

Courts for determining Disputes between States.

On the 23d of January, 1784, some of these settlers complained to Congress that they were disturbed in their private right of soil derived from Connecticut by others claiming under the State of Pennsylvania, and prayed that a court might be instituted under the 9th Article of the Confederation, for determining the said right. Congress thereupon resolved that such a court should be instituted "for determining the private right of soil within the said territory, so far as the same is by the said article submitted to the determination of such a court," and assigned the fourth Monday of the next June for the appearance of the parties by their agents. On the 3d of June, Congress adjourned, to meet at Trenton on the 30th of October; so that, when the day for appearance came, there was no Congress. Nothing further was heard of this case; possibly because all parties came to understand that the whole question had been tried and adjudicated.

Finally, in 1799, the legislature of Pennsylvania passed an act of compromise and conciliation, by which compensation was provided for Pennsylvania claimants, and if it appeared that a Connecticut claimant was an actual settler on the land prior to the Trenton decree, in accordance with regulations prevailing among the settlers, he received a patent from the land office by paying two dollars per acre for land of first class, one dollar and twenty cents for land of second class, fifty cents for land of third class, and eight and one-third cents for land of fourth class. Commissioners were appointed to meet at Wyoming to carry out the law, and peace was thus finally restored. Pearce's Annals of Luzerne County, pp. 58-98.

NEW JERSEY *v.* VIRGINIA.

On the 14th September, 1779, George Morgan, agent for the proprietors of a tract of land called Indiana, between the Little Kennawa, the Monongahela and the southern boundary of Pennsylvania, presented a memorial to Congress on their behalf showing that the proprietors had acquired this land from the Six Nations and other Indians for a consideration of £85,916 10s. 8d.; that

napped, carried into captivity, and held as a hostage." President James C. Welling, of the Columbian University, before the New York Historical Society, May 1, 1888. See Pickering's own account in 2 Upton's Life of Pickering, pp. 381-390.

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after the acquisition it had been separated from the jurisdiction of Virginia by the king in council; and that Virginia had resumed jurisdiction over it and was about to order sales to be made. The memorial prayed that the sales might be stayed until the State and the memorialists could be heard before Congress.

This memorial was referred to a committee. During the deliberations of the committee Virginia, on the 2d January, 1781, ceded to the United States its claims to the territory northwest of the Ohio. New York had already made a similar cession. On the 16th October, 1781, the delegates from Virginia brought the matter before Congress, claiming that if the alleged purchase was within the limits of Virginia as settled by the cession, (which it apparently was,) it was a question to be dealt with by the State; and if it was beyond it, then Congress ought not to receive any claim adverse to the cession. They proposed that before going farther the question should be taken "whether it was the intention of Congress to authorize the committee to receive claims and hear evidence in behalf of said companies, adverse to the claims or cessions of Virginia, New York or Connecticut." An effort was made to amend this so that it should read: "It was not the intention," etc.; but the amendment was lost.

To this committee had been referred the cessions of New York, Virginia and Connecticut, as well as the petitions of the companies. On the 1st May, 1782, they reported recommending that the cession made by New York be accepted; that the cession made by Virginia be not accepted because it was inconsistent with rights vested in the United States, and because Congress could not guarantee to that State the tract claimed by it in its act of cession; and that the petition of the companies be dismissed.

On the 11th September, 1783, Congress, after discussion, voted to accept the cession without the condition proposed by Virginia that the United States should guarantee to that State all the territory between the Atlantic Ocean, the southeast side of the river Ohio, and the Maryland, Pennsylvania and North Carolina boundaries.

Finally, on the 1st March, 1784, the deed of cession was presented to Congress, and accepted by that body, and spread upon the journal: but before that was done the following petition was presented and read:

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“ To the United States of America, in Congress assembled.

“ The petition of Colonel George Morgan, agent for the State of New Jersey respectfully sheweth; that a controversy now subsists between the said State and the Commonwealth of Virginia respecting a tract of land called Indiana, lying on the river Ohio, and being within the United States: That your petitioner and others, owners of the said tract of land, labor under grievances from the said Commonwealth of Virginia, whose legislature has set up pretensions thereto: That in consequence of instructions from the legislature of New Jersey to their delegates in Congress, anno 1781, and the petitions of Indiana proprietors, anno 1779, 1780 and 1781, a hearing was obtained before a very respectable committee of Congress, who, after a full and patient examination of the matter, did unanimously report . . . that the purchase of the Indiana Company was made *bona fide* for a valuable consideration, according to the then usage and custom of purchasing lands from the Indians, with the knowledge, consent and approbation of the Crown of Great Britain and the then governments of New York and Virginia: That notwithstanding this report, the State of Virginia still continues to claim the lands in question, to the great injury of your petitioner and others: That your petitioner, on behalf of himself and the other proprietors of the said tract of land, applied to the said State of New Jersey, of which some of them are citizens, for its protection: That the legislature of the said State thereupon nominated and appointed your petitioner the lawful agent of the said State, for the express purpose of preparing and presenting to Congress a memorial or petition on the part and behalf of the said State, representing the matter of the complaint aforesaid, to pray for a hearing, and to prosecute the said hearing to issue, in the mode pointed out by the Articles of Confederation: That the said legislature ordered that a commission should be issued by the executive authority of the said State, to your petitioner, for the purposes aforesaid: That a commission was accordingly issued to your petitioner by the executive authority of the said State, a copy whereof accompanies this petition. . . . Wherefore your petitioner, as lawful agent of the said State of New Jersey, prays for a hearing in the premises, agreeably to the 9th Article of Confederation and Perpetual Union between the United States of America.”

A motion was made to commit this petition and it was lost. This was followed by a motion to consider and prepare an answer to it.

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This motion, also, was lost ; and Congress proceeded at once to accept the deed of cession from Virginia. No court was ever convened, and no other entry on the subject is found in the Journal of Congress.

MASSACHUSETTS *v.* NEW YORK.

On Thursday, June 3, 1784, Congress received the report of a committee to whom had been “referred a petition from the legislature of the Commonwealth of Massachusetts, praying that a Federal Court may be appointed by Congress to decide a dispute between the said Commonwealth and the State of New York ;” and resolved “that the first Monday in December next be assigned for the appearance of the said States of Massachusetts and New York by their lawful agents, at the place in which Congress shall then be sitting.” The form of the notice was settled by another resolution. It contained a copy of the petition of the State of Massachusetts, from which it appeared that the subject of the controversy was a claim of Massachusetts to jurisdiction over a tract of land between $42^{\circ} 2'$ N. and $44^{\circ} 15'$ N., extending westwardly to the Southern Ocean, which was denied in part by New York.

On Wednesday, the 8th December, 1784, both parties appeared by their agents, and presented their credentials, which were spread at length upon the journal. Congress directed each to examine the credentials of the other, and report upon the following Friday whether they were objected to. No objection being made on either side, the agents, on the 10th December, 1784, were “directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question, agreeably to the 9th of the Articles of Confederation and perpetual union.”

On the 9th June, 1785, Messrs. John Jay, Robert R. Livingston and Walter Livingston, agents for New York, and Messrs. John Lowell, James Sullivan, Theophilus Parsons, Rufus King and S. Holton, agents for Massachusetts, in a paper signed by all, informed Congress that they had agreed upon Thomas Johnson, George Wythe, George Read, James Monroe, Isaac Smith, William Patterson, Samuel Johnson, William Fleming and John Sitgreaves, Esqrs., as judges, and requested that commissions might issue to them, and that they be notified to meet at Williamsburg, in Virginia, on the third Tuesday of November then next, to hear and determine the controversy.