

Courts for determining Disputes between States.

Hutchins, Commissioners on the part of Pennsylvania. "The line commonly called Mason and Dixon's line" was "extended due west five degrees of longitude," "from the river Delaware for the southern boundary of Pennsylvania" and "a meridian line drawn from the western extremity thereof to the northern line of the State" became the western boundary. On the 23d August, 1784, the commission reported that the Ohio River was reached.

PENNSYLVANIA *v.* CONNECTICUT.

The Journal of Saturday, November 3, 1781, contains this entry: "A petition from the Supreme Executive Council of the Commonwealth of Pennsylvania was read, stating a matter of dispute between the said State and the State of Connecticut, respecting sundry lands lying on the east branch of the river Susquehanna, and praying a hearing in the premises, agreeably to the 9th Article of the Confederation."

On the 14th of November, 1781, Congress assigned the fourth Monday in June then next for the appearance of the States by their lawful agents, and ordered notice thereof in the following form:

"By the United States in Congress assembled, in the city of Philadelphia, on the 14th day of November, in the year of our Lord 1781, and in the 6th year of Independence.

"To the legislative authority of the State of Connecticut [Pennsylvania].

"It is hereby made known that pursuant to the 9th Article of the Confederation, the Supreme Executive Council of the State of Pennsylvania have presented a petition to Congress, stating that a controversy has long subsisted between the said State of Pennsylvania and the State of Connecticut, respecting sundry lands lying within the northern boundary of the said State of Pennsylvania, and praying for a hearing in pursuance of the 9th Article of the Confederation; and that the 4th Monday in June next is assigned for the appearance of the said States of Pennsylvania and Connecticut, by their lawful agents, at the place in which Congress shall then sit, to proceed in the premises as by the said Confederation is directed."

Monday, June 24, 1782, being the day assigned for the appearance of the States by their agents, Messrs. William Bradford,

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Joseph Reed, James Wilson and Jonathan Dickinson Sargent appeared for Pennsylvania, and their credentials were spread upon the journal. Mr. Eliphalet Dyer appeared for Connecticut, and presented credentials which were also spread upon the journal, from which it appeared that Messrs. Eliphalet Dyer, William Samuel Johnson and Jesse Root were the duly accredited agents of that State.

On the 27th of June, Connecticut moved to postpone the proceedings until "after the termination of the present war;" which motion was denied.

On the 16th of July, 1782, the agents of Pennsylvania presented new credentials, which were objected to by Connecticut. The objection was overruled, and the agents of the two States 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 Article of the Confederation."

On Monday, the 12th of August, 1782, Congress was informed, by a paper signed by the agents on both sides, and spread upon the journal, that they had agreed upon the Hon. William Whipple of New Hampshire, Major-General Nathaniel Greene of Rhode Island, Hon. David Brearley and William Churchill Houston, Esq., of New Jersey, Hon. Cyrus Griffin and Joseph Jones, Esq., of Virginia, and Hon. John Rutledge of South Carolina, any five or more of whom they had agreed should constitute the court, and have authority to proceed and determine the matter and difference between the States.

On the 23d of August, 1782, they reported to Congress that General Greene could not attend, and that Mr. Rutledge declined, and that they had agreed upon Mr. Thomas Nelson of Virginia and Mr. Welcome Arnold of Rhode Island in their places: whereupon Congress directed commissions to issue to the judges according to the amended list. It was further agreed between the parties that the court should assemble at Trenton in New Jersey on the 12th day of the next November.

On the 28th of August the form of commission was settled, and it was spread upon the journal.

The court convened, and began its sessions at Trenton, November 12, 1782, with only Mr. Brearley and Mr. Houston present. They adjourned from day to day, up to November 18, when, enough members being present, the court was organized for work, with Mr. Whipple, Mr. Arnold, Mr. Brearley, Mr. Houston and Mr. Griffin as

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its members. After some skirmishing the agents on each side, on the 22d of November, put in a written statement, showing the claims set up by their respective States.

Pennsylvania set up the patent of Charles II, of March 4, 1681, to William Penn, which included the disputed tract, "by which letters patent," it was averred, "the jurisdiction and right of government within the limits aforesaid, and also the right of soil, were conveyed, and under which Pennsylvania hath been held, settled and possessed." It was also charged that "sundry persons, pretending to claim, under the late colony, now State of Connecticut, before the Revolution, have violently settled themselves within the limits aforesaid, and the colony of Connecticut, by an act of their legislature, made and passed a short time before the Revolution, have encouraged the said violent settlement, and intrusion, and asserted their claim as a colony to a large part of the lands within the limits aforesaid, as well in point of jurisdiction as territory; and that since the Revolution the said intrusions are continued and daily increased by the said persons pretending to claim under the State of Connecticut."

On the part of Connecticut there was set up: (1) the discovery by Sebastian Cabot, in 1497, from 25° N. to $67^{\circ} 30'$ N.; the designation of a part of the discovery, extending from 40° N. to 48° N. as New England, by James I, by letters patent in 1620, and the incorporation of the Council at Plymouth for governing it; (2) the grant by the Council of Plymouth to Sir Henry Roswell, etc., of the country between the Merrimack and three miles south of the southerly end of Massachusetts Bay from the Atlantic to the Western Sea, in 1628; (3) the grant by the Council of Plymouth, in 1631, to Lord Say and Seal, of that part of New England which extends from Narragansett River forty leagues upon a straight line near the sea shore, towards the southwest, west, and by south or west, as the coast lieth, towards Virginia, and all the lands north and south in latitude and longitude of the breadth aforesaid, throughout the main lands from the Western Ocean to the South Sea—on which grant the Connecticut people settled and established a government, extending their possessions to the Dutch possessions near the Hudson River, and, as early as 1650, to the west side of the Delaware River; (4) that in 1635 the Plymouth Company surrendered its charter, and the Crown granted, in 1662, new letters to John Winthrop and others, of the same tract granted to Lord Say

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and Seal, the grantees to form the company and society of the colony of Connecticut, and that thereby the colony became vested with all that land, including the lands in controversy. After setting forth the settlement of New York, and its acquisition by the British Crown, and the letters patent to the Duke of York, and the adjustment of the boundary line between Connecticut and New York, the paper averred that the lands in controversy to the west of New York remained in the colony of Connecticut, and that the grant by Charles II to Penn was taken by him, with a knowledge that the northern limits of his grant interfered with and spread over the lands previously granted to Connecticut. It also set forth that Connecticut had made grants of land within this tract upon the Susquehanna and Delaware rivers to settlers from Connecticut who had acquired the Indian title, and that the legislature had approved of it, and had exercised jurisdiction over them.

The hearing upon the issues thus made up lasted from day to day until the 30th December, 1782, when the court rendered the following judgment:

"We are unanimously of opinion that the State of Connecticut has no right to the lands in controversy.

"We are also unanimously of opinion that the jurisdiction and preëmption of all the territory lying within the charter boundary of Pennsylvania, and now claimed by the State of Connecticut, do of right belong to the State of Pennsylvania."

This judgment settled the question of jurisdiction and preëmption, but the right of soil was still disputed by settlers who were not parties to the proceeding, and who for many years maintained a fierce struggle for their possessions, acquired under Connecticut, almost amounting to a civil war.¹

¹ "And even after the feud had been superficially appeased by the adjudication of the court at Trenton, which decided in favor of Pennsylvania, it broke out afresh at a later day in the shape of an armed crusade proclaimed by the Susquehanna Company, which claimed to hold the Wyoming Valley under authority from Connecticut, and which at a later stage of its operations, proceeded to recruit armed emigrants for the forcible occupation of the disputed territory. In Pennsylvania the insurgent leader of the Susquehanna Land Company, John Franklin, had been arrested, and in the latter part of the year 1787 had been deported to Philadelphia, that he might there be put on trial for high treason against the State. In retaliation for this arrest, Timothy Pickering, the Quartermaster General of the Revolutionary Army, and afterward Secretary of State of the United States, was kid-

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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.