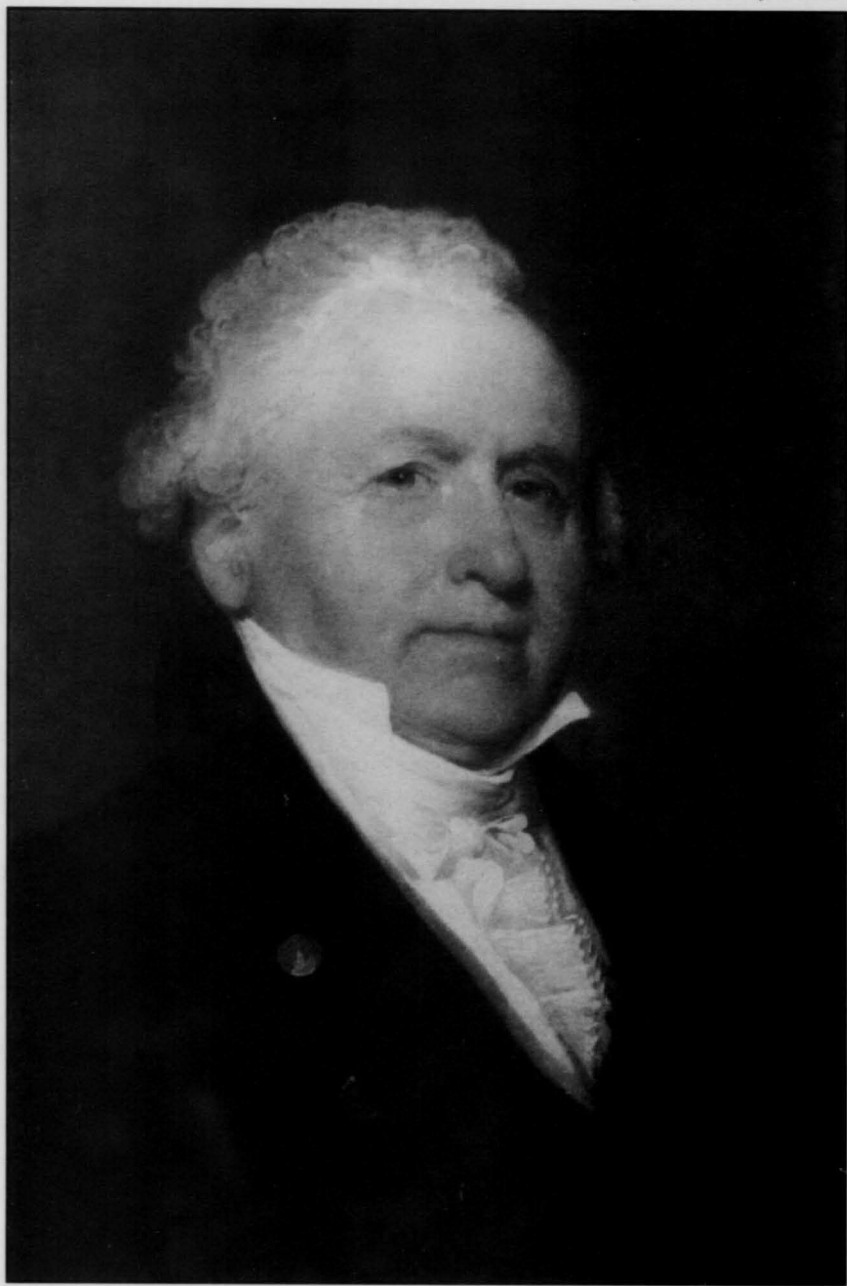


Private Interest and the Public Good: Settling the Score for the Morris-Holker Business Relationship, 1778-1790

Mary A. Y. Gallagher
Papers of Robert Morris, Queens College

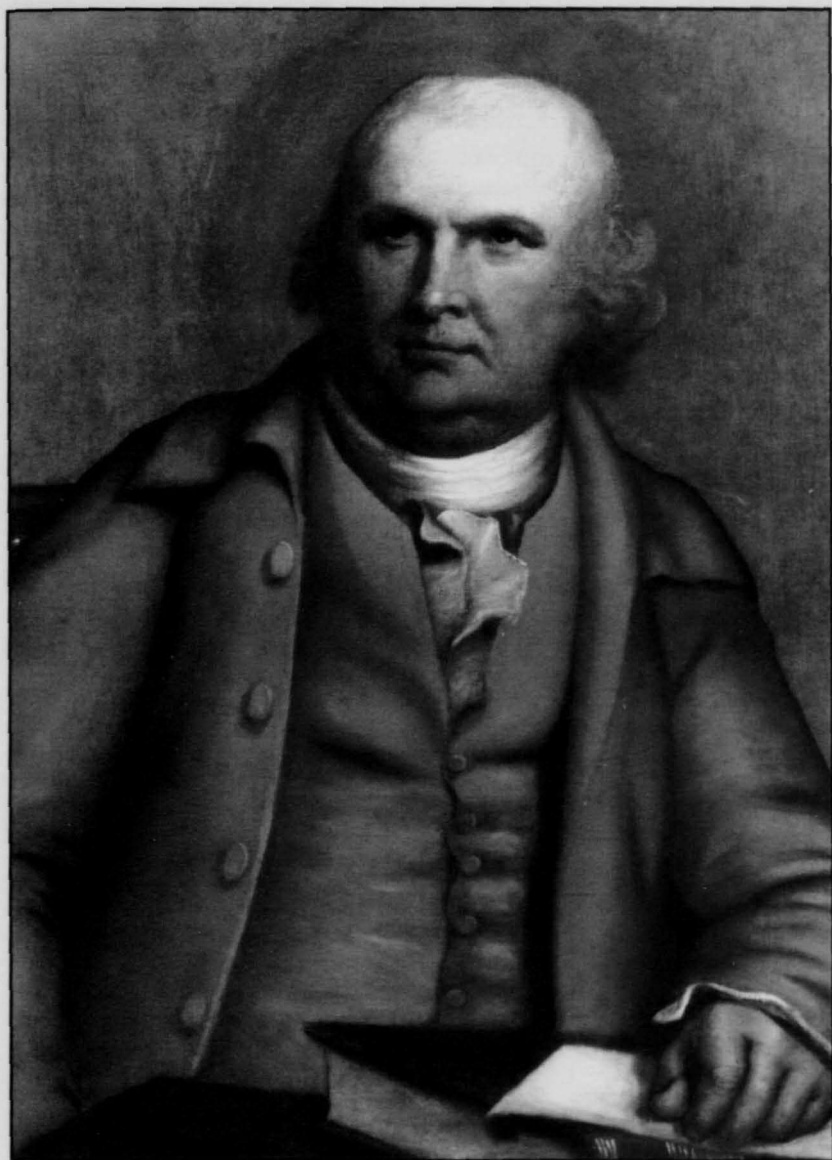
The American Revolution coincided with an economic revolution which saw advocates of free enterprise question the dominant system of mercantilism. Its leaders rallied support for their cause with ringing defenses of liberty and property when Parliament imposed taxes on the colonies without their consent. Aggressive pursuit of personal profit and the unregulated play of market forces, however, challenged popular assumptions that entrepreneurial freedom should be restrained and prices regulated to preserve a community's access to necessities. There were loud calls for restraints on free enterprise when the new nation began to struggle to control an increasingly chaotic economy and cities suffered shortages of foodstuffs. Politician-patriots denounced speculation, profiteering, commingling of private and public funds, and other practices common to a market-driven, wartime economy. They chose to forget that merchants had been adversely affected by the trade boycotts which were the principle weapon in the early phases of the struggle against parliamentary taxation. They roundly criticized those who profited from provisions contracts while soldiers suffered hunger, cold, and death in a principled fight for freedom, and they rarely showed concern when suppliers of the public's needs were driven to the verge of bankruptcy because the government had neither a stable currency nor a reliable system of collecting revenues with which to pay its just debts.¹

1.I would like to thank Elizabeth M. Nuxoll, E. James Ferguson, Clarence L. Ver Steeg, Janet A. Morien and two anonymous readers for their comments and suggestions on this article. The research on which it is based derives in part from work undertaken for *The Papers of Robert Morris*, a project sponsored by Queens College, CUNY, and funded by the National Endowment for the Humanities, the National Historical Publications and Records Commission, and the private contributors listed in its volumes.



John Holker by Gilbert Stuart.

Courtesy of National Portrait Gallery, Smithsonian Institution, Washington, D.C.



Robert Morris by Robert Pine.

Republican theorists believed that government should be small, its operations closely scrutinized, and its officers and agents disinterested. While public watch-dogs pressed for a rigid accounting of public monies that would reveal any deals that smacked of corruption or profiteering, those actually in charge of supplying the army knew that much more flexible standards and practices, common to both public and private transactions, had to be employed to induce businessmen to accept the risk of dealing with the government. The underpinnings of the deals which sustained the war effort pointed to a deep divide between norms generally accepted by seasoned officials and entrepreneurs and what the public and whig politicians understood to be permissible, or indiscreet, or a genuine conflict of interest.²

The war against Great Britain destroyed the mechanisms of transport and commercial exchange and thoroughly disrupted normal business operations. It also compelled American entrepreneurs to develop new commercial relationships and to acquire vital military supplies through commission agents engaged in covert trade.³ Robert Morris of Philadel-

On the development of a new capitalist ethic, see Albert O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism before its Triumph* (Princeton, N. J., 1977); and J. G. A. Pocock, "Virtue and Commerce in the Eighteenth Century," *Journal of Interdisciplinary History*, III (1972), 119-134. On the new economic thought, the ideological background of the American republican tradition, and the republican critique of economic individualism, see John Brewer, *The Sinews of Power: War, Money and the English State, 1688-1783* (New York, 1989), 155-161; Cathy D. Matson and Peter S. Onuf, *A Union of Interests: Political and Economic Thought in Revolutionary America* (Lawrence, Kansas, 1990); and J. E. Crowley, *This Sheba, Self: The Conceptualization of Economic Life in Eighteenth-Century America* (Baltimore and London, 1974), 96-110. On the societal disruption caused by the incorporation of British North America into a international capitalist economy, see Gary Nash, *The Urban Crucible: Social Change, Political Consciousness, and the Origins of the American Revolution* (Cambridge, 1979). On the impact of currency depreciation on morality, see Richard Buel Jr., *In Irons: Britain's Naval Supremacy and the American Revolutionary Economy* (New Haven and London, 1998), 127-128 (hereafter, Buel, *In Irons*).

2. On the relationship of private business and public service, see E. James Ferguson, "Business, Government, and Congressional Investigation in the Revolution," *William and Mary Quarterly*, 3d ser., XVI (1959), 293-318 (hereafter *WMQ*); E. James Ferguson and Elizabeth Miles Nuxoll, "Investigation of Government Corruption during the American Revolution," *Congressional Studies*, VIII, no. 2 (1981), 13-19, 26-28; and E. James Ferguson et al., eds., *The Papers of Robert Morris* (Pittsburgh, PA., 1973-), VI, 38 (hereafter, *PRM*); Thomas M. Doerflinger, *A Vigorous Spirit of Enterprise: Merchants and Economic Development in Revolutionary Philadelphia* (Chapel Hill, N. C., and London, 1986), 197-242; E. Wayne Carp, *To Starve the Army at Pleasure: Continental Army Administration and American Political Culture, 1775-1783* (Chapel Hill and London, 1984), 101-135; Cathy Matson, "Public Vices, Private Benefit: William Duer and His Circle, 1776-1792," in *New York and the Rise of American Capitalism: Economic Development and the Social and Political History of an American State, 1780-1870*, ed. William Pencak and Conrad Edick Wright (New York, 1989), 72-76; and Charles Royster, *A Revolutionary People at War: The Continental Army and American Character, 1775-1783* (Chapel Hill, N. C., 1979), 160-161.

3. See Doerflinger, *Vigorous Spirit of Enterprise*, 199ff.

phia and John Holker of France were drawn together in the shadowy realm of the military procurement arrangements which connected France with the revolutionary struggle before she signed the treaties of alliance and commerce with the United States on February 6, 1778. Each man eagerly seized this opportunity to forge commercial ties between their respective nations and to further their own interests. The Holker-Morris connection brought together important mercantile groups in both nations. Their dealings with each other and with the two governments were informed by an ethic which held that the common good could best be promoted by energetic pursuit of private interest, restrained only by the need to preserve "reputation." Both were intimately acquainted with how public and private business functioned, knew how to work the system, and were experienced at evading trade restrictions which stood in the way of private enterprise and profit.

Morris was about to leave Congress and Holker was a private citizen when their relationship began. Both later came to hold important public offices and manage large amounts of public funds. The history of their operations is politically and ethically complex. It illustrates in rich detail the tensions between the emergence of an increasingly capitalist, market-driven economy and a new political entity, forged in conflict with the most powerful nation in Europe and sustained by a revolutionary ideology. It shows how heavily the United States and France depended on private individuals to finance government operations, and how the two men, both as entrepreneurs and as government officials, simultaneously contributed to the war effort and strove to advance their own personal fortunes and to defend their reputations as respectable, trustworthy businessmen and worthy public servants.

Although the Morris-Holker relationship began auspiciously, the forces and the ambiguities that shaped it darkened and ultimately destroyed it. Finally, it disintegrated into a dispute which extended beyond the personal into a very public realm. Attempts to resolve their differences employed the full range of conflict-resolution mechanisms available, raised questions about the ability of the United States and of Pennsylvania to deliver justice to foreign merchants, and brought into sharp focus the disparity between mercantile and popular views of commercial ethics. In the end, the Supreme Court of Pennsylvania found in favor of the new commercial ethic, but each man eventually paid a high price for living by its rules. This paper examines the two partners and their business relationship against the background of the conflict between the economic and political revolutions from which it emerged,

and chronicles the judgments rendered on their "morality" as measured by the standards of republican virtue, administrative accountability, and the mercantile code.

Morris was born in Liverpool in 1734 and migrated to America as a teenager to join his father, who had established himself in Maryland as a tobacco agent for a British firm. Young Robert was placed in the firm headed by Charles Willing, a prominent Philadelphia merchant. In 1757, he and Charles's son, Thomas, formed the firm of Willing and Morris, which traded with Europe and the West Indies. Success elevated Morris to the ranks of Philadelphia's prominent merchants and prepared him for the role he would play in the struggle for independence.

Morris took an active part in local politics from the time of the Stamp Act Crisis, and was elected to the Continental Congress in November 1775. There, he was a key member of several important committees which formulated and implemented trade policy. He came to dominate the Secret Committee of Trade, which procured vital supplies for the American army from abroad and ran it virtually single-handed when Congress fled Philadelphia late in 1776. He routinely used his own firm and other merchants in his network to handle public business. In itself, this was neither unusual nor necessarily worthy of censure, since arrangements to procure war matériel from foreign nations had to be kept as secret as possible and often were disguised as private transactions. Pseudo-private transactions also helped to avoid the price increases common when government was known to be the purchaser. Nevertheless, private and public interests were inextricably blended in a manner that fostered private profit at least as much as public purposes and that bedeviled the settlement of secret committee accounts. Morris was aware that his critics believed that "Private gain is more our pursuit than Public Good," but this did not alter his course in the least. He continued to pursue both goals "by all such honorable and fair means as the times will admit of."⁴

4. On the composition and character of the Philadelphia merchant community, and on Morris's early career as businessman and public figure, see Doerflinger, *Vigorous Spirit of Enterprise*, 11-20, 49, 236-240; Clarence L. Ver Steeg, *Robert Morris, Revolutionary Financier* (New York, 1976) 1-27; William Graham Sumner, *The Financier and the Finances of the American Revolution* (New York, 1970), I, 188-208; Jonathan Goldstein, *Philadelphia and the China Trade, 1682-1846: Commercial, Cultural and Attitudinal Effects* (University Park, PA, 1978), 18; and Edmund S. Morgan and Helen M. Morgan, *The Stamp Act Crisis: Prologue to Revolution* (New York and London, 1965), 234, 317. For the quote, see Morris to Silas Deane, June 29, 1777, *The Deane Papers*, ed., Charles Isham, 5 vols. (New-York Historical Society, *Collections*, XIX-XXIII [New York, 1887-1891]), II, 82. For an

Morris's operations were soon challenged by his enemies in Congress, especially when their relatives and clients were not included in the arrangements. A conflict which began in France between American agents in the Morris network (Connecticut merchant Silas Deane, Benjamin Franklin, and Morris's half-brother, Thomas Morris), and the Virginians, William and Arthur Lee, recrossed the Atlantic to be replayed in Congress in 1778. There, the Lees and their New England allies took up the cudgels against Morris's group, and Congress eventually embarked on a long investigation into procurement operations in France. Although Deane was the principal target and victim, Thomas Paine and Henry Laurens broadened the controversy by suggesting improprieties on the part of Morris. All parties involved took their cases to the press, and polarized, paralyzed, and demoralized Congress in the process.⁵ In France, the John Holkers, father and son, were members of a group of French entrepreneurs that supported Deane's and Franklin's efforts to fill orders from Morris's committees. The elder Holker, an English Jacobite, had fled his homeland for political reasons and settled in Rouen. He and his son spearheaded efforts to modernize textile manufacturing in his adopted country by applying surreptitiously imported British methods and technology. Their efforts were rewarded with a title for the father and royal appointments for both. Early in 1777, Holker Jr. moved to Paris, made the acquaintance of the American commissioners, and became involved in a contract to supply uniforms for the American army.⁶ In October 1777, he made plans to leave for America

assessment of Morris's Secret Committee operations, see Elizabeth Miles Nuxoll, *Congress and the Munitions Merchants: The Secret Committee of Trade during the American Revolution, 1775-1777* (New York and London, 1985); and for an overview of Morris's extensive commercial network, see E. James Ferguson, *The Power of the Purse, A History of American Public Finance, 1776-1790* (Chapel Hill, N. C., 1961), 78-83.

5. On the Deane-Lee affair and the related controversy over Thomas Morris, see Jack N. Rakove, *The Beginnings of National Politics: An Interpretive History of the Continental Congress* (New York, 1979), 249-255; LDC, X-XIV, *passim*; Ferguson, *Power of the Purse*, 90-94, 102-104; Ferguson/Nuxoll, "Government Corruption," 20-22; Ver Steeg, *Morris*, 17-20, 22-27; Nuxoll, *Munitions Merchants*, 295-308; William C. Stinchcombe, *The American Revolution and the French Alliance* (Syracuse, N. Y., 1969), 38-46, and Philip S. Foner, ed., *The Complete Writings of Thomas Paine* (Binghamton, N.Y., 1945), 2 vols., 2: 96-188.

6. On the Holkers, see Thomas J. Schaeper, *France and America in the Revolutionary Era: The Life of Jacques-Donatien Leray de Chaumont, 1725-1803* (Providence, R.I., and Oxford, 1995), 13-14 (hereafter, Schaeper, *Chaumont*); *Diary and Autobiography of John Adams*, eds. L. H. Butterfield, et al., 4 vols. (New York, 1964), IV, 54-56; Kathryn Sullivan, *Maryland and France, 1774-1789* (Philadelphia and London, 1936), 46-47; André Remond, *John Holker, Manufacturier et Grand Fonctionnaire en France au XVIII^e Siècle 1710-1786* (Paris, 1946), 52-124; Marquis de Chastellux, *Travels in North America in the Years 1780, 1781 and 1782*, trans. and ed. Howard C. Rice, Jr. (Chapel Hill, N. C. 1963), I, 330-332; and William B. Willcox, et al., eds., *The Papers of Benjamin Franklin* (New Haven and London. 1959-), XXIV, 122-123, 357n. (hereafter, *PBF*).

as agent of LeRay de Chaumont and other French businessmen and financiers⁷ who entrusted him with substantial funds to invest on their behalf. French Foreign Minister Charles Gravier, Comte de Vergennes, was aware of Holker's plans and supported them in hopes that they would help capture American trade for France.⁸

Holker was also Vergennes's unofficial emissary in diplomatic matters. He had instructions to report on the state of affairs in the United States and to inform Congress that France was already supporting the American cause and facilitating its commerce—this to predispose it to reject British peace overtures. News of the American victory at Saratoga reached Versailles on December 4, 1777, and convinced the French that the time had come to conclude treaties of alliance and commerce. Thereafter, Holker received further instructions from Conrad Alexandre Gérard, a subordinate and close confidant of Vergennes.⁹ He left for America on February 25, 1778, and arrived at Portsmouth, New Hampshire, on May 1, far from Congress and too late to be the first to announce that the treaties had been signed. Holker appeared at York, Pennsylvania, where Congress was sitting, in mid June. Although he seemed to speak for the French government, he presented no credentials. In his mercantile capacity he had letters of introduction from Silas Deane to Morris and from Benjamin Franklin to John Hancock and Jonathan Williams Sr., a prominent Boston merchant related to Franklin.¹⁰

Once the treaties were signed, diplomacy was conducted through official channels. On July 15, 1778, Gérard, who had been named

7. The most prominent after Chaumont were Sabatier et Desprès, and Le Couteulx and Company, Ferdinand Grand, and John Holker, Sr.

8. On the foreign ministry's views on the value of American commerce to France, see Ruhl J. Bartlett, *The Record of American Diplomacy* (New York, 1950), 21; Robert R. Crout, "The Diplomacy of Trade: The Influence of Commercial Considerations on French Involvement in the Anglo-American War of Independence, 1775-78" (Ph. D. diss., University of Georgia, 1977), 142-143, 171-172, 197; Schaeper, *Chaumont*, 45; and Sullivan, *Maryland and France*, 54-55. On the obstacles which prevented France from replacing Britain as America's dominant trading partner, see Buel, *In Irons*, 69-76.

9. For Holker's journey to America and his activities there, see Schaeper, *Chaumont*, 200-204, 292, and below; and *PBF*, XXV, 494n. On the instructions, which predated French acknowledgement of support for the American cause, see Crout, "Diplomacy of Trade," 229-230, 232, 233, 241n., 242n., and *PBF*, XXV, 260. On Gérard, see John J. Meng, *Despatches and Instructions of Conrad Alexandre Gérard, 1778-1780* (Baltimore, 1939), 33-42, 89-94; and Stinchcombe, *French Alliance*, 32-47.

10. Congress asked the American commissioners in France to obtain clarification of Holker's role from Vergennes. The French minister denied that he had entrusted him with any diplomatic messages and claimed that he had only asked him to report occasionally on matters related to trade. On Holker's mission, see Paul H. Smith *et al.*, *Letters of Delegates to Congress, 1774-1789* (Wash-

France's first minister to the United States, arrived at Philadelphia and announced Holker's appointment as consul and as agent of marine with responsibility for supplying French naval forces operating in the American theatre. Both offices were under the jurisdiction of the French Marine Department. Chaumont, one of Holker's clients, provided credit to French forces in America in return for which he and Holker received a near monopoly on provisioning the fleet in American waters while Gabriel de Sartine, Vergennes's ally and Chaumont's friend, was naval minister. Holker's mingling of public and private trade and his transition from the jurisdiction of the foreign to the marine ministry was comfortable in its early days but became distinctly less so when the Marquis de Castries replaced Sartine as naval minister in 1780.¹¹

Holker and Morris met for the first time on July 4, 1778, at a public dinner in Philadelphia. Holker asked for a business meeting the very next day and took the occasion to "press" Morris to help him fulfill his commissions.¹² Morris at first refused on grounds that he needed time to settle his accounts.¹³ Eventually, however, he allowed himself to be persuaded and reached an understanding with Holker. Morris's "agency" began in August 1778 and lasted until January 1780 when the two men established the firm of William Turnbull and Company and transferred Holker's accounts to it. Turnbull was a Scotsman who had come to America in 1770 and had conducted business for the Secret Committee of Trade and for Pennsylvania. He was selected to manage the firm's operations because he was acceptable both to Joseph Reed, president of the Supreme Executive Council and to the French minister

ington, D. C., 1976-1998), X, 144, 166, 169-170, 192, 194-195 (hereafter, *LDC*); Holker to Congress (2 letters), June 16, 1778, PCC no. 96, 1-10; Sullivan, *Maryland and France* 46-47, 58-59; and *PRM*, I, 30, VII, 275n. For the letters of introduction, see Robert F. Jones, "The king of the Alley" William Duer, *Politician, Entrepreneur, and Speculator 1768-1799* (Philadelphia, 1992), 83; and *BFP*, XXV, 238-239, 342. On Jonathan Williams, see *Adams Diary*, IV, 52.

11. Consuls and other officials commonly engaged in trade. Gérard was invited to invest in ventures with Morris and Holker, and may well have done so. Holker's successor as consul, François Barbé-Marbois, was reputed to be involved in the flour trade with the French West Indies and to be taking advantage of his "Kind of exclusive Privilege" to profit from it even though Castries, as a result of difficulties with Holker, had forbidden consuls to engage either directly or indirectly in commerce. See Holker to [Morris], November [19?], 1778, Holker Papers, I, 160, *DLC*; and *LDC*, XXI, 486.

12. On the Independence Day celebration, which was attended by the "principal civil and military officers and strangers in town . . . by invitation," see *LDC*, X, 221-222. On French entrepreneurs' need for American intermediaries to facilitate their transactions, see Buel, *In Irons*, 64.

13. Morris is also said to have refused to accept the presidency of Congress in 1777 for this same reason. See Ellis Paxson Oberholtzer, *Robert Morris, Patriot and Financier* (New York, 1968), 42.

Copy of the Letter Written by M^r. Roberts Morris
to M^r. Holker, dated Phil^a. y^e. 26th of Feb^r. 1784. 11

Sir,

+ the observations referred to, were mostly answered. You will receive with this letter, a state-
ment to M^r. Setledore, Remaster, on R. M.'s of my accounts with you, both in
part settlement respecting the public your public & private capacity; -
business: the New York, trans mitted together with such observations as
on y^e. 26 February. 1784, are equally may serve to explain them fully,
correctness & unimpeachable: J. H.'s & if further explanations should be
operations, are continued to be blended necessary, I will readily go in to
in account with those of R. M. & they them. after a due examination of
events in mine confusion, & give him all these accounts you will be able
to know, & false inductions of. to Judge whether you was authorized

J. H. has not allowed his opinion
in this respect - the New York accounts,
confirm their therein.

to Suppose that a desire to withhold
a balance from you has influenced
me to delay the settlement. in
your letter of y^e. 20th fourth of
last Month you ask, "why have
not all my Accounts been settled"
this three years past? To this Question
I am now about to reply, without
omitting what is said on the same
Subject in your previous letter =

Gérard. His successor, the Chevalier de La Luzerne, also approved the selection.¹⁴

Morris and Holker did *not* define the terms of their relationship in a written business agreement which described the rights, responsibilities, and manner in which the accounts were to be kept. Their failure to do so caused no problems while the agreement was operative, but it provided grounds for years of litigation after Holker broke with Morris six years later. The only extant record of the negotiations which led to their understanding in 1778 comes from a very long letter Morris wrote to Holker on February 26, 1784, on which Holker commented profusely. At the time it was written, their relationship was dissolving acrimoniously and each man was trying to justify his conduct. In this letter, Morris claimed that Holker had tried to persuade him to serve as his agent by offering a generous commission and by mentioning that "very great sums of money would naturally come to my hands and might be occasionally employed in usefull Speculations *on our joint account*, and that the Commission (also to be divided between us) would be very Considerable." Once Holker was appointed Agent of Marine, Morris recalled, he had also insisted that Morris had a "Kind of obligation" to care for "the interests of a King" who was generously assisting my Country "and Called on me." Finally, Morris said, he gave his "*reluctant Consent*" until some other arrangement could be made.¹⁵

The offer of an opportunity to speculate with Holker's clients' substantial assets may have been what seduced Morris to accept. Although the arrangement involved risks to all concerned, there was nothing unusual about it. Agents commonly took unauthorized short-term loans from funds entrusted to them by their principals to invest on their own accounts. In turn, they were expected to advance their own funds and credit on behalf of their principals when the need arose. Holker was certainly familiar with the practice and Morris routinely employed it during his Secret Committee service. Profit on such speculations compensated agents for risks undertaken for the public at times when payment was very likely to be long deferred. American Whigs and patriots

14. On William Turnbull and Company, see *PRM*, I, 89. Pierre Marmie was subsequently taken into the firm, which was then renamed Turnbull, Marmie, and Company. See Holker's notes on RM to Holker, February 26, 1784, cited above; and Holker to Turnbull, Marmie, and Company, April 2, 1784, Holker Papers, XXV, 4870, DLC.

15. See RM to Holker, February 26, 1784, Franklin-Holker Papers, CtY. The underlining here and elsewhere in quotations from this manuscript (rendered in the text as italics) was supplied by Holker to highlight his disagreement with Morris's statements.

found the system extremely distasteful and criticized Morris and other practitioners whenever the opportunity arose. Administrative reformers in France were endeavouring to put an end to the practice but, under these circumstances, the most a government or private client could realistically hope for was an agent who executed his commissions, refrained from excessive greed, exercised discretion, and assigned profits and losses with some degree of honesty and fairness.¹⁶

From 1778 to 1783, Holker and Morris were close friends and partners. Holker seemed completely satisfied with his "agent" and did not criticize any of his operations. Morris supplied Holker with whatever business records he requested—Holker demanded few and was generally inattentive and unconcerned. Not until 1784, when he was attempting to shift responsibility for his clients' losses from his own shoulders to Morris's, did Holker pretend that Morris had used funds entrusted to him in ways Holker had not been aware of and in a manner not authorized by their original agreement. At this same time he disputed Morris's description of himself as "agent" or "cashier" and insisted that Morris had been a "bailiff in law" or manager, not "merely a *banker*." As "bailiff," Morris could be held directly and legally responsible to Holker's clients for management and dispersal of their funds.¹⁷

The evidence suggests that Holker had done what he had to do in 1778 to make the most advantageous mercantile connection possible and that once it was established he gave only general directives and left Morris to see to the details. Furious activity on behalf of Holker's private and public clients followed as soon as the two men reached their understanding. Holker, assisted by Morris, received and sold consignments of goods from France and, with a seemingly endless stream of funds at his disposal, speculated in commodities, land, privateering, the

16. The relationship between private entrepreneur/agents and their principals resembles a long-standing maritime practice known as "captain's privilege," whereby private owners and governments allowed officers of their vessels a certain amount of cargo space in lieu of pay. On this practice, which was also open to abuse, see *PRM*, VII, 782-786. On the eighteenth-century relationship between merchants and governments, and on Morris's secret committee operations, see Ferguson, *Power of the Purse*, 70-81. On French attempts to eradicate unauthorized speculations, see J. R. Bosher, *French Finances, 1770-1795* (Cambridge, 1970), 99.

17. On the discussions between Holker and RM, see RM to Holker, February 26, 1784, and Holker's notes on it; and Holker's "Observations on Robert Morris's letter of the 26th of February, 1784, to John Holker, and extracts from the same," in *Correspondence Between John Holker, Esquire, Inspector General of Trade and Manufactures, and late Consul General of France, and Robert Morris, Esquire, Late Superintendant of the Finances of the United States. To Which is Annexed a Memorial, Relative to the Transactions between them, and to the Principles on which Mr. Morris offered a Final Settlement Thereof, by his Letter of the 26th of February, 1784*. (Philadelphia, 1786), hereafter *Holker-Morris Correspondence*.

West Indies trade, and the fur trade. He also invested his clients' funds in Continental loan office certificates and currency even though it was depreciating in the expectation that it would eventually be redeemed at par. Whether he did so on his own initiative or because advised by Morris has not been determined—Morris did not seem to have believed that the currency would regain its value. Holker proposed keeping a separate account for the royal marine, but Morris convinced him that it would be less confusing to record all transactions in a single account kept by Morris at Holker's direction. This, Morris said, would allow Holker to have all his operations in "one View," and would justify the charge of a commission. It was also necessary to accommodate and obscure their speculations.¹⁸

The French fleet which brought the first French minister, Conrad Alexandre Gérard, to Philadelphia in July 1778 had to be provisioned immediately. Holker used both American army commissaries and private merchants to procure goods. He based himself temporarily in New England where the fleet relocated and left Morris to supervise operations in the Chesapeake. Lean harvests in the middle Atlantic states, military procurement activities, and the attractiveness of exporting provisions to the West Indies where they would be paid for in specie made provisions scarce. States embargoed exports in a vain attempt to insure that flour and other commodities would be available for the army and for domestic consumption at reasonable prices. They grudgingly made limited exceptions to allow Holker and his agents to supply the French navy. There were, however, suspicions that Holker diverted provisions purchased for the fleet into private trade to get around state embargo laws. Flour purchases for the fleet in Maryland, Pennsylvania, and Delaware inevitably drove up prices and caused problems with these states which were resolved only after Congress intervened or after the embargoes were lifted. Holker was charged with acting without due regard for state laws and with cutting masts in defiance of state regulations and in a manner which provoked Indian attacks on settlers. He offered explanations for his conduct but they did not satisfy the states.

18. See RM to Holker, February 26, 1784; and *Holker-Morris Correspondence*, 5-7. Blending of public and private accounts in wartime circumstances was not unusual. See, for instance, Schaeper, *Chaumont*, 199, on Jonathan Williams's accounts. For the reasons which prompted French entrepreneurs to invest in Continental currency, see Buel, *In Irons*, 68-69. For Morris's claim that he had been authorized to falsify his cashbooks to mask wartime operations, see Marbois to Castries, August 15, 1784, *Affaires Étrangères*, B I 946 (*Correspondance consulaire*, Philadelphia, II), 156, AN.

Morris's involvement in Holker's operations fueled popular anger. Suspicions that he was involved in "engrossing" supplies to drive up prices and enhance his commissions were vented in mass protests over his handling of the cargo of the *Victorious*, a French merchant vessel which arrived from the West Indies in April, 1779. Even more serious was the attack by radical Philadelphians who supported price regulation on "Fort Wilson," the home of James Wilson, a political ally whom Morris frequently employed as his attorney. Shots were fired at the house where Wilson, Morris, and other prominent opponents of price controls had gathered and were answered from within. By the time the riot was suppressed there were two dozen dead and wounded. This grim outcome, a defeat for radical forces in the city, left the Philadelphia's poor masses convinced that the high prices from which they suffered benefited, not the army or the French Navy, but merchants and speculators.¹⁹

There were also charges that Holker and Morris manipulated the market for bills of exchange for their private advantage in a way that adversely affected the exchange rate and contributed to the depreciation of the Continental currency. Holker regularly sold or ordered Morris to sell bills of exchange drawn on his clients in advance of his need for cash. This created a pool of monies which could be used for speculations. If the currency had been stable, Holker's clients might have been spared much of the adversity these operations caused them. On March

19. On the arrival of d'Estaing's fleet with 10,000-12,000 men on board, see *LDC*, X, 242-244, 247-249, 254-256, 260-267. For a discussion of the effects of depreciation on the American economy, see Richard Buel, Jr., "The Committee Movement of 1779 and the Formation of Public Authority in Revolutionary America," in James A. Henretta, Michael Kammen, and Stanley N. Katz, *The Transformation of Early American History: Society, Authority and Ideology* (New York, 1991), 151-169. On grain production and flour prices during the period and on the difficulties connected with provisioning the French forces, see Buel, *In Irons*, 7-25; 27-29, 137-143. On Holker's operations and complaints about them, see Meng, *Despatches of Gérard*, 753-758, 828-830, 851-853, 856-857; and *LDC*, XI, 38-39, 78-79, XII, 52, 73, 126-127. On the flour purchases, see *ibid.*, XII, 11-13, 482-484, XIII, 104-105, 109-111, 160, 212, 307, 312, 320-321, 329-330, 347, 361, 441, 572, XIV, 48, 165, 296-297, 349, 477-478, 485-486; Samuel Hazard *et al.*, eds., *Pennsylvania Archives: Selected and Arranged from Original Documents in the Office of the Secretary of the Commonwealth* (Philadelphia and Harrisburg, 1852-1935), 1st Ser., IX, 9-10, 31-36, 175-184, 342; and Sullivan, *Maryland and France*, 65-83. On criticism of Morris related to these ventures, see Ferguson, *Power of the Purse*, 103; Hubertis Cummings, "Robert Morris and the Episode of the Polacre 'Victorious,'" *The Pennsylvania Magazine of History and Biography* (hereafter, *PMHB*), LXX (1946), 239-257; C. Page Smith, "The Attack on Fort Wilson," *PMHB*, LXXVIII (1954), 177-188; John K. Alexander, "The Fort Wilson Incident of 1779: A Case Study of the Revolutionary Crowd," *WMQ*, XXXI, 3d ser. (1974), 589-612; and Steven Rosswurm, *Arms, Country, and Class: The Philadelphia Militia and "Lower Sort" During the American Revolution, 1775-1783* (New Brunswick and London, 1987), 205-227.

18, 1780, Congress officially devalued the "old emission" currency at a ratio of forty to one of specie, thereby repudiating a significant proportion of the debt it represented. This spelled economic disaster for Chaumont, who would have been totally ruined if he had not obtained a decree which prevented his French creditors from seizing his assets. All of the clients Holker represented who had speculated or accepted payment for goods in Continental paper suffered heavy losses.²⁰

Holker claimed that Morris "confessed" during the arbitration of their dispute in 1784 that, during the years he had acted as Holker's agent, "he had made use of J. H's money as fast as opportunity offered, without any distinction from his own." Holker's emphasis in the above-quoted phrase "usefull Speculations *on our joint account*" and his continued insistence that Morris had kept him ignorant of his affairs by blending all accounts into one suggest, however, that his real complaint was not just that Morris had protected himself against depreciation by rapidly reinvesting monies on his own account and failing to protect Holker's clients, but also that he not dissuaded Holker from speculating in public paper and had not shared all the profits from his own transactions with Holker.²¹ Morris gave no ground in response to these complaints. He compared the funds in question to "perishable" articles which Holker left liable to "Waste and Loss while it Lay in my Store." He claimed that, under the terms of their agreement, he had been entitled to employ balances Holker left in his care in any way he wished as long as he answered Holker's orders promptly, which he insisted he had always done, even when Holker's demands were large and unanticipated.²²

1780, when Turnbull and Company replaced Morris as Holker's agent, was a difficult year, not just because of the currency depreciation. Holker attempted to settle his accounts with Congress for supplies it had furnished to the French Marine and he and Morris began to settle their accounts with each other. They completed a few but neither man could obtain documentation needed to finalize all their transactions.²³ The Chevalier de La Luzerne had replaced Gérard as French minister in the autumn of 1779 and Sartine was dismissed as naval minister on Octo-

20. See Schaeper, *Chaumont*, 295-308, 322-326.

21. See RM to Holker, February 26, 1784; and Barbé-Marbois to Castries, August 9, 1785, *Affaires Étrangères*, B I 946 (Correspondance consulaire, Philadelphia, II), 260, AN.

22. See RM to Holker, February 26, 1784; and *Holker-Morris Correspondence*, p. 18n.

23. On the attempts to settle accounts, see *LDC*, XV, 27-28; and RM to Holker, February 26, 1784, Franklin-Holker Papers, CrY.

ber 14, 1780. Holker's operations were thereby exposed to the scrutiny of new and less sympathetic eyes. In America lack of progress in the war, the desperate financial situation, and diminished confidence in the government's ability to cope under its present organization led Congress to discuss establishing executive departments.

Morris had suffered economic setbacks in common with other businessmen during the time he served as Holker's agent but his personal credit remained solid and his reputation grew. This won him appointment as Superintendent of Finance when Congress created the office in February 1781.²⁴ He refused to accept the position unless Congress allowed him to retain his commercial connections, among them the firm of Turnbull and Company. His motives included both a concern for his own livelihood and a sense of responsibility to his business partners. Morris was also very much aware that he could not achieve his public objectives at a time when the public treasury was empty without the support of his network, those merchants most likely to be willing to do business with the government if Morris were Financier. Members of Congress experienced a "Load of Anxiety" when they considered Morris's conditions but, with chaos and publicly acknowledged bankruptcy as the only alternatives, they suppressed their memory of the Deane-Lee affair, swallowed their reservations, and agreed to his terms. Morris knew that if he were directly involved in the daily operations of his private business it would "give rise to illiberal reflections equally painful to me and injurious to the Public," and so he entrusted management of his private affairs to other persons.²⁵

Nevertheless, Morris and Holker now had new layers of private and official business with each other. As Financier, Morris was responsible for settling all public accounts: Holker had been involved in many of the transactions for provisions supplied or exchanged between French and American forces. The volume of public business for which he was now responsible made it difficult for Morris to devote time to settling

24. Morris described his financial straits to two business partners in early 1781. To Matthew Ridley, he wrote: "Miss Fortune is Fickle and Coy. . . . She has played the Devil with me last Summer, Fall and Winter, but still I hope to put her in better Humour this Spring and a few of her Smiles may make amends for all the Frowns her ill temper cast on me." To Jonathan Hudson and Company, who had drawn on him for hard money: "I am and for a long time have been poor and needy, owing to the many losses and disappointments I have met with." See RM to Ridley, February 6, and to Jonathan Hudson and Company, March 20, 1781, *PRM*, microform supplement (forthcoming); and Sumner, *Financier*, II, 271-276.

25. On Morris's appointment, see *PRM*, I, 3-4, 9-10, 16-28, 62-63; and *LDC*, XVII, 107-109.

Holker's previous accounts but, while Holker was eager to have them finalized, he seemed to understand. He and John Swanwick, Morris's representative, worked together intermittently but could not settle them without Morris's involvement.²⁶

One of Morris's objectives as Financier was to reduce French-American competition in the sales of bills of exchange and purchase of provisions. When he offered proposals to La Luzerne and other French officers in August 1781, he encountered a storm of charges that Holker was more devoted to his private business than to his public responsibilities. Morris took the opportunity "to assure them Over and Over . . . That Mr Holker is as Honest a Man and as Zealous for the Kings Service as any that ever came from France." He pledged that Holker would not be involved in implementing his current proposals unless French officials wished him to be. Morris defended his own intentions by proclaiming that, as "a Minister of the United States, they must be pleased to consider every thing that came from me as flowing from a pure desire to serve the general cause." With Holker clearly in mind, Castries, the new marine minister, had already sent orders for consuls to choose between public office and private commerce. Holker unhesitatingly chose the latter and resigned as consul and marine agent in September 1781 to devote himself to his own and to his private clients' interests.²⁷

Morris also hoped to reduce the cost of supplying the army by establishing a military contract system. He awarded separate contracts to supply the Main Army's various posts in New York to competing groups from the region, most of which were subsequently merged into a single entity called the West Point and Moving Army contract. Holker, William Duer of New York, and Daniel Parker of Massachusetts had invested in some of these arrangements. It was soon evident that Morris could not pay for issues in specie as required, and he was forced to void the West Point and Moving Army contract and negotiate a new, more costly deal with the firm of Wadsworth and Carter, contractors to the French army, for the remainder of 1782. When he solicited bids to

26. On Swanwick's work on the accounts, see *PRM*, IX, 411-412.

27. On criticism of Holker, see *PRM*, II, 77, VII, 273, 276n.; La Luzerne to Holker, July 25 and 26 (two letters), August 8 and 20, and Oster to Holker, August 15, 1780, Holker Papers, XI, 3123, 3126, 3132, XII, 3226, 3286, 3314, DLC; La Luzerne to Castries, August 13, Barbé-Marbois to Castries, September 28, and Martin Oster to Castries, October 3, 1781, *Affaires Etrangères*, B I 945 (Correspondance consulaire, Philadelphia I), 124, 127, 128-129, AN; Holker Sr. to Castries, January 23, and to Vergennes, January 26 and 31, 1782, *Correspondance politique*, *Etats-Unis*, XX, 142, 203-204, 236-237, AMAE; Stinchcombe, *French Alliance*, 145; and Ferguson/Nuxoll, "Government Corruption," 35n.

supply the New York and New Jersey posts for the following year, Wadsworth and Carter's terms were much higher than he was willing to accept. Having received no better offers, in November 1782, he negotiated a contract with Daniel Parker and Company, in which Holker was a silent partner, even though the firm's assets were inadequate. Morris met this difficulty by making unusually large advances in bills of exchange on Europe well before he had certain information that there would be funds to pay them to insure that hunger did not drive the army to mutiny before peace was concluded. News of the treaty arrived four months later and the army was disbanded sooner than expected. When the contract accounts were settled in 1784, it was discovered that the firm had been paid for more rations than it had issued.²⁸

Morris was informed in December 1782 that a French loan for the coming year, on which his arrangements depended, was unlikely. Pressed by obligations to the contractors and demands to provide the army with pay, he confronted Congress on January 24, 1783, with a reality it had effectively ignored: that public bankruptcy was imminent. "To encrease our Debts while the Prospect of paying them diminishes," he said, did not "consist" with his own "Ideas of Integrity." He described his "Situation" as repository of the public confidence as "utterly insupportable," announced that he would "never be the Minister of Injustice," and stated that he would resign at the end of May unless Congress approved measures before then which would produce an adequate revenue. Morris's letter was not made public until March 1. On March 5, "Lucius," commonly believed to have been Arthur Lee, published the first of five attacks on Morris's administration in the *Freeman's Journal*, which functioned as the mouthpiece of Pennsylvania's radical republicans. "Lucius" reawakened Whig fears of concentrated power and corruption by charging that Morris had consistently

28. Holker first worked with Duer on a proposed mast contract with the French navy in which Silas Deane was also involved. See Paul Walden Bamford, "France and the American Market in Naval Timber and Masts, 1776-1786," *Journal of Economic History*, XX (1952), 21-34. On the involvement of Holker and Turnbull and Company in contracts and exchanges of supplies with the Office of Finance (for flour for the *Trumbull*, for clothing, in the Northern Department contract, the Moving Army contract, and the contract for New York and New Jersey for 1783), see *PRM*, I, 169, II, 29-30, III, 127-129, IV, 142, 173, 530, VII, 43-46, 127-131, 180, 274, 277n., IX, 481-483. When Parker fled the country without repaying the advances on the contract for New York and New Jersey, Holker, a silent partner in the firm of William Duer and Daniel Parker and security for its performance, was held liable. After his dispute with Holker and in one of his last acts before leaving office as Superintendent of Finance, Morris ordered a suit against all three partners. See *PRM*, IX, 481-483, 543, 551-552.

betrayed the public interest to further his own private ends. He also suggested that the Financier had inflated his own importance to the patriotic cause because his pride had been pampered and his understanding inebriated by his "sudden and enormous acquisition of wealth" acquired "by speculating on the distresses of war."

The crisis brought the conflict between the expediencies occasioned by public poverty and whig concepts of patriotic virtue into sharp relief. As Morris did not mention that the debts that would go unpaid were owed in part to men with whom he was closely connected, "Lucius" did not confront the disparity between the public's assets and its liabilities, nor could he produce more than innuendo to support his suggestion that Morris's wealth was ill-gotten. Morris knew the contractors in his network well enough, however, to be certain that they would cut off supplies to the army as soon as the prospect of timely payment vanished, in part because they considered their contracts as business deals and not as friendly favors or patriotic almsgiving, in part because they themselves would be unable to obtain the necessary provisions.

Within days, circumstances changed the complexion of Morris's dramatic resignation. News of the signing of the provisional peace treaty and of the officers' near mutiny at Main Army headquarters in Newburgh, New York, both reached Philadelphia on March 12. Even though the Newburgh affair made it plain that the financial crisis was still very real and severe, the advent of peace made some members of Congress eager to be rid of the Financier. They could not, however, find a way to satisfy the army's demands without his services. After tense negotiations, an uncomfortable accommodation was reached which left Morris in office but reduced the scope of his responsibilities to providing a modicum of disbandment pay for the army and satisfying debts he had contracted during his administration.²⁹

Morris's caretaker status opened the door for him to return to private commerce and he was eager to do so. One of the prospects which had long captured Holker's imagination was the China trade—teas and silks had been in short supply since the rupture with Great Britain. The cost

29. On RM's resignation and the accommodation subsequently reached with Congress, see *PRM*, VII, 361-371; 462-474, 767-781. For the "Lucius" essays, see *PRM*, VII, 501-507, 559-561, 666-668, 685-688, 744-746. For the republican critique of wealth and luxury, see Crowley, *This Sheba, Self*, 77-80. On the Newburgh affair, and for an examination of the charges that Robert and Gouverneur Morris had consciously "laid the groundwork" for it, see *PRM*, VII: 412-420, 592-593; and Richard H. Kohn, "The Inside History of the Newburgh Conspiracy: America and the Coup d'Etat," *WMQ*, 3d ser., XXVII (1970), 187-220.

of a ship and an outbound cargo, much of which had to be silver, was prohibitive. Holker and Duer had discussed a venture with Morris in 1780, but Morris argued then that there was not enough "cabbage" at hand to keep the "pot boiling." The matter was dropped until the summer of 1783 when Morris agreed with Holker, Duer, and Parker on a China project. The *Empress of China* left New York harbor for Canton on February 22, 1784. Morris owned one half of the venture; Duer, Parker, and Holker owned the other.³⁰ Profits on the army contracts and for goods issued to the army in lieu of pay supplied some of the capital they contributed to the voyage.³¹

The army crisis of 1783 and the China voyage absorbed the energies of both Holker and Morris, but ministerial pressure on Holker to return to France to settle his accounts mounted all the while. Vergennes bought time for him on the orders to come home by telling Finance Minister Charles Alexandre de Calonne that he had sent Holker to America "in very difficult times and in very delicate circumstances" and implying that he would need extra time to resolve the intricate affairs entrusted to him.³² Morris had delayed acting on a friendly but "very pressing" letter from Holker of January 4, 1783, which asked for "the most particular favor you Can Confer on me"—speedy settlement of Holker's accounts with the royal marine during the period of Morris's "agency" and Morris's help in finalizing the royal marine accounts with the United States. Without a settlement, Holker said, he was "daily held up as a public defaulter, a Character too odious to be Supported by any man of principle or feeling." Morris promised to give the accounts full attention as soon as Holker's other related affairs were settled. In March, he gave Holker draft accounts, vouchers and related papers.³³

30. On the China venture, see *PRM*, VIII, 326, 384-385, 442, 597, 857-882; RM to Duer, September 17, 1780, Duer Papers, NH; and Mary A. Y. Gallagher, "Charting a New Course for the China Trade: The Late Eighteenth-Century American Model," *The American Neptune*, Vol. 57, no. 3 (1997), 201-217.

31. The firm also held contracts to supply posts in New England and to transport troops from the southern army back to the Chesapeake. It also contracted to supply flour to British forces in New York and Nova Scotia. On these contracts, see *PRM*, VII, 212, VIII, 82-86, 159n.-160n. When Morris was unable to provide the army with its January 1783 pay in cash, and when notes for the pay for February through April did not reach the main army before it disbanded, the firm issued pay in goods in exchange for the pay notes. Holker and Daniel Parker also speculated in the pay notes on behalf of Le Couteux and Company. See *PRM*, VII, 334-335, 340n., VIII, 46-47, 52n.-53n., 387-397, 751, 753n.

32. See Vergennes to Calonne, December 24, 1783, *Correspondance politique, Etats-Unis*, XXVI, 222, AMAE.

33. See *PRM*, VII, 275, IX, 411-412.

Holker held these business records until November 1783.³⁴ Although Morris was unaware of it, Holker had apparently decided to explain the enormous losses all his clients had suffered by pretending that Morris had abused his uncritical, misplaced trust in him. Morris was preoccupied with covering thousands of dollars he had issued in army pay notes and did not discover until January 1784 that Holker had retained the original vouchers and returned only "very incorrect Copies" of the accounts to him. When Holker charged Morris with postponing a final settlement because he was heavily in debt to the king, to Holker, and to Turnbull, Marmie and Company, Morris, he said, leapt about his office "like a pasched pea," and retorted that Holker's claim was "impossible."³⁵

On January 6, 1784, Morris presented Holker with the accounts between the American government and the French Marine: they showed a balance owed to the United States of approximately \$61,000. Soon thereafter, Holker told Morris that La Luzerne was returning to France and expected to take all Holker's accounts with him. Holker then demanded that Morris restate the accounts he had kept for Holker in a "new form," with precise dates when each transaction occurred. He charged Morris with converting French bills of exchange into Continental currency before the funds were needed, with failure to preserve the value of his clients' assets, with unauthorized speculation with their funds on his private account, and with keeping him in ignorance about his affairs by blending all his accounts into one general account.³⁶ Finally, Holker made it clear that he intended to hold Morris responsible for the depreciation of the funds entrusted to him as "agent." In reply, Morris declared that the "new form" was contrived "to support and establish" Holker's depreciation claim. Morris refused to restate the accounts, citing Holker's instructions to him at the outset of their association which were "to comprehend all the accounts of the Royal Marine" into his own accounts "without regarding whether the business

34. Morris's Diary of November 21 notes that Holker was one of those who had visited the Office of Finance on "their respective Affairs." See *PRM*, VIII, 774.

35. See *PRM*, IX, 116-117, and Holker's notes on RM to Holker, February 26, 1784.

36. In a subsequent statement to the arbitrators, Holker argued that he could not suppose that Morris had not used the proceeds of the bills of exchange for his own purposes and emoluments, but offered in proof only the assertion that nothing would justify Morris keeping the proceeds "unappropriated in his Chest." See John Holker, Memorial on the Subject of Loan Office Certificates . . . Observations Submitted to the attention of the Arbitrators, respecting certain Loan office Certificates Purchased by Mr. R. Morris for account of Divers owners in France, by direction of J. Holker . . . " May, 1784, McAllister Papers, Y12 F19 Lib. Co., PHI.

had been performed by you or me, or by your or my orders.”³⁷ Compliance with the request would have involved huge amounts of paper work and lengthy delays and would have left him vulnerable to new charges that he had misrepresented their relationship.

Morris submitted his accounts to Holker under cover of his letter of February 26, 1784, which reviewed their entire relationship, explained the delay in settling the accounts, Morris’s insistence on rendering them in his own way, and his refusal to allow for depreciation. He reminded Holker that when he had submitted the marine account of 1779, based on the principles Holker now challenged, both Holker and Gérard had endorsed it as “seen, verified and approved.” He claimed that he had never asked Holker for funds unless Holker had directed him to expend them, and stated that he had been as often in advance to Holker as Holker had to him. He offered to settle his accounts with William Turnbull and Company and with Holker for the period *after his agency had ended* “upon principles of Depreciation” and to bring all their affairs to a just conclusion but made it plain that, if Holker pressed his claim for depreciation for the period of his agency, he would have to take his case to court. A few days after the *Empress* sailed, the two men were locked in a bitter dispute which dissolved their partnership and involved their friends, the diplomatic corps, the state of Pennsylvania, and Congress in a series of attempts to determine who was liable for the losses suffered by Holker’s clients.³⁸

Holker decided to press his claims against Morris in court. He sought the counsel and support of Thomas Fitzsimons, a prominent Philadelphia merchant who was representing him in matters relating to the bankruptcy of Daniel Parker and Company and who subsequently served on the first arbitration panel selected to resolve Holker’s dispute with Morris. Fitzsimons and Morris also held each other in great regard. Fitzsimons told Holker that if the court accepted Morris’s state-

37. For key points in the developing antagonism between Holker and Morris, see *PRM*, IX, 10-11, 29, 37-38, 55-58, 100-101, 116-117, and RM to Holker, January 15, and Holker to RM, January 24, 1784 (both *PRM* Microform, forthcoming); and RM to Holker, February 26, 1784. For another statement of Holker’s charges against Morris, see Holker’s memorial on loan office certificates, May, 1784, cited above.

38. See RM to Holker, February 26, 1784; and February 28, 1784, Holker Papers, XXIV, 7487, DLC. The accounts have not been found. On the arrangements proposed for dissolving Turnbull, Marmie and Company and Benjamin Harrison, Jr., and Company, in which the two men were jointly involved, see *PRM*, IX, 205-206, 220-221, 296, 366; and RM to Holker, November 10, 1784, Franklin-Holker Papers, Cty; and Holker to Turnbull, Marmie and Company, April 2, 1784, Holker Papers, XXV, 4870, DLC.

ment that Holker had induced him to serve as agent by offering the "use of large sums of money," Holker's charges would be viewed as "Conjecture." Fitzsimons recognized that Morris had a "vast advantage" since he alone had kept the accounts. He also warned Holker that "uncertainty and delay" commonly attended legal proceedings in Pennsylvania. Holker disregarded this for the moment and initiated five separate suits against Morris in the names of the king, himself, Chaumont, and his other clients to establish that Morris was accountable directly to them and therefore liable for their losses from depreciation. Finally, however, Fitzsimons's wisdom prevailed and Holker proposed arbitration. Morris, convinced that the court would uphold his position, refused to arbitrate the depreciation issue.³⁹

The affair was considered so sensitive that the new Dutch minister, Pieter Johan van Berckel, intervened to persuade Morris to change his mind. Morris finally agreed to submit the dispute to a panel of five eminent Philadelphia merchants (George Clymer, John Nixon, Thomas Fitzsimons, Richard Bache, and Cadwalader Morris), on condition that both his accounts as Holker's "agent" and his accounts with William Turnbull and Company would be included. Morris also demanded that all Holker's suits against him should be withdrawn as he did not want "the most remote Idea to exist" that he was trying to "avoid that public Investigation which . . . is the Object of my Wishes." If there were to be a law suit, he said, it should be "complete and open, not a partial and concealed Trial."⁴⁰ The arbitration dragged out through the summer of 1784, and was bedeviled by conflicts over how the accounts were stated and over control and access to the business records. The battle over reputation seems to have been raised to a higher level as the term of the arbi-

39. See Fitzsimons to Holker, March 25, and [May], 1784, Holker Papers, XXV, 4843, XXVIII, 5513, DLC. On the suits, which were apparently brought some time in April, see *PRM*, IX, 407-419.

The question of depreciation also complicated Morris's accounts with the Secret and Commercial Committees of Congress. On the settlement of these accounts, see *PRM*, IX, 635-636. For another private dispute over depreciation in which Morris was involved, see his letter to John Williams, November 23, 1784, *PRM*, (Mfm, forthcoming). For Congress's attempts to resolve issues related to depreciation in the settlement of public accounts, see *PRM*, VIII, 422n.

40. Spanish chargé d'affaires Francisco Rendón also supported the effort to settle the dispute by arbitration. On Morris's conditions, see *PRM*, IX, 366. For background on commercial arbitration as it was practiced in late eighteenth-century New York, see Eben Moglen, "Commercial Arbitration in the Eighteenth Century: Searching for the Transformation of American Law," *Yale Law Journal* (November, 1983), 135-152. The practice of commercial arbitration in Pennsylvania appears to have operated under similar rules. The author wishes to thank Richard B. Bernstein for providing the Moglen reference.

tration bonds expired. Holker leaked reports from the sessions that Morris considered damaging to his character and, when Morris complained about this, Holker insisted that future sessions should be open to the public, a condition Morris was unlikely to accept.⁴¹ By fall there had been little progress. Holker refused to renew the bonds because he had come to fear that the arbitrators' decision would have no legal standing in France since his clients had had no role in selecting the panel.⁴² He once again sued to establish that Morris was directly responsible to the king and Holker's other clients.

Another round of personnel changes in the French mission influenced the subsequent course of the dispute. La Luzerne had returned to France at the end of June 1784. Morris was concerned about counteracting any bad impression that the minister had taken with him as a result of Holker's efforts to portray his conduct and attitude in an unfavorable light. He wrote a long letter to John Rucker, a new business partner assigned to leave for Europe at the same time, and instructed him to show it to Holker's clients and to the American commissioners in France. In it, Morris reviewed his relationship with Holker, who, he said, hoped to cover his clients' losses at Morris's expense and had provoked a quarrel with him to justify his failure to return home as ordered. Finally, Morris suggested that Holker's problems were born of avarice, which had led him to extend himself "beyond the length of his Tether."

Rucker did not leave for Europe until September. He went to France and showed the letter to Franklin and Jefferson and perhaps to others before settling in London. Morris wrote a similar letter (not found) to Matthew Ridley, a friend to both himself and Holker then resident in

The arbitrators had distinguished careers. Clymer had served in Congress with Morris. Fitzsimons had served in Congress from 1782 to 1783. Bache was Franklin's son-in-law, and served as Postmaster General from 1776 to 1781. Clymer, Nixon, Fitzsimons, and Cadwalader Morris were directors of the Bank of North America, which Morris had established. Clymer and Fitzsimons would be members of the U. S. House of Representatives while Morris served as Senator.

41. See *PRM*, IX, 515-516, and RM to Holker August 10, 1784, (Mfm, forthcoming); Barbé-Marbois to Castries, August 15, 1784, *Affaires Étrangères*, B I 946 (Correspondance consulaire, Philadelphia, II), 155-156, AN; to Vergennes, August 16 and 24, Correspondance politique, *Etats-Unis*, XXVIII, 149-150, 154-159, AMAE.

42. On the decision to terminate the arbitration, see *PRM*, IX, 575-576; Holker to William Duer, October 2, 1784, Duer Papers, NH; Holker to van Berckel, October 25, and to Francisco Rendón, October 26, and Rendón to Holker, October 27, 1784, Franklin-Holker Papers, CtY. For discussions about whether Holker's clients would refuse to accept the arbitrators' verdict and whether five American merchants, all of whom were vulnerable to Morris's influence, could find in favor of Holker, see Barbé-Marbois to Vergennes, August, 16, 1784, Correspondance politique, *Etats-Unis*, XXVIII, 149-150, AMAE; and to Holker, March 1, 1785, Holker Papers, XXIX, 5644, DLC.

France, and asked him to discuss the dispute with the firm of Le Cou-teulx and Company and with John Holker Sr. Ridley reported back that Le Couteulx and Company had not been biased by the quarrel against either man, and that Holker Sr. believed that the dispute had resulted from a misunderstanding. Ridley also assured Morris that there was no evidence that Holker Jr. had attempted to turn anyone in France against him.

Morris's quarrel with Holker did not prevent him from negotiating a tobacco contract with the Farmers General in 1785. It may have contributed to the French decision, made in May 1786, not to renew the contract. The quarrel did, however, lead Spanish chargé d'affaires Francisco Rendón to hint that Morris could not be trusted to refrain from contraband and thereby caution his superiors against entering into a contract with Morris to provision Spanish forces. Rendón recommended instead, that if a contract were to be made, it should be negotiated with a firm with which Holker was connected. Before Morris broke with Holker, Rendón had had comfortable relations with both men.⁴³

François Barbé-Marbois, who had served as La Luzerne's secretary until he replaced Holker as consul general, was appointed French chargé d'affaires. On June 17, 1784, he married Elizabeth Moore, daughter of William Moore, former president of Pennsylvania and a leader of the aggressively patriotic, whiggish, constitutionalist party, so named because its adherents championed Pennsylvania's radical democratic constitution of 1776. Morris was a leader of the rival, more moderate and more oligarchic republican party which favored constitutional revision.⁴⁴ Soon after the wedding, the Morris-Holker dispute was cast into the cauldron of Pennsylvania politics. Holker claimed that Morris was obstructing resolution of the suits against him. He convinced Barbé-Marbois that the king's interests were at stake and enlisted his assistance to speed their process through the courts. On December 1, 1784, Barbé-Marbois asked Congress to urge the states to pass laws which would give primary jurisdiction to their supreme courts in suits over accounts between French officials and their citizens. His involve-

43. See *PRM*, IX, 155, 266-275, 407-419, 519, 599.

44. For an overview of Pennsylvania politics during the period, see Robert L. Brunhouse, *The Counter-Revolution in Pennsylvania: 1776-1790* (Harrisburg, Pa., 1942); and Roland Milton Bauman, "The Democratic-Republicans of Philadelphia: The Origins, 1776-1797" (Ph. D. diss., The Pennsylvania State University, 1970), pp. 14-55.

ment in the dispute was considered partisan and damaged his relationship with the republican party.⁴⁵

Congress sent Barbé-Marbois's letter to the states and recommended that they take appropriate action. Only Pennsylvania did. Other states considered the suggested legislation unconstitutional because it bypassed traditional legal forms and procedures and lessened protection for defendants. The constitutionalist majority in the Pennsylvania legislature ignored objections from Morris and his supporters and provisions in the state constitution which stipulated that a bill could not be approved in the same session in which it was proposed. Constitutionals rushed to pass a bill tailor-made for the Holker-Morris dispute in its spring-1785 session and made it retroactively applicable to suits already in progress.⁴⁶ Their haste was largely motivated by the expectation that the republican party would win a majority in the legislature in the fall election. Holker's lawyers, however, failed to have the suits heard immediately.⁴⁷ The case in the king's name did not come to trial until a few days before the elections of October 11, which gave the republicans a small majority. Morris was one of the republicans elected to the Pennsylvania assembly. On October 15, after a short delibera-

45. See Holker to Barbé-Marbois, [Oct-Nov, 1784], Franklin-Holker Papers, CtY; and Barbé-Marbois to Congress, December 1, 1784, PCC no. 96, 298-302; and JCC, XXVII, 690-691. For his reports on the passage of the legislation and on reaction to his involvement in the case, see Barbé-Marbois to Vergennes, April 5 and 17, 1785, Correspondance politique, Etats-Unis, XXIX, 158-160, 177-178, AMAE.

Barbé-Marbois also repeated to the French ministry Holker's charges that Morris was totally lacking in gratitude toward France and added that Morris would probably take no measures to repay loans the United States had received unless he was compelled to do so. For his comments about repayment of the loans, see PRM, IX, 486-487. The French later came to believe that Morris's attachment to France had been weakened because Barbé-Marbois had taken Holker's part so aggressively, and because Morris's tobacco contract with the Farmers General had been revoked. For the French assessment of the impact on Morris, see the "Liste des Membres et Officiers du Congrès," 1788, Correspondance politique, Etats-Unis, Supplément, 2e Serie, XXV, 314ff., AMAE, printed in Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven and London, 1966), III, 236. For criticisms of Barbé-Marbois, see LDC, XXI, 486; and "Union" to Vergennes, August 20, 1785, Correspondance politique, Etats-Unis, XXX, 230, AMAE.

46. See "An Act to enable the Agent or Agents of his most Christian Majesty to sue for and recover in a more speedy way any Debt or demand that may be due to them in this State," *Statutes PA.*, XI, 542-545. The act was also published in the *Pennsylvania Journal*, April 6, 1785, with the objections raised by fourteen members of the Assembly as "Dissentient." For Morris's objections, see RM to the Speaker of the Pennsylvania Assembly, March 24 and 28, 1785, and the memorial enclosed in the second letter, Holker Papers, XXV, 4836-4838, DLC.

47. One of the lawyers serving Holker was William Lewis. Morris was represented by Gouverneur Morris and James Wilson. Rebecca Vaughan, a friend of the Morrises, suggested that Holker's lawyers might have failed to get Holker's case heard because they were involved in other cases currently before the court and were scheduled "to go the Circuits" at the end of the present session.

tion, the jury found that Morris was accountable only to Holker, not to the King. The four remaining cases were then dismissed.⁴⁸

Precisely how the verdict related to the election is not known,⁴⁹ but Morris convinced Louis Guillaume Otto, who had replaced Barbé-Marbois as French chargé-d'affaires in August 1785, that it was just. Otto reported to Vergennes that letters from Holker which Morris had introduced into evidence clearly proved Morris's assertions that he had not acted in matters of substance unless explicitly instructed by Holker. Therefore, Otto concluded, Morris could not be held responsible for the depreciation even though he had probably profited immensely from it. Otto rejected Holker's claim that Morris had prevented him from knowing the true state of his affairs and faulted Holker, as had Barbé-Marbois, for having kept no records of his own.⁵⁰ He asserted that Holker had planned his attack on Morris poorly, and made claims so clearly false that it cost him the support of his friends, his case, and the success of his appeal to have the account approved by Gérard and himself in 1779 reopened.⁵¹ Otto wrote his report without talking with Holker, who was then at Fort Pitt, but there is no indication that he thought his conclusions would change if he had.⁵²

Morris and Barbé-Marbois attributed the delay to the "negligence" of a lawyer and "omissions in form." See Vaughan to Catherine Livingston, April 9, 1785, Matthew Ridley Papers, MHi; Morris to Tench Tilghman, July 21, 1785, Robert Morris Papers, NN; Barbé-Marbois to Vergennes, August 11, 1785, Correspondance politique, Etats-Unis, XXX, 210, AMAE; and to Castries, August 9, 1785, Affaires Etrangères, B I 946 (Correspondance consulaire, Philadelphia, II), 160, AN.

48. On the end of the arbitration, the Pennsylvania legislation and reaction to it, and on the elections and the trial, see *PRM*, IX, 597-609. On the verdict, see RM to Tench Tilghman, October 17, 1785, Robert Morris Papers, NN; and Barbara Vaughan to Catherine Livingston, October 25, 1785, Ridley Papers, MHi.

49. For comments on the Court's independence of the legislature, see G. S. Rowe, "Judicial Tyrant and Vox Populi: Pennsylvanians View Their State Supreme Court, 1777-1799," *PMHB*, January/April 1994, Nos. 1/2, 36; and on Chief Justice Thomas McKean's and Justice George Bryan's ambition-driven changes in political allegiance, see Rowe, *Embattled Bench: The Pennsylvania Supreme Court and the Forging of a Democratic Society, 1684-1809* (Newark, London and Toronto, 1994), 237-239.

50. See Barbé-Marbois to Castries, August 15, 1784, Affaires Etrangères, B I 946 (Correspondance consulaire, Philadelphia II) 155-156, AN; and to Vergennes, August, 16, 1784, Correspondence politique, Etats-Unis, XXVIII, 149-150, AMAE.

51. Holker argued that the account signed by himself and Gérard was a "very incomplete statement of the then situation of the affairs, committed to my care, during Monsieur Gérard's residence here, which it was proper to let him have, for his information, before his departure for France." See Holker to RM, January 24, 1784, *Holker-Morris Correspondence*, 5-7.

52. See Otto to Vergennes, November 15, 1785, Correspondance politique, Etats-Unis, XXX, 408-411, AMAE.

In 1786, in an apparent attempt to marshall public opinion in his favor, Holker published some of the correspondence he and Morris had exchanged on their dispute, the centerpiece of which was Morris's letter of February 26, with Holker's extended "Observations" on it. By then, a court-appointed panel of referees had already begun to review the Morris-Holker accounts and attempt a final settlement. The panel, John Chaloner, John Steinmetz, John Barclay, Thomas Franklin and Richard Wells (later replaced by James Pemberton) was less distinguished than the previous group of arbitrators and apparently less closely connected to either man. It struggled for several years before deciding, in April 1789, that Holker owed Morris £1,570.12.1 Pennsylvania currency, an amount small enough to suggest, if only from an accountant's narrow perspective, that neither man had suffered greatly at the hands of the other.

The court then took up several other suits brought by Holker. It found for Morris in one of them. The results of the second are not known but it seemed to have marked the end of the struggle between them. Once the first case was settled, Morris asked Gouverneur Morris, his former assistant in the Office of Finance, now in France, to inform Gérard, Castries, and La Luzerne about the verdict. Gouverneur reported back that Gérard had become senile and that France was preoccupied with its own revolution and its officials were not at all interested in discussing an old dispute.⁵³

53. For the court decision and appointment of arbitrators, see Pennsylvania Supreme Court Appearance and Continuance Dockets, September 1785, 338-339; January 1787, 565; and April-September, 1789, 201, PHarH; RM to Tench Tilghman, January 19, 1786, Robert Morris Papers, NN; and Barbé-Marbois to Castries, February 15, 1786, Affaires Etrangères, B I 946 (Correspondance consulaire, Philadelphia, II), 304-305, AN. Chaloner had served as agent of the firm which contracted to supply the French army. Steinmetz had been a leader in the attempt to establish a new bank in Pennsylvania, which Morris opposed. Barclay had had commercial connections with Morris. Thomas Franklin, Richard Wells, and James Pemberton were all Quaker merchants. See *PRM*, IX, 609n.

On the verdict, and French reaction to it, see RM to Alexander Donald, April 9, 1789, PPPMM, to Gouverneur Morris, March 30, 1789, NIC; April 25 and May 15, 1789, Gouverneur Morris Collection, NNC; and Gouverneur Morris to RM, July 21, August 26, and September 1, 1789, Commercial Letterbooks, XXI, 78, 93, Gouverneur Morris Papers, DLC; Pennsylvania Supreme Court Appearance and Continuance Dockets, April-September, 1789, PHarH; and Abraham P. Nasatir and Gary Elwyn Monell, *French Consuls in the United States: A Calendar of their Correspondence in the Archives Nationales* (Washington, D. C., 1967), 110. On the remaining two lawsuits, see RM to Gouverneur Morris, April 4, 1790, Gouverneur Morris Collection, NNC.

Morris was not at the end of his problems with depreciation, however. In the long-postponed settlement of his Secret and Commercial Committee accounts, government auditors held him and his partners liable for \$93,312.63, a substantial portion of which stemmed from charges for depreciation, which Morris "objected to upon principles" that he "thought right, altho. over-ruled by them." Morris suggested further that, although those assigned to settle his accounts "meant Fairness," they "did not truly understand mercantile method and principle."⁵⁴ Whether Morris argued that he had been the government's "agent" and therefore should not be held liable for depreciation is not known, but he failed to make his case. Nor did Morris learn from Holker's mistakes. He might have recalled when he found himself in debtor's prison (1798-1801), that he had criticized Holker for extending himself "beyond the length of his Tether."

Pre-modern states did not have revenue streams reliable and ample enough to compensate the public servants and entrepreneurs they employed, especially during wartime, at a level sufficient to insist that they forego opportunities for private profit which came their way. This was true of France, and even more so of the United States. When the independence movement was in its infancy France used private commerce to funnel aid and to redirect American trade from Britain to France. The alliance took diplomacy from informal to official channels, but it proved impossible to permanently divert American commerce from Great Britain to France, an objective Holker's connection with Morris was designed to foster.

In the Chaumont-Holker arrangements with the French Marine, in Morris's Secret Committee operations, and in his dealings with Holker as Superintendent of Finance, public poverty meant that public business could not be done unless special concessions were made to private entrepreneurs. By temperament, Morris and Holker were attracted to the opportunities for public service and private advancement afforded by the war. Both men lived comfortably for a while on the sharp edge of a speculative sword but eventually perished by it. Holker's political friends were regularly called on to defend his conduct, and he was never able to convince his political enemies that his public service had value to the nation. His activities exceeded the bounds which the French gov-

54. See *PRM*, IX, 630-632, 633-637.

ernment could tolerate: it removed him from public office and it tried to hold him strictly accountable for his management of public funds. Morris served his country brilliantly in a time of great need without neglecting, but not necessarily advancing his own interests. Morris's congressional critics occasionally acknowledged the savings to the public he achieved as Superintendent of Finance but refused to acknowledge public penury, harshly criticized his methods as a public-private entrepreneur, and rushed to dispense with his services even before the need for them was past.

Changes in the French ministry and the vicissitudes of the American economy created a bind from which Holker could not easily escape without espousing the standard of conduct by which his operations were being judged in France and without destroying his relationship with Morris, who was unwilling to forego the profits of his "agency." Both men saw their struggle to settle accounts as a battle for reputation as well as for money. Holker attempted to preserve his good name by charging that a greedy, deceptive, and callous Morris had violated his trust by appropriating his client's assets for his own enterprises and replacing them only after they had depreciated. Morris insisted that he was justified in doing so because he had been offered the use of these funds as a reward for his services; and that he could be held accountable only to Holker and only for his compliance with Holker's explicit orders—not for the wastage of "fruit" stored in his cellar.

After tortuous deliberations, the Philadelphia mercantile community and the Pennsylvania Supreme Court sustained Morris's position. Otto, the French chargé d'affaires, accepted their decision. He and the Pennsylvania merchant-arbitrators who finally settled their accounts seem to have been less sensitive to conflict of interest issues than the impoverished Congress or a republicanized public opinion and more at ease with the realities shaping the new commercial ethic, however much they deviated from the norms of pre-capitalist and revolutionary behavior.

The personal, national, and international importance of the Morris-Holker relationship can hardly be exaggerated. It gave each man entrée into the other's extensive networks. Success of the allies' provisioning operations and of the pioneering venture in the China trade rested on the confluence of their private interests and the public good. The prestige and credit Morris derived from his relationship with Holker added to credentials which made him the leading if not the only candidate for the position of Superintendent of Finance. In this capacity, at great risk

to his own personal fortune and by means his critics often condemned, he used the very sort of financial legerdemain to manage the government's fiscal chaos that his private dealings with Holker display. Without the assets available through Holker and without Morris's un-republican skills and operations, the military effort against Great Britain might well have come to an end before its objectives were achieved.