which frequently fill and partially overflow its banks, render the bridging of that stream a work of too much magnitude to encourage the attempt at this time, but present no unusual impediments in the way of ferries.

The instructions from the President, under date of the 6th of August, not having come to hand before finishing the work, and leaving that part of the country, the commissioners have to state, that a short time before the completion of the route now reported, they were informed by several of the inhabitants, in behalf of the town of Washington, in Pennsylvania, that a route had been carefully run, graded, &c., at private expense, from Brownsville, through that town nearly to Wheelen, which would be found but little, if any, longer than the route laid off by the commissioners; and was stated to be capable of very great improvement under the superior skill of the commissioners; that it commanded a variety of advantages, which, it was believed, would give it a preference; all which was so confidently asserted, that although the commissioners were convinced, from the knowledge they then possessed of the geographical situation of the town of Washington, that some mistake must have taken place in the representation of the distance on that route, yet, in order to gratify the solicitude of those interested, and to ascertain to them the merits of their claims, as far as a view and comparison of measurement and local advantages could effect it, the commissioners were induced to make that view and measurement on their return from Wheelen; which being done, that route appeared upwards of four miles longer than the route located by the commissioners; and after deducting one mile for improvement, being the utmost it appeared capable of, there remained a difference of upwards of three miles against the Washington route.

It was well known to the commissioners, that the distance from Brownsville to Short creek was less than to Wheelen, and that to Charlestown was still less than to Short creek; but knowing also that Wheelen lay one degree north of west from Brownsville, and north of a straight line from the latter place to Chillicothe, Vincennes, and St. Lewis, or even to the centre of the State of Ohio, they could not prefer points still more north, which would consequently increase the angle at the Ohio, and necessarily the distance in passing west from Brownsville; and if Wheelen, Short creek, and Charlestown, had been on an equality in all other respects, the circumstance of Wheelen being a point of more useful navigation for the boats of traders or emigrants at low water, could not have escaped the attention of the commissioners in deciding on the point best entitled, in all respects, to a preference.

The undersigned have to regret the absence of their colleague, Joseph Kerr, whose domestic concerns would not dispense with his personal attention, by which they were deprived of the benefit of his co-operation, and consequently taxed with a larger share of the duties. All which is respectfully submitted.

ELIE WILLIAMS,  
THOMAS MOORE.

10th CONGRESS.]

No. 259.

[2d SESSION.]

COMPENSATION TO PERSONS ENGAGED IN THE SEVERAL EXPLORING EXPEDITIONS  
UNDER CAPTAIN PIKE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1808.

Mr. JOHN MONTGOMERY, from the committee, to whom was referred the resolution to inquire whether any, and if any, what compensation ought to be made to Captain Zebulon M. Pike, and his companions, for their services in exploring the Mississippi river, in their late expedition to the sources of the Osage, Arkansas, and La Platte rivers, and in their tour through New Spain, made the following report:

That it appears by the documents accompanying this report, that the objects of each of the exploring expeditions, together with the instructions for executing them, were communicated to, and approved by, the President of the United States; that the conduct of Captain Pike, in each of the expeditions, also met with the approbation of the President, and that the information obtained and communicated to the Executive on the subjects of his instructions, and particularly in relation to the sources of the Mississippi and the natives in that quarter, and the country generally, as well on the Upper Mississippi, as that between the Arkansas and the Missouri, and on the borders of the latter extensive river to its source, and the country adjacent, is highly interesting in a political, geographical, and historical view; and that although no special encouragement was given to the individuals who performed these laborious and dangerous expeditions, yet it was but reasonable for them, should they fortunately succeed in the objects, to expect some reward from Government; that the zeal, perseverance, and intelligence of Captain Pike, as commander, has been meritorious, and the conduct of the individuals generally who composed the parties respectively, has been faithful, and the exertions arduous. The committee, therefore, are of opinion, that compensation ought to be made by law to Captain Pike and his companions.

## DOCUMENTS.

SIR:

WAR DEPARTMENT, *December 7, 1808.*

I herewith enclose copies of the instructions to Lieutenant Pike, for the government of his conduct on the two exploring expeditions alluded to in your letter; and likewise lists of the names of the men composing those parties. You will perceive that the instructions were given by General Wilkinson; the object, however, of each party, together with the instructions, were communicated to, and approved by, the President of the United States.

Although no special encouragement was given to the individuals who performed these laborious and dangerous expeditions, yet it was but reasonable for them, should they fortunately succeed in their objects, to expect a liberal reward from the Government; and as there can be no reasonable doubt of the zeal, perseverance, and intelligence, of the commander, or of the faithful conduct and arduous exertions of the individuals generally, composing the respective parties, it may, I trust, be presumed, that no objection will be opposed to a reasonable compensation for such meritorious services.

I am, very respectfully, sir, your obedient servant,

H. DEARBORN.

Hon. J. MONTGOMERY, *Chairman, &c.*

SIR:

HEAD-QUARTERS, ST. LOUIS, *July 30, 1805.*

Having completed your equipments, you are to proceed up the Mississippi with all possible diligence, taking the following instructions for your general government, which are to yield to your discretion in all cases of exigency.

You will please to take the course of the river, and calculate distances by time, noting rivers, creeks, highlands, prairies, islands, rapids, shoals, mines, quarries, timber, water, soil, Indian villages and settlements, in a diary to comprehend reflections on the winds and weather.

It is interesting to Government to be informed of the population and residence of the several Indian nations, of the quantity and species of skins and furs they barter per annum, and their relative price to goods; of the tracts of country on which they generally make their hunts, and the people with whom they trade.

You will be pleased to examine strictly for an intermediate point, between this place and Prairie des Chiens, suitable for a military post, and also on the Wisconsin, near its mouth, for a similar establishment, and will obtain the consent of the Indians for their erection, informing them that they are intended to increase their trade, and ameliorate their condition.

You will proceed to ascend the main branch of the river until you reach the source of it, or the season may forbid your further progress without endangering your return before the waters are frozen up.

You will endeavor to ascertain the latitude of the most remarkable places in your route, with the extent of the navigation, and the direction of the different rivers which fall into the Mississippi, and you will not fail to procure specimens of whatever you may find curious in the mineral, vegetable, and animal kingdoms, to be rendered at this place.

In your course you are to spare no pains to conciliate the Indians, and to attach them to the United States, and you may invite the great chiefs of such distant nations, as have not been at this place, to pay me a visit.

Your own good sense will regulate the consumption of your provisions, and direct the distribution of the trifling presents which you may carry with you, particularly your flags.

I wish you a speedy, pleasant, and safe tour, and

Am, sir, with sentiments of respect and esteem, your obedient servant,

JAMES WILKINSON.

P. S. In addition to the preceding orders, you will be pleased to obtain permission from the Indians who claim the ground, for the erection of military posts and trading houses, at the mouth of the river St. Pierre, the Falls of St. Anthony, and every other critical point which may fall under your observation; these permissions to be granted in formal conferences, regularly recorded, and the ground marked off.

J. W.

Lieut. Z. M. PIKE, *1st regiment infantry.*

SIR:

ST. LOUIS, *June 24, 1806.*

You are to proceed without delay to the cantonment on the Missouri, where you are to embark the late Osage captives, and the deputation recently returned from Washington, with their presents and baggage, and are to transport the whole up the Missouri and Osage rivers, to the town of the Grand Osage.

The safe delivery of this charge at the point of destination constitutes the primary object of your expedition, and, therefore, you are to move with such caution as may prevent surprise from any hostile band, and are to repel with your utmost force any outrage which may be attempted.

Having safely deposited your passengers and their property, you are to turn your attention to the accomplishment of a permanent peace between the Canzes and Osage nations, for which purpose you must effect a meeting between the head chiefs of those nations, and are to employ such arguments, deduced from their own obvious interests, as well as the inclinations, desires, and commands, of the President of the United States, as may facilitate your purpose, and accomplish the end.

A third object of considerable magnitude will then claim your consideration; it is to effect an interview and establish a good understanding with the Yau-e-taus, T-e-taus or Comanches; for this purpose you must interest Whitehair of the Grand Osage, with whom, and a suitable deputation, you will visit the Panis Republique, where you may find interpreters and inform yourself of the most feasible plan by which to bring the Comanches to a conference. Should you succeed in this attempt, and no pains must be spared to effect it, you will endeavor to make peace between that distant, powerful nation, and the nations which inhabit the country between us and them, particularly the Osage; and finally you will endeavor to induce eight or ten of their distinguished chiefs to make a visit to the seat of Government next September, and you may attach to this deputation four or five Panis, and the same number of Canzes chiefs. As your interview with the Comanches will probably lead you to the head branches of the Arkansas and Red rivers, you may find yourself approximated to the settlements of New Mexico; and, therefore, it will be necessary you should move with great circumspection, to keep clear of any hunting or reconnoitring parties from that province, and to prevent alarm or offence, because the affairs of Spain and the United States appear to be on the point of amicable adjustment, and, moreover, it is the desire of the President to cultivate friendship and harmonious intercourse with all the nations of the earth, and particularly our nearest neighbors, the Spaniards.

In the course of your tour you are to remark particularly upon the geographical structure, the natural history, and population of the country through which you may pass, taking particular care to collect and preserve specimens of every thing curious in the mineral or botanical worlds, which can be preserved and are portable. Let your courses be regulated by your compass, and your distances by your watch, to be noted in a field-book; and I would advise you, when circumstances permit, to protract and lay down, in a separate book, the march of the day at every evening's halt.

The instruments which I have furnished will enable you to ascertain the variation of the magnetic needle and latitude with exactness, and at every remarkable point. I wish you to employ your telescope in observing the eclipses of Jupiter's satellites, having previously regulated and adjusted your watch by your quadrant, taking care to note with great nicety the periods of the immersion and emersion of the eclipsed satellite. These observations may enable us, after your return, by application to the appropriate tables, which I cannot now furnish you, to ascertain the longitude.

It is an object of much interest with the Executive to ascertain the direction, extent, and navigation, of the Arkansas and Red rivers; as far, therefore, as may be compatible with these instructions, and practicable to the means you may command, I wish you to carry your views to those subjects; and, should circumstances conspire to favor the enterprise, you may detach a party, with a few Osages, to descend the Arkansas, under the orders of Lieutenant Wilkinson or Sergeant Ballinger, properly instructed and equipped, to take the courses and distances, to remark on the soil, timber, &c., and to note the tributary streams. This party will, after reaching our post on the Arkansas, descend to Fort Adams, and there wait further orders. And you, yourself, may descend the Red river, accompanied by a party of the most respectable Comanches to the post of Natchitoches, and there receive further orders.

To disburse your necessary expenses, and to aid your negotiations, you are herewith furnished with \$600 worth of goods, for the appropriation of which you are to render a strict account, vouched by documents to be attested by one of your party. Wishing you a safe and successful expedition,

I am, sir, with much respect and esteem, your very obedient servant,

JAMES WILKINSON.

Lieut. Z. M. PIKE.

SIR:

CANTONMENT MISSOURI, *July 12, 1806.*

The health of the Osages being now generally restored, and all hopes of a speedy recovery of their prisoners, from the hands of the Pottawatamies, being at an end, they have become desirous to commence their journey from their villages, you are, therefore, to proceed to-morrow.

In addition to the instructions given to you on the 24th ultimo, I must require you to have the talks under cover, delivered to Whitehair and the Grand Peste, the chief of the Osage band, which is settled on the waters of the Arkansas, together with the belts which accompany them; you will also receive herewith a small belt for the Panis, and a large one for the Tei-tans or Comanches.

Should you find it necessary you are to give orders to Mongraine, the resident interpreter at the Grand Osage, to attend you.

I beg you to take measures for the security and safe return of your boats from the Grand Osage to this place.

Doctor Robinson will accompany you as a volunteer; he will be furnished with medicines, and for the accommodation which you give him he is bound to attend your sick.

Should you discover any unlicensed traders in your route, or any person from this Territory, or from the United States, without a proper license or passport, you are to arrest such person or persons, and dispose of their property as the law directs.

My confidence in your caution and discretion has prevented my urging you to be vigilant in guarding against the stratagems and treachery of the Indians; holding yourself above alarm or surprise, the composition of your party, though it be small, will secure to you the respect of a host of untutored savages.

You are to communicate from the Grand Osage, and from every other practicable point, directly to the Secretary of War, transmitting your letters to this place, under cover, to the commanding officer, or by any more convenient route.

I wish you health, and a successful and honorable expedition, and am yours with friendship,

JAMES WILKINSON.

Lieut. Z. M. PIKE.

SIR:

WAR DEPARTMENT, *February 24, 1808.*

In answer to your letter of the 22d instant, I can with pleasure observe, that although the two exploring expeditions you have performed were not previously ordered by the President of the United States, there were frequent communications on the subject of each, between General Wilkinson and this Department; of which the President of the United States was, from time to time, acquainted; and it will be no more than what justice requires, to say that your conduct, in each of those expeditions, met the approbation of the President; and that the information you obtained and communicated to the Executive, in relation to the source of the Mississippi and the natives in that quarter, and the country generally, as well on the Upper Mississippi as that between the Arkansas and the Missouri, and on the borders of the latter extensive river to its source and country adjacent, has been considered highly interesting in a political, geographical, and historical view. And you may rest assured that your services are held in high estimation by the President of the United States; and if any opinion of my own can afford you any satisfaction, I very frankly declare that I consider the public much indebted to you for the enterprising, persevering, and judicious manner in which you have performed them.

I am, very respectfully, sir, your obedient servant,

H. DEARBORN.

Captain Z. M. PIKE.

*Return of persons employed on a tour of discovery and exploration to the source of the Mississippi, in the years 1805 and 1806.*

Lieutenant, Z. M. Pike; Interpreter, Pierre Rosseau; Sergeant, Henry Kennerman; Corporals, William E. Meek, and Samuel Bradley.

*Privates.*—Jeremiah Jackson, John Boley, John Brown, Jacob Carter, Thomas Dougherty, William Gorden, Solomon Huddleston, John Mountjoy, Theodore Miller, Hugh Menaugh, Alexander Roy, John Sparks, Patrick Smith, Freegift Stoute, Peter Brauden, David Owings, David Weeply.

This party left St. Louis on the 9th of August, 1805, but had been detached for that duty from the 1st of July. They returned the 30th of April, 1806; from which time until the 15th of July, I was preparing for\* the second expedition to the westward; which consisted of the following persons, to wit:

Captain Z. M. Pike, Lieutenant James B. Wilkinson,\* Doctor John H. Robinson, Sergeants, Joseph Ballenger,\* William E. Meek,† and Corporal Jeremiah Jackson.†

*Privates.*—John Boley,\* Henry Kennerman, Samuel Bradley,\* John Brown, Jacob Carter,† Thomas Dougherty,† William Gorden, Solomon Huddleston,\* Theodore Miller,† Hugh Menaugh, John Mountjoy,† Alexander Roy, John Sparks,† Patrick Smith,† Freegift Stoute, John Wilson.\*

Interpreter, Barony Vasquez.†

The balance arrived at Natchitoches, on or about the 1st of July, 1807. But it may probably be better to leave the whole time undefined, to be regulated by the honorable Secretary of War.

Z. M. PIKE, *Major.*

[NOTE.—See report, No. 248.]

10th CONGRESS.]

No. 260.

[2d SESSION.]

APPROVAL OF NORTH CAROLINA OF THE MEASURES OF THE FEDERAL GOVERNMENT ON FOREIGN AGGRESSIONS.

COMMUNICATED TO THE SENATE, DECEMBER 30, 1808.

NORTH CAROLINA. *In Senate, November 29, 1808.*

The General Assembly of North Carolina, viewing the present situation of the United States, in relation to Great Britain and France, as being alarmingly critical, as requiring the exercise of the greatest wisdom, energy, and prudence, on the part of the General Government, and the highest degree of patriotism and unanimity amongst the real friends of their country, are of opinion, that as great clamor has been raised against some of the measures lately taken by our administration, which may have led foreign nations to believe that the people of the United States are a divided people, unable or unwilling to carry into effect any energetic measures of their Government, it may serve to strengthen the hands of those who have the management of our national affairs, for legislative and other public bodies, to publish an expression of their sentiments on the present situation of our foreign relations, which the General Assembly of North Carolina do, in the following resolutions:

*Resolved,* That we view the pretext offered by Great Britain for not making reparation for the acknowledged outrage on our frigate Chesapeake, by the British ship of war Leopard, as unworthy a nation boasting of a free and enlightened Government.

*Resolved,* That we consider the acts, decrees, and orders, affecting neutral commerce, issued and enacted by Great Britain and France, as unjust and vexatious, and equally calculated to violate our neutral rights and national sovereignty.

*Resolved,* That we most cordially approve of the measures which the President of the United States has taken, in the spirit of moderation and equity, to obtain, both from Great Britain and France, a reparation of the wrongs committed against this country, and the repeal of those obnoxious acts, decrees, and orders.

\* Those thus marked descended the Arkansas river, and arrived at New Orleans some time about the — of February, 1807.

† Those thus marked are still detained in New Spain.



*Resolved*, That though the laws laying an embargo have borne hard upon a great part of the citizens of the United States, the Legislature of North Carolina consider them as the best means which could have been devised to preserve our citizens and property from the devouring grasp of the belligerent powers.

*Resolved*, That though the citizens of North Carolina have felt their full share of the pressure of these laws, they will cheerfully acquiesce in their continuance, should the competent authorities deem it expedient to persevere in the measure, until a repeal can be obtained of the unjust regulations which occasioned them; or in any other measure which Congress may deem necessary for the maintenance of our neutral rights.

*Resolved*, That sooner than submit to unjust and vexatious restrictions on our commerce; to the impressment of our seamen; and to the taxation of the cargoes of our vessels, at the pleasure of foreign nations, we will live to ourselves, and have no connexion with any of them.

*Resolved*, That we value peace as one of the greatest blessings which any nation can enjoy; yet, rather than surrender our liberty and independence, we will surround the standard of our country, and risk our lives and fortunes in her defence.

JOS. REDDICK,  
*Speaker of the Senate.*

By order:

M. STOKES,  
*Clerk of the Senate.*

In the House of Commons, December 5, 1808. Read and concurred with.

JOSH. G. WRIGHT,  
*Speaker of the House of Commons.*  
P. HENDERSON, C. H. C.

By order:

December 23, 1808. I certify the foregoing to be a true copy of the original filed in my office.

M. STOKES,  
*Clerk of the Senate.*

10th CONGRESS.]

No. 261.

[2d SESSION.]

## DIVISION OF INDIANA INTO TWO TERRITORIES.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 31, 1808.

Mr. THOMAS, from the committee to whom was referred the resolution to inquire into the expediency of dividing the Indiana Territory, made the following report:

That, by the fifth article of the ordinance of Congress for the government of the Territory of the United States northwest of the river Ohio, it is stipulated that there shall be formed in the said Territory, not less than three, nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of session, and consent to the same, shall become fixed and established as follows, to wit:

The Western State shall be bounded by the Mississippi, the Ohio, and Wabash rivers; a direct line drawn from the Wabash and Post Vincennes, due north, to the Territorial line between the United States and Canada, and by the said Territorial line to the Lake of the Woods and Mississippi.

The middle State shall be bounded by the said direct line, the Wabash, from Post Vincennes, to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami, to the said Territorial line, and by the said Territorial line.

The Eastern State shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said Territorial line: *Provided, however*, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said Territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its delegates into the Congress of the United States on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State Government: *Provided*, the constitution and Government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

By the aforesaid article, it appears to your committee that the line fixed as the boundary of the States to be formed in the Indiana Territory, is unalterable, unless by common consent; that the line of demarcation, which the Wabash affords between the eastern and western portions of said Territory, added to the wide extent of wilderness country which separates the population in each, constitute reasons in favor of a division, founded on the soundest policy, and conformable with the natural situation of the country. The vast distance from the settlements west of the Wabash, to the present seat of Territorial Government, renders the administration of justice burdensome and expensive to them in the highest degree. The superior courts of the Territory are, by law, established at Vincennes, at which place suitors, residing in every part of the Territory, are compelled to attend with their witnesses, which, to those who reside west of the Wabash, amounts almost to a total denial of justice. The great difficulty of travelling through an extensive and loathsome wilderness, the want of food, and other necessary accommodations on the road, often presents an insurmountable barrier to the attendance of witnesses; and even when their attendance is obtained, the accumulated expense of prosecuting suits where the evidence is at so remote a distance, is a

cause of much embarrassment to a due and impartial distribution of justice, and a proper execution of the laws for the redress of private wrongs.

In addition to the above considerations, your committee conceive that the scattered situation of the settlements over this extensive Territory cannot fail to enervate the powers of the Executive, and render it almost impossible to keep that part of the Government in order.

It further appears to your committee, that a division of the said Territory will become a matter of right under the aforesaid article of the ordinance, whenever the General Government shall establish therein a State Government; and the numerous inconveniences which would be removed by an immediate separation, would have a direct tendency to encourage and accelerate migration to each district, and thereby give additional strength and security to those outposts of the United States, exposed to the inroads of a savage neighbor, on whose friendly dispositions no permanent reliance can be placed.

Your committee have no certain data, on which to ascertain the number of inhabitants in each section of the Territory; but, from the most accurate information they are enabled to collect, it appears that west of the Wabash, there are about the number of eleven thousand, and east of said river, about the number of seventeen thousand, and that the population of each section is in a state of rapid increase.

Your committee, after maturely considering this subject, are of opinion that there exists but one objection to the establishment of a separate Territorial Government west of the river Wabash, and that objection is based on the additional expense which would, in consequence thereof, be incurred by the Government of the United States. But it is also worthy of observation, that the increased value of the public lands in each district, arising from the public institutions which would be permanently fixed in each, to comport with the convenience of the inhabitants, and the augmentation of emigrants, all of whom must become immediate purchasers of these lands, would far exceed the amount of expenditure produced by the contemplated temporary Government.

And your committee, being convinced that it is the wish of a large majority of the citizens of the said Territory that a separation thereof should take place, deem it always just and wise policy to grant to every portion of the people of the Union that form of Government which is the object of their wishes, when not incompatible with the constitution of the United States, nor subversive of their allegiance to the national sovereignty.

Your committee, therefore, respectfully submit the following resolution:

*Resolved*, That it is expedient to divide the Indiana Territory, and to establish a separate Territorial Government west of the river Wabash, agreeably to the ordinance for the Government of the Territory of the United States northwest of the river Ohio, passed on the 13th day of July, 1787.

10th CONGRESS.]

No. 262.

[2d SESSION.]

### IMPROVEMENT OF THE NAVIGATION OF THE CATAWBA AND WATEREE RIVERS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 26, 1809.

Mr. MARION, from the committee to whom was referred the petition and memorial of the company for opening the navigation of the Catawba and Wateree rivers, made the following report:

That the president of said company, in behalf of himself and the rest of the proprietors, states, that the present stockholders, convinced of the great advantages that would result from removing the obstructions in the Wateree and Catawba rivers, did, several years ago, become proprietors of the original shares; that they have already expended considerable sums on the said rivers, and are annually expending more in the prosecution of the work; but, from the extent of the river, the number of obstructions, and the small association of persons at present engaged in the undertaking, there is little prospect that they would be able, with their own resources, to remove the obstructions to navigation for many years to come. To aid them in the completion of their work, he prays that Congress would authorize the Secretary of the Treasury to purchase, for the use of the United States, all the vacant shares of the company, (which are about a moiety of the whole number,) or such part of them as Congress may deem expedient.

Although the committee are fully convinced that the improvement of the navigation of the said river would be of vast importance and utility to the inhabitants of a considerable portion of the States of North and South Carolina and Tennessee, who would thereby be enabled to transport the productions of their farms, by inland navigation, to Charleston; and that the armory and arsenal of the United States, established at Rocky Mount, on the Catawba river, would also be considerably benefited by the opening of that river; yet, from the present state of our finances, and the critical situation of our country in relation to foreign Governments, they are of opinion that it would be unadvisable to apply any public money, at this time, to internal improvements of this kind. Under these impressions the committee recommend the following resolution:

*Resolved*, That it is inexpedient to grant, at present, the prayer of the memorialists.

10th CONGRESS.]

No. 263.

[2d Session.

CUMBERLAND ROAD.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 16, 1809.

SIR:

TREASURY DEPARTMENT, *December 29, 1808.*

In answer to your letter of the 22d instant, I have the honor to state, for the information of the committee—  
1st. That the unexpended balance of the appropriation, made by the act of March 29, 1806, for opening a road from Cumberland, on the Potomac, to the river Ohio, amounts to \$16,075 15; part of which sum will probably be wanted in order to complete the location and opening of the road. It is probable that about \$13,000 will remain applicable to making the road.

2dly. That the total amount received either at the Treasury, or by the receivers of public moneys on account of roads, and calculated at the rate of 5 per cent. of the net proceeds of the sales of lands in the State of Ohio, subsequent to the 30th day of June, 1802, was, on the 30th day of September last, - - \$104,692  
Leaving, if that mode of calculating be correct, and after deducting the sum appropriated by the above-mentioned act, - - - - - 30,000  
A sum applicable to the road of - - - - - 74,692  
In addition to the above-mentioned unexpended balance of - - - - - 16,075  
And making together a sum of - - - - - 90,767

But if the amount applicable to roads be calculated at the rate of 2 per cent. only, on the net proceeds of the sales of lands, this will, on the 30th September last, have produced only - - - - - 41,876  
From which, deducting the appropriation of - - - - - 30,000

Leaves an unappropriated balance of - - - - - 11,876  
Which, added to the unexpended balance of the appropriation, - - - - - 16,075  
Makes an aggregate of only - - - - - \$27,951

3dly. That the probable receipts on account of that fund may, for the two ensuing years, be estimated at \$22,500 a year, if calculated at the rate of 5 per cent.; and at \$9,000 a year, if calculated at the rate of 2 per cent. on the sales of lands.

I have the honor to be, respectfully, sir, your obedient servant,  
ALBERT GALLATIN.

HON. JEREMIAH MORROW,  
*Chairman of the Land Committee.*

SIR:

COMMITTEE-ROOM, *December 22, 1808.*

The committee appointed on the message of the President, transmitting a report of the commissioners concerning a road from Cumberland to Ohio, have directed me to request that you would cause to be laid before them such information as may be in possession of the Treasury Department, respecting the fund, applicable, by law, to "the laying out and making public roads leading from the navigable waters emptying into the Atlantic to the Ohio," &c.

1st. The unexpended balance of the \$30,000 appropriated by the act of the 29th of March, 1806.

2d. The amount of moneys, exclusive of the above now in the Treasury, and in the hands of the Receivers of public moneys, applicable to that object; and,

3d. An estimate of the probable amount of moneys that will accrue to the fund within the two succeeding years.

I have the honor to be, very respectfully, sir, your obedient servant,  
JEREMIAH MORROW.

The Hon. SECRETARY OF THE TREASURY.

*Amount of the 2 per cent. of the net proceeds of the lands within the State of Ohio.*

From 1st July, 1802, to 30th June, 1803,	-	-	-	2 per cent.,	\$2,400 00
" 1803, " 1804,	-	-	-	"	3,524 06
" 1804, " 1805,	-	-	-	"	5,597 72
" 1805, " 1806,	-	-	-	"	11,243 55
" 1806, " 1807,	-	-	-	"	9,120 75
" 1807, " 1808,	-	-	-	"	9,902 80
Estimated " 1808, to 31st Oct. 1808,	-	-	-	"	2,815 60
Total,				-	\$44,692 48

The sum of \$30,000, appropriated per act of 26th of March, to be paid therefrom; of which \$13,924 85 seems to have been paid.

