

Introduction

Let Posterity Judge

Let posterity have all means of judging and let them judge," John Adams declared, in an appeal to all parties and to all nations concerned in the peacemaking of the American Revolution to open up their papers.¹ In the present volume Adams's plea has been heeded, and an effort has been made to make as fully available as possible the documents, correspondence, journals, and diaries bearing on John Jay, a principal figure in the negotiations by which the United States secured its independence.

The volume opens when Jay arrived in Paris with his family in June 1782 in response to Benjamin Franklin's appeal that he join in discussions with British emissaries sent to open serious peace negotiations in the aftermath of the British defeat at Yorktown and the collapse of the North ministry. Jay was one of a politically and geographically balanced team of five American peace commissioners that Congress had appointed in June 1781 in an effort to ensure that all American interests were effectively represented and that neither Franklin, perceived by opponents as excessively pro-French, nor Adams, perceived by French officials and their American supporters as anti-French, had too much sway in the negotiations.²

From the start Jay's role, like the roles of his fellow peacemakers, American, British, and French, proved to be a subject of intense and protracted controversy. That this would be the case was accurately predicted by Franklin in May 1782 in a letter to Henry Laurens, a fellow commissioner captured by the British en route to Europe and eventually released on parole, who had declined to accede to Franklin's summons to Paris. When Laurens pronounced that because of the great work of the treaty negotiations Franklin would be "called Blessed by all the grateful of the present Generation" and that his name "would be celebrated by Posterity," Franklin had replied, "I have never yet known of a Peace made, that did not occasion a great deal of popular Discontent, Clamour, and Censure on both sides." Leaders on each side of any

conflict raised exaggerated expectations of what could be obtained and were apt to ascribe their disappointment to treachery, Franklin declared, so that the blessing promised peacemakers must relate to the next world, "for in this they seem to have a great Chance of being curst." Franklin then admitted he wanted Laurens and as many of the other peace commissioners as possible with him during the negotiations so the blame could be divided among many and the share of each be lighter.³ However, at that time, only Jay, freed from the necessity of remaining in Spain by an opportune French loan, was able to come to France, so for the critical early stages of the negotiations only he could share credit or blame with Franklin. When illness sidelined Franklin for two months, Jay became chief negotiator, and the burden was for a time his alone.⁴

For making the first, and what was to prove the most durable peace treaty in the history of American diplomacy, the American peace commissioners in Paris, Jay included, were privately criticized by their own Secretary for Foreign Affairs, Robert R. Livingston, and narrowly missed censure by Congress.⁵ The issue was not permitted to die down. Party divisions in the 1790s revived it, and the nineteenth-century editors of pertinent diplomatic documents exercised their judgments on the basis of partial and often partisan documentation.

John Jay's own prompt documented defense is included in this volume,⁶ but he did not see fit during his lifetime to release his fragmentary, but highly significant, diary of the negotiations published below.⁷ His colleagues were less reticent. John Adams forwarded to Secretary Livingston his "Peace Journal," his diary of the negotiations that was subsequently read to Congress, some of whose members declared its comments "ungenerous," if not "ridiculous."⁸ Not to be outdistanced in any literary contest, Franklin had already taken up his pen to record his own version of the negotiations in a journal that did not see the light of day for many years.⁹ The matter was not permitted to rest. Years later Adams took to the public prints to defend with his customary vigor his and Jay's actions as peacemakers, while their sons and grandsons entered the lists as well.¹⁰

Even before the Definitive Treaty was completed Jay evidenced concern about the need for a correct historical account of the great events in which he and his colleagues had participated, especially the peace negotiations. If anyone could write it, in Jay's opinion, it was Charles Thomson, the permanent secretary of Congress. Jay appealed to Thomson to "devote one Hour in the four and twenty to giving posterity a true account" of the "Rise, Conduct, and Conclusion of the American Revolution." Such a history need not

be cluttered with battles and sieges, advances and retreats, Jay believed, but should concentrate on “the political story of the Revolution,” the one aspect that, in his judgment, would be the most subject to “misrepresentation.” Jay doubted the propriety of Thomson’s publishing such a work in his lifetime, and, considering the Secretary’s official position, cautioned against letting people know what he was about. Because no one had a fuller command of the central role of Congress in the Revolution, it is unfortunate that Thomson began but did not complete this work and destroyed all his materials.¹¹

In later years John Jay’s friends sought to draw him out, but he declined to enter the arena of public debate over the peace negotiations, convinced that his own official reports and letter books contained “a correct statement of the facts” despite historical writings inspired by partisan rancor. On reflection, even Jay came to doubt the adequacy of the available documentation. “Time is daily obscuring and diminishing the material” for a history of the “late war,” he conceded to one correspondent, and the task was becoming “more and more difficult.” Recollection of events that had transpired almost a half century earlier could prove treacherous, as the fallible accounts written in their declining years by Thomas Jefferson and John Adams attest. Jay, however, gave a high priority to interviews with surviving participants—to what we now call “oral history.”¹² By 1821 Jay no longer felt competent to advise George A. Otis, who had recently translated the Piedmontese Charles W. Botta’s *History of the War of Independence of the United States of America*, as to “the most authentic documents” relating to the controversial Paris peace negotiations of 1782–83. Years had elapsed since he had looked at the available documents, Jay confessed, and “others have been published which I have not seen.”¹³

Like other principal actors in the drama of war and peace, John Jay had long been concerned with preserving a full record of those events. He had been meticulous in keeping letter books of his correspondence while on his diplomatic missions abroad and in preserving files of the correspondence he received and the drafts of the letters he wrote. Returning to America and entering on his duties as secretary for foreign affairs, he gave close attention to assembling the diplomatic archives. In 1787 he informed John Adams that he was collecting the latter’s public letters and dispatches. “It is common, you know,” he wrote, “in the course of time for loose and detached papers to be lost, or mislaid, or misplaced. It is to papers in this office that future historians must recur for accurate accounts of many interesting affairs respecting the late revolution.”¹⁴ Writing the history of that epoch would entail “much time, patient perseverance, and research,” Jay counseled Jedidiah Morse, while

calling his attention to the need to examine the “*public and private* journals of Congress,” along with those of the state conventions and committees of safety, in addition to diaries, memoirs, and private correspondence. However, he cautioned that, in using personal papers, “great circumspection” must be exercised.¹⁵

Lacking full documentation and infected by continuing partisanship, America’s early scholarly editors mishandled the relevant archives in a manner that would have dismayed the principal actors in the negotiation of the peace. Two editions of the diplomatic correspondence of the American Revolution were published in the nineteenth century, both under the sponsorship of Congress. The first, a twelve-volume set, was issued in 1829–30 under the prestigious editorship of Jared Sparks. His was a bowdlerized version, and his judgment on men and motives often proved ill-founded. A much more comprehensive and better annotated edition of the diplomatic correspondence in six substantial volumes was issued under the editorship of Francis Wharton in 1889. Like Sparks, Wharton was critical of the American peace commissioners for entering into separate negotiations, and like Sparks, Wharton criticized John Jay for entertaining suspicions of French intentions, which these editors, insulated in time from the events, deemed unwarranted.¹⁶ What undermines the documentation of Wharton’s edition is the editor’s failure to publish the ciphered portions of diplomatic dispatches. These are customarily omitted, and often the very fact of omission is not mentioned. It need hardly be necessary to point out that what was committed to cipher represented the gist of the message, much of the remainder being innocuous. Such omissions are explained in part by the fact that ciphered passages were generally not decoded in the official public files, and in most cases copies of the keys to the codes and ciphers used were not found within the public files. Instead, they were more commonly located in Jay’s personal files or in those of his correspondents, or occasionally within foreign archives, few of which were accessible when the nineteenth-century editions were prepared. In the present volume, as in volume two of the previous edition of this series edited by Richard B. Morris, the ciphered portions of dispatches to or from John Jay are published in full.

In the absence of a fully comprehensive edition of the diplomatic correspondence of the American Revolution, we must turn to other sources, published or unpublished. Among the former is the ongoing series of editions of the papers of early American statesmen currently being issued under the sponsorship of the National Historical Publications and Records Commission and edited according to the canons of modern scholarship, particularly

the three-volume series *The Emerging Nation* and the editions of the papers of John Adams, Benjamin Franklin, Henry Laurens, and of the Marquis de La Fayette. Considerably more of the documents pertinent to the peace negotiations have been published in these editions since Richard B. Morris published his volume *John Jay The Winning of the Peace: Unpublished Papers 1780–84* in 1980, and the present volume, though still selective, is updated to reflect the new material now available. We must examine, too, the published *Journals of the Continental Congress*, edited by Worthington C. Ford and Gailard Hunt, as well as the invaluable microfilm edition of the papers of Congress completed in 1960 by the National Archives, and presently also available in digital form on fold3.com. The *Journals* reports motions, votes, some resolves, the proceedings of Congress, and some notes of debates; on the sentiment of the delegates, we must turn for illumination to Edmund C. Burnett's edition of the *Letters of Members of the Continental Congress*, and to the now completed comprehensive edition of the *Letters of Delegates to the Continental Congress* issued under the sponsorship of the Library of Congress.¹⁷

It will not suffice to confine the documentation of Jay's role in the peacemaking to the American side. To comprehend the complex negotiations that terminated the world war touched off by the American Revolution, one must supplement the lines of research that Jay himself had recommended with an investigation of the archives of the European nations involved in the peacemaking. Failure to do so would lead to drawing conclusions comparable to those drawn by diplomatic historians of the Cold War who, lacking access to the counterpart Soviet archives, ventured judgments on Western, primarily American, policymaking without confident knowledge of the intentions and secret moves of the Soviet leadership.

In the fall of 1782, at the height of the preliminary negotiations, Vergennes cautioned La Luzerne: "Our way of thinking must be an impenetrable secret from the Americans."¹⁸ The Americans, despite Vergennes's precautions, were not completely baffled, but they could only surmise, not *know*, what went on behind the scenes and behind their backs. They were not, of course, privy to the oral instructions and private conversations engaged in by their ally and the other belligerents. What was said often substantially modified what was written down, as written instructions were at times indubitably prepared for the record. The diplomatic correspondence of foreign nations was not open to inspection by the American negotiators then or in their lifetimes. Fortunately, in our own day the extant foreign archives of the years of the American Revolution are now public, and photocopies of these materials were obtained for the project files of the Papers of John Jay. Both Richard B.

Morris's *The Making of the Peace* and the present volume draw heavily upon these sources, as did Morris in preparing his monograph, *The Peacemakers: The Great Powers and American Independence*,¹⁹ to which the reader is referred for relevant background.

The present volume seeks to pierce the "impenetrable" veil that enshrouded the diplomacy of John Jay, his colleagues, and counterparts by including herein not only Jay's own correspondence and diary but such relevant documentation from other principals and their aides as will contribute to an understanding of the bases for Jay's suspicions, surmises, and countermoves. The volume draws upon the French archives of the ministry of foreign affairs in the Quai d'Orsay, upon the dispatches to and from Vergennes, his undersecretaries, and ambassadors involved in the negotiations of the peace and specifically dealing with France's reactions to American pretensions. It reports the conversations between Jay and his Spanish counterpart, the conde de Aranda, which the latter recorded in his "Diario," now housed in Madrid's Archivo Histórico Nacional. It includes essential portions of the meticulous record kept by Richard Oswald, Britain's negotiator with the Americans, detailing for the eyes of his superiors across the Channel his protracted talks with Jay. This prime historical source is now preserved partly among the Lansdowne and Sydney Papers at the William L. Clements Library, Ann Arbor, Michigan; partly among the papers of the marquess of Lansdowne, at Bowood, Calne, Wiltshire; and partly in the Foreign Office series in the British Public Record Office at the National Archives at Kew. A significant portion of the foreign archival materials remains unpublished even today.²⁰

John Jay: The Seasoning of a Diplomat

As will be discussed below in this introduction, and in the extensive editorial notes located in the volume, criticism of Jay's actions, then and later, centered around several key issues.

1. Jay's disregard of congressional instructions to consult with France on all aspects of the negotiations and make no agreements without its consent.
2. Jay's alleged ingratitude to France and betrayal of the French alliance, and the relationship of this to British efforts to split the French-American alliance.
3. Jay's overall suspiciousness and its validity.
4. The merits of Jay's legalistic approach, contrasted with the reputedly more sophisticated, subtle, flexible, or genial approach of Franklin.

5. Whether his approach delayed the negotiation of the treaty and consequently lost the opportunity for more advantageous terms.²¹

Convinced that France, though an esteemed ally, opposed America's claims in matters other than independence, long before his arrival Jay had declined to accept the constrictions laid down both by the American Congress and Versailles, and opened direct and even secret negotiations with the British ministry.²² Jay "glories in being independent,"²³ was how France's minister to the United States, the chevalier de La Luzerne, characterized the American's diplomatic posture, while La Luzerne's chief, the comte de Vergennes, found John Jay and John Adams principled but unmanageable, or, as he put it more diplomatically, "too cosmopolitan for France to figure in their calculations."²⁴ Both French observers hit the mark. As Jay had opined to Congress following his frustrations in his attempts to negotiate an alliance with and obtain financial aid from the Spanish court, "we should endeavor to be as Independent on the Charity of our friends, as on the Mercy of our Enemies."²⁵ That spirit of stiff-necked independence did not desert John Jay during the peace negotiations, and though often effective, did not endear him to French officials any more than it had to those of Spain.

Jay's Spanish experiences had stung this prideful man and convinced him he had little to gain from the negotiations with Spain he was instructed to continue in France. We see the consequences in his tough negotiating stance toward the conde de Aranda in Paris and in his inclusion in the Preliminaries of the separate secret clause regarding the boundaries of Florida, a highly controversial provision reflecting the concern of both Jay and Franklin that future control of the east bank of the Mississippi be shared with a friendly power.²⁶

How Jay would conduct himself in Paris was clearly forecast by his having protested to Congress the terms of his commission to negotiate the peace, terms that subordinated the American commissioners to the King of France. Thus, he would not yield to Vergennes and make the kind of territorial concessions to Spain that the French court desired, nor would he bend to the pressures exerted by France's foreign minister that he forego his insistence on recognition of independence as a prerequisite to entering into formal negotiations with the British.²⁷ Finally, fearing a deal between France and Great Britain at America's expense, Jay made secret contacts with Lord Shelburne through Benjamin Vaughan and worked out a formula of recognition acceptable to the British.²⁸

Jay's independent stance and more legalistic approach were shared by

John Adams when he joined the negotiations at the end of October 1782. The French, their partisans at the time and during the era of the French Revolution, and many later historians have argued in favor of Franklin's stances and role during the negotiations, while partisans of Adams and Jay were generally critical of Franklin. Jay himself would have none of this dichotomy. Although during the course of the negotiations he forged a close friendship and political alliance with Adams that was to last a lifetime, Jay had long been a friend and supporter of Franklin and an opponent of the Adams-Lee faction.²⁹ Jay publicly defended Franklin from attack, and insisted that the three main diplomats were united on the fundamentals and worked well together during the peace negotiations. To the extent that this was true, much credit must go to Jay in fostering a spirit of collegiality between the long antagonistic Adams and Franklin that lasted during but not much beyond the negotiating period.³⁰ At the same time Jay's independent stance and support for rights to the Newfoundland fisheries won him for the first time the admiration of members of the Adams-Lee faction that was to serve him in good stead during his subsequent service as secretary for foreign affairs.³¹

That the positions adopted by Jay and Adams on the issues of credentials and prior recognition of American independence were correct from a legal standpoint and consistent with their instructions and long-established congressional precedent is undoubtedly true, but it is fortunate that Franklin was there to smooth over ruffled feelings with his customary finesse, preserve the alliance with France, and secure additional French aid.³² Still under debate is the question of whether the delays caused by the disputes over credentials lost the Americans the favorable terms Oswald initially offered Franklin.³³ Suffice to say the skills of all the negotiators, especially Benjamin Franklin's positive role in initiating the preliminary talks and John Adams's assertive stand toward the latter part of the negotiations, contributed enormously to the successful issue. The three negotiators, in the last minute assisted by Henry Laurens, had secured for the United States independence and a vast continental domain, while yielding only minor concessions. The fact that Congress should have even considered rebuking the commissioners for their tactics does in retrospect tell as much about the insistent French pressures exerted on the delegates in Philadelphia and on the secretary for foreign affairs as about the conduct of their agents abroad, who had more backbone and greater vision.

Less successful was the commissioners' effort to negotiate favorable trade agreements with Great Britain, France, Spain, and other European powers. Though the American negotiators soon won considerable praise at home,

the fears of their British counterparts were quickly realized as public reaction turned against them for awarding what were perceived as excessively favorable terms to the Americans. Shelburne's ministry collapsed, and the careers of the British negotiators were damaged or destroyed. The ties developed between the American and British commissioners failed to bear the expected fruit as the British negotiators and most American sympathizers in Britain were driven from power. Dreams of creating a lasting peace by forging a close, mutually beneficial, though independent relationship between the United States and Great Britain quickly dissipated. Though trade between the United States and Europe was continued and expanded, little was accomplished with regard to keeping open the crucial trade with the British, French, or Spanish colonies in America, or with preserving American access to the carrying trade between America and the European powers and their colonies. America had opened its ports too early, needed to present a united front in response to foreign trade restrictions, and had to grant Congress the power to regulate commerce, Jay and his fellow commissioners contended.³⁴ Exhausted and with damaged health, and aware little more could be accomplished in the short term, all the American negotiators, save Adams, prepared to make their way home.

The volume closes with Jay's homecoming to America in June 1784, his public acclaim in New York, and, contrary to his expectations of returning to his law career, his re-emersion in domestic politics as congressman and agent for settling the boundary dispute between New York and Massachusetts.³⁵ At the end of 1784, Jay, after helping persuade Congress to abandon the idea of a rotating seat of government and instead settle in New York City, accepted office as secretary for foreign affairs. Not for another fifteen years, following service in that post, and as chief justice of the United States, negotiator of the treaty with England that bears his name, and governor of New York, would Jay in fact retire to private life.

John Jay: The Human Side

This volume is considerably more than a record of a diplomatic mission. It is concerned not only with bills and accounts, with boundaries and navigation rights, with claims and counterclaims, with lands and fish. Together with volume 2, it reveals in full measure the personal problems of an American diplomat and his family living in wartime Europe and their ability to surmount them. While abroad, the Jays shared moments of sadness and tragedy. Their infant daughter Susan, born in Spain to Jay's wife, Sarah Livingston Jay,

lived but a few weeks. From America came news that Sarah's brother John Lawrence Livingston was lost in the disappearance of the Continental sloop-of-war *Saratoga*. Nor were their families at home spared the terrors of warfare. Sarah's brother, Henry Brockholst Livingston, on returning to America, was captured by the British and for a brief time imprisoned in New York City. The Livingston home in Elizabethtown, New Jersey, was twice raided and plundered by British troops, while a lawless band robbed the Fishkill, New York, farmhouse occupied by John Jay's aged and infirm father. Jay arrived in Paris only to learn that his father had died some months before. Jay continued to bear a heavy responsibility for his family back in the United States. His blind brother and sister, Peter and Anna Maricka, needed constant oversight. His younger brother Frederick, a mediocre manager of household and business matters, could barely keep his head above water, while Frederick's wife, Margaret Barclay Jay, had embarrassed the family by insisting on going behind enemy lines to visit her relatives. John Jay's sister, Eve Jay Munro, remained a family burden. Deserted by her Loyalist husband, the irresponsible Reverend Harry Munro, who could not abide her scolding, she fell into a deep depression. Like Jay's mentally challenged brother Augustus, the difficult Eve was provided for, but at a distance from the rest of the Jay family.³⁶ The Munros' son, Peter Jay Munro, became the special responsibility of John and Sarah Jay, who had taken him with them to Spain and France to direct his upbringing and education. By volume's end the teenager has emerged from the background to write newsy and painfully reworked letters to Jay and occasionally to perform clerical tasks on his behalf.³⁷ The Jays had left their young son Peter Augustus in the joint custody of the Livingstons and the Jays, and they needed constant reassurance of the well-being of their offspring, responsibility for whose rearing was divided between the two families residing in two adjacent states, neither of which was completely freed from enemy occupation.³⁸ Only with the onset of peace did conditions substantially improve for the Jay and Livingston families.

Lastly, there was the oldest brother, the ubiquitous Sir James Jay, who managed somehow to show up at the wrong time, at the wrong place, and on the wrong side. Ever contrary and a source of embarrassment to his very proper younger brother, Sir James, after joining a faction in the New York State Senate that took the hard line toward Loyalists that John Jay deplored, managed to get himself captured by the British and shipped to England. At the very time when John Jay was engaged in sensitive peace negotiations for his country, Sir James was trying to sell a naval invention to the British and to score a triumph over his brother in the role of rival peacemaker by pressing

his own unauthorized peace plan. Failing to persuade the British, who kept him in pocket money as long as it suited their purposes, Sir James crossed the Channel. The winter of 1782–83 found him in Paris, still attempting to peddle his naval device, and advancing a grand plan for a commercial agreement with the French, in which he was to be a central figure. To John Jay, his brother's behavior was unforgivable; they were never reconciled.³⁹

In short, the John Jay disclosed in these pages proves to be a complex personality, beloved by family and friends, and admired by colleagues of the standing of Franklin, John Adams, and Lafayette, but dreaded, if not detested, by others, including certain diplomats of the Spanish and French courts. He could be affectionate, compassionate, eloquent, fun-loving, and even ribald on occasion and in the appropriate surroundings; but to those less favored by this side of his nature, he seemed irritable, obstinate, and a stickler for the letter of the law. In dealing with foreign diplomats he scrupulously perused their formal written powers and, for himself, acted only on receipt of authenticated official instructions from Congress. Nevertheless, when in his judgment the national interest dictated violating explicit instructions of his government, he could display an initiative, not to say audacity, in the conduct of his negotiations, as well as the strategic talents of the skilled lawyer and chess player and cardplayer that he was.

For the Jays Paris provided many moments of conviviality. They were now largely free of Jay's intriguing secretary, William Carmichael, his insubordinate private secretary, Henry Brockholst Livingston, and his sulky, extravagant protégé, Lewis Littlepage.⁴⁰ They lovingly cared for their surviving daughter Maria, born in Madrid in February 1782, welcomed another daughter, Ann, born in Paris in August 1783, and entertained Robert Morris's two young sons, Robert and Thomas Morris, while they were being educated in France.⁴¹ They attended plays and concerts and observed or devoured reports on the famous early balloon flights in 1783.⁴² The Jays enjoyed the close friendship of the Lafayettes, Alice De Lancey Izard, Matthew Ridley, and the Penns, not to mention the warm comradeship of Jay's associates in the peacemaking. Jay was heartened by John Adams's approval and support, and both John and Sarah Jay found the witty and genial Doctor Franklin an entertaining and charming companion. Despite some differences over tactics in the negotiation, relations between Franklin and Jay remained cordial. Jay was so captivated by Franklin's reminiscences that he made a point of recording some of them in a notebook, whose entries are included herein.⁴³

The rigors of living and traveling abroad, combined with the state of medical knowledge in the eighteenth century, could prove exceedingly taxing. Jay

no longer suffered from the “heats” of Spain, but both Jays contracted influenza during the epidemic that swept Paris in the summer of 1782. John, in addition, ran the gamut of illnesses, ranging from quincy sore throat to digestive disorders, dysentery, an undiagnosed “pain in the breast,” fits of sleeplessness, and bouts of rheumatism. Unbeknownst to them, the Jays’ health may have suffered from the widespread weather and environmental consequences of the volcanic eruptions in Iceland during the second half of 1783. The wear and tear of the peace negotiations certainly took their toll on Jay’s health (as it did that of the other peace commissioners) and induced him to go on two comparatively brief vacations, one to Normandy in the winter of 1782–83, and a somewhat lengthier stay the following winter in England, where he took the waters of Bath, saw compatriots, Loyalists, and British political figures, and sought to settle an estate left to the Jays by the Bristol branch of the Jay family.⁴⁴

In despair over his ailments Jay once wrote his sister-in-law Catharine W. Livingston that if his health failed to improve he feared he might suffer “premature old age, if old age at all must be my lott.”⁴⁵ Since Jay had forty-six more years of life ahead of him, it is apparent that, however painful and debilitating they sometimes were, his ailments were less life-threatening than he feared and his constitution stronger than he imagined.

John Jay nurtured a deep-rooted hostility to slavery, evidence of which is exhibited early in his public career and corroborated by documents in this volume. At the New York State Convention he had advocated inserting in the state’s Constitution of 1777 a provision ending slavery, and, though unsuccessful at that time, he continued to advocate emancipation legislation even when abroad. “Till America comes into this Measure,” he exhorted, “her prayers to Heaven for Liberty will be impious.” Nonetheless, like many families of substance in New York, the Jays held household slaves, and Peter Jay, who held on to his slaves out of consideration for their age even though their maintenance proved a taxing economic burden to the family, carefully provided upon his death for the disposition of those he personally owned. In turn John Jay made certain that his brothers and sisters would “not permit the Evening” of the freed slaves’ lives “to be resolved in Distress.”⁴⁶ In Europe the Jay household was served by two slaves—Abigail, who had been in the Livingstons’ service in America, and Benoit, whom Jay had purchased as a fifteen-year-old male slave in Martinique. After an harmonious start, relations between Abigail and her mistress deteriorated and came to a tragic end in Paris. Benoit, on the other hand, was conditionally manumitted by John Jay

prior to his departure for America. Jay's instrument of manumission affirms his abhorrence of the institution of slavery. "Whereas," he wrote, "the children of men are by nature equally free, and cannot without injustice be either reduced to or held in slavery," he then proceeded to provide for his slave's freedom after three years.⁴⁷ Indeed, Jay was never penny-pinching toward those who worked for him or his family, whether black or white. For the overseer pay "liberal wages," he advised his brother Frederick. "The only way to get a good Man will be to pay him well."⁴⁸

During the course of the peace negotiations Jay, without being so instructed by Congress, ventured to propose a provision in the trade agreement that would have barred British subjects from importing slaves into America, and justified his proposal on the ground that it was the intention of the "States intirely to prohibit the Introduction thereof."⁴⁹ Jay's confidence in the states' intentions would be belied by the heated struggle at the Federal Convention in 1787 to bar the slave trade. While Jay felt obliged to join with his fellow American peace commissioners in protesting British violations of the Preliminary Treaty, among them the removal by the British army of slaves belonging to American owners, he did tone down the wording of a formal protest.⁵⁰ These early antislavery pronouncements and efforts take on added significance in view of Jay's prominence in the Confederation years in the movement to end slavery, and the repugnance to that institution he manifested throughout his life. One should not be surprised, then, that Jay, as special envoy to Great Britain in 1794, charged by his government with demanding the return of slaves removed contrary to the Treaty of 1783, would decline to press the claim on humanitarian grounds. As governor he would sign the New York State law providing for gradual emancipation of slaves, really the culmination of efforts he and a few intimates had initiated more than two decades earlier, efforts that in their own time were to be vigorously pressed by his son William Jay, a renowned antislavery leader, and, in turn, by his grandson, John Jay II.

Jay's letters, written in what Gouverneur Morris termed his "Laconick Style,"⁵¹ while never revealing the breadth of literary scholarship one finds in the correspondence of Benjamin Franklin, John Adams, or Thomas Jefferson, were heavily tintured with Biblical allusions, as one would expect from a man of his deep religiosity. Befitting an educated man of his day, Jay drew analogies to antiquity and incorporated the standard classical phrases from Cicero, Virgil, Horace, Suetonius, Seneca, and the poet Ennius. His letters also disclose a familiarity with Cervantes and Shakespeare and with

various writers on international law and military history, while his wife seems to have kept abreast of the contemporary English novel and, as a parent, made a point of reading children's books, then in vogue in both English and French.⁵²

Many of the letters included herein are first drafts by Jay or his correspondents, generally chosen by the editors in the absence of the addressee's copy or because of significant variances from the versions previously published. These drafts, ranging from run-of-the-mill correspondence to his five *Federalist* letters (to be published in a succeeding volume), reveal how this prudent lawyer labored over his phrases. Such literary reworking could be rewarding, but occasionally a forthright and eloquent phrase is replaced by a blander and more inhibited version. Thus, in the first draft of a letter to Elbridge Gerry Jay wrote: "I shall always think myself a gainer when I find my civil Rights secured at the Expence of my Property." On second thought he changed this to read: "I shall never cease to prefer a little with Freedom to opulence without it." This volume is replete with examples of Jay's careful restatement, often masking the true sentiments of which his earlier versions are more indicative.⁵³

Living abroad for more than four years and observing at close range the operations of European politics and diplomacy, along with the extreme contrasts of wealth and poverty, Jay gained a better perspective on America, its values, and its future. "I never loved or admired America so much as since I left it," he wrote his friend Egbert Benson after a little more than a year in Spain.⁵⁴ Gnawing doubts about European morals convinced him that the best place for a young American to be educated was America, while confirming his conviction "that the Ideas which my Countrymen in general conceive of Europe are in many respects too high."⁵⁵ These strong impressions served to shape Jay's burgeoning nationalism, which was to give a special cast to his constitutional thinking in the era of the Confederation, and are echoed in his insistent advice that the new nation, by "Wise Regulation and Establishments," put its house in order.⁵⁶ One of the very first American continentalists, Jay had little patience with state and regional parochialism. Few Americans other than Jay would, for example, have objected, as early as January 1782, to the description of Massachusetts contained in her Constitution of 1780 as being "in *New England* as well as *America*." "Perhaps it would be better, he wrote a Bay State correspondent, "if these Distinctions were permitted to die away."⁵⁷ Convinced by the end of the peace process that none of the European powers were anxious to see the United States develop into a united

nation and a strong and prosperous power in the world, Jay called for unity and preparedness with ever greater urgency, and continued to do so during his years as secretary for foreign affairs.⁵⁸

Notes

1. *Boston Patriot*, 24 July 1811.
2. See the commissions and instructions to the commissioners of 15 June 1781, *JJSP*, 2: 465–71; and the editorial note “The Status of the Peacemaking on John Jay’s Arrival in Paris” on pp. 1–9.
3. Laurens to BF, 17 May, and BF to Laurens, 25 May 1782, *PBF*, 37: 415, 416.
4. For the details of JJ’s role as chief negotiator during the period of BF’s illness, see the editorial notes “The Rayneval and Vaughan Missions to England,” “John Jay Proposes Altering Richard Oswald’s Commission,” “The Preliminary Articles: First Draft,” and “The Preliminary Articles: Second Draft.”
5. See the editorial note “Congress Debates the Commissioners’ Conduct” on pp. 334–40; and the Secretary for Foreign Affairs to the American Peace Commissioners, 25 Mar. 1783, below.
6. JJ to RRL, 19 July 1783, below; and the editorial note “The Commissioners Defend the Treaty” on pp. 416–19.
7. See John Jay’s Diary of the Peacemaking, 23–26 June, 25–26 July, 12–29 Oct., 22 Dec. 1782, below; and his narrative report or journal in JJ to the Secretary for Foreign Affairs, 17 Nov. 1782.
8. See Adams, *Diary*, 3: 41–43; and *PJA*, 14: xviii–xx. JA’s “journal” covers the period 2 Nov.–13 Dec. 1782.
9. For JJ’s comment on the “Journals” of JA and himself, as published in William Temple Franklin, ed., *Memoirs of the Life and Writings of Benjamin Franklin* (6 vols.; Philadelphia, 1808–18), see JJ to JA, 27 Feb. 1821, and JA’s reply, 6 Mar. 1821, MHI: Adams, and NNC (both ALS) (EJ: 6432, 5440). JJ followed up with a request to William Duane, the printer of the W. T. Franklin edition, for copies of BF’s “Journal” prior to any publication; JJ to Duane, 13 Mar., Dft, NNC (EJ: 13082); Duane to JJ, 16 Mar., ALS, NNC (EJ: 13063); JJ to Duane, 22 May, Dft, NNC (EJ: 12562); and Duane to JJ, 30 May 1821, ALS, NNC (EJ: 13064). Illness had forced BF to suspend continuing his “Journal” after 1 July 1782. For a modern text of BF’s journal, see *PBF*, 37: 291–346.
10. See, for example, *Boston Patriot*, 10 May 1809–7 Feb. 1810; 5 Jan., 18 June, 7 Sept. 1811; William Jay, “The Treaty of Peace, 1783; Correspondence between William Jay and John Quincy Adams,” *Magazine of American History, with Notes and Queries* 3 (1879): 39–44; John Jay II, *The Peace Negotiations of 1782 and 1783: An Address Delivered Before the New York Historical Society on its Seventy Ninth Anniversary, Tuesday, November 27th, 1883* (New York, 1884); John Jay II, *On the Peace Negotiations of 1782–83. As Illustrated By the Secret Correspondence of France and England* (New York, 1888), reprinted in American Historical Association, *Papers*, 3, no. 1 (1889); Justin Winsor, ed., *Narrative and Critical History of America* (8 vols.; Boston, 1884–89), 7: 89–214; the review article in *New York Review* 9 (Oct. 1841): 303–7; and Charles Francis Adams, *The Life of John Adams* (2 vols.; Philadelphia, 1871), 2: 7–72.
11. See JJ to Charles Thomson, 19 July 1783, and notes, below.
12. See the editorial note “The Commissioners Defend the Treaty” [18 July 1783] on pp. 416–19; and Richard Peters to JJ, 12 Dec. 1818, ALS, NNC (EJ: 9577); JJ to Peters, 25 Jan. 1819, ALS, PHi: Peters (EJ: 1165), Dft, NNC (EJ: 9579); Peters to JJ, 25 Nov. 1820, ALS, NNC (EJ: 9580, 90396); JJ to Peters, 26 Dec. 1820, ALS, PHi: Peters (EJ: 1164), Dft, NNC (EJ: 9581), and 12 Mar. 1821, ALS,

PHi: Peters (EJ: 1166), Dft, NNC (EJ: 9582); Peters to JJ, 21 Mar. 1821, ALS, NNC (EJ: 9583); *HPJ*, 4: 423–25, 433–34, 444–46; JJ to Jedidiah Morse, 14 Feb. 1815, ALS, PHi: Gratz (EJ: 1132); *HPJ*, 4: 383–85.

13. JJ to George A. Otis, 13 Jan. 1821, Dft, NNC (EJ: 12795); *HPJ*, 3: 443.

14. JJ to JA, 25 July 1787, Dft, NNC (EJ: 12784); *JAW*, 8: 446. For a tribute to JJ's custody of the public papers during his term as Secretary for Foreign Affairs, see Jared Sparks, ed., *The Diplomatic Correspondence of the American Revolution* (12 vols.; Boston, 1829–30), 1: x.

15. JJ to Jedidiah Morse, 28 Feb. 1797, ALS, PHi: Gratz (EJ: 1130); Dft, NNC (EJ: 12775); C, NN (EJ: 1077); *HPJ*, 4: 224–25.

16. See, e.g., *RDC*, 1: 471.

17. For full citations to these editions, see the short titles list on pp. xlv–l.

18. Vergennes to La Luzerne, 14 Oct. 1782, FrPMAE: CP-EU, 22: 369.

19. New York, 1965.

20. An exception is the massive multivolume work of Henri Doniol, whose *Histoire de la Participation de la France à l'établissement des États-Unis d'Amérique* (6 vols.; Paris, 1886–99) is a subjective selective publication of the dispatches to and from the Comte de Vergennes. Other useful material in print may also be found in Manuel Danvila y Collado, *Reinado de Carlos III* (5 vols.; Madrid, 1893–95); in Juan F. Yela Utrilla, ed., *España ante la Independencia de los Estados Unidos* (2d ed., 2 vols.; Lerida, 1925); and in the published correspondence of George III, edited by Sir John Fortescue (6 vols.; London, 1928), a work marred by numerous errors of transcription, and supplemented by the *Later Correspondence*, edited by A. Aspinall (2 vols.; Cambridge, 1962–63). Important background material, especially on the secret service side, is found in B. F. Stevens, comp., *Facsimiles of Manuscripts in European Archives Relating to America 1773–83* (25 vols.; London, 1889–95), but this series is regrettably brief for the years 1782–83.

21. See *JJSP*, 1: xxix–xxxvii. The view that JJ was too suspicious, particularly of the French, was advanced at the time by RRL, James Madison, and even Alexander Hamilton; but Gouverneur Morris countered: “SOME PERSONS HAVE HINTED TO ME THAT YOU ARE TOO SUSPICIOUS, I THINK THEY ARE MUCH MISTAKEN. The Observation, if it proceeds from the Heart, shews only that they are not so well acquainted with human Nature as you are.” The even more suspicious John Adams, and most members of the Adams-Lee faction, were also disinclined to criticize JJ on that score, and based on the welcome accorded JJ on his return, most congressional and state leaders, particularly middle state nationalists and future Federalists, were similarly disinclined. See, generally, the editorial notes “The Rayneval and Vaughan Missions to England,” “John Jay’s Diary of the Peacemaking, Entry for 22 December 1782,” “Tensions between Allies over the Peace Negotiations,” and “Congress Debates the Commissioners’ Actions,” and notes, on pp. 95–99, 289–91, 300–302, 334–40; JJ to RRL, 18 Sept. 1782, and notes; Gouverneur Morris to JJ, 1 Jan. 1783, all below; *Peacemakers*, 311–40, 441–43. On the diplomatic losses allegedly caused by the delays in negotiations brought about by JJ’s challenge to Oswald’s commission, see note 33 below.

Although JJ became increasingly critical of the French ministry while in France, he and SLJ often expressed approval of various aspects of the national life there. See, for example, JJ to Montmorin, 26 June 1782, to Bourgoing, 26 Sept. 1782; to SLJ, 18 Jan. 1783; to Catharine W. Livingston, 6 Apr. 1783, ALS, MHi: Ridley (EJ: 4692); to William Livingston, 13 Oct. 1783, ALS, MHi: Livingston (EJ: 4687); SLJ to Susannah French Livingston, 28 Aug. 1782, ALS (FC), NNC (EJ: 6445).

22. For JJ’s opposition to the congressional instructions, see JJ to the President of Congress, 20 Sept. 1781, *JJSP*, 2: 560–63.

23. La Luzerne to Vergennes, 26 Sept. 1783, FrPMAE: CP-EU, 25: 317.

24. Vergennes to La Luzerne, 24 Dec. 1783, FrPMAE: CP-EU, 25: 224–29.

25. JJ to the President of Congress, 6 Nov. 1780, *JJSP*, 2: 339–40; *JJUP*, 1: 834; for other expressions of the concern with retaining independence not only of Britain but other European powers, see, for example, JJ to Carmichael, 27 Jan. 1780, *JJSP*, 1: 19; BF to JJ, 22 Apr. 1782, *JJSP*, 2: 725, 726n3; JA to JJ, 13 Aug. 1782; and JJ to John Witherspoon, 6 Apr. 1784, below.

26. See the editorial notes “John Jay Opens Negotiations with Aranda” and “The Separate Article” on pp. 29–32, 162–64.

27. See the editorial note “John Jay Proposes Altering Richard Oswald’s Commission” on pp. 108–11.

28. See the editorial note “The Rayneval and Vaughan Missions to England” on pp. 95–99.

29. On JJ’s support of BF, and opposition to the Adams-Lee faction, see *JJSP*, 1: 97–99, 171, 302–3, 603; 2: 254–55, 315, 320, 426–27n6, 429–31, 532–33.

30. See JJ to BF, 17 July 1780, *JJSP*, 2: 211, 213n4; and JJ to BF, 11 Sept. 1783, below.

31. See JJ to Elbridge Gerry, 19 Feb. 1784, and notes; Richard Henry Lee to JJ, [c. 12 Dec. 1784]; *Peacemakers*, 440–41.

32. See the editorial note “John Jay Proposes Altering Richard Oswald’s Commission” on pp. 108–11; JJ to Vergennes, [c. 11 Sept. 1782]; and the editorial notes “Vergennes’s Response to News of the Preliminaries,” and “The Commissioners Defend the Treaty” on pp. 281–82, 416–19.

33. For the argument that the delays over the appropriate commissions failed to secure an unconditional acknowledgement of American independence and lost concessions offered earlier to BF before the military situation again began to favor the British, see, for example, Clarence W. Alvord, “Lord Shelburne and the Founding of the British-American Goodwill,” Raleigh Lecture on History, 1925 (London, 1925), 25; Bemis, *Diplomacy of the Am. Rev.*, 225–27; Lawrence S. Kaplan, *Colonies into Nation: American Diplomacy 1763–1801* (New York, 1972), 141–42. For the counterargument that the early generous concessions, particularly those related to Canada, would not have been approved by Parliament, and hence were not lost by the delayed negotiations, see Harlow, *Second British Empire*, 275–77; and Bradford Perkins, “The Peace of Paris,” in Ronald Hoffman and Peter J. Albert, eds., *Peace and the Peacemakers: The Treaty of 1783* (Charlottesville, Va., 1986), 199–229. Harlow and Perkins nevertheless criticized JJ’s early diplomacy during the peace negotiations. See also *Peacemakers*, 342–43.

34. See the editorial notes “Negotiating a Trade Agreement” and “Signing the Definitive Treaty” on pp. 373–86, 462–67. On the fate of the British negotiators, see *Peacemakers*, 451–54.

35. See the editorial notes, “Homecoming” and “Jay’s Role in the New York–Massachusetts Western Lands Dispute” on pp. 584–88, 631–34. For the reasons JJ advanced for desiring to return to private life and his law practice, see JJ to Catharine W. Livingston, 20 July 1783; to Gouverneur Morris, 24 Sept. 1783, and 10 Feb. 1784; to RRL, 30 May, 20 July 1783, 18 Aug. 1784, below.

36. See the editorial notes “Keeping in Touch” and “The Estate of Peter Jay,” *JJSP*, 2: 361–62, 720–21; and JJ to RRL, 13 Aug. and 12 Sept. 1782; to Egbert Benson, 26 Aug. 1782, all below.

37. See Peter Jay Munro to JJ, 16 Oct., 20 Nov., and 7 Dec. 1783, 4 Jan. 1784; JJ to Munro, 26 Oct. 1783, all below.

38. On the care of Peter Augustus Jay, see *JJSP*, 2: 525, 638, 650–51, 722, 723n5; and Egbert Benson to JJ, 25 Apr. 1783; JJ to Catharine W. Livingston, 1 July 1783; JJ to Frederick Jay, 18 July 1783, below.

For the happier situation of the Jay and Livingston families on both sides of the Atlantic upon the peace, see, for example, the editorial note “An American in England” on pp. 489–93; JJ to Egbert Benson, 10 July and 15 Dec. 1783; SLJ to Catharine W. Livingston, 16 July 1783; Catharine W. Livingston to JJ, 9 Nov. 1783; SLJ to JJ, 6 and 27 Nov. 1783, below.

39. See the editorial notes “Sir James Jay,” *JJSP*, 2: 783–87; and “Sir James Jay: Revisited” on pp. 275–77.

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40. See the editorial notes "The Jay–Carmichael Relationship" and "Lewis Littlepage: An Insubordinate Protege," *JJSP*, 2: 168–74, 471–74; and "Settling the Spanish Accounts" on pp. 550–54; and Littlepage to JJ, 29 Dec. 1782, below.

41. On the Jay daughters and entertainment of Robert Morris's sons, see JJ to RRL and to Robert Morris, both 12 Sept. 1783; JJ to Morris, 13 Oct. 1782, below.

42. On the Jays' social contacts in France, see the editorial note "Paris Embraces the Jays" on pp. 219–20. On the balloon flights, see JJ's letters to RRL, Robert Morris, and Charles Thomson, 12 Sept. 1783, and notes.

43. See the editorial note "John Jay and Benjamin Franklin Reminisce" on p. 436; and John Jay's Notes on Conversations with Benjamin Franklin, 19 July 1783–17 April 1784.

44. On JJ's health, see, for example, JJ to SLJ, 18 Jan. 1783; JJ to John Vaughan, 15 Feb. 1783; to the Secretary for Foreign Affairs, 20 July 1783; to Gouverneur Morris, 24 Sept. 1783; to Egbert Benson, 15 Dec. 1783, all below; and the editorial note "An American in England" on pp. 489–92.

45. JJ to Catharine W. Livingston, 1 July 1783, below.

46. See Frederick Jay to JJ, 18 Nov. 1781, *JJSP*, 2: 637–38; the editorial note, "The Estate of Peter Jay," *JJSP*, 2: 720–21; JJ to Frederick Jay, 3 Oct. 1782, below; *JJUP*, 1: 401, 702, 711, 712, 823.

47. On slaves with the Jay family, see below, SLJ to JJ, 23 Nov., 7 and 11 Dec. 1783; Peter Jay Munro to JJ, 7 Dec. 1783, 4 Jan. 1784; and JJ's Conditional Manumission of Benoit, 21 Mar. 1784.

48. JJ to Frederick Jay, 6 Apr. 1783, enclosed in JJ to Egbert Benson of the same date, below. See also JJ's comments on the pay of judges in JJ to George Clinton, 23 Feb. 1782, *JJSP*, 2: 693.

49. See below, JJ's Draft of a Treaty of Commerce with Great Britain, [c. 1 June 1783].

50. See below, American Commissioners to David Hartley, 17 July 1783.

51. Gouverneur Morris to JJ, 7–9 May 1781, *JJSP*, 2: 445.

52. For a major example of JJ's use of historical and legal sources, see JJ to Vergennes, [c. 11 Sept. 1782], below. In this volume, JJ writes none of the exhortative addresses displaying the more literary style that was much admired during his terms in Congress and as chief justice of New York. See *JJSP*, 1: 95–107, 115–18, 132–38, 320–47, 477–81, 667–78.

53. JJ to Elbridge Gerry, 9 Jan. 1782, *JJSP*, 2: 662. See also JJ to RRL, 19 July 1783, below. For a reworked text in which the tone of the letter was sharpened over time, see RRL to the American Peace Commissioners, 4 Jan. 1783, and notes, below.

54. JJ to Egbert Benson, 19 Mar. 1781, ALS, NNC (EJ: 13201); *WJ*, 2: 74–75; *HPJ*, 2: 6–7.

55. JJ to Robert Morris, 13 Oct. 1782, below.

56. JJ to William Livingston, 21 May 1783, below.

57. JJ to Elbridge Gerry, 9 Jan. 1782, *JJSP*, 2: 662.

58. See, for example, JJ to Egbert Benson, 26 Aug. 1782; to Washington, 6 Apr. 1783; to William Livingston, 21 May 1783; to RRL, 12 Sept. 1783; to Gouverneur Morris, 24 Sept. 1783; to Elbridge Gerry, 19 Feb. 1784, below.