

Federal Courts before the Constitution.

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.

Courts for determining Disputes between States.

Omitting some intermediate entries, it is sufficient to note that on Monday, the 8th October, 1787, Congress resolved as follows:

“Whereas it appears by the Journals of Congress that a Federal Court has been instituted, pursuant to the Articles of Confederation and perpetual union, to hear and determine a controversy respecting territory between the States of Massachusetts and New York; and whereas it appears by the representations of the delegates of the said States in Congress that the said controversy has ceased, and the same has been settled and determined by an agreement entered into on the 16th day of December last, by the agents of the said States, and any further proceedings in or relative to the aforesaid court having become unnecessary:

“Resolved, That all further proceedings in and relative to the said Federal Court, as also the commissions of the judges thereof, cease and determine.”

The agreement between the two States was then spread at length upon the Journal of Congress.

SOUTH CAROLINA *v.* GEORGIA.

June 1, 1785, Congress resolved “that the second Monday in May next be assigned for the appearance of the States of South Carolina and Georgia by their lawful agents; and that notice thereof, and of the petition of the legislature of the State of South Carolina, be given by the Secretary of Congress to the legislative authority of the State of Georgia.” The prescribed form of the notice contained a copy of the petition of the State of South Carolina, in which the subject of the controversy (after detailing the nature of the colonial claim of title on each side) was stated as follows: “That South Carolina claims the lands lying between the North Carolina line and a line to be run due west from the mouth of Tugoloo River to the Mississippi, because, as the said State contends, the river Savannah loses that name at the confluence of Tugoloo and Keowee rivers, consequently that spot is the head of Savannah River; the State of Georgia, on the other hand, contends, that the source of Keowee River is to be considered as the head of Savannah River. That the State of South Carolina also claims all the lands lying between a line to be drawn from the head of the river St. Mary, the head of Altamaha, the Mississippi and Florida, being,