When the indictment against Benedict Arnold is drawn, the attempt to betray West Point and possibly General Washington to the British assumes the greatest significance among Arnold's questionable activities. Of secondary importance to this act of treason is a long list of dubious actions committed while he was military governor of Philadelphia from its evacuation by the British in June, 1778, to his voluntary retirement from that post in March, 1779.

During much of the time he was in Philadelphia, Arnold was under the hot fire of the extreme Whigs both inside the city and in the eastern part of Pennsylvania. His activities, too well known to be repeated here, constituted the basis for the six charges brought against him by the state authorities, and they eventually culminated in his demand for the court-martial that was held in Morristown, New Jersey, in January, 1780. Although the court handed down an acquittal, or the equivalent of the Scotch "not proved," on most of the charges, it also required that Washington verbally reprimand Arnold for conduct unbecoming one of his high rank and respon-

1 The most adequate biography of Benedict Arnold is still Isaac N. Arnold, The Life of Benedict Arnold: His Patriotism and His Treason (Chicago, 1880). More recent works on the same subject are James T. Flexner, The Traitor and the Spy: Benedict Arnold and John André (New York, 1953), and Willard M. Wallace, Traitorous Hero: The Life and Fortunes of Benedict Arnold (New York, 1954). The most detailed account of Arnold's activities while in Philadelphia and the events leading to his court-martial is to be found in Carl Van Doren, Secret History of the American Revolution (New York, 1951). Additional information on the events of 1778 and 1779 involving Arnold is included in George F. Scheer and Hugh F. Rankin, Rebels and Redcoats (New York, 1956). A rather strange light is thrown on Arnold's career and his personal motives in Malcolm Decker, Benedict Arnold, Son of the Havens (Tarrytown, N. Y., 1932).

2 The last British troops withdrew from Philadelphia on June 18, 1778, and Arnold with some of his personal staff and headquarters officers entered the next day. He relinquished his post as military commander of the city on Mar. 17, 1779, after consultation with General Washington and some members of the Continental Congress. Arnold, 247.
sibility. This penalty, administered with great reluctance by Washington, probably would have been forgotten and forgiven by most men, but Arnold was not like most men and for some time had been uttering furious comments about the Philadelphia "shopkeepers" and their evil ways. He did not forget; the reprimand festered in his memory and contributed to his later treasonable actions at West Point.

Too many historians pecking away at the mystery surrounding Arnold and some of his seemingly unexplainable actions unfortunately have failed to make adequate use of the excellent transcription of the court-martial proceedings at Morristown, apparently preferring to rely on highly one-sided accounts of the general’s career and actions written in many cases by ardent patriots. Such persons could scarcely be expected to paint Arnold’s character as anything but the blackest. Some of his most vigorous detractors have expressed the opinion that in view of what actually happened at West Point eight months after the conclusion of the trial, he really should have been found guilty of all the charges in the indictment.

As a result of focusing attention on Arnold’s motivation for his final act of treachery, and on the degree of guilt, if any, of his wife in her dealings with her old friend Major André, there has been a woeful lack of attention to the persons associated with Arnold in his “career of crime,” especially those involved with him in his troubles with the Whigs subsequent to his arrival in Philadelphia. Many names were mentioned at the court-martial in 1780, and a considerable amount of incriminating evidence was introduced by the prosecution to bolster the case against the general. In his personal defense, Arnold failed to refute adequately much of this evidence. No suggestion was heard at the trial, however, that these leads be followed up, or that the persons named be investigated further by the Pennsylvania authorities.

3 A full account of the proceedings of the court-martial held at Morristown, N. J., in January, 1780, was printed in that year by order of the Continental Congress, and was later reprinted privately as Proceedings of a General Court Martial for the Trial of Major General Arnold (New York, 1865).

4 Washington’s mild reproof was dated Apr. 6, 1780, or two and a half months after the termination of the Morristown proceedings. John C. Fitzpatrick, ed., Writings of George Washington (Washington, D. C., 1931-1938), XVIII, 225.
When the news of the West Point affair reached Philadelphia in a dispatch from General Nathanael Greene late in September, 1780, there was a brief flurry of interest among the general public to discover who really were Arnold’s associates while he was in charge of the city. At least five arrests were made in a drive to round up and punish the persons known to have had business dealings with him in the summer of 1778. The supposedly explosive private papers of the general and some of the personal letters of Mrs. Arnold were seized at the order of the Supreme Executive Council of Pennsylvania for examination by the state’s legal authorities. Aside from these two actions and the appearance of a series of critical editorials and sarcastic letters in Philadelphia newspapers bitterly attacking Arnold, his wife, and all the “dandified Yankees” who had befriended him, little else of importance was done to resurrect the two-year-old charges against the general. With Pennsylvania’s accusations against Arnold proved to some degree at Morristown by his later actions at West Point, there was no real reason to dig into the past, especially if it might involve persons now passing as respectable patriots. The atmosphere in Philadelphia was definitely less radical in October, 1780, than it had been a year earlier when a mob had threatened to lynch Arnold, and the voice of the extreme Whigs was not so loud or their arguments quite so persuasive.

Three, and possibly all five, of the persons arrested in October, 1780, were suspected of being involved in the most interesting and baffling charge brought against Arnold at his court-martial. This charge, referred to in the indictment as “a culpable action,” concerned the pass or safe-conduct he admitted issuing in June, 1778, to permit a small schooner, the Charming Nancy, to leave enemy-occupied Philadelphia and proceed to any port under American control in order to avoid seizure by the British, who were desperate.

5 Greene’s letter to the president of the Continental Congress, dated Sept. 25, 1780, was immediately made public through the Philadelphia newspapers. See Pennsylvania Packet, Sept. 30, 1780.

6 With a little more courage and leadership, the mob might have lynched Arnold in October, 1779, during the widespread unrest over the depreciation in the value of paper money and the report that certain merchants were refusing to accept Continental currency in payment of debts. William B. Reed, Life and Correspondence of Joseph Reed (Philadelphia, 1847), II, 149-155.
for shipping space to aid in the evacuation of troops and supplies.\textsuperscript{7} The schooner and cargo also ran the risk of capture by the advancing American army, which was unaware of the "loyalty" of the vessel's owner or owners. The facts surrounding the case of the \textit{Charming Nancy} are far from clear, and the absence of much authoritative evidence makes it unlikely that the mystery will ever be completely solved. It should be repeated that several writers who willingly accept Arnold's guilt in this particular episode because of his later actions at West Point have made little effort to probe deeply into the available evidence in the case of the schooner.

Among those arrested in October, 1780, on suspicion of having conspired with Arnold to form "a suspicious partnership" to violate the laws against profiteering during the early days of the reoccupation of Philadelphia, were two young New York merchants, William Constable and James Seagrove, who had come south from that city shortly after the British made their appearance at the headwaters of the Elk River. There appears to be no question that their interest in their own financial welfare was stronger than any sense of devotion either had to the mother country or to the new republic. Both of them had thrown in their lot more or less willingly with the British at the start of hostilities, for they could see little likelihood of financial gain in dealing with the rebelling Americans.

As a junior associate in the firm of John Porteous and Company, William Constable was sent to England in 1774, apparently to combine business for the firm with a continuation of his formal education.\textsuperscript{8} After his return to New York in the summer of 1777, his employer sent him to Philadelphia in company with part of Sir William Howe's fleet to open a branch store. Porteous hoped to take advantage of the anticipated demand for European manufactured goods among the upper-class Quaker residents and the numerous British

\textsuperscript{7} Although there are several references to the schooner as the \textit{Charming Polly}, \textit{Lovely Nancy}, and \textit{Sweet Nancy}, it seems clear that the proper name of the vessel was \textit{Charming Nancy}.

\textsuperscript{8} Constable sketched his activities during the first few years of the war in a letter to a friend. William Constable to William Duer, June 13, 1776, New-York Historical Society. Many of Constable's business letters to John Porteous are in the Buffalo Historical Society, and copies of others are to be found in his letter books in the New York Public Library. Brief biographical material on Constable is contained in R. H. Fleming, "Phyn, Ellice and Company of Schenectady," \textit{University of Toronto Studies, History and Economics, Contributions to Canadian Economics}, IV (1932), 7-41.
army officers. Constable was to assist John Richardson, a well-known Tory merchant and long-time friend of Porteous, in setting up the store. Several unexplained problems delayed the opening of the new outlet until mid-November.

Constable's friend James Seagrove, who had remained in New York after Constable’s departure for England in 1774, was employed by the business house of Charles McEvers. It was as agent for this concern that he was in Boston in the spring of 1775 and was an eyewitness to the fighting that took place around that city. When Constable was ordered to Philadelphia, the two young men decided that although the former was in the employ of John Porteous, he would devote a portion of his time to preparing the ground for a partnership with Seagrove. Seagrove was to collect a supply of merchandise in New York and transport it to Philadelphia as soon as he was advised that a storage place was available. Accordingly, he arranged with Joseph Allicoke, an old friend of Charles McEvers, to consign a supply of goods to him for sale in Philadelphia, and this merchandise was shipped to him in December, 1777, on the brig Friendship and the sloop Maria. Seagrove opened a store on Water Street, previously occupied by Andrew Caldwell, and went about his business, independent of Constable.

9 That Constable accompanied a part of Howe's fleet to Philadelphia and was entrusted with a valuable cargo of merchandise is evident from a letter sent the young man by John Porteous, addressed to him “on board Lord Howe's fleet, on schooner Fortune.” John Porteous to W. Constable, Sept. 26, 1777, New York Public Library.

10 For a detailed account of John Porteous' plan to open a branch store in Philadelphia and to use the recognized talents of John Richardson to accomplish this, see Henry R. Rowland, “A British Privateer in the American Revolution,” American Historical Review, VII (1902), 286-303.


12 Seagrove's transactions with Joseph Allicoke came to light in 1797, when the Antigua firm of Dover and Taylor brought suit to recover the value of the cargo of the two vessels, claiming that Allicoke had merely acted as their agent and that Seagrove had never remitted the sale price to them. They presented as evidence a letter from Seagrove from Philadelphia, dated Mar. 20, 1778, and a copy of the invoices of the two vessels. The records of the case and copies of the pertinent documents are at present in the papers of the United States Circuit Court, District of Georgia, to be found in the Federal Record Center, Atlanta, Ga. The case was #201 of the April Term, 1797.

13 Seagrove began advertising his “imported wares” within a few days after opening his store. Pennsylvania Evening Post, Feb. 5, 1778; Pennsylvania Ledger, Feb. 7, 1778.
In spite of first appearances, business in Philadelphia did not prove to be good, for hard money was scarce in the city and the British officers, who purchased most of the merchandise, insisted upon credit until after the first payday. After a few months many officers had accumulated large personal debts, often far larger than they could ever hope to pay. Seagrove was forced to notify the owners of the goods consigned to him that he could compensate them only in promissory notes and bills of exchange unless they were willing to wait some time for their money. Some of Seagrove's sales were made to Quakers living outside the city, who made payment in depreciated Pennsylvania currency which continued to circulate in Philadelphia despite repeated warnings from the military government. This intercourse across the lines troubled the American leaders as much as the British, and a Continental officer, General John Lacey, reflecting in later life on this turbulent period, wrote, "An almost open and uninterrupted intercourse existed between the disaffected in the lower part of Bucks and Philada. Counties along the vicinity of the River Delaware, and the Enemy in the City of Philada. I had serious thoughts myself of removing further from the city. These were indeed the times that really tried men's souls..."

Living as they did on the front lines, these people were frequently the go-betweens for those in the city who wanted to communicate secretly with Americans outside the lines, and there is little doubt that the merchants used them to get letters to business associates in American-held territory.

When the rumor began to circulate in April, 1778, that the British were considering a withdrawal from Philadelphia toward

14 Among the officers in debt to Seagrove for goods purchased in the spring of 1778 was Capt. Thomas Wilk of the 23rd Regiment, who gave the merchant at least one personal note for £50. Bill of Exchange, May 22, 1778, Abstract of Wills, IX (1777-1783), New-York Historical Society Collections (New York, 1900), 38.
15 He apologized for the prices at which he was forced to sell some of the goods, blaming this situation on the necessity to get rid of everything in a hurry. Seagrove to Dover and Taylor, Mar. 20, 1778, United States Circuit Court, District of Georgia, Case #201, April Term, 1797.
16 Several petitions signed by merchants, including some of the associates of Seagrove and Constable, had been circulated during the winter, requesting the British to permit continued circulation of colonial currency at the rate of 2 to 1 in specie. J. Thomas Scharf and Thompson Westcott, History of Philadelphia, 1609-1884 (Philadelphia, 1884), I, 365-366.
New York, a wave of panic gripped many of the countinghouses. With great amounts of frozen credit on their books and store shelves still fairly well stocked with expensive merchandise, the merchants found themselves in a tight corner. If the city fell to the American forces, they could anticipate their fate if left to the mercy of the Whig mob. They actually feared less the threat that the evacuating British might seize their vessels and appropriate their goods.

Early in May the city newspapers began carrying notices of goods offered at bargain prices, often less than half the peak prices asked in March. Among the earliest closing-out notices were those inserted by Richardson in the name of John Porteous, and by Seagrove in his own name, both requesting immediate settlement of all outstanding debts.\(^{18}\) Seagrove soon joined the rush to charter any sort of vessel to move his goods out of the city, but, like his friends, he found that the British had already scoured the shores of the Delaware of everything afloat and that shipping rates on privately owned craft had skyrocketed. Constable had hastened to New York to ascertain the desires of his employer for the ultimate disposal of the goods in the Philadelphia branch store. He carried several letters from his friends, including Seagrove, to business colleagues in New York, explaining the rapidly deteriorating situation in eastern Pennsylvania.\(^{19}\) Constable was back in Philadelphia by the middle of May with orders to dispose of the remainder of Porteous’ stock as best he could.\(^{20}\) In carrying out his instructions, he had to be out of the city on numerous occasions, and after a time it became evident that the British were watching his comings and goings. Alarmed lest he be arrested on suspicion of dealing with the enemy, he took up residence on June 8 at Mrs. Lawrence’s home four miles outside the city on the Frankfort Road, really in the “no-man’s land” between the

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\(^{18}\) Both notices first appeared on Apr. 25, 1778. See *Pennsylvania Evening Post* and *Pennsylvania Ledger* of that date.

\(^{19}\) Seagrove to Samuel B. Webb, Apr. 15, 1778, Webb Family Manuscripts, Yale University Library.

\(^{20}\) Constable wrote to two business associates on May 20, 1778, about the military situation both in and around the city, predicting a future change in control. Constable to John Marston, May 20, 1778, and Constable to Colonel Johnson, May 20, 1778, New York State Library, Albany, N.Y.
two front lines. He remained there until after the American forces re-entered the city, when he once more moved back to his rooms near Porteous' branch store.

Escape from the city by water became steadily more hazardous because of the increasing activity of the American privateers lying off the mouth of the Delaware. Since they had been outfitted under the auspices of both the Continental Congress and the state of Pennsylvania, there was considerable rivalry in claiming the capture of prizes. The only protection against capture was a pass or safe conduct signed by some well-known or high-ranking Continental or state officer, either civilian or military. It was difficult to secure these papers from the Pennsylvania authorities, since they regarded all merchants doing business in occupied Philadelphia with great suspicion, and more than one patriotic commander vowed to make an example of any officer under his command who aided those within the city. In spite of this, the fear of losing everything emboldened some merchants to try almost any sort of desperate measure. Elias Boudinot, writing to his wife from Valley Forge a few days before the final evacuation of Philadelphia, gave a vivid picture of the general concern: "The Inhabitants of the City are in the utmost distress & confusion—Those who go off are all embarked & on board of ships at Reddy [Reedy] Island, men, women & children eating up their sea Stores & know not when they are to sail. Those that remain behind are in Terror & apprehension of every Insult & Abuse. . . ."

The Continental Army was in winter quarters at Valley Forge, only a few miles outside the city, and as neither side made strenuous efforts to prevent communication between the two armies, it was easy to pass through the British lines to the American camp. Be-

21 While residing at Mrs. Lawrence's (presently unidentified), Constable wrote at length to William Duer, explaining his troubles and indicating why he feared arrest if he remained inside the British-controlled city. Constable to William Duer, June 13, 1778, New-York Historical Society.

22 A witness at Arnold's court-martial in 1780 testified that Constable "went into the country" one or two weeks before the British evacuated the city and did not return until after they had departed. Testimony of Stephen Collins Proceedings of a General Court Martial, 62.

beginning late in April, a steady stream of suppliants from Philadelphia appeared at Washington’s headquarters, requesting passes for themselves, their families, and their personal belongings. Most of the petitioners eagerly protested their “true allegiance” to the American cause, usually complaining that they had been “caught” in the city by the occupation and had been unable to escape without the loss of all their possessions. As a rule, the commander in chief refused to become involved in the granting of passes, but he failed to issue orders to prevent his subordinates from receiving the applicants, listening to their tales of woe, and in some cases granting the desired documents. There is little doubt that some officers lined their pockets handsomely, taking advantage of the desperation of these people and of their ability to pay large sums for the passes.

When it became known that Howe was about to evacuate Philadelphia, Washington considered the appointment of a military governor for eastern Pennsylvania. Some of his close associates whispered that the choice was to fall to Benedict Arnold, who had just returned from the north and was waiting upon the commander in chief for a new command. Arnold’s injured leg had not healed properly during his short stay at his sister’s home in New Haven, and when he reached Valley Forge late in May it was obvious that he was still unfit for any sort of field command. The rumor of this appointment evoked general resentment among the Pennsylvania Whigs, who regarded Arnold as a “dandified New Engander” with a shady past, an allusion to the unsubstantiated report of “suspicious actions” on his part during the campaign before Montreal. There is a distinct possibility that even before entering the city on June 19, Arnold was well aware of this dislike for him and because of his already embittered nature was ready to return it with interest. Be that as it may, he was the probable commander of Philadelphia and the logical person to approach on the matter of safe-conduct passes.

The Continental Congress meeting in York was informed of the efforts of the Philadelphia merchants to escape with their property, and in order to prevent this and to avoid a threatened rise in the price of commodities in the event that Continental paper money replaced British coin, Congress approved a resolution on June 5, 1778,
ordering the commander in chief to bring about a temporary suspension of all business transactions in the city once it was recaptured. This prohibition on trade was to remain in force until General Arnold, or whoever was appointed military governor, could verify the true ownership of all goods found in the city. Since news of the proposed resolution leaked out several weeks before adoption, its terms must have been known to Arnold and his staff some time before he made his entry into Philadelphia.

Among the many visitors to the camp at Valley Forge in search of passes and safe conducts was Robert Shewell, Jr., a young Philadelphia merchant and ship captain of well-defined Tory sentiments. He appeared at the American camp early in May, a few days after the arrival of Baron von Steuben who had been appointed to supervise the training of the army. Shewell's attachment to the Tory cause was so well known both inside and outside the city that when he approached several Continental officers with a request for special favors, he was ordered to leave the camp immediately and was threatened with arrest and imprisonment if he ever returned to Valley Forge. When Steuben learned of the suspected purpose of the merchant's visit and the low opinion of his character, he was so infuriated that he permitted the soldiers to manhandle Shewell and literally drive him off the parade ground.

Shewell had gone to Valley Forge to secure a pass to go to Virginia. The purpose behind his request was known in camp, for some of the Pennsylvania militia officers had been advised by friends in Baltimore that a few months earlier a large amount of merchandise be-

25 The resolution of Congress suspending all business and prohibiting further removal of goods from the city was printed in the newspapers on June 20, together with a proclamation by General Arnold explaining the full meaning of the terms. See Pennsylvania Evening Post, June 20, 1778.

26 The Shewell family of Philadelphia had been shipowners and merchants for several decades before the outbreak of hostilities. Several of them acted as captains of vessels owned by the family. Stephen and Joseph Shewell were listed among the owners of the ship Elizabeth and Mary in 1759. "Ship Registers for the Port of Philadelphia (1726-1775)," PMHB, XXVI (1902), 398. According to Stephen Collins, a reputable Philadelphia merchant, testifying at Arnold's court-martial, Robert Shewell, Jr., had lived in the city "for many years prior to 1778." Proceedings of a General Court Martial, 62.

27 Although Shewell was reported to have served for a short time in one of the city militia companies in 1777, prior to the British capture of the city, he was known to have mistreated Whig sympathizers during the occupation and was generally regarded by the more radical Whigs as a thoroughly "disaffected person." Ibid., 15, 66-67.
longing to Shewell among others had been seized in Virginia at the order of the Board of War then sitting in Yorktown on the grounds that the owners were active enemies to the cause of freedom and were dealing directly with the British in New York and the West Indies. When Shewell had learned of this, he had gone to the encampment of Pennsylvania militia at Valley Forge and asked the commanding officer, Colonel Thomas Proctor, for the necessary documents to go first to Yorktown to protest against the seizure of his property, and then to Norfolk to reclaim his merchandise. When the colonel refused to grant a pass to a complete stranger, Shewell made the same request of General Charles Scott, who eventually signed the requested document, and Shewell went to Virginia. There is no indication that an official report of the Virginia seizure was sent to General Washington by the Board of War, and since Arnold was still in Connecticut at the time, there is considerable doubt that he knew anything of Shewell's activities.

Undaunted by his summary ejection from Valley Forge in May, Shewell went to see Colonel Proctor once again on June 3, this time requesting permission to move his ill wife and some family belongings from Philadelphia to Maryland, where he had rented a farm a month earlier on his way back from Virginia. He assured the colonel that he had a small schooner ready to load with household goods and his wife's family belongings, if he could obtain permission to sail the vessel safely past the American privateers to an American-held port on the eastern shore of Maryland. From there he hoped to take his wife overland to the house he had rented. Once again Proctor refused to issue the requested papers because he still did not know enough about the young man and his activities to accept his word on the matter.

28 Much of Shewell's merchandise was said to be located in Norfolk. Ibid., 17.
29 Thomas Proctor of Pennsylvania commanded the First Company of Pennsylvania Artillery. He eventually rose to the rank of full colonel in spite of several near courts-martial resulting from his great unpopularity with his men. Deposition of Thomas Proctor, Aug. 6, 1778, Ingersoll v. Lovely Nancy, Revolutionary War Prize Cases, Records of the Court of Appeals in Cases of Capture (1776–1787), microfilm copy of originals in Library of Supreme Court of the United States, hereinafter cited as Ingersoll v. Lovely Nancy.
30 Charles Scott of Virginia commanded militia from that state in the Continental Army, and was a close personal friend of Washington's.
31 Proceedings of a General Court Martial, 55.
There seems little doubt that Shewell was acting as spokesman for several merchants in the city. Apparently, some sort of arrangement had been reached for a concerted effort to save at least a portion of their property by shipping it out of Philadelphia on the first available vessel. During the spring, sometime before his first appearance at Valley Forge, Shewell had begun searching for a suitable ship. He eventually settled on the Charming Nancy, a small thirty-ton schooner that had been at anchor in the river ever since the previous December when it had brought a cargo of merchandise from New York. The schooner had been sold for £250 sterling on March 31 by its owners, William and Nathaniel Coffin of London, both of whom were in Philadelphia on business at the time, to William Shirtliff, an import merchant with definite Tory leanings.

Testimony at General Arnold's court-martial established that in May, 1778, at the time of his first visit to Valley Forge, Shewell had close business connections with Shirtliff and had at times employed his services as supercargo. In addition, it was made clear that Shewell had been doing business with both Constable and Seagrove ever since their arrival in Philadelphia. There is a distinct possibility that Shewell may have purchased a second vessel at the request of Constable, who was searching for some means to convey Porteous' unsold merchandise back to New York.

Available evidence indicates that Shewell and his partners—Seagrove and Constable—purchased a three-quarters interest in the Charming Nancy from Shirtliff, but for convenience left the ownership in the name of William Shirtliff and Company. On second thought, however, the owners decided to put the vessel in Shewell's name because of his friendship with certain British officials.

32 It is unlikely that the little schooner purchased by Shewell and his associates was the Charming Nancy owned by B. Le Petit & Co. of Philadelphia, registered as an armed privateer in February, 1777, captured by the British in a fight off the Delaware and sold in New York as a prize. "List of Armed Vessels from Port of Philadelphia, 1776-1777," PMHB, XXVI (1902), 147.

33 William Shirtliff (Shurtliff) was a prosperous merchant in Philadelphia with considerable property, including a store and its contents. Although charged with treason in September, 1778, he was released when no one appeared to testify against him. Scharf and Westcott, I, 395.

34 Constable made reference to "two vessels" he sent out with goods belonging to him and to Porteous, at least one of them destined for Wilmington. Constable to William Duer, June 13, 1778, New-York Historical Society.

35 Deposition of Stephen Collins, Aug. 6, 1778, Ingersoll v. Lonely Nancy.
Moreover, he was the only one of the four partners to hold a master's license and to be acquainted with the sailors along the waterfront.

The main problem now was to load the cargo without attracting the attention of the British who were anxious to prevent valuable merchandise from falling into the hands of the Americans. It was finally agreed after consultation with several authorities on the loading of vessels that the surest method of avoiding detection was to give the impression that the cargo was comprised entirely of raw salt, a commodity in ready supply in the city with almost no commercial value as far as the British were concerned, although prized in some American-held ports where large-scale fishing interests required salt as a preservative. Once the salt had been obtained, the Charming Nancy was to be secretly loaded two-thirds full with the valuable merchandise belonging to the members of the "company"; this merchandise, carefully crated, was then to be covered with a thick layer of salt. It was essential that the schooner be loaded to the point where the British could not force the crew to take on additional cargo. In this way it was hoped that there would be no difficulty in securing a clearance from the British, who had no interest in a cargo of salt.

There was general disagreement among the owners as to the eventual destination of the Charming Nancy. A business associate of Shewell's insisted that the safest place was Newfoundland, since a ready market existed there for both the merchandise and the salt. Two other ports under consideration were Wilmington and New York, the former in American hands and a market for any sort of merchandise. The attraction of the Delaware port was its proximity and the fact that the governor of that state, the stanch patriot John McKinley, was a prisoner of the British in Philadelphia and might be persuaded to issue a pass to permit the schooner to land her cargo in his state. This was a false hope, however; McKinley had made it clear in October, 1777, that he would sign no such papers as long as

36 A Philadelphia merchant, David Beveridge, later testified that he discussed the plan to smuggle Shewell's merchandise out of the city and that the suggestion to employ salt as a subterfuge was his. He would have purchased a share in the venture except for Shirliff's "loose tongue" which threatened to reveal the entire plan to the British. Deposition of David Beveridge, Aug. 6, 1778, Ingersoll v. Lovely Nancy.

37 Beveridge later insisted that the voyage to Newfoundland was his idea. Ibid.
he was on parole to the British. It was eventually decided that the Charming Nancy would sail in company with several escorted British merchantmen, and then under cover of darkness slip away from the fleet and take refuge in one of the many small creeks emptying into the lower Delaware. From there the schooner could be sailed northward to one of the small New Jersey ports still in the hands of the American forces. All that remained to be done was to obtain a pass to avoid seizure by any of the numerous American privateers in the waters off the Cape. It was for this purpose that Shewell went to Valley Forge in June, 1778.

It required courage on Shewell’s part to return to the American camp after his unfortunate experience there in May. He appeared at Arnold’s headquarters on June 4, the day before the Congressional resolution shutting off trade in Philadelphia was adopted. It was now generally known that Arnold was soon to head the military government of eastern Pennsylvania. Shewell asked for an immediate interview with him on a matter of “urgent personal business,” a request for a pass for the Charming Nancy. Shewell claimed that the schooner was only partly his, indicating thereby that he was speaking for persons other than himself. He informed Arnold that the cargo of “salt, linens, woolens, glass, loaf sugar, bohea tea, nails, etc.” was already on board. When questioned as to the ownership of the vessel and cargo Shewell stated that they belonged to a group of his close associates, all of whom he assured Arnold were sincere in their attachment to the American cause and were “Friends to American liberty.” Having been caught up by the British occupation, they were now fearful lest these items, “essential to their country,” fall into the hands of the enemy and be entirely lost to the American cause. The merchant concluded his plea with the statement that, if saved, the cargo was “likely to be beneficial to their country.” Arnold later testified at his court-martial that he had not pressed the young man for the names of his friends, nor had Shewell volunteered

38 The first to approach Governor McKinley for a pass to send a vessel to Delaware was David Beveridge, who asked for such a favor in October, 1777, shortly after McKinley’s capture by the British near Wilmington. Proceedings of a General Court Martial, 61. McKinley was exchanged in 1778 for William Franklin, Tory governor of New Jersey, who was held prisoner by the Americans in Connecticut. Van Doren, 114.
39 Deposition of Respondents, Aug. 6, 1778, Ingersoll v. Lovely Nancy.
40 Ibid.
to divulge them, a fact that did not seem important to the general.41

After further discussion, Arnold signed the necessary papers to permit the Charming Nancy with her master, William Moore, to pass safely through the cordon of American privateers and then to enter any port in the United States not under British control where she was to be allowed to unload her cargo unmolested by local authorities. According to the terms of the pass, all persons, members of the Continental government as well as state officials, were enjoined from interfering in any manner with the Charming Nancy.42

The document specified that the schooner and her cargo belonged to "Robert Shewell, junior, and company," and were under care and consignment to William Shirtliff, acting as agent on board for the owners.43 For this one voyage only, the vessel was to be under the command of William Moore of New York and New England.44

Final arrangements for the schooner’s departure were left in the hands of Seagrove and Shirtliff, who remained in Philadelphia during the last two weeks of the British occupation. Both Shewell and Constable were convinced by their friends that it would be well for them to be absent while the British troops prepared to depart, for both of them were by this time under observation by the authorities. It was suggested that they postpone their return to the city until after the arrival of the American troops and until it was known what was in store for the numerous merchants remaining behind who had done business with the British. Constable remained at Mrs. Lawrence’s, some miles outside the city, and it may be that

41 Arnold’s full account of his interview with Shewell on June 4 is printed in Proceedings of a General Court Martial, 107-108. The complete text of the pass granted to the Charming Nancy is to be found in ibid., 14.

42 No effort has been made in this paper to discuss the legal right of General Arnold to issue such a pass when the state law specifically forbade it. At a later date, the Supreme Executive Council declared that such a pass was invalid unless countersigned by a ranking state militia officer. It was largely over this issue that the Pennsylvania Whigs began their attack on Arnold.

43 Captain Moore testified that at Shewell’s request Shirtliff was on board the Charming Nancy when she sailed down the Delaware. Examination of William Moore, Aug. 6, 1778, Ingersoll v. Lovely Nancy.

44 Little is known of William Moore other than that he had commanded several vessels in the New York-Philadelphia trade, and that he was later employed by the firm of Seagrove and Constable. According to one of Arnold’s biographers, the general had “brought Moore down from the Havens to ply in nefarious business,” but there is little evidence to support this statement. Decker, 342-343.
Shewell joined him there on his return from Valley Forge with the pass for the _Charming Nancy_ which he sent into the city to Captain Moore.

Although Shewell had told Arnold on June 4 that the schooner was already loaded, this was not completely true, for on that same day Shirtliff purchased eight chests of bohea tea, six of which he loaded on the _Charming Nancy_.\(^45\) Only six days before, Seagrove had purchased thirteen hogsheads of loaf sugar, eight of which were destined for the schooner's hold.\(^46\) Both purchases belie Shewell's statement that the cargo of the _Charming Nancy_ consisted of merchandise "caught up" in the British occupation; in reality, much of the cargo comprised items bought on speculation at the last moment when prices were ruinously low.

William Moore was officially certified as master of the schooner on June 5, the day he appeared before John Smith, the clerk in the office of the port superintendent, to obtain a clearance and a permit for the _Charming Nancy_ to leave Philadelphia. The official records indicate that New York was the stated destination, and that the cargo was declared to belong to William Shirtliff and James Seagrove and Company and was "for the use of the British Army."\(^47\) Apparently, no difficulties were encountered in obtaining the necessary papers, and Moore took the _Charming Nancy_ down river a few days before June 18, the date of the final evacuation of the city. He was obliged to sail close to a large British warship whose captain suspected that Moore was "a damned rebel" waiting for a chance to slip off in the dark. The _Charming Nancy_ was able to get away on the second day out from the Capes, but was almost immediately overhauled by a Pennsylvania privateer, the _Santippe_, a small but heavily armed schooner under the command of Samuel Ingersoll.\(^48\) Despite Captain Moore's protest that his vessel and cargo were under the protection

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45 Bill of Sale, June 4, 1778, Ingersoll v. Lovely Nancy.
46 Bill of Sale, May 30, 1778, ibid.
47 Deposition of Respondents, Aug. 6, 1778, ibid.
48 Other than the capture of the _Charming Nancy_, little is known of the _Santippe’s_ (Xan-tippe) career. Samuel Ingersoll, possibly a native of Connecticut, was one of the more successful privateering captains during 1778 and 1779 in the Delaware estuary and off the New Jersey shore. According to the records of the New Jersey Court of Admiralty held at various locations in the state in those years, Ingersoll entered libel claims against at least twelve vessels (six schooners, four sloops, a brigantine and a sloop of war) that had fallen prey to him and the crews of the various vessels he commanded. _New Jersey Gazette_, July 20 and Sept. 16, 1778; July 20, Aug. 12, Sept. 17, 1779.
of Benedict Arnold's pass of June 5, and that the cargo manifests were all in order, the Santippe forced its prize to proceed to Egg Harbor where Ingersoll began a condemnation action in the New Jersey Court of Admiralty.

Ingersoll's libel, drawn up by Bowes Reed, clerk of the admiralty court, and presented to the court commissioner, John Imlay of Pennsylvania, on July 14, claimed that the Charming Nancy and her cargo were legal prizes of war on several grounds: both were owned by Robert Shewell, a well-known Tory sympathizer; the cargo hidden under a thick layer of raw salt was contraband of war under several acts of the Continental Congress; the capture took place during an attempt to flee an enemy-held port under attack by American forces; the vessel was sailing under a clearance freely granted by the enemy; and Captain Moore was sailing on a northeasterly course when intercepted, a course that would have taken him to New York. The libel further stated that it was common talk among the crew of the captured schooner that Captain Moore had been planning to take his vessel to New York, another enemy-held port, on the direct orders of the owners.50

The hearing on Ingersoll's petition was delayed because of the hostilities in New Jersey following the British withdrawal from Philadelphia. The case was finally heard by a jury on August 5 and 6, 1778, in the New Jersey Court of Admiralty sitting in special session in Mount Holly.51 According to the official announcement of the hearing, the session was "to try the truth of the facts alleged in the bills of Samuel Ingersoll . . . against the schooner or vessel called the Lovely Nancy, late commanded by William Moore . . ."52 It was quickly determined that this was not an open-and-shut case

49 John Imlay of Philadelphia, commissioner of the New Jersey Court of Admiralty, was one of the first patriots to take the June, 1777, oath of allegiance to the state of Pennsylvania, performing this act on June 27, 1777, before John Ord, local justice of the peace. John Ord's List #2, Division of Public Records, Pennsylvania Historical and Museum Commission, Harrisburg, Pa.

50 A full report of the 1778 condemnation proceedings against the Charming Nancy is to be found in Ingersoll v. Lovely Nancy. Additional material on the same case was introduced at Arnold's court-martial. Proceedings of a General Court Martial, 55-61.

51 This session of the court was held in the home of Zachariah Rossel at Mount Holly; the presiding judge was Imlay.

52 The announcement of the hearing appeared first in the New Jersey Gazette, July 20, 1778, and was later reprinted in the Philadelphia newspapers.
when Richard Stockton, a proctor of the court acting for the schooner's owners, introduced Arnold's pass and several long depositions as evidence. Ingersoll's request for an immediate condemnation order was denied by Commissioner Imlay, who then ordered the jury hearing to begin. After presenting the testimony of at least nine witnesses, Stockton answered each of Ingersoll's claims. The jury found in favor of the defendants, and Imlay ordered the vessel and cargo released by the authorities to Shewell, Shirtliff, Constable and Seagrove. The jury's decision was undoubtedly influenced by the commissioner's stand that since the pass signed by Arnold was entirely in order, the Charming Nancy could not be considered an enemy vessel and thus was not a legal prize of war. As soon as the final decision was made known, Captain Ingersoll requested a new trial on the basis of the availability of new evidence at a later date. On the date set for the new hearing, September 22, 1778, Ingersoll was unable to present any new evidence and Commissioner Imlay issued a final decree releasing the Charming Nancy to her owners. The decision was appealed on October 26 to the Continental Congress, and, eventually, on August 20, 1780, was upheld in its entirety.

During the trial, Captain Moore was allowed to remain on board the Charming Nancy in Egg Harbor to safeguard the cargo until ownership of the vessel could be settled. When in October, 1778, the rumor spread through Philadelphia that the British were seriously contemplating a landing in force to wipe out the American naval base at Egg Harbor and thus draw the noose of economic blockade tighter around Philadelphia, panic spread among those merchants owning goods stored in the tiny New Jersey port. The only sure escape route was the wagon track across the South Jersey plain to Penns Grove on the Delaware River opposite Wilmington. A supply of horses and carts necessary for such an operation was not available in New Jersey, and an urgent appeal was sent to Philadelphia.

As soon as the owners of the Charming Nancy learned of this situation, they went to see General Arnold, requesting his influence to

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53 An affidavit explaining his statements during the hearings on Aug. 5 and 6, 1778, was prepared by Imlay on Sept. 22, 1779, for use in the preliminary hearings in the Arnold case. Proceedings of a General Court Martial, 76.

54 Ingersoll v. Lovely Nancy.
help them rescue their belongings. On October 16, several wagons levied in Pennsylvania for military service in that state appeared at Egg Harbor on orders from Arnold and with written instructions from one of his aides, Major David S. Franks. The wagon master presented Captain Moore with a letter from Philadelphia instructing him to release a portion of the cargo for transportation to the city. This merchandise, later identified at Arnold’s court-martial as six casks of sugar, three whole and three broken chests of tea, seventeen bolts of woolen cloth, several pieces of linen, some fine glassware, a few kegs of nails, some rolls of cordage and six swivel guns, was loaded on the wagons and transported to Philadelphia where it was delivered by prearrangement to the vendue store of Stephen Collins in Second Street.

According to Collins, Seagrove visited his store to request the merchant to dispose of some merchandise at commission. He identified himself as one of the owners of the goods. It developed during the conversation that the merchandise was part of the cargo of a vessel then lying at Egg Harbor. Later both Shewell and Constable went to see Collins on the same matter, presumably after learning of the indecisive results of Seagrove’s visit. It was agreed that Collins would dispose of the goods and turn over half the proceeds to whichever of the three, Constable, Shewell, or Seagrove, first came back to the store requesting payment. The other half of the money Collins was to retain in cash until General Arnold should send for it, or should direct its employment in some other manner.

David Solebury Franks, a young and rather elegant gentleman, acted as one of Arnold’s aides from the time of Arnold’s participation in the campaign against General Burgoyne. He was present at Valley Forge in May, 1778, when Arnold returned from Connecticut, and he entered Philadelphia before the general to find adequate lodgings for his commanding officer. For a fairly comprehensive account of his checkered career as soldier and later as diplomat, see Oscar S. Strauss, “New Light on the Career of Colonel David S. Franks,” Publications of the American Jewish Historical Society, X (1902), 101–108. Further information on Franks’s relationship to Arnold’s treason at West Point is to be found in Abraham S. Wolf Rosenbach, “Documents Relative to Major David S. Franks while aid-de-camp to General Arnold,” ibid., V (1897), 157–189.

For the wagon master’s account of the trip to Egg Harbor, see deposition of Jesse Jordan at Arnold’s court-martial. Proceedings of a General Court Martial, 33–34. No attempt is made in this paper to discuss the legality of Arnold’s allowing wagons levied in Pennsylvania for public use to be employed for private purposes in another state.

The deposition of Stephen Collins is printed in full in Proceedings of a General Court Martial, 44–45.
Collins testified that from this arrangement he was led to believe that Arnold was either half owner of the merchandise and hence a fourth partner, or was a large creditor of one or more of the other three. If the first assumption was true, he had no way of knowing when the general came into possession of his share of the cargo. Collins added that he understood from what Shewell and Constable had said that Arnold may also have been part owner of the *Charming Nancy*, still lying at anchor at Egg Harbor.

Collins' assumption that Arnold was part owner of the merchandise was further strengthened when the general sent one of his aides to the merchant's office requesting payment of a portion of the proceeds from the sale of the goods brought to the city from Egg Harbor. For some unexplained reason, the money was not handed over at that time, and Arnold had to appear in person for it at a later date. Now, for the first time, Benedict Arnold was openly associated with the adventures of the *Charming Nancy* as an "interested party" and not merely as the person authorizing her safe conduct out of the Delaware River.

The care with which Collins kept his accounts is responsible for the clinching evidence that the cargo of the schooner was actually the property of Shewell, Constable, Seagrove and Arnold. He neatly entered every sale made at commission in a receipt book, and then required the signature of the recipient to indicate that he, the former owner of the goods, approved the terms of the sale and had received correct payment. Among the signed receipts are five that concern the sale of the merchandise from the *Charming Nancy*. These are dated from November 4 through December 8, 1778, indicating either that Collins required considerable time to dispose of the goods, or that the owners may not all have remained in the city during this period. The first receipt, dated November 4, is signed by Captain Moore and represents a payment to him of £400, no doubt as reimbursement for expenses in caring for and storing the goods "put into his hands by General Arnold, Robert Shewell and Mr. Seagrove."

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58 Ibid.
59 Collins testified that Arnold appeared at his office in person and demanded a portion of what was owed him. *Ibid.*
60 The receipt book of Stephen Collins (1773-1783) is in The Historical Society of Pennsylvania (HSP).
61 Receipt of Capt. William Moore, Nov. 4, 1778, *ibid.*
This is the second time that Arnold's name was directly connected with the ownership of a part of the cargo of the Charming Nancy. The wording of the receipt, however, may imply simply that Moore received the goods early in June from Seagrove and was given the pass Shewell had obtained from Arnold.

The second receipt, dated November 7, was for £33 paid to Thomas Clarke, wagon master, for his assistance in helping "to save" a portion of the goods out of the Lovely Nancy's cargo, as Collins always called the schooner. The third receipt, dated November 24, was for £2,775 "on account of the goods and effects" put into the merchant's hands by the agents of Arnold, Shewell, and Seagrove. It was signed by Robert Shewell, Jr., and presumably represents his share of the schooner's cargo. On the same day, the fourth entry, for £7,500, for "a share of the same goods," was signed by Benedict Arnold. From the fact that this appears to be the general's own signature and in the light of Collins' statement in 1780, it seems likely that the general actually appeared at the store to collect his money and sign the receipt book. Although the final entry, dated December 8, for more than £2,675 bears an undecipherable signature, there is the added notation, "for Seagrove and Constable." Evidence from several sources indicates that both men may have been out of the city at that particular time.62 Thus, there is little doubt that General Benedict Arnold was a partner in the sale of the merchandise from the schooner Charming Nancy, and that he received the lion's share of the sale money, approximately sixty per cent of the nearly £13,400.

The question still unanswered, and the one that is vital to the problem of whether or not the owners of the Charming Nancy were conspiring with the assistance of General Arnold to commit a felony, is when did Arnold come into possession of his share of the schooner's cargo? Arnold's numerous enemies would like to assume that Shewell offered him a share of the cargo on June 4 as an inducement to sign the pass, and in view of the general's later treasonable conduct at West Point it is tempting to reach this conclusion. Arnold stead-

62 A letter from Constable to a business associate mentioned a visit by Seagrove to the Boston area in November and December, 1778, probably in search of ships for the newly formed partnership. Constable to Thomas Mumford, Dec. 29, 1783, Letter Book of William Constable (1782-1790), New York Public Library.
fastly refused to admit, either at his trial in 1780 or at any other time, that he actually owned any part of the schooner or her cargo. That the jury in the admiralty case in New Jersey in 1778 found in favor of the defendants, the owners of the little schooner, and named only Shirtliff, Shewell, Constable and Seagrove as the owners, does not absolve Arnold. Since Shirtliff apparently served only as a figurehead and did not share in the final distribution of the profits from the sale of the cargo of the Charming Nancy, it seems safe to assume that any claims he might have had to a share had been fully settled prior to October, 1778.63 If Arnold had been given or had purchased Shirtliff's share, if such a share ever existed, it certainly would not have amounted to half the value of the cargo. The cargo manifest dated June 5, 1778, indicates that Shirtliff put on board in his own name a portion of the tea and the linen, but nothing else.64

During the general's court-martial at Morristown, Major Franks, a friend of both Constable and Seagrove, testified that a few days after he had entered Philadelphia in June, 1778, he had been present during a conversation between Arnold and Seagrove when the latter mentioned the capture of the Charming Nancy a few days earlier.65 Franks stated that he heard both men refer to the general's purchase of a part interest in both the vessel and the cargo. Although he was uncertain of the exact date of the purchase, and he later claimed that he heard them mention it specifically but could not recall it, he swore that it was after June 4.

A charge of collusion against the general rests on the sequence of events in this case, a sequence almost impossible to prove one way or the other. If there was a sale of any share of the cargo of the Charming Nancy to Arnold, did it take place before or after he signed the pass to permit the vessel to enter an American-held port? Secondly, did Arnold issue the pass to Shewell before or after learning of the Congressional resolution officially adopted on June 5? There is little doubt that Arnold was officially informed of the resolution some

63 Collins testified in 1780 that at one time he thought the Charming Nancy was the sole property of William Shirtliff & Company of Philadelphia, but that he later decided that this firm was merely acting as local agent for the New York owners or for some other group of merchants. He swore that Shirtliff had lived in Philadelphia for at least seven years prior to the outbreak of hostilities. Proceedings of a General Court Martial, 55-61.

64 Cargo manifest of Lovely Nancy, Ingersoll v. Lovely Nancy.

65 Proceedings of a General Court Martial, 66.
days later when a copy was conveyed to him by Washington.\textsuperscript{66} But as has been pointed out earlier, the gist of the resolution was well known while the matter was still under consideration in Congress. And a final point, can any connection be proved between the issuance of the pass and the general's eventual ownership of a share of the cargo?

Even Timothy Matlack, one of the most extreme Pennsylvania Whigs and a leader in the assault on Arnold's character, appearing as one of the chief witnesses for the prosecution at Morristown, was unable under oath to state as a certainty that Arnold had had personal business dealings with Shewell or his associates prior to the issuance of the pass for the \textit{Charming Nancy}, or even prior to assuming his duties as military commander of Philadelphia.\textsuperscript{67} He did point out, however, that Arnold, as well as his numerous "aristocratic" friends, must have known of the intention of the Pennsylvania authorities to seize all property of suspected Tory sympathizers as soon as the city was reoccupied. This step had been advocated openly in the public press and was under discussion at York. Arnold likewise knew, so Matlack testified, that it was the state's contention that no pass to leave Pennsylvania was valid unless countersigned by an authorized state official.\textsuperscript{68} This argument was in rebuttal to Arnold's testimony that the commissioner and jury in the admiralty case in New Jersey had recognized the validity of his signature on the

\textsuperscript{66} Arnold presumably did not receive an official announcement of the action of the Continental Congress until his instructions came from the commander in chief just as the new military governor was about to enter Philadelphia. On the other hand, there is no reason to believe that he had not heard the rumors circulating in Valley Forge about the discussions going on at York. Washington to Arnold, June 19, 1778, in Fitzpatrick, XII, 94-95.

\textsuperscript{67} Timothy Matlack was one of the Quaker leaders who actively supported the American cause both on the field of battle and in the political arena. For this reason he was "read out" of several of the more conservative Quaker groups. He had an important part in drawing up the state constitution of 1776, and was regarded as one of the moving forces in the radical Whig party. As secretary of the Supreme Executive Council of Pennsylvania he was a person of great importance and also one of the chief objects of scorn of the more conservative elements in the state. For a brief biography of Matlack, see \textit{National Cyclopedia of American History} (New York, 1900), X, 504-505. The animosity Matlack felt toward Arnold was caused in part by the undue severity with which the general was supposed to have treated Matlack's son William, when the latter was assigned to the general's personal service. For a comprehensive discussion of the so-called "case of the barber" involving the younger Matlack and Arnold, see John C. Miller, \textit{Triumph of Freedom, 1775-1783} (Boston, 1948), 532-533.

\textsuperscript{68} Matlack's testimony at the Morristown court-martial appears in the \textit{Proceedings of a General Court Martial}, 16-17, 54, and 66.
pass for the *Charming Nancy* in spite of the efforts of Captain Ingersoll and his lawyer to convince the court that the signature of a state official had to be appended to make the document valid. Matlack was unable to convince the court-martial board that Seagrove, Constable, and Shewell were "known enemy sympathizers" for the simple reason that he was forced to admit that the list of suspected persons drawn up by the Supreme Executive Council on June 15, 1778, did not include their names. And it was immediately pointed out to the court by Arnold that their names did not appear on any subsequent lists of "disaffected persons" right up to the end of 1779.

It is more likely that Arnold's financial interest in the *Charming Nancy* originated after her capture by the Santippe. Shewell and probably Seagrove, as part owners of the schooner and her cargo, were fearful that the vessel would be condemned as a legal prize and all would then be lost, an eventuality that would have been catastrophic for Seagrove because of his heavy financial responsibility to his New York creditors. They therefore decided to solicit the powerful assistance of Arnold in their behalf and, knowing that he was unlikely to interest himself in the case merely for reasons of personal friendship, agreed to offer him a substantial return. When he expressed willingness to help them he was either given or sold approximately one-half interest in the cargo of the *Charming Nancy*, provided he was successful in freeing the schooner and merchandise from the control of the New Jersey Court of Admiralty. Presumably, it was this conversation that was overheard by Major Franks.

Although the ethics of using one's influence to assist friends may be open to question, there was nothing illegal in such an action provided Arnold purchased his share of the schooner's cargo with his own money and did not receive it as a gift or bribe. However, if he used funds obtained from selling goods confiscated from known Tories to purchase his share of the cargo, as was charged by the Pennsylvania authorities, and then sold or authorized to be sold

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69 The long list of persons declared to be traitors to Pennsylvania by a proclamation of the Supreme Executive Council, dated June 15, 1778, while that body was still meeting in Lancaster, appeared in the Philadelphia newspapers a few days after the reoccupation of the city by the American forces. See *Pennsylvania Evening Post*, June 25, 1778.

70 None of the owners of the *Charming Nancy* appeared on the final list of traitors prepared at the very end of the war. List of Persons Proclaimed Traitors in Pennsylvania, Nov. 28, 1783, *Pennsylvania Archives, Fourth Series*, III, 937-945.
at great personal profit what he had purchased, he did commit the crime of peculation or misuse of public funds.\textsuperscript{71}

Whether or not the facts warrant this charge, there is ample evidence that Arnold made various financial agreements with other merchants early in the occupation to “turn a pretty penny” in European manufactured goods and East India commodities that were plentiful in Philadelphia but scarce in other rebel held ports.\textsuperscript{72} His need for money because of his extravagant ways and his eagerness to take part in “get rich quick” schemes is too well known to need further comment. He defended himself from these charges and innuendos at his court-martial by pointing out that the commodities in question were not needed by the Continental Army even though they were on the state list of items to be confiscated.\textsuperscript{73} His way of life, he implied, was his own private business.

Whatever may have been the actual facts in the case, there is no gainsaying Stephen Collins’ records of payments to Arnold and his friends, and the fact that the general actually signed the receipt book as having received his share of the profits from the sale of the cargo of the Charming Nancy. The money he received was apparently already pledged to another venture worked out by Constable and Seagrove, who had formed a new partnership to replace their earlier verbal agreement. These two signed a compact on November 2, 1778, with Arnold and Matthew Clarkson, one of the general’s closest friends and a personal aide, a few days before Collins made his final payments from the sale of the schooner’s cargo.\textsuperscript{74} It was

\textsuperscript{71} Peculation was defined by an English statute of 1658 as the appropriation of public money or property by one in an official position; or the embezzlement of money or goods entrusted to his care. There were no grounds for charging Arnold with the crime of barratry in connection with the Charming Nancy, for there is no evidence that he encouraged procrastination or shifting the case about in the New Jersey courts, or that he urged the owners of the schooner to institute legal proceedings of any sort.

\textsuperscript{72} There is no need to describe the well-known agreement between Arnold on the one part and James Mease and William West on the other. The three men came to a final agreement on June 23, 1778, just four days after the general had entered the city and assumed his new command. Scharf and Westcott, I, 392; Van Doren, 169–170; and Decker, 301.

\textsuperscript{73} Proceedings of a General Court Martial, 109–116.

\textsuperscript{74} Matthew Clarkson, “a long-haired youth,” had been with Arnold since before Saratoga and was a rival of Major Franks for the general’s personal attentions. He later was aide to Gen. Benjamin Lincoln at the siege of Charleston, and when the Tory newspaper in New York City mentioned Clarkson’s capture by the British when Charleston fell, it referred to him as the “son of Mr. Daniel Clarkson, of Flatbush, who has another son also employed in murdering his Majesty’s Liege subjects.” Rivington’s New York Gazette, Nov. 24, 1780.
agreed that the four men would enter into trading arrangements with merchants in New York, on the presumption that a rumor of British evacuation would drive the price of European manufactured goods down to bargain levels, just as it had in Philadelphia in May and June. Such a rumor was already making the rounds of the coastal seaports late in the summer of 1778, possibly feeding on the hope that the new French alliance might bring a rapid conclusion to the American phase of the war.

The partners decided to send an agent to New York to buy up a supply of these commodities and load them on small vessels either purchased or chartered as if preparing to trade in the West Indies, Canada, or East Florida. The agent was in reality to direct the vessels to Charleston, then in American hands, where it was hoped that the cargoes would sell well on what was reported to be a brisk market. The profits were to be used to purchase rice which would be sold in New York at the highly inflated prices then being asked. The agent, someone friendly with high-ranking officers, was to be responsible for obtaining all the necessary papers, passes, and clearances from the British. Seagrove left shortly thereafter on an overland voyage to Boston to gauge the local market and to ascertain if any small merchant vessels could be obtained at bargain prices there or at Newport.

Although there is nothing in the scattered papers of Constable and Seagrove to indicate that the terms of the agreement with Arnold and Clarkson were ever put into action, the general’s papers do contain a single entry that may refer to this scheme. At the conclusion of hostilities, Arnold memorialized Parliament, hoping to make good some of the losses he claimed to have sustained in America through the seizure of his personal property in Connecticut and Pennsylvania. Aside from the actual loss of real estate, he claimed that certain debts owed him had been rendered uncollectible by his proscription by the American authorities. Among these debts he listed one of £1,200 owed him “for money in hands of Seagrove & Constable,

75 The actual terms of the agreement of Nov. 2, 1778, remained much of a mystery until the original document came to light in 1937, when it was offered for sale by the American Autograph Shop, Merion Station, Pa. The text of the agreement was printed in the American Clipper (July, 1937), 767-768.
76 Constable to Thomas Mumford, Dec. 29, 1783, Letter Book of William Constable (1782-1790), New York Public Library.
Merchants, balance of profits arising on £10,000 worth of goods bt & sold jointly." It is possible that if this was a valid debt, and it is a known fact that Arnold falsified and padded his "estimated losses" in the hope of extracting a large sum from Parliament, it may have been incurred as a result of the implementation of the November 2, 1778, agreement with Seagrove, Constable, and Clarkson. There is no available evidence that any other business arrangement existed between Arnold and Seagrove and Constable.

Whether the partners' agent ever went to New York to carry out his part of the scheme remains a mystery, for he disappears from the scene. The plan as outlined in the agreement involved dealing with the enemy through the use of fraudulent papers, and was highly illegal from start to finish. If the court-martial board sitting at Morristown had been presented with a copy of this document, there is little doubt that the case against Arnold might well have gone otherwise than it actually did. Although other agreements involving the business arrangements of Arnold and various associates have been turned up at intervals, this one with Seagrove, Constable, and Matthew Clarkson seems to have remained a virtual mystery until the present century.

As has already been mentioned, when the news of the general's attempted betrayal of West Point reached Philadelphia, a hue and cry was raised to apprehend all those who were associated with Arnold while he resided within the city. The extreme Whigs attempted to inflame public opinion with an impromptu parade featuring a farm cart bearing a life-sized effigy of the general with a rope around his neck and a placard proclaiming his guilt to the world. There was no difficulty in rounding up eager young men to pull the cart through the streets and to shout epithets at the well-known conservatives standing about with disapproving looks.

77 J. George Taylor, Some New Light on the Later Life and Last Resting Place of Benedict Arnold and of his Wife Margaret Shippen (London, 1931), 54.
78 All inquiries as to the fate of the document have produced no positive results, since the American Autograph Shop closed a few months after the date on which the document was supposedly sold at auction.
79 For public reaction to news of the attempted betrayal of West Point, see Pennsylvania Packet, Sept. 30, 1780, and New Jersey Journal, Oct. 11, 1780.
80 A vivid account of the progress of the parade through the city streets appeared in the Pennsylvania Packet, Oct. 3, 1780.
attacks were directed against many persons, but especially against "those who supported him [Arnold] in his nefarious practices," although no apparent effort was made to identify those "practices." 81

The Supreme Executive Council of Pennsylvania met to decide what measures to take. Logically, the first move would be to order James Claypoole, sheriff of Philadelphia, to seize from Arnold's former home the private papers left behind by the general when he went north to assume command of the fortress at West Point. It was hoped that incriminating documents might be found to serve as the basis for indictments against his former business associates and friends. Although the papers were examined carefully by the Council, for some undisclosed reason their true contents were never made public. Commenting on the supposedly explosive material in these documents, one of the many editorials concluded that "prudence forbids our mentioning the names of the persons who appear by his [Arnold's] letters to have supported and abetted him in his nefarious practices." 82 Obviously, the Council and the sheriff were trying to keep the names of the suspects a secret until they could be apprehended, or their property seized if they no longer lived within the state's jurisdiction. This desire for secrecy may explain a temporary withholding of the contents of the papers, but not the decision to keep them a permanent secret. More than one disgruntled Whig desirous of seeing the "entire mess uncovered" professed to see an attempt to "whitewash" certain highly placed persons.

Although the contents of Arnold's papers were never actually revealed, it is certain that among the names found in the general's correspondence and account books were those of his associates in the case of the Charming Nancy. In Arnold's family expense ledger are to be found several entries indicating that he bought heavily from Seagrove early in July, 1778, in order to stock his larder. These purchases amounted to nearly £1,500 and included wine, sugar, tea, pickles, oil and porter. 83

The attention of President Reed and the Supreme Executive Council had been directed to Seagrove and his business activities.

81 New Jersey Journal, Oct. 11, 1780.
82 Ibid.
83 "General Benedict Arnold's Family Expenses, 1778-1779, selected from his private ledger," PMHB, XXIV (1900), 368. The original of Arnold's ledger is said to be in the New Haven Historical Society, New Haven, Conn., but this information has not been verified.
in September, 1778, when information reached them that the merchant was corresponding with mercantile houses in England. The Board of War was requested to investigate the matter, and when the Council was preparing the state's case against Arnold in May, 1779, Reed again wrote, asking what information the Board had uncovered. He pointed out that the young merchant was such a close friend of General Arnold's that any derogatory information about one was apt to involve the other. The Board of War either did not reply, or, if it did, the information was not important enough to be made use of, for Reed made no significant mention of Seagrove in the case against Arnold.

On October 2, 1780, acting under the authority of a 1779 resolution of the General Assembly of Pennsylvania, the Supreme Executive Council ordered Sheriff Claypoole to serve warrants on David Franks, William Hamilton, James Seagrove, William Constable and David S. Franks, all on suspicion of dealing with the enemy in New York during the period when Arnold was military commander of Philadelphia. There is nothing in the minutes of the Council to indicate, however that David Franks, one of the wealthiest Jewish merchants in the city, and his long-time friend William Hamilton had been in any way involved in the affair of the Charming Nancy.

Claypoole had no difficulty in arresting the five men on October 2 and 3 and confining them in the city jail to await the pleasure of the Council, which now searched the Arnold papers a second time for

84 The authorities came into possession of at least one letter from Seagrove to business associates in England.

85 President Reed to Board of War, September, 1778, and President Reed to Board of War, May 31, 1779, Minutes of the Supreme Executive Council of Pennsylvania, Colonial Records of Pennsylvania, VII, 450-451.

86 "An Act to impower the Supreme Executive Council and Justices of the Supreme Court to apprehend suspected persons, and to increase the fines to which persons are liable for neglecting to perform their tour of militia duty" (Oct. 10, 1779), ibid., XII, 495. David Franks was for a time agent for both sides in the procurement of food and clothing for prisoners of war. He was frequently suspected of illegal actions by both sides, especially when he crossed and recrossed the front lines in an effort to collect the substantial amounts of money owed him. Edwin Wolf 2nd and Maxwell Whiteman, The History of the Jews of Philadelphia from Colonial Times to the Age of Jackson (Philadelphia, 1957), 86, 89-92.

87 David Franks had lived all his life in Philadelphia and was one of several Jewish businessmen who had become closely associated with the non-Jewish community. He and William Hamilton were partners in several land company schemes, the most notable of which was the Illinois Company, set up in 1773 to exploit the Kaskaskia area. Ibid., 72.
additional information that might incriminate the prisoners and might point out the direction the investigation should take. All five were given a preliminary hearing on the afternoon of October 3, and in each case the evidence was sufficient to bind the prisoners over for trial in the Court of Oyer and Terminer the next day. When the defendants' lawyers brought up the question of release on bail, the Council hesitated because of the gravity of the case, involving as it did association with "the accursed traitor to his country, Benedict Arnold."

The case against William Constable was the weakest of the five because he had not been in Philadelphia at the time of the departure of the Charming Nancy. His personal interest in the schooner and her cargo seemed to be secondary to that of James Seagrove, his partner, and there was some evidence that Constable's investment was made without his knowledge. It was finally agreed to admit Constable to bail, the figure being set at £100,000.88 When a group of his friends were able to raise the necessary amount, he was released from custody and allowed to go about his business within the city limits.89 Similar pleas entered by the lawyer for David Franks and William Hamilton were summarily denied because of their admitted actions in support of the Tory cause during the occupation of the city, and their reported correspondence with the enemy in New York after Arnold's resignation as military commander of Philadelphia.90 Neither Seagrove nor Major David S. Franks requested bail.

Realizing that the Council would be impressed by evidence of assistance to the American cause, some of Seagrove's friends visited many prominent South Carolina merchants who had escaped from Charleston or had been released on parole after the fall of that city and were then living in Philadelphia. These men had known Seagrove during the winter and spring of 1780 when he had acted for a time as unofficial aide and forage master for General Benjamin Lincoln during the siege of the South Carolina seaport. A petition was signed

88 Colonial Records of Pennsylvania, XII, 495-496.
89 Constable's plight eventually reached the ears of one of his former Tory friends then living in Montreal, who wrote, "Poor William Constable was laid in limboe by the Philadelphians, for some concerns found out with Arnold. What is become of him, I know not. But some whisper the worst." John Fleming to William Edgar, Mar. 31, 1781, William Edgar Papers, IV (1779-1784), 856-858, New York Public Library.
90 Colonial Records of Pennsylvania, XII, 495.
by these merchants that Seagrove had served the Americans with
distinction and had lost considerable personal property when the
city was occupied by the enemy. It was pointed out that the British
must have considered him a person of considerable importance to
the American cause, for they had released him on parole and had
permitted him to return to Philadelphia on the same vessel with Gen-
eral Lincoln and the more important members of his official family. The
Council was sufficiently impressed by the petition to order
Seagrove's immediate release without further hearing. He was
never required to stand trial as a "fellow conspirator" of Benedict
Arnold.

Like Seagrove, Constable was never tried in Pennsylvania, al-
though he was required on October 12 to post surety bonds amount-
ing to £100,000, guaranteeing his continued good behavior for the
duration of the war, or at least for as long as he remained in the
state transacting business. His departure "for the south" in 1781,
presumably to perform military service with the Continental Army
and thus avoid further trouble with the local authorities, was not
considered to be "jumping bond." Constable unquestionably under-
took to serve in the military forces merely to clear his name of sus-
picion and as a means of keeping out of jail.

The remaining prisoners were tried, and upon the recommenda-
tion of the Supreme Executive Council were found guilty of "an
attachment unfavorable to the rebellion." This crime, although a
serious one, was far less so than treason or corresponding with the
enemy. All three were sentenced to immediate and perpetual ban-

91 The arrival of the Friendship from Charleston on June 22, 1780, with General Lincoln,
his suite and several aides, James Seagrove and a few other civilians, was described in the
Pennsylvania Packet, June 24, 1780.
92 Colonial Records of Pennsylvania, XII, 498.
93 Constable personally raised £50,000 for one bond and several of his friends subscribed to
two bonds of £25,000 each. Ibid., 504.
94 Constable's military service was performed as assistant aide to Gen. John Peter G.
Muhlenberg of Pennsylvania in the Virginia and North Carolina campaigns of 1781. There
are two letters from Muhlenberg to General Steuben signed by Constable as aide-de-camp for
his ailing commanding officer. Constable to General Steuben, Apr. 7, 1781, and Constable to
General Steuben, May 26, 1781, New-York Historical Society. Lafayette also made use of
Constable's services, later referring to him as "a former aide-de-camp." Louis Gottschalk,
Lafayette between the American and the French Revolution, 1783-1789 (Chicago, 1950), 164.
ishment from the state in lieu of heavy fines and long prison terms.\textsuperscript{96} Major Franks, Arnold's long-time aide and assistant, who had returned to Philadelphia as escort for Mrs. Arnold immediately after the general's unsuccessful attempt to betray West Point, was ordered to return at once to his post with the Continental Army at Washington's headquarters.\textsuperscript{96} William Hamilton and David Franks were ordered to collect their personal belongings and proceed to the British lines in New York within fourteen days under threat of long-term imprisonment for disobedience. Each was required to put up a compliance bond of £100,000 never to return to Pennsylvania without special permission from the state government as long as the war continued.\textsuperscript{97}

Thus, as 1780 drew to a close and Arnold's defection to the enemy became a thing of the past except to a few rabble-rousing Whig editors, the general's earlier activities in Philadelphia likewise faded into the background as new tensions developed between the extreme Whigs of the Matlack strain and the more conservative elements represented by Robert Morris. Arnold's former business associates from the \textit{Charming Nancy} episode, James Seagrove and William Constable, once again united as business partners, were planning a mercantile enterprise to take advantage of the rumored opening of Spanish colonial ports in the Caribbean to American vessels. Seagrove was preparing to make a trip to Havana to test the temper of royal officials there, and Constable was busy with the

\textsuperscript{96} \textit{Colonial Records of Pennsylvania}, XII, 495-496, 498-499.

\textsuperscript{96} Major Franks was infuriated by the treatment he received in Philadelphia, reporting to friends that only the intervention of Joseph Reed had saved him and Mrs. Arnold from physical violence. Franks to Colonel Varick, Sept. 28, 1780, Gratz Collection, HSP. When he returned to Washington's headquarters, he demanded and was given a court of inquiry hearing which cleared him of any complicity with Arnold's activities at West Point, and which recommended that no further attention be given to Pennsylvania's claim that the major had acted "against the interests of the state" in the summer of 1778. A full account of the findings of the court held at New Windsor was printed in the \textit{Pennsylvania Packet}, Dec. 23, 1780. Arnold wrote to Washington that Franks, among others, was "totally ignorant of any transactions of mine. . . ." Arnold to Washington, Sept. 25, 1780, printed in \textit{Pennsylvania Gazette}, Oct. 4, 1780; and Arnold to \textbf{...}, Oct. 7, 1780, printed in Rivington's \textit{Royal Gazette}, Oct. 11, 1780.

\textsuperscript{97} \textit{Colonial Records of Pennsylvania}, XII, 498-499. After weeks of procrastination, David Franks traveled overland to New York in the company of his daughter Rebecca; Hamilton withdrew from the city, apparently to Maryland or Delaware.
financial problems of such a venture. He was also keeping an ear cocked for any rumor that the state authorities might reopen his case. When he heard something of the sort in 1781, he made haste to volunteer his services to the Continental Army and was off posthaste to the south. The younger Robert Shewell was plying his trade as a successful export merchant and shipmaster, with an interest in at least one Pennsylvania privateer. William Shirtliff seems to have disappeared into thin air. As for Benedict Arnold, he was settling down to his new duties as field commander for the British.

Now that nearly two centuries have passed since the events of 1778, it is easy to pass judgment on what took place in the hectic months following the reoccupation of Philadelphia. In the cold, clear light of afterthought, the actions of Arnold and his associates appear illegal and contrary to the best interests of the new nation. But taking into account the spirit of the times, the lack of enthusiasm for the American cause, the continual bickering between state governments and the Continental Congress, the cupidity and latent forces of evil engendered during war periods—taking all these into account, it is difficult to believe that the persons involved in the case of the Charming Nancy were acting as traitors to their country, trying to aid the Tory cause. Rather they were hardheaded businessmen of some standing in the community who were attempting to avoid the loss of valuable property regardless of what the laws of the state might say. There is nothing in the personal papers of Shewell, Seagrove, or Constable to indicate that their actions were motivated by an attachment or allegiance to any political cause. Writing to one of his closest friends and an officer in the Continental Army during the British evacuation of Philadelphia, Seagrove stated, “I can only hope that my future exertions may in some manner recommend me to the favour of a country which you know I have ever respected.”

98 When William Hamilton was trying to obtain passage to the Dutch island of St. Eustatius, he engaged passage space on a small bark that turned out to be commanded by Robert Shewell. Colonial Records of Pennsylvania, XII, 520. The privateer in which Shewell invested money was the LaFayette owned in large part by the firm of Meade, Fitzsimmons and Company of Philadelphia. Register of Letters of Marque (1776–1783), Records of the Secretary of the Supreme Executive Council of Pennsylvania, Privateering Papers, Division of Public Records, Pennsylvania Historical and Museum Commission.

Like Arnold, these men were desirous of extracting the last possible penny from the situation, and in this desire they were no different from many merchants in Massachusetts, Rhode Island, Virginia and South Carolina. The charge that Arnold, and by implication his associates, was knowingly and intentionally committing "a culpable action" in the loading and dispatching of the Charming Nancy in June, 1778, is imputing to these events motives that might have been valid in Arnold's case in September, 1780, when he tried to betray West Point to the British, but which were not valid in the summer of 1778.

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