THE CHEVALIER DE LA LUZERNE AND THE RATIFICATION OF THE ARTICLES OF CONFEDERATION BY MARYLAND, 1780–1781

With Accompanying Documents

I.

As the year 1780 drew to its end, the course of the war for independence gave to Maryland, as to the other states, deep reason for discouragement. In July of that year the French alliance had at last brought military aid in the army led by Rochambeau; but the summer passed without any of the results for which there had been great hope. The disastrous loss of Charleston somewhat earlier, and the rout of Gates at Camden in August were followed in September by Arnold's treason. As against all this, the minor success at King's Mountain could hardly bring much cheer. The winter was to see the mutiny of the Pennsylvania line and Arnold's invasion of Virginia. In Spain, John Jay was begging for an alliance, or, at least, for some money. At Philadelphia the interests of Spain in the matters of the western boundaries and the navigation of the Mississippi were being urged on Congress by the Chevalier de la Luzerne, the minister of France to the United States. The hope that the addition of the Dutch to the enemies of England and the establishment of the Armed Neutrality might offer possibilities of assistance to the American cause was offset by the news of the proposed European mediations which might result in the necessity of accepting something less than complete independence. On the economic side, the utter depreciation of the continental currency had evidenced the financial straits of Congress and the extinction of credit, while the requisitions had come to include requests for payments of the states' quotas in commodities. But schemes were afoot to improve matters at home as well as abroad by giving to Congress more financial power, by establishing the executive side of government upon a basis better than the old committee system, and by bringing to completion the imperfect union under the Articles of Confederation. In December 1780, Congress exhibited a burst of activity. A consul was sent to France, and thither also went John Laurens on a

special mission to secure further aid. Dana, commissioned to Russia, was to assure the Empress of the favorable disposition of the United States toward the Armed Neutrality. John Adams was instructed to make a treaty with Holland. "We seem now," wrote to him a member of Congress, "to be carrying on a war of finance . . . and I do not fear but we shall get the better of our enemies even in this sort of contest."[1]

For Maryland, from the beginning of the war, it had been a serious problem to defend the Chesapeake Bay and its tributary rivers against England's sea power. In 1780, the threatened ravages of the British fleet again gave reason for alarm. During the summer the governor had vainly pressed upon Congress an appeal for protection.[2] In October came Leslie's attack upon Portsmouth in Virginia, and in the following January the invading expedition under Benedict Arnold. The general assembly of Maryland had been called for the seventeenth of October, but the members came in slowly and it was almost November before business could be transacted. In the house of delegates, in connection with resolutions which ultimately evolved into an act for the defense of the bay, it was suggested, November 17, that the state's delegates to Congress should urge La Luzerne to ask the King of France for naval aid in the Chesapeake.[3] Concerning this proposed request the legislative journals give no further light; but in the correspondence of Vergennes, Louis XVI's minister of foreign

[1] Thomas McKean to John Adams, December 18, 1780, E. C. Burnett, ed., *Letters of Members of the Continental Congress* (Washington, 1931), V. 489.

[2] Governor Lee to the delegates to the Congress, July 28, 1780, Papers of the Continental Congress, LXX. 415. The President of Congress, Samuel Huntington, to Governor Lee, Philadelphia, August 10, 1780, *Archives of Maryland,* XLV. 45.

[3] The legislature of Virginia was to be asked to join in the application to the French King. *Votes and Proceedings of the House of Delegates of the State of Maryland, October session, 1780, Being the First Session of this Assembly* (Annapolis [1781]), 24–25. (Hereinafter cited as *V. and P.*; House. A similar abbreviation will be used for the *Votes and Proceedings of the Senate.*) It may be noted that the original manuscript journal of the house of delegates for this session appears to be missing from the file in the Maryland Hall of Records at Annapolis.

The act for the defense of the bay is in *Laws of Maryland,* . . . [October session, 1780] (Annapolis [1781]), chap. XXXIV.

Jenifer and Bruff wrote also to Governor Thomas Jefferson of Virginia, who placed the request in the hands of Speaker Harrison. Thomas Jefferson to Governor Lee, Richmond, January 31, 1781. H. R. McIlwaine, ed., *Official Letters of the Governors of the State of Virginia* (Richmond, 1928), II, 314.

affairs, with the French minister to the United States there is proof that this plan was actually carried out.

Daniel of St. Thomas Jenifer, president of the senate of Maryland since 1777, was also a delegate of the state to Congress. In this capacity he had been known both to Conrad Alexandre Gérard, the first French minister to the United States, and to Gérard's successor, La Luzerne. To both ministers Jenifer had been useful, particularly because he had vigorously and ably supported the French view as to the interests of Spain in the controversy over the boundary and the Mississippi. That Jenifer should be the one to approach the French envoy was, therefore, to be expected.[4] Apparently associating with himself William Bruff, speaker of the lower house, Jenifer, on January 5, 1781, wrote to La Luzerne a letter which, translated into French, was transmitted by La Luzerne to the Comte de Vergennes. Jenifer's letter laid special emphasis on the necessity of maintaining safe navigation in the Chesapeake in order to insure an outlet for the provisions of that region and urged the impossibility of accomplishing this purpose by land transportation. Therefore a French maritime force for the defense of the bay was urgently solicited. In reply La Luzerne assured the Marylanders that the only reason why the late Chevalier de Ternay had not

[4] A brief sketch of the life of Daniel of St. Thomas Jenifer (1723–1790) of Charles County, Maryland, by Miss M. W. Williams, in the *Dictionary of American Biography* (New York, 1933) makes no mention of Jenifer's intimacy with Gérard and with La Luzerne; and on this topic the historians of Maryland in general are silent. But Henri Doniol, in his great work, *Histoire de la Participation de la France a l'établissement des Etats-Unis d'Amérique. . . .* (Paris, Imprimerie Nationale, 1886–1896); and following him E. S. Corwin, in his *French Policy and the American Alliance of 1778* (Princeton, 1916) and P. C. Phillips, in his *The West in the Diplomacy of the American Revolution* (Urbana, 1913) have extracted from the French diplomatic correspondence the evidences of Jenifer's association with the French ministers. These contacts and, in general, the relations between the state of Maryland and the French, in the period of the Revolution and the Confederation, are to be fully developed in the work, "Maryland and France, 1774–1789," of Mother Kathryn Sullivan of the Order of the Sacred Heart.

In September, 1780, when Congress, at the request of John Jay, had under consideration the modification of that minister's instructions in regard to the western boundaries and the Mississippi, Jenifer and Marbois, with assistance from Francesco Rendón, had drawn up an elaborate brief, "Observations on the disputed points in the negotiations between Spain and the United States" the purpose of which was to support the Spanish view. The counter-argument of Madison prevailed. Marbois to Vergennes, no. 91, October 17, 1780, Library of Congress (Stevens) Transcripts. Archives des Affaires Etrangères, Correspondence Politique, Etats-Unis, XIV. (Hereinafter this series will be cited as C. P. E. U.) A copy of the Jenifer-Marbois "Observations," mentioned above, was made for the author through the kindness of the officials of the Canadian Archives.

sent aid was the superiority of the British naval power on the coast. He promised that De Ternay's successor, Des Touches, would do all in his power to prove the sincerity of the King's interest in all the thirteen colonies. But as to practical measures La Luzerne was discouragingly cautious in committing himself, only recommending, indeed, that Maryland should take on itself the measures to defeat the enemy.

Had La Luzerne stopped with these generalities there would have been no occasion for recalling the letter. But in another paragraph the French minister, boldly taking up a most dangerous and contentious theme, rather sharply pressed upon Maryland the ratification of the Articles of Confederation:

> We are led to hope, gentlemen, that the winter will not come to an end without the accession of your state to the confederation. This resolution is so fitting to endow with some energy the activities of the thirteen states, to strengthen their union, and to destroy the shadow of hope which the English may retain of sowing division between us, that all good citizens can see only with satisfaction that the obstacles which have hitherto stood in the way of this accession have been at last removed.[5]

On January 31, exactly three weeks after his letter to Jenifer, La Luzerne informed Vergennes that he had just heard that Maryland was on the point of acceding to the Articles of Confederation. In a postscript set down in haste, he wrote that "Mr Jennike"—as he or his scribe on this occasion spelled Jenifer's name—the president of the senate of Maryland, had advised him that the lower house of that state had voted for accession to the Confederation by 33 for to 7 against, and that he had the greatest hope that the senate would likewise agree and thus the great work would be completed. La Luzerne added that Congress had just received the same news, and the secretary of that body had come to tell him.[6]

In writing to Jenifer the letter of January 10, with the hint that Maryland should ratify the Articles, La Luzerne had acted without specific instructions in respect to a constitutional issue of American origin that was one of the most vigorously contested of domestic matters. He seems to have felt that his interference must be explained to

[5] See Document I accompanying this article. This letter of Jenifer, and La Luzerne's reply, inclosures in La Luzerne's despatch to Vergennes, of February 2, 1781, were not originally copied for the Transcripts of Henry Stevens, but have since been added to that series, C. P. E. U., XV. Through the courtesy of Mr. W. G. Leland, a copy of these inclosures was secured for the writer several years ago, from the original in the Archives.

[6] La Luzerne to Vergennes, no 119, January 31, 1781, C. P. E. U., XV. This is reproduced as Document II, below, from the Stevens Transcripts, Library of Congress.

Vergennes, for now, in a despatch which was dated February 2, but which evidently was held several days and expanded, he proceeded at great length to give an account of the situation and to defend his course.[7]

La Luzerne began with charging to English intrigue much of the blame for Maryland's delay in acceding to the Confederation. There followed a lengthy narrative of the development of Maryland's attitude on the question of the back lands, of the action of Congress, and of the offers of cession by New York, Connecticut, and Virginia. Congress, he continued, urged the states to surrender to them (the United States) a portion of their claims, to put them in possession of a fund intended "for the compensation of the soldiers, to take the place of surety for loans which Congress might be in the way of making, and for *facilitating their negotiations.*" The phrase which he thus underscored La Luzerne explained by the remark: "This last point, relative to the demands of Spain, was kept very secret."

The minister proceeded to a lengthy indictment of Virginia, which, maintaining claims based on an obscure charter, had opened an office for the sale of lands and thereby had drained its resources so that for three years it had done nothing comparable to its effort at the beginning. Some southern states declared that Virginia, by its obstinacy and cupidity, was solely responsible for blocking the resolutions which had been proposed for the entire satisfaction of Spain.

La Luzerne thus came to the events of the immediate past. "Pressed on every side," Virginia had at last decided to cede to Congress the lands on the right of the Ohio, "the same lands which were in part the cause of the last war between France and England." About the end of last year this was communicated to Maryland, but the expected accession of the state was defeated by a vote of thirty-four to six in the lower house and a nearly similar proportion in the senate. La Luzerne did not know, he said, what means were used by the opposition, but he did know that the party which supported the accession established it as a fact that the King desired the accomplishment of the Confederation, and those who fought it maintained that the King did not wish it. The hostile vote disturbed Congress, and the project of confederating nine states was revived, with liberty to the others to accede thereto. Eight had already consented, but this division, it was seen, would

[7] La Luzerne to Vergennes, no 121, February 2, 1781, C. P. E. U., XV. This is reproduced as Document III, below, from the Stevens Transcripts, Library of Congress.

allow the enemy to introduce disunion among the states, and moreover would have rather the air of desertion of the southern states, which were now invaded and unable to accede to this partial confederation, and would think themselves abandoned. The effort had been made to argue that the French were opposed to the completion of the Confederation. This, La Luzerne declared, was false, for he had always urged the delegates of Maryland to use their influence for the accession of their state. But Maryland had not been represented for several months, and he had been unable to renew his appeals.

At this juncture, La Luzerne said, he received a letter from the president of the senate and the speaker of the house of delegates of Maryland. The former of these he knew to be hostile to Maryland's accession; the latter, favorable. He considered the advantages and disadvantages to France of Maryland's ratification,[8] and basing his action on the instructions given him to maintain the union of the states he decided to write to Maryland, though the letter which he had received bore no relation to the Confederation.

In La Luzerne's opinion his letter produced the desired effect. The Maryland assembly, seeing that the French desired the completion of the Confederation, at once made La Luzerne's letter the basis for their deliberations, and the lower house voted for accession by thirty-three votes to seven. In the senate, the majority was less marked. At this time they were expecting the delegates who would come to give their signatures to the Articles of Confederation. He hoped that the King would be satisfied by this testimony to his influence which had been announced in the resolution of the Maryland assembly. Both Congress and the citizens rejoiced at it and England would see the difficulty of separating the allies. In a postscript La Luzerne noted the arrival of the delegates, who had given him a copy of the act of ratification. He noted the assembly's reservation, however, that no state was to be bound by the pretension of any other to the western land.

In all this was La Luzerne telling the truth, or was he exaggerating

[8] The question whether it would be for France's gain or loss if the Articles should go into full effect La Luzerne took up with a perfectly cold and realistic calculation. The problem was an old and complicated one, which harked back to the doubt that had been felt as to the sufficiency of the ratification of the treaties of 1778 by Congress. The general subject of the opinions of the French ministers concerning the union under the Articles of Confederation I hope to discuss fully at a later time.

the importance of his own influence? One point in his favor may be cited immediately: he received the entire approval of Vergennes, who, after the receipt of his minister's despatch, wrote to him:

> You grasped perfectly, Monsieur, the spirit of the King's policy, and his opinion as to the government of the United States, in supposing that we not only do not fear at all the closer union of these same states but even desire it: and his Majesty with his councillors have greatly applauded the step which you took to bring to an end the irresolution of the Marylanders.[9]

But possibly Vergennes was too quickly accepting the narrative of La Luzerne. In the latter's long and interesting despatch, there is evident an absence of exact chronology that is puzzling. Moreover, some discrepancies appear. The *Votes and Proceedings* of the senate and of the house of delegates of Maryland are silent as to the first and adverse vote mentioned by the minister. The *Journals* of Congress reveal no action at this time looking to the exclusion of Maryland.[10] Jenifer's attitude, as reported by La Luzerne January 31, is inconsistent with that ascribed to him in the despatch of February 2. It will be necessary, therefore, to regard La Luzerne's account with a degree of criticism. The first step to be taken to this end will be of necessity a rapid review of the situation, in 1780, of the long-standing controversy concerning the back lands and the Confederation, in which, from the beginning, Maryland had borne a leading part.

II.

"There now only remains Maryland who you know has seldom done anything with good grace. She has always been a froward hussey." Thus wrote a New Hampshire delegate in February, 1779, evidently

[9] Vergennes to La Luzerne, Versailles, no 19, June 30, 1781, C. P. E. U., XVII. The passage quoted is printed in Doniol, *op. cit.*, IV. 595–6 footnote. It will be noted that Doniol, while citing the approval of the French government, failed to observe La Luzerne's *démarche* in writing to Jenifer, which elicited that approval. In later correspondence La Luzerne more than once assumed as a fact that Maryland in ratifying had yielded to French persuasion.

[10] But (1) in view of the long delay on the part of the Assembly of Maryland in this matter, described below, it may be possible that there was some informal counting of heads that was reported to La Luzerne: (2) Marbois in October reported that ten states had resolved on a permanent Confederation with the liberty to the others to give their accession later, Marbois to Vergennes, no. 93, October 24, 1780, C. P. E. U., XIV: (3) Congress in December received a report, in John Sullivan's hand, in which Maryland was thus threatened. *Journals of the Continental Congress, 1774–1789* (Library of Congress edition, Washington 1904– , hereinafter cited as *J. C. C.*), XVIII. 1158, December 18, 1780. As John Sullivan was said by La Luzerne to be in his pay it is easy to discern the source of La Luzerne's information.

voicing a feeling of resentment against Maryland, no doubt on account of the slowness of that state in moving towards independence and its greater dilatoriness in the matter of the Confederation. In truth Maryland had come to occupy a position of distinct isolation. All the other states, including those described as "limited" and those that were "small," had ratified the Articles of Confederation, although in Congress the controversy over the desired cessions on the part of the claimant states and over the disposition of such lands when ceded continued, together with the Vermont controversy, to hold a foremost place. There were two major pressures—the one related closely to the other—that on the claimant states to cede their lands and that on Maryland to ratify the Articles. A third force, thoroughly selfish in origin, at times powerfully affected those just mentioned. This was the influence exerted by the speculative land companies of the pre-Revolutionary era, in particular the Vandalia, the Indiana, and the Illinois-Wabash companies. Before the Virginia assembly and upon Congress the representatives of these land companies indefatigably pressed their claims. These claims rested largely on purchases from the Indian tribes, the validity of which, as a source of title, the Virginians steadfastly denied. As to Congress, the Articles as finally adopted in 1777 gave that body no jurisdiction in this matter, and although the companies appear to have influenced some of its decisions, Congress in this period carefully avoided any direct recognition of their claims. Thus was avoided the precipitation of a violent conflict among the states.[11]

Despite threats made in Congress by Virginia and by Connecticut in May 1779, suggesting that the Confederation might be completed without Maryland, that state stood firmly on its well-known "de-

[11] William Whipple to Josiah Bartlett, Philadelphia, February 7, 1779, Burnett, *op. cit.*, IV. 60.

For an excellent summary of the movement which resulted in Maryland's ratification of the Articles of Confederation, see Burnett, *op. cit.*, V. introduction, xxxviii–xliii. A recent article by Merrill Jensen, "The Cession of the Old Northwest," *Mississippi Valley Historical Review*, XXIII (1936), 27–48, stresses, perhaps unduly, the influence of the land companies. These recent writings, as well as the older works, H. B. Adams, *Maryland's Influence upon Land Cessions to the United States* (Baltimore, 1885); B. A. Hinsdale, *The Old Northwest* (Revised edition, New York, 1899); B. W. Bond, Jr., *State Government in Maryland* (Baltimore, 1905), fail to bring out the influence of La Luzerne. But Joseph Blunt, in his valuable but rarely noticed work, *Historical Sketch of the Formation of the Confederacy* (New York, 1825), refers (p. 75) to "the urgent remonstrances of the French minister."

claration" and "instructions" of December 18, 1778. Congress, after receiving memorials from the land companies, on October 30, 1779, requested that Virginia should close its land office for the sale of western lands, and that none of the states should make further land grants during the war. This was met with Virginia's famous "remonstrance" of December 14, 1779, read in Congress April 28, 1780. But in that same document Virginia intimated a willingness to consider any reasonable proposition for removing the ostensible cause of delay to the complete ratification of the Confederation.

Henceforward there was greater hope that cessions might actually be made and the Confederation completed. The next step was taken by New York which, having already presented to Congress, March 7, 1780, an offer of cession, was now ready to convert others. Congress created a committee at whose head was James Duane of New York, a steadfast believer in the need for perfecting the Confederation. As a result of the work of this committee, Congress on September 6, resolved to send to all the states copies of the Maryland "instructions," the Virginia "remonstrance," and the New York offer of cession. Congress invited the claimant states to follow New York's example and urged Maryland to empower its delegates to ratify the Articles. Immediately the Virginia delegates presented a set of conditions to be established if such cessions were made. All were accepted but one opposed by the speculators, that which would void all private purchases from the Indians; and another which would reimburse Virginia for the cost of the civil government which had been maintained in the western country. The remaining resolutions, adopted October 10, and like those of September 6 sent to the states, declared the intentions of Congress with regard to the administration of the lands that might be ceded and planned for the establishment of new states. James Madison and Joseph Jones, of the Virginia delegates, now urged upon their legislature the wisdom of a cession, but with caution as to the necessity of explicit conditions. On January 2, 1781, at the very end of the assembly's term, that body followed their advice and made an offer of cession. Among the conditions clearly laid down in the offer was the annulling of all private purchases from the Indians.[12]

We are thus brought to the Maryland assembly of 1780–1781.

[12] *J. C. C.*, XVII. 806–808; XVIII. 815–816, 828, 836, 862, 868, 915–916, 922; Burnett, *op. cit.*, V. index, *s. v.* "Virginia." For important documents, see W. W. Hening, *Statutes at Large* (New York, Philadelphia and Richmond, 1809–1828), X. 548–567.

Almost immediately after the houses were organized, reports of the Congressional actions of September 6 and October 10, with reference to the back lands and the Confederation, were laid before the house of delegates and November 22 was set for the consideration of these matters. A joint committee[13] was established to draft the instructions for the Maryland delegates "on that important subject," and also on the proposed enlargement of the powers of Congress. But while the problem of defense and that of adjusting the financial relations of the state with Congress kept to the fore, and the long standing dispute over the bill for the confiscation of Loyalist property continued, the committee which had in charge the instructions did not report; nor do the journals record at this time any hostile vote upon the question of the ratification of the Articles by Maryland such as that which La Luzerne mentioned in his despatch.

At the beginning of December, there appeared in the house of delegates Thomas Johnson, Maryland's stalwart war governor. He had been out of public office for more than a year but now returned to the house through a special election occasioned by the resignation of a member. Johnson threw himself actively into the work of the session and was speedily added to the membership of several committees, among which was this important committee on the instructions for the delegates in Congress concerning the Articles of Confederation.[14] Nevertheless, despite the news that Connecticut had made an offer of cession, December also passed without action by the house.[15]

Reports of Virginia's offer of cession must have reached Annapolis in a day or two, and in all probability advance information that such

[13] *V. and P.;* House, 28–29, November 22. The House Committee was made up of Hall, Scott, Chase, Potts, and Cadwalader. November 29, the Senate announced Tilghman, Carroll of Carrollton and Stone as their members of this committee, *V. and P.;* House, 38.

[14] *V. and P.*; House, 42, December 2, 1780. On December 7, Johnson was appointed to the committee to draft the instructions, *V. and P.*; House, 45. Edward S. Delaplaine in his useful *Life of Thomas Johnson* (New York, 1927), 357 ff., gives the impression that Johnson initiated the important measures of the session: but, as has been stated above, the matter of the Confederation had been taken up and the joint committee established long before Johnson entered the house.

[15] The letter of George Plater, at this time one of Maryland's delegates to Congress, dated at Philadelphia, December 5, in which he reported the Connecticut offer of cession, reached the house of delegates December 14, *V. and P.*; House, 51. For the Connecticut resolution, see C. J. Hoadly, ed., *Public Records of the State of Connecticut* (Hartford, 1922), III. 177–178. For this and several other versions of this resolution I am indebted to Mr. Julian P. Boyd.

action would be taken had been received previously. Soon came the information that Arnold was in the lower part of the bay, and the house considered the removal of the state archives from Annapolis to a safer place.[16] Concerning the matter of the Confederation the journals remain silent until January 18, when this topic was made the order of the day for the twentieth.[17] On that day, nearly two months after the house of delegates had first taken up the matter of these instructions, and, let us also note, less than two weeks after La Luzerne had written his letter, the house of delegates adopted resolutions to the effect that Maryland, with the other states, was interested in the soil and government of the back country, the proceeds of which ought to be a common stock; the western country should be made into free and independent governments and, as new states, received into the union on terms of equality. Maryland, moreover, would continue to exert itself to the common end, agreeable to the faith pledged to the union, if no formal confederation should take place.

This was strongly reminiscent of Maryland's consistent position up to this time. But to these resolutions there was now added one which was entirely new. This stressed the necessity for ratifying the Articles of Confederation on the grounds that "it is said that the common enemy are encouraged to hope that the union may be dissolved, unless this state confederates . . . , and that our friends and illustrious ally are impressed with an idea that the common cause would be promoted by this state formally acceding to the confederation." Therefore, "from an earnest desire to conciliate the affection of the sister states, to convince our illustrious ally of an unalterable resolution to support the independence of the United States and the alliance with his Most Christian Majesty, and to destroy forever any apprehension of our friends or hopes in our enemies, of this state being again united to Great Britain," it was resolved that the state now accede to the Confederation, although with reservations as to its right to the back country, and with a denial of the "guarantee by any article or clause in the said confederation, of the jurisdiction of any state over the said back lands or the inhabitants thereof."

[16] On the news of Arnold's coming to Virginia, a circular was sent out, January 11, to the county lieutenants of Maryland, *Archives of Maryland* (Baltimore, 1927), XLV. 270. On January 13, the house considered an order to pack up the state records and to remove them to safety to Upper Marlborough or Elk Ridge, *V. and P.*; House, 87.

[17] *Ibid.*, 92.

On this the yeas and nays were called for, and the resulting vote brought the passage of the resolution by thirty-three to seven.[18] It is not unwarrantable to suppose that Thomas Johnson had been influential in securing the passage of this resolution, for, when it was ordered that a bill be brought in "upon the said resolution," Johnson was named first among those who were to draw up the bill. Just a week later, January 27, Johnson introduced his bill to empower the state's delegates to subscribe and ratify the Confederation, which was read the first and second time by special order and passed by a vote of thirty-eight to eight.[19]

The next day, January 28, both houses sat. When Johnson's bill had been read in the senate the first and second time by special order, it was *carried in the negative*. There were nine senators present and voting. Four—the well known leaders Plater, Carroll of Carrollton, Henry and Stone—voted for the bill. Against it were four lesser men, but with them was joined the president of the senate, Daniel of St. Thomas Jenifer. Before the day was over the house of delegates, informed of the senate's action, had assigned to Johnson, Chase and Fitzhugh, the task of drafting a message to ask the senate to reconsider its vote.[20] Johnson's draft, accepted by the house, ably presented an argument for confederating. It declared that Maryland, by acceding, would not damage the position it had taken regarding the back lands, but that, on the contrary, obstinacy might be harmful. Once more in plain terms it was argued that the accession of Maryland "will, in all probability, spread confidence and satisfaction amongst the states, gratify the wish of our illustrious ally, and may make us to be considered by our enemy, and all Europe as one firm cemented body,"—the good results of which might, among other things, "invite his Most Catholic Majesty and other European powers to a connection with us." On Tuesday, January 30, the senate reversed its former action, and passed the bill.[21]

[18] *Ibid.*, 94; J. T. Scharf, *History of Maryland* (Baltimore, 1879), II. 474–475. Delaplaine, *op. cit.*, 366–367, prints these resolutions with some difference in capitalization from that of the *Votes and Proceedings*.

[19] *V. and P.*; House, 102–103, January 27.

[20] *V. and P.*; Senate, 38–39; *V. and P.*; House, 104–105, January 28.

[21] *Ibid.*, 106–107, 109; *V. and P.*; Senate, 42. As the printed *Votes and Proceedings* of this session is a relatively rare volume, important excerpts therefrom are printed below as Document V.

The *Votes and Proceedings* of the senate do not present any listing of the yeas and nays, but an examination of the record of attendance at this time is enlightening. On Monday, January 29, "The Hon. Daniel of St. Thomas Jenifer, Esq., being indisposed and unable to attend," George Plater was chosen to preside. The journal for Tuesday, January 30, reads, "present as yesterday." But in the course of the day there arrived another senator, B. T. B. Worthington.[22] It is apparent, therefore, that it was the absence of Jenifer which made possible the reversal of the vote. In view of Jenifer's prominence it can hardly be doubted that he could have caused at least a postponement of the matter if he had so wished. It seems reasonable, therefore, to conclude that Jenifer deliberately absented himself, unwilling to run counter to the opinion of Johnson and the vast majority in the house, yet desiring to maintain to the end the consistency of his own position, which had been, of course, constantly hostile to the ratification by Maryland of the Articles until the question of the back lands should have been settled.[23]

To the victorious house the senate sent a message couched in most courteous terms. This frankly stated that the senate thought the position of Maryland as to western lands could be better maintained outside the proposed Articles than under them: nevertheless the senate would yield to the argument of the house, with the promise that if there were ill effects the senate would assume equal responsibility therefor. With the signature of the governor, February 2, the bill became law.[24]

[22] *Ibid.*, 39, January 29; *Ibid.*, 41, January 30.

[23] Very interesting as revealing Jenifer's position several months before this date is the following paragraph in a letter which Jenifer wrote to Thomas Johnson from Philadelphia, May 9, 1779. "I wish with all my heart that we had an Executive; and agree with you in opinion that the want of it is a strong reason for entering into some kind of confederation or other. But it has always hurt me, to think of confederating on terms that would not be lasting. I believe that Congress are now more disposed to explain the Confederation than it was some time ago. The necessity of its being done has opened the eyes of some of the Congress. But at present Business of greater importance takes up all our time. God grant us Wisdom to determine with that Judgment and precision w'ch the grand object requires, we should do." Quoted with permission from Burnett, *op. cit.*, IV. 203.

[24] For the text of this message see Document V, below. The act is in *Laws of Maryland* . . . [October session, 1780], chap. XL; also in *J. C. C.*, XIX, 138–140. The act was stronger than the report in regard to the reservations made by the state, using the phrase "exclusive claim."

Now that the act had been passed it remained only for the assembly to arrange for the preparation of new instructions for the delegates in Congress. This again was placed in the able hands of Thomas Johnson and, once more, foreign as well as domestic considerations were cited as reasons for Maryland's accession. Johnson referred to the assembly as "having grounds to believe that our accession to the Confederation will be acceptable to our illustrious ally, give satisfaction to his Catholic Majesty, and probably be the means of negotiating loans in Europe. . . ." The instructions, which included one whereby the delegates were authorized to vote for yielding the navigation of the Mississippi to Spain, were adopted by both houses on February 2, the day that closed this session of the assembly.[25]

Meanwhile in Congress there had been read on January 29, the official letter from Governor Thomas Jefferson of Virginia, dated January 17, by which Congress was notified of the Virginia offer of cession.[26] On that same day several members of Congress not only reported that news to their correspondents, but also communicated the statement that, as one of these writers put it, "Maryland confederates."[27] This report was premature, by reason of the delay in the Maryland senate to which reference has been made.

It was not until February 12 that Daniel Carroll arrived in Philadelphia from Annapolis with a certified copy of the act to empower the delegates of Maryland to subscribe and ratify the Articles of Confederation.[28] On February 22, John Hanson, a second delegate, took his seat, whereupon "Thursday next" March 1, was assigned "for compleating the Confederation."[29] Of the formal proceedings which

[25] *V. and P.*; Senate, 49–50; *V. and P.*; House, 117–119. The significant parts of the instructions are reproduced in Document V.

[26] *J. C. C.*, XIX. 96. Two days later, January 31, was read the resolution adopted by the legislature of the state of Connecticut in the preceding October, whereby Connecticut offered a partial cession of its western lands. This, together with the similar resolutions of New York and of Virginia, was referred to a new committee of seven, of which the members were John Witherspoon, James Duane, Jesse Root, Samuel Adams, John Sullivan, Thomas Burke, and George Walton. *Ibid.*, 99–100.

[27] James Lovell to Samuel Holten, January 23 [29], 1781, Burnett, *op. cit.*, V. 542. In the text of the same volume (pp. 546 ff.) Burnett includes several letters (nos. 622–629), for the most part written on January 29 and January 30, in which the news of Maryland's accession is mentioned. It was just at this time, as was pointed out above, that La Luzerne reported to Vergennes.

[28] *J. C. C.*, XIX. 138–140.

[29] *Ibid.*, 185–186.

took place on March 1 the newspapers gave accounts, as did some of the delegates in diaries and in letters.[30] But of chief interest to us is the despatch dated the following day, March 2, in which La Luzerne reported to Vergennes that the accomplishment of the completion of the confederation after three years and a half of delay had caused universal joy, and that all who had preliminary knowledge of it seemed disposed to give to it all the efficacy possible. Congress celebrated the event with a public dinner; the colors of the thirteen states were displayed, the cannon of the city and the port were discharged again and again. All the bells rang and the day closed with fireworks.[31]

The queries propounded at the beginning of this section may now be answered. Although La Luzerne's account appears to be inaccurate, the archives of Maryland amply confirm his statement that it was his communication which brought about the assent of the Maryland assembly to the Articles of Confederation. It is clear: (1) that the question of ratification came up early in the session; (2) that although this was referred to a committee long before Thomas Johnson took his seat, no action was taken (unless a report of it was suppressed) until several days after Johnson appeared; (3) that the *Votes and Proceedings* do not mention either the action of Virginia or the receipt of La Luzerne's letter of January 10, but that shortly after the sending of that letter the assembly under Johnson's leadership distinctly emphasized, as the compelling reason for the assent which it now gave, the wishes of the French. If further corroboration were needed it would be found in the testimony of Daniel of St. Thomas Jenifer himself, an opponent to the measure of accession; for, several months later, he wrote, not without insight, to a friend:

> Our great Estate as you call it remains in the same situation as it did before the Confederation, indeed I think in a much worse. The adoption of that measure after holding out so long will I fear be productive of many ills, but

[30] *Ibid.*, 208–232, 234; Burnett, *op. cit.*, V. 1–10, and Preface, iv–v.

[31] La Luzerne to Vergennes, no. 124, March 2, 1781, C. P. E. U., XV. The essential paragraphs are printed as Document IV, below. Among the letters of Rendón, who, at the time, was representing the interests of Spain, is one written from Philadelphia, March 5, with which he enclosed a newspaper account of the celebration of the Confederation, A. G. I., Seville, Audiencia de Sto Domingo 87–1–18, Transcripts, Library of Congress. While the action of the assembly in authorizing the ratification of the Articles had drawn no comment from the *Maryland Gazette*, that paper (March 22) gave some space to an account of the celebration in Philadelphia, March 1.

not one good consequence to our State, *nor do I believe that our Ally ever hinted to his Minister that the accession of Maryland was a desirable event to him.*[32]

This revelation of the pressure brought to bear by the French minister does not in the least detract from the importance of those

[32] Daniel of St. Thomas Jenifer to John Hall, Philadelphia, July 24, 1781, Burnett, *op. cit.*, VI. 155. The italics are mine.

In marked contrast with this strong dissent of Jenifer the course of Thomas Johnson, supported as he was, in the house of delegates by Samuel Chase, and in the senate by Charles Carroll of Carrollton, invites a more extended comment.

When Maryland had urged that the back lands, if ceded, should constitute a "common fund," an exception had been made as to lands which at the beginning of the Revolution had already been granted to or purchased by individuals. Seizing upon this exception, George Mason had pointed out to his fellow Virginians that Thomas Johnson had been associated with Lord Dunmore and with others equally hated in Virginia in the purchase made in the western country by William Murray's Wabash Company. K. M. Rowland, *Life of George Mason* (New York, 1892), I. 321. The nullifying of any titles acquired by such purchases from the Indians became a *sine qua non* of Virginia's defense of her rights.

Thomas Johnson, at the very time that he was leading the fight to secure Maryland's ratification of the Articles, was still possessed of one and a half shares in the Illinois-Wabash Company, which represented the union of two earlier groups of speculators. Samuel Chase owned one share and Charles Carroll of Carrollton a half a share. Citizens of Maryland, including the three just named, owned a little under fourteen shares out of a total of forty-six, H. S. P., James Wilson Papers, X. 100. (For direction to this document I am indebted to a footnote in Mr. Jensen's article, cited above). Among the shareholders the name of Jenifer does not appear, but he was fully acquainted with this stockholding group, and wrote to one of them that he estimated the value of two shares to be £500 or £600 sterling. He also thought that Charles Carroll would sell if he could get principal and interest on the money he had advanced. Jenifer to Robert Christie, Annapolis, March 18, 1779, H. S. P., Dreer Collection, Members of the Old Congress, III.

The offer of cession made by Virginia January 2, 1781, included as a necessary condition of such a cession the Virginia demand for the nullification of the titles based on purchases from the Indians. The Articles of Confederation as finally adopted in 1777 by Congress and now to be ratified by the authority of the assembly of Maryland did not vest Congress with the power to regulate the western lands; for that provision of the original draft had been struck out. Therefore, Johnson, Chase and Carroll, had they been governed solely by their individual interests as stockholders in the Illinois-Wabash Company ought to have stuck by their guns, and opposed the ratification of the Articles by Maryland. That they took just the opposite course inspires the belief that they meant what they said when they urged the necessity of strengthening the union and securing further aid from abroad.

It may be noted also that earlier in the session Carroll, who had not been in Congress since 1778, and Johnson who had not served since 1777, had both been elected as delegates. But on the same day, January 3, 1781, both resigned, evidently preferring to remain in the assembly. This simultaneous action suggests some strong motive. Probably this arose chiefly from the desire to be with their constituents in whatever danger the approaching invasion might bring, but their mutual support of the bill to authorize the delegates to ratify the Articles suggests that this also may have been an important consideration.

factors which have been stressed in the classical view of these events. No doubt the really determining forces in bringing Maryland to a change of view were the solicitations of Congress and the evidences of yielding on the part of New York, Connecticut and, particularly, Virginia, to the view that the western lands should become a common domain. The evidence here submitted does show, however, that the last push, the influence which determined the action of Maryland *at this time*, came from the minister plenipotentiary of Louis XVI.[88]

University of Pennsylvania ST. GEORGE L. SIOUSSAT

DOCUMENTS

I.*

Daniel of St. Thomas Jenifer to the Chevalier de la Luzerne, Annapolis, January 5, 1781, with La Luzerne's reply, Philadelphia, January 10, 1781.

Inclosure with despatch no. 121, Philadelphia, February 2, 1781, from La Luzerne to Vergennes (reproduced below). The text followed is that of a copy added to the Stevens Transcripts in the Library of Congress, Correspondance Politique, Etats-Unis, XV.

(Transcript title—Lettre de M. Jennifer à M. de La Luzerne. Annapolis le 5. Janvier 1781.

Avec le No. 121 du 2 fevrier, 1781 4^{e} Janvier 5.

[In pencil]—Document chiffrée.)

M, Le tabac, les farines et autres denrées de cet Etat et de la Virginie n'ayant d'autre débouché que la Baye de Chesapeak, la navigation y est dans tous les tems, d'une grande conséquence: non seulement pour ces Etats mais pour les Etats unis en général, et les sujets de S.M.T.C. Euxmêmes, ne sont pas peu

[88] I must acknowledge with gratitude the assistance, in the preparation of this paper, which I have enjoyed in working over this period with my graduate students through many years. I seize the occasion to express my indebtedness, also, to the members of the staffs of the Library of Congress, the Maryland State Library, the Maryland Hall of Records, the Maryland Historical Society and H. S. P.; as also to Miss Calhoun and Miss Macfeat, of the secretarial staff of the Department of History in the University of Pennsylvania, and to my personal secretary, Mrs. R. M. Tignor.

* In this, as in the following Documents, the text follows the transcript, including all peculiarities of spelling, punctuation and capitalization. A few obvious mistakes are corrected by the use of words in brackets. The indications in the transcript of the original pagination have been omitted, as have also the "Office Minutes," or official summaries, as the latter refer to the original pagination.

intéressés à sa liberté et à sa sûreté. Mais depuis que la guerre s'est, en quelque manière, portée an [au] Sud, cette navigation est devenüe et deviendra de jour en jour plus importante par la Chereté et la difficulté extrême qu'il y a d'aprovisionner l'armée par un autre canal, car il est impossible de faire passer à l'armée aucune provision par terre soit de cet Etat soit de la plus grande partie de la Virginie. Notre Baye et nos rivages ont ete récemment infestés par les Ennemis et nous avons lieu de craindre que leurs invasions n'augmentent de jour en jour malgré toutes les forces que nous pourrions leur opposer. L'équité et la modération qui ont dicté les traités d'alliance et de Commerce entre la france et les Etats-unis, et la disposition où est Sa Mté. T. C. d'assister et de secourir ses fidèles Alliés ainsi qu'Elle l'a temoigné, en plusieurs occasions, nous encouragent à demander qu'on envoye des forces françoises maritimes dans cette Baye pour en protéger la navigation, nous ne doutons pas que votre Exce. ne soit si bien informée de la situation de notre Baye et des Rivieres qui s'y jettent qu'Elle puisse juger mieux que nous du nombre de Vaisseaux qui sufiroient à sa défense et qui servient le moins en danger d'être attaqués par des forces supérieures.

Si Vre. Exce. n'étoit pas autorisée à donner des ordres immédiats en conformité de notre réquisition, ou si cet envoi de Vaisseaux affoiblissoit trop les forces qui pourroient se trouver sous votre direction nous nous flattons que vous saisirez la première occasion qui se présentera pour rendre compte à Sa Mté. T. C. de la démarche que nous avons faite; le sincere attachement que nous avons pour Elle; et pour ses sujets, Le parti désinteressé et magnanime qu'Elle a pris en faveur des Etats unis et l'empressement avec lequel nous maniferons, [*sic*] dans toutes les occasions, les sentiments de notre reconnoissance, ne nous laissent point lieu de douter de sa bienveillance envers nous.

Réponse de M. de La Luzerne
à Mrs. Jennifer et Bruff.
à Philadelphie le 10. janvier 1781.

Mrs . . J'ai reçu la lettre que vous m'avez fait l'honneur de m'ecrire le 5. de ce mois. Les objets qu'elle contient ont, depuis longtems, fait l'objet de l'attention particulière des Commandans de l'Escadre françoise, et la supériorité des Anglois sur les côtes est la seule raison qui ait ôté à feu M. le Cher. de Ternay la satisfaction de donner ses soins à la protection directe de votre Commerce. Les motifs dont vous me faites part pour déterminer M. Destouches à garantir votre Baye des Corsaires Ennemis sont sans doute du plus grand poid, et je m'empresse à lui en donner communication. Je puis vous assûrer, d'avance, qu'il fera tout ce qui sera en son pouvoir pour prouver au Mariland combien le Roi desire que tous les treize Etats éprouvent les avantages de son alliance. Je fais passer au Ministre de Sa Mté. et à M. Destouches les demandes contenues dans vos lettres Messrs., Quoique je sois persuadé de son empressement à y répondre, si les circonstances le permettent je ne puis Cependent vous donner aucune assûrance, parceque des évènements imprévus pourroient l'empêcher de diviser ses forces, et tout en comptant sur ses bonnes dispositions, il est de la prudence que l'Etat de Mariland prenne de son côté les mesures nécessaires pour frustrer les desseins de l'Ennemi.—on nous fait espérer, Messrs, que l'hiver ne finira pas sans que votre

Etat ait accédé à la confédération. Cette résolution est si propre à donner de l'énergie aux opérations des treize Etats, à constater leur union et à détruire jusque'à l'ombre d'esperance que les Anglois pourroient conserver de sémer la division parmi eux, que tous les bons citoïens ne pourront voir qu'avec satisfaction que les obstacles qui ont jusqu'ici empêché cette accession sont enfin levés. . . .

II.

The Chevalier de la Luzerne to the Comte de Vergennes, January 31, 1781. Extract. From the Stevens Transcripts in the Library of Congress, C.P.E.U., XV.

(Transcript title—Archives des Affaires Etrangères Etats-Unis F E U 15 fo 40 Chevalier de la Luzerne to Comte de Vergennes 31 January 1781. L.S. in cypher (numerals) and office translation Endorsed M. De Rayneval Reçu le 8 Mai.)

A Philadelphia le 31 Janvier 1781

No 119 4e

Monseigneur,

. . . On nous annonce, il est vrai que le Maryland est sur le point d'acceder à la confederation; je n'ai cessé d'exhorter les personnes de ces Etats qui jouissent de quelqu'influence, et il faut convenir que ce seroit dans les circonstances presentes l'evénement le plus heureux, mais je n'ose encore me permettre aucune esperance sur cet objet important.

Je Suis [etc.]

P.S.

J'ouvre mon paquet, Monseigneur, un moment avant le départ d'un navire pour l'Orient pour vous informer que M. Jennike Président du Senat du Maryland me mande qu'il ya eu dans la chambre basse de cet Etat une majorité de 33 voix pour la confederation contre 7 qui étoient opposées. Il annonce qu'il a les plus grandes esperances que le sénat y accedera également, et alors ce grand ouvrage sera consommé. Le Congrès reçoit en ce moment la même nouvelle, et le secretaire de cette assemblée est aussitot venu m'en faire part.

III.

The Chevalier de la Luzerne to the Comte de Vergennes, February 2, 1781. From the Stevens Transcripts in the Library of Congress, C.P.E.U., XV.

(Transcript title—Archives des Affaires Etrangères Etats-Unis F E U 15 fo 51 Chevalier de la Luzerne to Comte de Vergennes 2 February 1781 L S in cypher (numerals) and office translation Endorsed M. de Rayneval Reçu le 8 Mai.)

No 121 4e A Philadelphie le 2 fevr. 1781

Monseigneur,

L'accession du mariland à la confedération a fait depuis deux ans l'objet des voeux de tous les bons citoyens de l'amerique. Il est manifeste que les intrigues des anglois ont beaucoup contribué à retarder aussi longtems une mesure aussi utile et aussi décisive; On observe meme que le mariland est le Seul des 13 Etats où ils n'ayent point porté leur ravage quoiqu'il Soit aussi exposé que les autres, la plus part de ceux qui S'opposoient à cette accession dans l'assemblée de cet Etat etoient Soupconnés d'etre entierement devoués à l'angre. l'un d'eux Sur tout, homme consideré par Ses emplois, Ses talens et Sa fortune usoit de toutes Sortes de moyens pour l'empecher il avoit meme voulu me persuader que l'alliance ne pouvoit qu'y gagner et qu'il etoit a a desirer pour nous que le Congrès ne Sortit pas de l'état d'impuissance dans lequel il Se trouve aujourd'huy. Lors de la prise de Charlestown néanmoins il n'y eut qu'une voix dans le Congrès touchant l'accomplissement de la confedération qui fut considerée comme le Seul evenement capable de balancer ce malheur. Le[s] delegués du Mariland furent chargés d'en ecrire à leurs Commettans, mais ceux ci persistoient à Si [se] tenir Separés et à dire qu'ils etoient confédéres pour la guerre, qu'ils ne vouloient point l'être après la paix, ni même pour la confection d'un Traité de paix générale à moins que la Virginie et d'autres Etats ne voulussent leur donner Satisfaction touchant les contrées Situées à l'ouest, que le Mariland borné d'un côté par la Pensilvanie et de l'autre par la Virginie, n'ayant aucune esperance de S'agrandir, tandis que les Etats dont les Chartres vagues et indefinies S'étendent depuis l'orient jusques à l'occident ou du moins jusqu-au Mississipi, avoient l'esperance de faire des Conquêtes qui leur feroient recueillir tour le fruit de la guerre, dans laquelle le Mariland n'avoit d'autre objet d'ambition que Son indépendance. Que cette fureur des conquêtes à l'occident pouvoit prolonger la guerre au profit de plusieurs Etats et au détriment de quelques autres. Que d'ailleurs elle mettroient les Etats qui y participoient à même de recompenser leurs soldats et de leur procurer de vastes etablissements après la guerre tandis que le Mariland Seroit obligé de S'épuiser pour donner à Ses troupes une Satisfaction équivalente. Ces motifs bien fondés avoient fait quelque impression et dès l'Eté dernier le Congrès exhorta les differentes legislatures à faire aux treize Etats l'abandon d'une portion de leurs prétentions pour mettre ceux ci en possession d'un fond destiné à être la recompense des Soldats, à tenir lieu de Sureté pour les emprunts que le Congrès Seroit dans le cas de faire et *à faciliter Ses negociations*. Ce dernier point relatif aux demandes de l'Espagne fût tenu très Secret. l'Etat de Newyorck donna le premier exemple et renonça à des territoires assez considerables Sur lesquells il a des prétentions et en fit l'abandon au Congrès. Le Connecticut ceda aussi des terrains assez considerables et quoique la Pensilvanie ait prétendu qu'il n'abandonnoit que des contrées Sur lesquelles Elle a des droits evidents, comme il avoit la possession cette cession doit reelement etre considerée comme un Sacrifice fait au bien public il Se reserva neanmoins la jurisdiction. La Virginie fut plus lente à se determiner, il etoit d'autant plus difficile de l'amener à une resolution moderée, que les gens

les plus en credit de cet Etat ont tourné leurs Speculations du côté terraines de l'ouest, qu'ils profitoient du besoin que la Virginie a d'argent, pour acquerir à très peu de frais d'immenses terreins d'une grande fertilité, qui Suivant tous les calculs doivent à l'epoque de la paix tripler les fonds des Speculateurs; au reste ces mêmes territoires n'appartenoient pas plus à la Virginie, qu'à tout autre Etat, qui auroit voulu S'en emparer, et Elle n'y avoit d'autre titre qu'une chartre infiniment obscure qu'on n'a imaginé d'interpreter dans ce Sens que depuis trois ans, pour s'autoriser à declarer qu'ils etoient compris dans Ses limites à S'en emparer, les vendre et les distribuer. Ces questions etoient Si nouvelles et tant d'autres affaires attiroient l'attention publique, qu'on ne fit alors presqu'aucune attention à des actes pas [par] lesquels la virginie S'attribuoit la possession d'un Pays aussi grand que l'Italie, en donnant même à Ses pretentions l'interpretation la plus moderée. Le comptoir où Se vendoient ces terreins fut continuellement rempli d'acheteurs, Tous les habitans riches de la virginie acheterment [acheteroient] pour leur propre compte ou pour revendre à ceux qui l'etoient moins et une grande par [tie?] de la population de la virginie Se porta Sur ces nouveaux établissements, où avec une tres modique avance un homme un peu industrieux Se trouvoit d'abord un grand proprietaire. Ce Sont en partie ces mêmes emigrés qui l'année derniere, à l'exemple des Vermontois, demanderent au Congrès l'independance en menaçant de Se jetter dans les bras de l'ang^re^, Si elle leur etoit refusée. Quelques citoyens plus Sages S'aperçurent de la faute qu'on avoit commise, l'Etat etoit epuisé, depuis trois ans, il n'avoit rein fait qui aprochât des efforts qu'il a deployés au commencement de la revolution. il S'etoit vû envahi plusieurs fois, Sans pouvoir resister à une poignée d'ennemis. Le Congrés l'exhortoit à fermer le comptoir ouvert pour la vente des terreins, il le lui enjoignoit même, en déclarant que ces contrées doivant être considerées comme la proprieté generale des 13 Etats. Ceux du Sud en particulier accusoient la Virginie d'avoir Seule arrêté par Son obstination et Son avidité les resolutions qu'ils avoient proposées pour l'entière Satisfaction de l'Espagne. Pressés de tous côtés, Monseigneur, Elle Se détermina à ceder au Congrès les terreins qui Sont à la droite de l'ohio les mêmes qui furent en partie cause de la derniere guerre entre la france et l'Ang^re^ La Virginie en evalue l'etendue a Soixante millions d'acres et consent à regarder desormais l'Ohio comme Sa limite au Nordouest. Cette resolution fut communiquée au Mariland vers la fin de l'année derniere et comme elle renfermoit les principaux points Sur lesquels cet Etats avoit demandé Satisfaction, on ne doutoit pas qu'il ne finit par acceder à la confédération. J'ignore quel moyen employerent ceux qui etoient opposés à cette mesure, pour la faire echouer, je Sais Seulement que le parti la Soutenoit, etablit comme un fait que le Roi desiroit l'accomplissement de la confédération et que le parti qui la combattoit, Soutint obstinement que le Roi ne la desiroit pas. Il y eut dans la chambre basse trente quatre voix contre et Seulement Six pour l'accession. Le Senat ou la Chambre haute vota à peu près dans la même proportion; Ces nouvelles, Monseigneur, parurent affecter Sensiblement le Congrès, qui ne voyoit plus d'effectuer la confederation, on renouvella le projet d'unir neuf Etats ou d'avantage par une confederation per-

petuelle et de laisser les autres libres d'acceder, quand ils jugeroient à propos, huit Etats avoient déja envoyé à leurs délegués des pouvoirs à cet effet, mais les autres etoient allarmés de cette espece de Scission et voyoient avec inquietude les avantages qu'elle presentoit a l'ennemi pour introduire la desunion parmi les 13 Etats. La Séparation auroit eû d'autant plus l'air d'une defection, que ce Sont les Etats du Sud aujourd'huy envahis et à plusieurs égards hors d'etat d'acceder à cette confederation partielle, qui en auroient êté exclus et que les habitans ne pouvoient manquer de Se regarder comme abandonnés par leurs co Etats Plusieurs délégués me témoignerent à differentes reprises leurs inquietude et quelques uns me confierent que l'on cherchoit à accrediter l'opinion que nous etions contraires à l'accomplissement de la confedération. Cette assertion etoit d'une mauvaise foi d'autant plus manifeste, que dans toutes les occasions, j'ai exhorté les délégués du Mariland à user de leur credit, pour déterminer leur Etat à l'accession, mais depuis plusieurs mois il n'est pas representé et 'jetois privé des moyens de renouveller mes exhortations à une epoque où je ne pouvois douter qu'elles ne fussent du pus grand poids. Je recevois dans cette circonstance une lettre Signée du President du Senat et de l'orateur de la Chambre basse du Maryland dont je joins ici copie. Je Savois que le premier etoit contraire à l'accession et que l'autre la Soutenoit. Quoique leur lettre n'eut rien de relatif à la confédération, je pris le parti en leur leur faisant la reponse dont j'ai l'honneur de vous adresser egalement copie, d'y inserer l'article qui la termine et qui ne pouvoit laisser Subsister aucun doute Sur la pureté de nos intentions à cet egard mais avant de me resoudre à cette demarche, J'examinai attentivement les raisons que nous pourions avoir d'etre contre l'accomplissement de la confédération *l'une etoit que Si des revers peu probables mais possibles, nous obligeoient lors de la paix de donner les mains à un demembrement des Etats unis en faveur de l'Angre il Seroit plus difficile d'y déterminer le Congrès, que dans l'etat present la Confedération. Un autre motif etoit, qu'il peut un jour nous etre desirable que l'Union Soit incomplette et qu'il pourroit etre de l'interêt de quelques Puissances de tenir les 13 Republiques dans un etat de division, que la Confedération doit rendre plus difficile à effectuer.* mais Si nous étions à la paix dans le cas de recevoir la loi de l'ennemi, le Congrès Se trouveroit dans la même nécessité et finiroit par S'y Soumettre, en quelqu' etat que Soit la Confedération, et quant à la difficulté de diviser un jour les 13 Etats, je crois que leur union nous Sera beaucoup plus avantageuse que leur desunion, Que c'est l'interêt de l'Angre de chercher, meme après la paix, à les desunir, mais que etant Surs de la haine que la majorité des Etats porte à cette Puissance, il nous importe que les mieux disposés en Sa faveur, Soient dans l'obligation de recevoir l'impulsion des autres et de continuer même après la paix, et pour ainsi dire malgré eux, à être en garde contre les Anglois et à Suivre le Sistême de jalousie et d'eloignement, que les autres paroissent disposès à opter à leur egard et c'est ce que la Confederation doit effectuer. d'ailleurs l'union est une des bases Sur lesquelles portent leurs Traités avec le Roi, et les avantages qui doivent en resulter ne peuvent manquer d'etre très grands; il y aura plus de concert et d'ensemble dans les opérations, Le Congrès Se trouvera revêtu des pouvoirs de

la magistrature et du commandement au lieu de la Simple faculté des conseils et des exhortations; l'alliance que les Etats unis ont contractée avec S.M. en deviendra plus Sainté et plus inviolable et n'aura aucun besoin de la ratiffication Speciale des Etats individuels L'Angre qui a Si Souvent tenté d'amener les peuples à une reconciliation en leur representant que le Congrès etoit Sans pouvoirs, qu'il n'existoit que par tolérance, que la Confédération n'étoit pas concommée, est desormais privée de ce moyen, dont elle auroit egalement pû tirer avantage aux négociations pour la paix. Enfin S'il est permis dans des matieres aussi Sujettes à changement de porter les yeux dans l'avenir, je pense que le Congrès conservera plus longtems que les peuples le Sentiment des bienfaits de la france et qu'ayant à negocier avec lui, il nous Sera avantageux qu'il ait une plus grande consistance et d'avoir contribué à la lui donner.

C'est après avoir pesé toutes ces considérations et Sur tout l'article de mes instructions *qui m'ordonne de maintenir l'union et le plus parfait accord entre les 13 Provinces confédérées, que je me Suis déterminé à faire partir ma lettre.* elle a produit tout l'effet que je pouvois desirer, l'assemblée en a fait aussitôt la base de Ses delibérations et convaincue que nous désirons l'accomplissement de la confédération au lieu d'en etre allarmés, une grande majorité a aussitôt passé de ce côté; trente trois voix dans la Chambre basse ont été pour l'accession et Sept contre. La majorité a été moins marquée dans le Senat; Les deux branches de la legislature ayant ainsi concouru cette affaire est entierement terminée et l'on attend incessament des délégués qui doivent venir par leur signature mettre la derniere main à l'acte de conféderation. Je joins ici, Monseigneur, la résolution de la Chambre basse, celle du Senat ne m'est pas encore parvenue. Le desir de donner au Roy une nouvelle preuve d'attachement à l'alliance est enoncée dans celle que je joins ici comme un des principaux motifs qui ont déterminé l'accession du Maryland, J'espère Monseigneur, que sa Majté sera satisfaite de ce témoignage de son influence dans les affaires de ce Continent. Les Délégués au Congrès en marquent la plus grande joye Tous les bons citoyens la partagent et la Cour de Londres ne pourra se dissimuler qu'une marque aussi sincere du respect et de la deference des Etats pour le Roy est une preuve convaincante de la difficulté qu'elle trouvera à les désunir.

Je Suis avec Respect
Monseigneur
Votre très humble et très obéissant serviteur
le che de la luzerne

P.S. Les Délégués du Maryland viennent d'arriver, Monseigneur, et m'ont remis copie de l'acte par lequel cet Etat accede à la Confédération et j'ai l'honneur de vous en adresser la traduction. Il est important d'observer la reserve contenüe dans le dernier article de cet acte que le Maryland n'entend pas être lié ni qu'aucun autre Etat est lié à la garantie d'aucune pretention que quelques Etats pourroient former sur les territoires de l'ouest. cette restriction peut faciliter les [blank] du Congrès avec l'Espagne et celles avec l'angre lorsqu'au Traité de paix il S'agira de regler les limites avec cette Puissance

IV.

The Chevalier de la Luzerne to the Comte de Vergennes, March 2, 1781. From the Stevens Transcripts in the Library of Congress, C.P.E.U., XV.

(Transcript title—Archives des Affaires Etrangères Etats-Unis F E U 15 fo 78 Chevalier de la Luzerne to Comte de Vergennes 2 March 1781 L.S. from p 4 15 in cypher (numerals) and office translation.)

No 124 A Philadelphie le 2 Mars 1781

3e Monseigneur

J'ai reçu par l'Aziel [Ariel] Capitaine Paul Jones la lettre No. 5 que vous m'avés fait l'honneur de m'écrire le 5 Mars dernier. J'ai reçu par la même occasion des Duplicata des Numeros six et sept, celui ci en datte du 3 Juin est le dernier qui me soit parvenü. Les instructions joints à la Depêche du 5 Mars m'avoient été anciennement Communiquées par Mr le Mis de la Fayette

Les Délegués du Maryland ont Signé hier l'acte de la Confédération qui se trouve enfin consommée après trois ans et demi de delais. L'accomplissement de cet ouvrage a causé une joye universelle et les peuples qui en ont eu d'avance connoissance paroissent disposés à lui donner toute L'efficacité possible. Le Congrès a celebré cet evenement par un repas public; on a déployé le grand pavillon des treize Etats, Les canons de la Ville et ceux du Port ont fait des decharges réitérées; on a sonné toutes Les cloches et la journée a été terminée par un feu d'artifice.

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V.

Excerpts from the *Votes and Proceedings of the House of Delegates, of the State of Maryland*, [October session, 1780].

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Pages 106–107.

"Mr. T. Johnson, from the committee, brings in and delivers to Mr. Speaker the following draught of a message:

By the HOUSE of DELEGATES, January 29, 1781.

May it Please Your Honours,

THE earnest desire we have that this state should confederate, from our opinion of the utility of such a measure, has induced us to return you the bill to empower the delegates of this state in congress to subscribe and ratify the articles of confederation, in hopes of your honours affirmative thereto. The ad-

vantages and necessity of one general established power, to draw into action the force of the United States, is obvious; perhaps the efforts of the union have not yet, for want of it, been equal to its ability, and by longer delaying to define and mark out distinctly the powers of congress, it is probable that body may, according to the course of human events, possess in a short time too little for our defence, or too much for our liberty. But if the weight and moderation of congress should continue, as it has done, to the admiration of a speculative mind, for upwards of five years, the inconvenience, which has already been very great, will also continue, of transacting executive business by so large a body, or committees of it; and if we should obtain a peace on terms the most desirable, a new compact must then be formed, or each state left to pursue its separate views and interests, without any common object or center of union, a situation not eligible by any who wishes well to the whole.

As your honours have not intimated the reasons for your negative, we cannot be certain what they are, but from what has heretofore passed on the subject, we presume the claim made by this state to the back country's being a common stock, not having been acceded to, is the principal; we are as strongly impressed with the justice of that claim as your honours, and are persuaded, that had no exclusive claims been set up, the United States would not have been under their present embarrassments about finance. How far the United States may now be benefited by the western country as a common fund, is impossible to determine, but it does not appear probable, that this state's still refusing to confederate can be a means of securing or improving it as a fund, on the contrary, where the free and independent will of many is to be consulted, giving up something of opinion of each, is necessary to conciliate an agreement of all in one point. The present appears to us to be a seasonable time to shew, that as our claim was better founded in justice than the exclusive claims of others, having supported it with firmness till a disposition is shewn of candidly considering it, we chuse rather to rely on the justice of the confederated states, than by an over perseverence incur the censure of obstinacy. Besides the good effects which will flow from settling the powers of congress on a known and permanent basis, and thereby greatly improving the executive department, our confederating will, in all probability, spread confidence and satisfaction amongst the states, gratify the wish of our illustrious ally, and may make us be considered by our enemy, and all Europe, as one firm cemented body, than which nothing can more directly tend to destroy the hopes of our enemy, or more strongly invite his Most Catholic Majesty and other European powers to a connection with us, and of course establish the independence, peace and happiness of America.

What consequences may flow from not confederating cannot be foreseen; all that may with propriety, and perhaps more, will be imputed to it, and though we, in common with the rest of this state in particular, and the other states in general, are to be affected by such as are real, we hold ourselves acquitted of being the occasion of them. Your honours ought therefore to be firmly persuaded of the soundness of that policy, by which so many besides yourselves are

to be affected, and of which the consequences will be wholly out of your own controul.

Which was read the first and second time and concurred with, and sent to the senate by Mr. Morris and Mr. Cramphin.

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Page 109.

And the following message:

By the SENATE, January 30, 1781.

Gentlemen,

AT the earnest desire of your house we have again taken up the bill to empower the delegates in congress to subscribe and ratify the articles of confederation. You cannot be unacquainted with those reasons which have hitherto influenced this state to with-hold her assent to those articles. It has been generally supposed, and in our opinion upon good grounds, that the claim of this state to a proportionable part of the western country can be better supported under the present form of union, than that of the confederation; influenced by this opinion, we put our negative on the bill; but being sensible that a confederation is anxiously desired by every friend to the future peace and happiness of these United States, and as the pressing exigencies of our affairs demand the adoption of every measure that promises in the smallest degree to strengthen our cause and produce confidence and satisfaction among the several states, and as the powers given to the delegates by the bill, in your opinion, cannot alter or injure our claim to the western country, but that claim may be as fully ascertained and as firmly secured after as before the confederation; and as we rely on the justice and disposition of congress hereafter for the establishment of our claim, and to defeat the hopes of our enemy, and gratify the earnest desire of your house, we have returned you the bill with our affirmative. We most earnestly wish this measure may be productive of all the good you expect from it, but should it be attended with ill effects, we shall be so far from imputing them to you, that we shall always hold ourselves equally responsible for the consequences of this important measure, which we are satisfied is taken with the most virtuous intentions.

By order, J. MACCUBBIN, clk.

Which was read.

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Pages 117–119.

Mr. T. Johnson, from the committee, brings in and delivers to Mr. Speaker the following draught of instructions to the delegates in congress. INSTRUCTIONS of the general assembly of Maryland, to the honourable John Hanson, Daniel of Saint Thomas Jenifer, Daniel Carroll, and Richard Potts, Esquires.

AS we have acceded to the confederation, it is proper to communicate to you the motives by which we were influenced. We still consider the exclusive claim

of some of the states to the western territory as unjust, and injurious to the general welfare; our sentiments on this point are not in the least altered, and we are not without hope, that subsequent events have confirmed in part our predictions, and now begin to discover, when perhaps too late, that what were once considered as partial benefits and partial strength, have become general evils and universal weakness. Persuaded that a disposition in this state to yield to and gratify the desires of our sister states, in completing the confederation, will improve the spirit of compliance and moderation in others, dreading the effects of the dissolution of the present happy union in case of peace, and desirous that all hopes of the common enemy, and of their partisans amongst us, may be totally destroyed of ever seeing these states reduced under the yoke of Great Britain, from the want of a permanent and indissoluble union between them, having grounds to believe that our accession to the confederation will be acceptable to our illustrious ally, give satisfaction to his Catholic Majesty, and probably be the means of negotiating loans in Europe, all these motives combined, and co-operating with the present critical situation of public credit, and the pressing exigency of our affairs, have induced us to adopt the measure.

We are of opinion, that public credit would be greatly strengthened, if foreign loans could be obtained; without such resources, or a foreign subsidy, we are apprehensive these states cannot prosecute the war with vigour; we instruct you, therefore, to urge this matter in congress, particularly to enforce the necessity of a subsidy from France or Spain, or from both those powers. The independence of these states, in the same proportion that it will weaken the strength of Great-Britain and diminish her trade, will raise the commerce and maritime power of France and Spain. Our cause is their cause.

We have understood, that the minister of his Catholic Majesty has intimated to the minister of the United States at Madrid, the strong desire of his master to possess the exclusive navigation of the Mississippi; though we do not wish to preclude that freedom of decision, which ought to result from a full consideration of the subject, yet, as you may be desirous to know the sentiments of the legislature on this question, it may be proper to inform you, that we are willing you should gratify the wish of his Catholic Majesty in this particular, not doubting that a cession so important may induce that monarch to afford us powerful assistance.

* * * *

It will be impossible to convey supplies of provision from this state to the southern army, unless the navigation of Chesapeake-bay is better secured: the resources of this state and Virginia are not equal to the securing this navigation; we fear the whole force of the United States is inadequate to the purpose. We therefore wish that congress would represent this matter in the most forcible manner to the minister of France, and urge the propriety, indeed the necessity, of a post being taken and fortified, and a strong fleet stationed within our capes, to cruise occasionally on the coast. Your knowledge of the importance of the trade carried through this bay, and of the many advantages which would result

to France and the United States from protecting the commerce and agriculture of Maryland and Virginia and the convenience of the station for intercepting the enemy's communication between New York and South-Carolina and Georgia, renders it needless for us to adduce arguments in proof of the utility or necessity of the measure.

* * * *

We find, by the late arrangement of the army, that it is proposed to raise forty-two thousand men for the approaching campaign. How far it may be in the power of the United States to raise, cloath and pay so many, we shall not undertake to determine; we can only speak of the ability of this state, which we sincerely believe cannot nearly raise and keep up her assigned quota of that number. When requisitions are made by congress exceeding the ability of the states, disappointment and despondency are the sure and natural effects. Overstrained exertions leave a nation in a state of languor and debility; the measure of defence ought to be proportioned to the powers of attack; we hope the strength of our enemy, so long baffled and often disgraced, does not make such a great force necessary; if it does, we could wish that our real situation should be made known to his Most Christian Majesty, with the strongest solicitations for additional troops; we shall be so far from entertaining any apprehensions or jealousies from such a measure, that we should retain the deepest sense of the obligation, if enough were sent to put a speedy and happy end to the war.

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