

The Mount Vernon Convention

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THE MOUNT VERNON CONVENTION.

BY MISS KATE MASON ROWLAND.

The much proverbially lies in the little, and from insignificant sources the wide streams flow ; yet do men never gather grapes of thorns or figs of thistles, nor do they look for the oak to come from another nut than the acorn, or would they expect—to speak rhetorically—rivers of cognac to broaden out from rivulets of wine. The law of evolution, however, presents often surprising sequences. From the first rude link in a chain one may never surmise what iron or golden division should remotely follow. From a trade compact between two States to a political union between thirteen there are wide spaces of no needful logical connection, though the first be practically the latter's sponsor and progenitor.

Virginia and Maryland, who shared between them the control of the Chesapeake Bay, and who found in the Potomac River at once a dividing-line and a much-prized highway of communication, had long felt the need of concerted commercial regulations, and it was to supply this want that their commissioners met at Mount Vernon in 1785. As early as 1774, when the colonies were beginning to take matters into their own hands, when county committees were buying powder and ball in view of possible battle, the colonial executives being committed to other counsels, and from Massachusetts to Georgia the aggression of the Boston Port Bill was firing patriotic hearts. Virginia made her first tentative effort towards a scheme for improving the navigation of the Potomac. It was the year of the first Continental Congress, the beginning of the "old Union," consummated later in the Articles of Confederation. Two years were to elapse before Virginia should take the lead in asserting independence. The world-famous Declaration, whose proto-

type was the Virginia Bill of Rights, soon followed, through which the colonies in a body maintained the same proud thesis to be made good in a seven years' war. An unobserved ripple in the great stream of events going forward was this of the Potomac River legislation. Washington, who was in the Virginia Assembly in 1774, refers to it in 1784, in a letter to Jefferson. The great scheme of connecting the eastern waters of Virginia with the Ohio and other rivers so as to obtain for this commonweath the trade of the western country was then occupying the minds of some of Virginia's foremost statesmen, and Washington recalled the earlier move made in this direction. "More than ten years ago," he says, "I was struck with the importance of it, and, despairing of any aid from the public, I became a principal mover of a bill to empower a number of subscribers to undertake at their own expense, on conditions which were expressed, the extension of the navigation [of the Potomac] from tide-water to Mill's Creek, about one hundred and fifty miles. . . . To get this business in motion, I was obliged even upon that ground to comprehend James River in order to remove the jealousies, which arose from the attempt to extend the navigation of the Potomac. The plan, however, was in a tolerably good train when I set out for Cambridge in 1775, and would have been in an excellent way, had it not been for the difficulties which were met with in the Maryland Assembly from the opposition which was given (according to report) by the Baltimore merchants, who were alarmed, and perhaps not without cause, at the consequence of water transportation to Georgetown of the produce which usually came to their market by land. The local interest of that place, joined to the short-sighted politics or contracted views of another part of that Assembly gave Mr. Thomas Johnson, who was a warm promoter of the scheme on the north side of the Potomac, a great deal of trouble. In this situation I left matters when I took command of the army. The war afterwards called men's attention to different objects, and all the money they could or would raise was applied to other purposes." Thomas Johnson was a con-

spicuous patriot and statesman of the Revolution, and the first republican governor of Maryland. With him were associated some twenty or more prominent Marylanders in the promotion of this plan. Among the equal number of Virginians who became subscribers to the proposed company were the brothers George and Thomson Mason, both well known later in Virginia annals, and the former to become eminently conspicuous in the new era then opening. George Mason was at this time living quietly at his beautiful country-seat, "Gunston Hall," a few miles below "Mount Vernon." Though he had been a member of the Assembly he was not in the House at this time. He was soon to be called again into political life, and to earn, as the author of the Virginia Constitution and Bill of Rights, a lofty place in the Revolutionary pantheon.

In the mean while Washington, his intimate friend from early manhood, was well aware of his talents as a writer, and he turned to him now, as he was to do later, and indeed had done previously when more important matters were going forward, to engage his services in the preparation of the bill he wished to bring before the House. And in February, 1775, George Mason writes Washington, referring to a communication the latter had received from Thomas Johnson: "I am happy in finding that I had fallen into many of Mr. Johnston's sentiments, though I was a stranger to them till I received your letter. . . . I wish it was in my power to spend a day with him on the subject. Some of his remarks are not so intelligible to me as they would be if I had all the queries which he seems to answer. What he mentions of some kind of jealousy lest the Virginians should have some advantage and that there should be some equality between the Maryland and Virginia subscriptions I can have no idea of. What matter is it whether the majority of the subscribers are Marylanders or Virginians, if their property is put upon an equal footing and the work is of general advantage to both provinces? Nor can I think his notion of proportioning the tolls to the average profits can well be reduced to practice. A sufficient sum

can't be raised by those only who are locally interested; men who are not will not advance their money upon so great a risk, but with views of great and increasing profit, not to depend upon future alterations. The tolls to be sure must be moderate, such as the commodities will bear, with advantage to the makers. It is probable for some years they will yield very little profit to the undertakers, perhaps none; they must run the risk of this, as well as of the utter failure of the undertaking, and surely, if they succeed, they have a just right to the increased profits, though in process of time they may become very great. If I am not misinformed, this is the principle upon which everything of this nature has been successfully executed in other countries." But the project came to a stand-still for want of Maryland's co-operation; and in the *Virginia Gazette* for October, 1775, is a notice to this effect from John Ballentine, who had undertaken the work: "The necessity," he says, "of a Maryland Act of Assembly co-operating with one passed in Virginia, and which I have not yet been able to obtain, has obliged me to decline it for the present."

The jurisdiction of the Potomac was a question intimately connected with this work of extending its navigation. Virginia, the year following, in her republican constitution settled the long-standing territorial controversy between herself and Maryland by acknowledging the latter's claims through her charter, but she reserved the free navigation and use of the rivers Potomac and Pocomoke. In 1778, however, an arrangement was made under this head. But a complete understanding had not been attained, and there were infractions of the inter-state law complained of from time to time up to 1784, when Virginia again took the matter in hand. The Assembly at its June session passed the following resolution:

"Whereas great inconveniences are found to result from the want of some concerted regulations between this State and the State of Maryland touching the jurisdiction and navigation of the river Potomac,—

"*Resolved*, That George Mason, Edmund Randolph,

James Madison, Jr., and Alexander Henderson, Esq'rs, be appointed commissioners, and that they or any three of them do meet such commissioners as may be appointed on the part of Maryland, and in concert with them frame such liberal and equitable regulations concerning the said river as may be mutually advantageous to the two States."

Madison, who was in the Assembly, made the motion to appoint commissioners, and he was named one of them. Edmund Randolph, a young and gifted lawyer, was then the attorney of Virginia. George Mason, after five years of arduous and important labors in the Assembly, was again in retirement. Ill health and an aversion to heats and cabals of political life combined to keep him out of the public arena. His friends, however, had found some employment for him. And in fact his interest in all important questions before the country and his influence in forwarding such as he approved made him at all times a recognized power in the community, as was seen in the Religious Assessment controversy of this same year.

Washington now reopened the subject of the river navigation. He wrote an important letter to Governor Harrison, which the latter laid before the Assembly. A memorial from citizens of Virginia and Maryland followed, asking for a grant of incorporation, and a bill for the purpose was determined upon. But negotiations with Maryland were necessary to secure uniformity of action, and General Washington was appointed by the Virginia Assembly to go to Annapolis for the purpose. Two other commissioners were named with him, but they did not act. The subject was speedily arranged, and the bills passed which brought into being the Potomac and James River Companies, Washington being complimented with a gift of shares in both corporations. This was at the fall session of 1784, and at the same time, in view of the work just undertaken by Washington, new powers were delegated to the commissioners appointed in June, widening their scope of action. They were now instructed to unite with the Maryland commissioners in representing to the State of

Pennsylvania that they had in contemplation the work of clearing and extending the navigation of the Potomac; that they wished to open a communication with the waters of the Ohio, and that these States desired a free use of the Ohio and its branches as far as the latter lay within the State of Pennsylvania. There was another State to be brought into the contemplated compact. Maryland, however, had instructed her commissioners to settle with Virginia not only the jurisdiction of the Potomac, but that also of the river Pocomoke and the Chesapeake Bay, and they came to Alexandria the following March to meet the Virginia commission. The Maryland gentlemen appointed were Thomas Johnson, Thomas Stone, Samuel Chase, and Daniel of St. Thomas Jenifer. Thomas Johnson, for some reason, did not attend. The other three were well-known Maryland statesmen. Jenifer was at this time Intendant of the Revenue, Chase was in the House, and Stone in the Senate of the Maryland Assembly. The latter body had suggested the time and place of meeting. But, oddly enough, the Virginia commissioners, through an inadvertence on the part of the Virginia officials, were not informed on these important points, and Mason and Henderson were not even made aware of their appointment on the commission. Yet it so turned out that they alone represented Virginia in the meeting that took place. George Mason received his first information on the subject from two of the Marylanders, who wrote proposing to visit him on their way to Alexandria, and he notified his neighbor, Mr. Henderson. Mason took the responsibility on himself of going through with the work in the absence of Madison and Randolph. In a letter to Madison he explains the circumstances that seemed to justify this step, while he communicates to his colleague the result of the commission. Washington had invited the commissioners to adjourn from Alexandria to "Mount Vernon," and there the compact was signed on the 28th of March.

"We thought ourselves unfortunate," wrote Mason, "in being deprived of yours and my friend the Attorney's as-

sistance in this important business; and nothing but absolute necessity should have induced me to enter upon it without you. But the Maryland gentlemen would have been much disgusted with a disappointment, after attending at such a distance in very bad weather.

“ We waited some days, expecting your arrival at Alexandria, when I received a letter from the attorney upon other business, without mentioning a word of the meeting or of the Assembly’s appointment. This convinced me that there must have been some blunder or neglect in some of the public offices in not giving the proper notification to the Virginia commissioners. The Maryland gentlemen declared that nothing had been omitted on their part; that they had written an official letter to the Virginia commissioners (addressed by their governor to the commissioners) proposing the time and place, if agreeable to them, and if not, desiring they would name some other; that having received no answer, they took it for granted that the time and place was accepted, and attended accordingly.

“ So great has been the neglect in some of our public departments that neither Mr. Henderson or myself had been furnished with copies of the Assembly’s resolutions. And I should not have known that I was one of the persons appointed, had I not by mere accident, two or three days before the meeting, been informed of it by two of the Maryland commissioners writing to me that they should endeavor to take my house in their way, and go with me to Alexandria. His Excellency General Washington happened to have a copy of the Assembly’s resolutions respecting the application to be made to the government of Pennsylvania, which he very obligingly gave me, by which *any two* or more of the commissioners were empowered to proceed. And it was natural for us to conclude that these last resolutions had pursued the style of the former respecting the jurisdiction of the two States; as well as that the subject had been taken up upon the same principles as in the year 1778, when commissioners were directed to settle the jurisdiction of the Chesapeake Bay and the rivers Potomac and Poko-

moke ; in which sentiments Mr. Henderson, from what he was able to recollect of the resolutions concurred.

“ Thus disagreeably circumstanced, only two of the Virginia commissioners present, and without any copy of the resolves upon the principal subject, we thought it better to proceed than to disappoint the Maryland commissioners ; who appeared to have brought with them the most amicable dispositions, and expressed the greatest desire of forming such a fair and liberal compact, as might prove a lasting cement of friendship between the two States ; which we were convinced, it is their mutual interest to cultivate. We therefore upon the particular invitation of the General adjourned to ‘ Mount Vernon ’ and finished the business there. Some time after, Mr. Henderson wrote to Mr. Beckley (clerk of the House of Delegates) for a copy of the resolves ; upon receiving which we were surprised to find no mention made of *Chesapeake or Pokomoke River*, that our powers were confined to *Potomac River*, and to not less than *three* of the commissioners. I am still inclined to think that the omission of Chesapeake Bay and Pokomoke River was owing to a mistake or inadvertence, in not attending to the resolves of 1778 ; and, if so, it was perhaps lucky that we had not been furnished with a copy of the resolves : for the Maryland commissioners had an express instruction from their Assembly to consider the relinquishment, on the part of Virginia, of any claim of laying tolls, &c., on vessels passing through the capes of Chesapeake as a *sine qua non* ; and if it was refused immediately to break off all further conference with the Virginia commissioners.

“ This blundering business, however, will give me the trouble and expence of a journey to Richmond, next session, to apologize for, and explain our conduct ; where, if the substance of the compact is approved by the Assembly, I hope forms will be dispensed with, especially as the breach of them has been the fault of some of their own officers, not ours ; and as I am conscious of our having been influenced by no other motives than the desire of promoting the public good.”

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George Mason, with his strong will and clear head, was just the man for an emergency, and so out of the "blundering business" the best results followed. Without instructions he boldly took the initiative, and it proved to have been a happy accident that forced the alternative upon him. With his letter Mason transmitted to Madison copies of the communications of the commission to the Virginia Assembly and the president of the Pennsylvania Council. And he adds a memorandum in reference to an error in one of the articles of compact.

"MOUNT VERNON, March 28, 1785.

"SIR

"We have the honor to transmit to the General Assembly the result of the deliberations of the Commissioners of Virginia and Maryland, appointed to settle the navigation and jurisdiction of that part of the Chesapeake Bay within the limits of Virginia, and of the rivers Potomac and Pokomoke.

"We flatter ourselves that, in the execution of this important trust, the commissioners have consulted the true interest of both governments, in a compact of such just and mutual principles, that, executed with good faith, will perpetuate harmony, friendship, and good offices between the two States, so essential to the prosperity and happiness of their people. In the conference on the subject of our appointment, several matters occurred to the commissioners, which they conceived very important to the commerce of the two States; and which, with all deference, we take the liberty to communicate.

"The commissioners were of opinion, these States ought to have leave from the United States in Congress assembled, to form a compact for the purpose of affording in due time, and in just proportions between the two States, naval protection to such part of Chesapeake Bay and Potomac River, which may at any time hereafter be left unprovided for by Congress. The commissioners did not consider themselves authorized to make any compact on this subject, and submit the propriety of the two governments making a joint application to Congress, for their consent to enter into compact,

for the purpose aforesaid; such compact when made to be laid before Congress for their approbation; and to continue until mutually dissolved by these States, or Congress shall declare that such compact shall no longer exist.

“It also appeared to the commissioners that foreign gold and silver coin, received in the two States, as the current money thereof, should pass at the same value, according to its fineness and weight; and if the species of coin could be regulated at the same nominal value, it would be of great convenience to the commerce and dealings between the citizens of the two States. The damages on foreign bills of exchange protested are very different in the two States, and it is obvious that they ought to be the same, and should be considered in all cases, and to all purposes, as of equal rank with debts upon contract in writing, signed by the party, and it was suggested that fifteen pct. should be allowed, without regard to the time of negotiation, and legal interest on the principal from the time of protest. It was also conceived by the commissioners, that drafts by the merchants of either State, upon those of the other, in the nature of inland bills of exchange, should be subject by law, to official protest; by a notary public, and that the damages, for non-payment, should be the same in both States; and it was thought, that eight pct. should be allowed upon protest, and legal interest upon the principal, from the time of protest.

“It appeared to the commissioners to be essential to the commerce and revenue of the two governments, that duties on imports or exports (if laid) should be the same in both States.

“If these subjects should be deemed worthy notice, it may be proper for the two legislatures, at their annual meeting in the autumn to appoint commissioners to meet, and communicate the regulations of commerce and duties proposed by each State, and to confer on such subjects as may concern the commercial interests of both States. It was suggested that the number of the said commissioners should be equal, and not less than three, nor more than five, from

each State; and that they should annually meet in the third week in September, at such place as they should appoint.

“We have the honor to be with the greatest respect Sir,
your most obedient Servants

“G. MASON

“ALEXANDER HENDERSON.”

“P.S.—The Commissioners also beg leave to transmit to the General Assembly, the inclosed copy of their joint application to the State of Pennsylvania respecting the communication between Potomac River and the Western waters.

“Honorable the Speaker of the House of Delegates of Virginia.

“*Memorandum.* The concluding clause of the seventh article of the compact is not so clearly expressed as it ought to be, and is capable of a construction which was not intended; and though it would be a strained and unnatural one, it had better be removed. The words are ‘provided &c., and that the citizens of neither State shall have a right to fish with nets or seines upon the shores of the other.’ This may be construed to restrain the citizens of either State, having lands upon the river in the other, from fishing with nets or seines upon their own shores; which would be unreasonable and unjust; although in its present form, it seems to be the grammatical construction. The addition of two or three words will set it right—thus: ‘And that the citizens of neither State shall have a right to fish with nets or seines upon the shores *of the citizens* of the other.’ I never observed this circumstance, til very lately, or I am sure I could easily have had it altered by the Maryland commissioners, at any time before the meeting of their Assembly. The fisheries upon Potomac River are becoming a very important object, and therefore I could wish the above clause in the compact properly amended. If the amendment goes no farther than I have mentioned it will occasion no objection from Maryland, and I wish the article to be no otherwise altered, for this was the most difficult business we had

to settle with the Maryland commissioners. The idea of the right of fishing on both shores of Potomac River is one the Marylanders are not fond of parting with; and I trust it will be found we have obtained everything for Virginia, with respect to Potomac River, which she can desire. The exceptionable part of the article before mentioned was really a mistake. Not having time now to write to my friend the Attorney upon this subject M^r Madison will be pleased to mention it to him.

“And I shall be particularly obliged to M^r Madison to inform me what is done with respect to the Northern Neck, on the subjects of the records in the late proprietor’s office, entering, or resurveying lands, quit-rents, &c.

“G. M.”

“VIRGINIA, MOUNT VERNON, March 28, 1785.

“SIR

“In pursuance of directions from the legislatures of Virginia and Maryland, respectively to us given, we beg leave to represent to the State of Pennsylvania that it is in contemplation of the said two States to promote the clearing, and extending the navigation of Potomac, from tide water, upwards, as far as the same may be found practicable, to open a convenient road from the head of such navigation, to the waters running into the Ohio, and to render these waters navigable, as far as may be necessary and proper. That the said works will require great expence, which may not be repaid, unless a free use be secured to the said States, and their citizens, of the water of the Ohio, and its branches, as far as the same lie within the limits of Pennsylvania; that as essential advantages will accrue from such works to a considerable portion of the said State, it is thought reasonable that the legislature thereof should by some previous act engage, that for the encouragement of the said works, all articles of produce or merchandise, which may be conveyed to or from either of the said two States, through either of the said rivers, within the limits of Pennsylvania, to or from any place without the said limits, shall pass throughout free from all duties or tolls whatsoever, other than such tolls as

may be established and be necessary for reimbursing expences incurred by the State, or its citizens, in clearing, or for defraying the expence of preserving the navigation of the said rivers. And that no articles imported into Pennsylvania through the channel or channels, or any part thereof to be opened as aforesaid, and rendered or used within the said State, shall be subject to any duties on imports, other than such articles would be subject to, if imported into the said State through any other channel whatsoever.

“We request Sir, that you will take the earliest opportunity of laying this representation, on behalf of the two States, before the legislature of Pennsylvania; and that you will communicate the result to the executives of Virginia and Maryland.

“By acts of the legislatures of Virginia and Maryland for opening the navigation of the river Potomac above tide-water, the citizens of the United States have the same right of trading through the said water, which the citizens of Maryland and Virginia enjoy; and we have no doubt but the legislature of your State will agreeably to this principle, give every encouragement to measures which have for their object, the interest and convenience of their citizens, and those of the other States in the Union.

“We have the honor to be with the greatest respect, Sir, your most obedient servants,

“G. MASON,
ALEXANDER HENDERSON, } Commissioners for the Commonwealth of Virginia.

“DANIEL OF ST. THOMAS
JENIFER,
T. STONE,
SAMUEL CHASE, } Commissioners for the State of Maryland.

“Honorable the President of the Executive Council of the Commonwealth of Penna.”

Washington doubtless took a keen interest in the negotiations concluded at “Mount Vernon,” and in the survey

of the whole subject of trade and commerce which the occasion called forth. His private journal at this time, however, as usual is brief and reticent in its entries, and we can gather nothing from them of the table-talk which must have made these bleak March days at "Mount Vernon" in 1785 of exceptional interest. On Thursday, the 24th, Washington records, he sent his carriage "to Alexandria for Col. Mason, according to appointment, who came in about dusk." On the following day "Major Jenifer, Mr. Stone, Mr. Chase, and Mr. Alexander Henderson arrived." Saturday it snowed, as the diary notes, and the wind was raw and chilly. Colonel Mason's eldest son dined that day at "Mount Vernon," as did Dr. Gustavus Brown. Mr. Walter Stone came to dinner Sunday. Monday Mr. Henderson returned from Colchester, where he had spent the previous day, "to the meeting of the commissioners at ten o'clock, and Mr. Chase went away after dinner. Tuesday Maj. Jenifer, Mr. Stone and Mr. Henderson went away before breakfast and Col. Mason (in my carriage) after it, by the return of which he sent me some young shoots of the Persian jessamine and Guelder rose." So the thoughts of Washington and Mason turned aside from the important topics that had so lately occupied them to the simple, rural pleasures they both loved.

The compact was confirmed in due time, settling points as to tolls and fisheries, light-houses, buoys, and kindred matters.

But the concluding clause of the seventh article was not altered in accordance with George Mason's careful suggestion, and is found in the statute-books in the form first given it. Both States were satisfied with the general result, and their commercial union was fully cemented. And in the Virginia Convention of 1788, when Edmund Randolph, in his argument for the acceptance of the Constitution without previous amendments, cited the danger that threatened Virginia, supposing her out of the confederation, from the proximity of Maryland and Pennsylvania, George Mason replied for the former, "Maryland and Potomac have been

mentioned, and I have had some little means of being acquainted with that subject, having been one of the commissioners who made the compact with Maryland. There is no cause of fear on that ground. Maryland," says the gentleman, "has a right to the navigation of the Potomac. This is a right which she never exercised. Every ship which comes within the State of Maryland, except some small boats, must come within our country. Maryland was very glad to get what she got by this compact, for she considered it as next to getting it without any compensation on her part. She considered it at least as next to a *quid pro quo*."

The "Mount Vernon" commission, after completing the task assigned it had, it has been seen, discussed other needed measures, and recommended them to the action of the two Assemblies. Maryland, in considering this report, with its recommendation that commissioners be appointed annually to confer on the commercial regulations proposed by each State, passed a resolution inviting Pennsylvania and Delaware to join in these annual conventions. Virginia was prepared to go still further. Madison, though he had not been present at Mount Vernon, was fully in sympathy with the ideas of the commissioners, and he was ready to extend the commercial league until it embraced the whole Union. He wrote to Washington in December, 1785: "It seems naturally to grow out of the proposed appointment of commissioners for Virginia and Maryland, concerted at Mount Vernon, for keeping up harmony in the commercial regulations of the two States. Maryland has ratified the report, but has invited into the plan Delaware and Pennsylvania, who will naturally pay the same compliment to their neighbors." Madison penned the resolution of the Assembly appointing commissioners to meet such as should be appointed by the other States "to take into consideration the trade of the United States," and "to consider how far a uniform system in their commercial regulations may be necessary to their common interest and permanent harmony." The convention was to meet at Annapolis, and among the eight delegates appointed from Virginia were Randolph,

Madison, and Mason. Commissioners from New York, New Jersey, Pennsylvania, and Virginia met on the 11th of September, 1786, at the appointed place. From Virginia went Madison, Randolph, and St. George Tucker. George Mason did not attend. Here Hamilton, assisted by Madison and Randolph, drew up an address recommending that the States send commissioners to Philadelphia, "to take into consideration the condition of the United States, and to devise such further provisions as shall appear to them necessary to render the constitution of the Federal government adequate to the exigencies of the Union." As a trade convention the conference had failed, but it brought to the surface the thought that all men were then revolving. From this resulted the political charter of 1787.