

KNOW all Men by these Presents, That We
Mary Bedford, Widow, John Stockton Esq.
and James Riddle, Merchant, all of
Newcastle County _____

are held and firmly bound unto the State of Delaware,
in the Sum of *Twenty Thousand* _____ Dollars lawful
Money of the said State; unto which Payment well and truly to be made un-
to the said State, WE do bind ourselves, our Heirs, Executors and Admi-
nistrators, jointly and severally, firmly by these Presents. Sealed with our
Seals, and dated at New-Castle, in New-Castle County aforesaid, this
twenty second Day of *November*, in the Year of our Lord One
Thousand Seven Hundred and Ninety-seven. _____

THE Condition of this Obligation is such, That if
the above bounden *Mary Bedford, Widow, and John*
Stockton in right of his Wife Ann late Ann Bedford nee of her, and
Administ^rors of all and singular the Goods and Chattels, Rights and Credits of

Gunning Bedford late of the Town of Newcastle
in the County of Newcastle Esquire, _____

_____ deceased, do make, or cause to be made, a true and perfect Inventory
of all and singular the said Goods and Chattels, Rights and Credits of the said de-
ceased _____ which have or shall come
to the Hands, Possession or Knowledge of the said *Mary Bedford* _____
and John Stockton, _____ or unto the Hands and Possession of any
other Person or Persons for *them*; and the same so made do exhibit, or cause to be
exhibited, into the Register's Office of the County of New-Castle aforesaid, at or be-
fore the *twenty second* - Day of *February* _____ next ensuing the Date
hereof; and the same Goods and Chattels, Rights and Credits, of the said Deceased at
the Time of *his* Death, _____ or which at
any Time after shall come to the Hands or Possession of the said *Mary Bedford*
and John Stockton, _____ or into the Hands and Possession
of any other Person or Persons for *them*, do well and truly administer according to
Law; and further, do make, or cause to be made, a true and just Account of *their*
Administration; at or before the *twenty second* Day of *November*, _____
which shall fall in the Year of our Lord One Thousand Seven Hundred and Ninety-
Eight, _____; and all the Rest and Residue of the said Goods and Chattels, Rights
and Credits, which shall be found remaining upon the said Administrators' Account,
the same being first examined and allowed of by the Register of the said County of
New-Castle, shall deliver and pay unto such Person or Persons respectively, as the said
Register by his Decree or Sentence shall limit and appoint. And if it shall hereafter
appear, that any last Will and Testament was made by the said Deceased, and the Exe-
cutor or Executors therein named do exhibit the same in the Register's Office, making
Request to have it allowed and approved accordingly; if the said _____
Mary Bedford and John Stockton _____ within bounden,
being thereunto required, do surrender and deliver up the said Letters of Administra-
tion (Approbation of such testament being first had and made in the Register's Of-
fice) then this Obligation to be void, and of none Effect, or else to remain in full
Force and Virtue.

Signed, sealed, and delivered)
in the Presence of)

William Naughey
W. Hinsey
J. A. Booth

Mary Bedford Seal
John Stockton Seal
J. A. Riddle Seal

Admon Bond
Gunning Bedford Esq

Nov. 22. 1797. ~

Apprs
Isaac Grantham,
Arch.^o Alexander.

Registered in Book
O. page 290. ~

Ed
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An Account of John Stockton the acting Administrator of all and singular the Goods and Chattels Rights and Credits which were of Gunning Bedford late of the Town of Newcastle Esquire deceased. as well for such and so much of the Goods and Chattels rights and credits of the said Decedent as came to his hands. as for his several Charges payments and disbursements out of the same as follows.

1797 Dec: 22	The accountant chargeth himself with the amount of the Goods and Chattels of his Intestate as specified in an Inventory and appraisement thereof filed in the Register Office the sum of	\$1682.50	
	Also with an advance on the sales thereof the sum of	55.43	
	Also with a further appraisement of Articles in the Office the sum of	£ 20 5. 0	54
1798	The accountant also chargeth himself with		
July 15	Cash received from the State Treasurer	125 " "	
	" Sales of House & Lot in Newcastle	1884 7. 6	
	" ditto of Grap Lot in ditto	573.15	7332.47
	" ditto ditto payable in 60 days	166 11	
		£ 2749.13 6	6529.66
June	Cash received from Benjamin Reynolds	78 " "	
July 17	" from Martin Cloud balance purchase of Land 9/6	5. 6	
1799	" from State Treasurer	100 " "	
March 11	Cash received	34. 2. 7	
	" G. Swins	4. 5. 5 1/2	
Apr: 16	" William Hood	7. 1. 2	
	" Jacob Bratter	8. 8. 7	3569.11
	" Ditto	5. 9. 7	
	" Charles Evans	2. 7. 11	
	" Henry Sizer	8. 5. 7	
	" Theophilus Evans	6. 7. 9	
	" Abraham Holmes	3. 9. 11	
July 27 1800	" Thomas Fitzsimmons	17. 16. 10	
Feb: 25	" Joseph Ogle	8. 16. 1	
March	" Morton Mortons Bond	52. 12. 0	
		£ 1338. 8. 4 1/2	12993.51

The account of John Stockton Adm^r of

1797		The Accountant craves an allowance for the following payments and disbursements on behalf of the Estate of the Intestate to wit		
Nov. 22	1	Cash paid for Letters of Administration £	16. 3	
	2	" Sundry General Expenses of Office Rec ^d	21. 3. 0	
Dec. 7	3	" Laurina H Miles Carriage Tax paid & proved & receipt	3. 8. 0	
	4	" Thomas Kallavans Account proved & receipt	5. 1. 9	
	5	" John Cumpbell do do	2. 11. 9	
16 th	6	" Peter Brynberg do do	16. 14. 0	
19	7	" Peter Harwood do do	8. 6. 0	
	8	" William & Indrecons do do	5. 8. 5. 9	155. 44
1798	9	" Sarah Kean do do	2. 14. 10 th	
Jan. 11	10	" Sam ^l & John Adams for printing Receipt	4. 10. 6	
16	11	" Sam ^l & John Adams for printing Receipt	2. 5. 0	
20	12	" John Zimmerman Account proved & rec ^d	2. 4. 10 th	
	13	" George Menso do do	1. 17. 6	
	14	" James Tilton do do	2. 5. 6	
30	15	" Clay Bond Ho. do do	11. 1. 2	
			£ 26. 14. 5	72. 9 th
	16	" James Carpenter do do	" 15. 6	
Feb. 3	17	" James Lea do do	1. 15. 6	
10	18	" Isaac Stalup do do	5. 5. 6	
15	19	" Andrew Morton do do	" 11. 9	
	20	" W ^m Colbett for printing Receipt	2. 4. 0	
26	21	" John Ferris Account proved & rec ^d	1. 10. 6	
			£ 12. 2. 9	32. 3 th
March 12	22	" Joseph Butcher do do	1. 9. 10	
	23	" John Mandall do do	3. 17. 8	
16	24	" Sam ^l & John Adams Advertising sale for rec ^d	" 11. 3	
Apr. 1	25	" Henry Latimer for Interest on a Bond due to the Estate of John McKinley dec ^d & Bond proved & receipt	47. 10. 11	
	26	" Andrew Fisher of Bond proved & receipt	246. 6. 0	
			£ 300. 4. 8	500. 62
		Am ^t carried forward	\$ 1061. 35.	

Gunning Bedford Esq. deceased Continued

By amount of disbursements brought forward	\$15374.33	
An allowance made the Administrator for his care and trouble		986.44
Paid for arranging the vouchers & stating this account	5.00	
Registers for getting & getting	3.07	
And for an attested copy thereof	2.75	10.82
		<u>Dollars 16371.59</u>

Examined, adjusted, allowed and paid the 31st day of July; A. D. 1812. *Caron Thomas Rags*

Settlement
Gunning Bedford
July 31. 1812.


Copy of Adm^t.

Gunning Bedford Esq. decesses Continued

1798	Mr	By amount of disbursements brought forward	Doll.	1061.35
Apr 2	26	Cash paid James McCullough w ^o proof receipt	2.41/2	
	27	Francis Janvier Bond proved & receipt	139.12.8	
	28	John Crow Surveying Lots & receipt	1.17.6	
6	29	William Scott Account proved & receipt	26.0.9	
	30	George Pearu for the Coffin & receipt	15 " "	
12	31	John Alexander Account proved & receipt	14.10.1	
13	32	Thomas Spackman do do	14.3	
	33	James Caldwell do do	15.4.1	
14	34	Edward Hewes Bond proved & receipt	32.15.10	
27	35	Alexander Fullerton Litta Litta	62.0.11	
30	36	Rumsey & Broom Account proved & receipt	42.0.10	
May 2	37	John Vining do do	5.13.0	
7	38	Benjamin Chew Bond proved & receipt	269.19.3	
	39	Robert Sawyer Acc ^t proved & receipt	17.5	
24	40	Clerk of Orphan Court & receipt	15. "	
29	41	John V. Hayatt am ^t of Philip Janvier's Bond proved and receipt	33.17.11	
June 1	42	Samuel Hollingsworth Acc ^t proved & receipt	27.9.2	
			<u>£302.1.5 1/2</u>	505.52

£380.12.7 = 1014.01

It is represented to the Register that Gunning Bedford Esq. was in his life time the Executor & devisee named in the Last Will and Testament of William Bedford dec^d and held certain Real Estate subject to the payment of the said William Bedfords Debts

The Accountant therefore craves an Allowance for the following 5 Items by him paid being debts due from the said William Bedford - viz.

43	Gunning Bedford Sen ^r Bond proved & receipt assigned by John Chew	143.0.1
44	Ditto Ditto Bond proved & receipt	56.3.6
45	Ditto Ditto Note proved & receipt	20.5.1
46	Ditto Ditto Account proved & receipt	7.11.11
47	George Read Adm ^r of George Read Esq ^r demand of Bond proved & receipt	3909.14.11
		<u>£1137.0.8 1/2</u>
		3032.09

Amount carried forward \$5912.97

The Account of John Stockton Adm

1798	By amount of Disbursements brought forward	Dollars	5912.97
June 5 48	Cash paid James Wilson acc ^t proved Receipt	£	8..0
16 49	" In ^r Mich ^r assignee of P. Jaquett L ^o D ^o	5..8..4	
" 50	" Peter Baudry	D ^o D ^o	10 8..0
" 51	" Nicholas Robinson	D ^o D ^o	2.10.6
" 52	" John Martin	L ^o D ^o	18. 1..11
Aug ⁴ 53	" James Riddell	D ^o D ^o	262.. 8..4
" 54	" Ditto for Riddell & Bird L ^o D ^o	5..8..2 1/2	
" 55	" Ditto of Note proved Receipt		159.18.11
		£	464.12.27 = 1236.30
21 56	" Kemey Johns of Bond proved Receipt	15. 6.. 3	
" 57	" Robert Clay Account proved Receipts	3.. 7.. 2	
Nov 3 58	" Nicholas Van Dyke atty. of Tho ^s Boulden d ^o	25 15.1	
59	" Ditto his own acc ^t proved Receipt	2. 5..	
Dec 14 60	" Dan ^l S. Delany attorney for the Executors of Mary Penrose of Bond proved Receipt	344 16..	
" 61	" Henry Colsbury acc ^t proved Receipt	36. 16. 8	
20 62	" Nicholas Quinn	d ^o d ^o	20. 5..
1799 Jan ¹ 63	" John Sellars	d ^o d ^o	3..15.6
2 64	" Jethro Evans of Order proved Receipt	13. 0. 9	
Feb 16. 65	" Robert Bryan's Exec ^t acc ^t proved Receipt	10. 4. 3	
		£	475. 11.. 8 = 1268. 22
" 66	" Thomas Gregg of the Capt ^l Court of Bill Kniph	"	14.. 7
" 67	" George Booth for drawing Bond of d ^o d ^o	2. 5..	
" 68	" James McCallment Account proved Receipts	5. 12..	
" 69	" William Reynolds	d ^o d ^o	10.. 7.. 3
Apr 6. 70	" Samuel Parr	d ^o d ^o	1. 15.10
18. 71	" Mary Bolton Henry Campbell's d ^o d ^o	1. 14. 3	
" 72	" Alexander Duncan	d ^o d ^o	43. 6.. 4
May 13 73	" Philip F. Golden	d ^o d ^o	" 6.. 1/2
Jun 27 74	" Black & Russell	d ^o d ^o	10.. 4.. 3
Aug 1. 75	" James Moore	d ^o d ^o	7.. 6. 8
Sep 4 76	" John McKinley's Execution Bond proved Receipt	294. 19. 1	
		£	378. 11.. 47 = 1009. 52
	am ^t carried forward	Dollars	9430.01

of Gunning Bedford Esq. Deceased Continued.

1799	76	By amount of disbursements brought forward	\$ 9430.01
	77	Cash paid Michael Vanhook for Tombstone Mill and receipt	39. 6. 3
Oct 26	78	Charles Bird Esquire of Charles C. Weston Account proved and receipt	16. 10. 1/2
Dec 31	79	Robert Coram Account proved & receipt	7. 10. "
1800	80	Andrew Smith ditto ditto	1. 13. 6
Mar 11	81	Michael King ditto ditto	1. 7. 5 1/2
July 25	82	Alexander McBreath ditto ditto	1. 8. 3
		<u>\$ 67. 15. 7</u>	150. 75
Dec 15	83	Amount of John Cairns's Mortgage Principal & Interest paid to different persons at sundry times of Mortgage Bonds proved & receipts	2485. 85
1801	84	John Wiley Transcript of Judgment Receipt	51. 02
May 27	85	Gunning Bedford Attorney for the Representation of Thomas Montgomery Acc. proved & receipt	220. "
1805			
Nov 25	86	George Pratt Account proved & receipt	30. 04
		<u>\$ 12397. 67</u>	
87		George Price Account proved & receipt	16. 12
88		Joseph Tallon Executor of Bond proved & receipt	98. 03
89		Joel Lewis Account proved & receipt	12. 07
90		Archibald Alexander of Bills Ditto	116. 35
91		Amount of sundries paid including the accountant's own account as of Statement proved by the oath of the accountant	2200. 76
92		Amount paid to Mary Bedford the Widow being so much of the Furniture retained by her at the appraisement, received by her in lieu of Commission on Settlement of the Estate \$200.	533. 33

Amount forward Dollars 15374. 33

The Account of John Stockton Adm^r of

To amount of Assets brought from first page	12993.51
The accountant further chargeth himself with the balance of an Account rec ^d from W ^m Read & Co. a payment to A. Fullerton	159.20
Balance overpaid by the Adm ^r	3218.86

Dollars 16371.57

Errors Excepted of said Stockton Adm^r

United States, September 30. 1789.

Sir,

I have the pleasure to enclose to you a commission as Judge of the United States for the District of Delaware, to which office I have nominated, and, by and with the advice and consent of the Senate have appointed you.

In my nomination of Persons to fill offices in the Judicial department I have been guided by the importance of the object —

Considering it as of the first magnitude, and as the Pillar upon which our political fabric must rest, I have endeavored to bring into the high offices of its administration such Characters as will give stability and dignity to our national Government —

— and I persuade myself they will discover a due desire to promote the happiness of our country by a ready acceptance of their several appointments.

The laws which have passed, relative to your office, accompany the commission.

I am Sir,

with very great esteem,

Your most obedient servant

G. Washington

The honorable

Gunning Bedford Esquire.

33p

• CHARLES W. CANFIELD
• COLLECTION
•

The honorable
Gouverneur Richard Ogden

Esq. Sir,

Your most obedient servant

with very great esteem,

I am Sir,

to your office, accompanying the commission.

The laws which have passed, relative
by a ready acceptance of their general appointments
due desire to promote the happiness of our country
- and therefore myself they will discern a
fidelity and loyalty to our national government -
of its administration such character as will give
self, that endeavor to bring into the high office
as the pillar upon which our political fabric will
considering it as of the first magnitude, and
guided by the importance of the object -
All officers in the judicial department have been
have appointed you. In my nomination before to
by and with the advice and consent of the Senate
of course, to which office have nominated, and
- in view as judges of the United States for the several
I have the pleasure to enclose to you a com-

Sir,

United States, September 30. 1794.

GUNNING BEDFORD, JR.

An address delivered October 7, 1937, at his
grave on the lawn of the Masonic Home, as a
part of Delaware's Constitution Sesqui-
Centennial Celebration.

By Edward W. Cooch

EDWARD W. COOCH
ATTORNEY AT LAW
WILMINGTON, DELAWARE

GUNNING BEDFORD, JR.

An address delivered October 7, 1937, at his grave on the lawn of the Masonic Home, as a part of Delaware's Constitution Sesqui-Centennial Celebration. By Edward W. Cooch.

For the third time in one hundred and twenty-five years a devoted people gather around the remains of Gunning Bedford, Jr., for the purpose of rendering honor to his memory. The first was on March 31, 1812, on the occasion of his burial in the cemetery of the First Presbyterian Church in Wilmington; the second on March 31, 1921, upon his reinterment on the lawn of the Masonic Home of Delaware; and the present occasion in recognition of his services as a framer and signer of the Constitution of the United States.

The aftermath of the Revolutionary War was full of danger for the American people. They had been weakened and impoverished by many years of devastating conflict. Their central government was little more than a confederation brought together to promote the common cause of independence. With the success of that cause many were of opinion that the need for cooperation no longer existed. A convention was held at Annapolis, but only a few States were represented, and it adjourned to meet in Philadelphia.

Judge Niels in his able article on Judge Bedford states as follows: "On May 28, 1787, Bedford took his seat in the Convention (at Philadelphia) and regularly attended its

sessions. His speeches as reported in Madison's Debates are confined to two or three subjects. His plan of Government was apparently a simple one. He believed in a federal government whose powers should be vested in Congress and withheld from the Executive. He feared the undue preponderance of the larger states and repeatedly insisted upon equal State representation."

"In discussing the general powers of Congress it is reported, 'Mr. Bedford was opposed to every check on the Legislature. He thought it would be sufficient to mark out in the Constitution the boundaries to the Legislative Authority, which would give all the requisite security to the rights of the other departments. The representatives of the people were the best judges of what was for their interest, and ought to be under no external control whatever. The two branches would produce a sufficient control within the Legislature itself.'"

Notwithstanding the usual courtesy of his manners, Bedford was inclined when aroused to resort to violence of expression. This occurred once while in defense of the rights of the smaller States to equal representation. On one occasion he threatened the three larger States that the smaller ones might withdraw and seek some foreign ally to take them by the hand and do them justice. When censured for making so rash a statement, he explained that some allowance ought to be made for the habits of his profession in which warmth was natural and sometimes necessary.

On one occasion he challenged a member of Congress to a duel for some remarks in Congress which Bedford resented. The duel, however, never took place.

All through the summer of 1787 delegates from the several States labored with the problems of establishing justice, insuring domestic tranquility, providing for the common defense, promoting the general welfare and securing the blessings of liberty to themselves and their posterity.

By September 17 the work had been accomplished so far as the convention was concerned, but there was still much to be done. It would not be effective unless it met with the approval of the several States.

Bedford was a member of the Delaware Convention that ratified the Federal Constitution on December 7, 1787. The resolution of the Convention was as follows: "We the Deputies of the People of the Delaware State, in convention met, having taken into our serious consideration the Federal Constitution proposed and agreed upon by the Deputies of the United States in a general convention held at the City of Philadelphia on the seventeenth day of September, A. D. 1787, have approved, assented to, ratified and confirmed and by these presents do, in virtue of the power and authority to us given for that purpose, for and in behalf of ourselves and our constituents, fully, freely and entirely approve of, assent to, ratify and confirm the said Constitution." This action made Delaware the first State of the Union.

Bedford was deeply interested in the cause of education and was President of the Board of Trustees of Wilmington Academy. In soliciting financial aid for the school he said: "The establishment of schools for the purpose of education is on all hands justly acknowledged to be an object of the first importance." In 1803 he presented a memorandum to the Legislature asking that the chartered powers of the Academy be enlarged so as to embrace a collegiate course. This was done and he became the President of Wilmington College.

Bedford was made a Mason March 21, 1782, in Lodge No. 14 of Pennsylvania. This lodge had been chartered in 1762 to meet at Christina Ferry or within five miles thereof. Delaware, it will be remembered, had at that time no separate Grand Lodge. All of its lodges, except one, being under the jurisdiction of Pennsylvania.

The country as well as the whole world was shocked upon learning of the death of General George Washington which occurred on December 14, 1799. The Society of Free Masons of Wilmington and the neighborhood held a special meeting on St. John's day, December 27, in his honor. An account of the meeting appeared in the "Mirror of the Times & General Advertiser" of Wilmington in its issue of the following day. The meeting was held in the lodge room in the Old Town Hall, whence they proceeded with slow and solemn steps to the beat of muffled drums and other martial music to the Presbyterian Meeting House. Bedford delivered the funeral oration to a crowded and attentive

audience. "During his discourse many a tear rolled down the cheek and many a sigh sprang from the heart of sensibility." Bedford's address was published in Lancaster in 1802 and reprinted a few years ago by the late J. Danforth Bush.

On June 6, 1806, the lodges located in Delaware organized themselves into the Grand Lodge of Delaware, and Gunning Bedford, Jr., was elected its first Grand Master. Lodge No. 14 declared itself independent of Pennsylvania and became Washington Lodge No. 1 of Delaware. Bedford retained his membership therein.

The organization of the Grand Lodge of Delaware appears in its minutes as well as in the records of the Grand Lodge of Pennsylvania. The latter account is as follows:

"That on the Sixth Day of June last, a meeting was held at the Town Hall in the Borough of Wilmington, in the State of Delaware, composed of Nine Brethren said to represent Lodges No. 31, Laurel Town, Sussex County; No. 33, New Castle, New Castle County; No. 96, New Ark, New Castle County, and No. 14 Wilmington, New Castle County. That they Resolved, Unanimously, 'That the several Lodges of Ancient Masons in the State of Delaware there represented by Deputies properly authorized, consider it as a matter of right and for the general benefit of Masonry that they ought to form a Grand Lodge within the said State; and now do proceed to form and organize themselves into a Grand Lodge accordingly to be known and distinguished by the Name of The Grand Lodge of Delaware.'"

This action was at first resented by the Grand Lodge of Pennsylvania but later full fraternal recognition was given to its new sister Grand Lodge.

After serving a term of one year as Grand Master, Bedford was twice reelected.

The early ancestors of Bedford lived in England. It is said that one of them had married a Miss Gunning, one of three sisters famed for their beauty. Thereafter the name Gunning was used very largely as a first name for members of the Bedford family. On coming to America the Bedfords settled at Jamestown, Virginia. The grandfather of Gunning, Jr., lived on a tract of land along the Big Elk Creek in Cecil County, Maryland, which he named "Bedford's Choice".

Gunning, Jr., was born in Philadelphia in 1747. He was the son of Gunning Bedford, Sr., a founder of Carpenter's Hall of Philadelphia and a cousin of Governor Gunning Bedford who resided at New Castle.

Gunning, Jr., graduated from Princeton in 1771. On that occasion he was selected to deliver the validictory oration. He had married Miss Jane Ballaroux Parker of New York while still a student, and his young wife traveled to Princeton with her baby to attend the commencement.

After completing his legal studies he practiced his profession for a while at Dover, then moved to Wilmington where he resided at what is now No. 606 Market Street. In 1785 he purchased a tract of 250 acres along the Concord and Faulk Roads in Brandywine Hundred. The place was called "Pisgah". It was part

of an original tract called "New Wark" which William Penn had granted to Valentine Hollingsworth. Bedford changed it to "Lombardy" which name it still bears.

Betsy Montgomery in her "Reminiscences of Wilmington" states: "Judge Bedford and his lady were remarkably handsome persons and of noble stature. Mrs. Bedford received an accomplished education and spoke French fluently, her mother being a native of France. When emigrants from that country crowded this town, Mrs. Bedford was their friend and patron. Her entertainments excelled in tasteful arrangement and ornamental display."

Gunning Bedford died March 30, 1812. His funeral which was large and impressive took place March 31 at 4 P. M. and again the Old Town Hall was the meeting place. The Grand Lodge was opened in due form. The procession proceeded to Second and Market Streets, thence to the First Presbyterian Church, then located on the east side of Market Street between Ninth and Tenth, where the services were held.

His daughter, Henrietta J. Bedford in 1858 erected the monument over his grave which you now see before you. Tradition says that she designed it by draping a table cover over a cylindrical stove. On it appears the Bedford arms of three lions' paws and that of the Ballaroux of two leopards'. The inscription, at the request of Miss Bedford, was written by William Thompson Head, a Past Grand Master and a grandson of George Read, the signer. The marble railing around the

monument was placed after her death which occurred in 1871, she having provided in her will for its cost. Her will also provided for the placing of a portrait of her father in the Capitol at Washington. With her death his line became extinct.

Times changed and Wilmington grew from a village to a city, and it became necessary to remove the cemetery and the Old First Presbyterian Church. Most of the other graves were replaced in the northerly side of Wilmington and Brandywine Cemetery. The Masons, however, took charge of the remains of Bedford and of his daughter, Miss Henrietta. They and the monument were moved to their present location. The ceremonies took place on March 31 at 4 P. M. 1921, and again the Old Town Hall was selected for the emergent communication. Thus the month, day, hour and meeting place were identical with those of his first interment, held one hundred and nine years before.

And now we have gathered to bestow one more honor on the man whose life was devoted to his Country, his State and his City as well as to his beloved Fraternity. May his last sleep be blessed in the esteem of posterity and the love of the great Architect of the Universe.

COMPLIMENTS OF
HENRY C. CONRAD.

PAPERS OF THE HISTORICAL SOCIETY OF DELAWARE.

XXVI.

GUNNING BEDFORD, JUNIOR.

BY

HENRY C. CONRAD,

LIBRARIAN OF THE SOCIETY.

Read before the Historical Society of Delaware, March 20, 1899.

THE HISTORICAL SOCIETY OF DELAWARE,
WILMINGTON.

1900.

*Mrs. H. H. H. H.
Dover, Delaware*

GUNNING BEDFORD, JUNIOR.

THE first Judge of the United States District Court for the District of Delaware was Gunning Bedford, Junior, he having been appointed by President George Washington in 1789, soon after the formation of the court by Act of Congress. Both the father and grandfather of Judge Bedford were named Gunning, the family coming from England, the first American branch settling at Jamestown, Virginia, in 1621. The grandfather seems to have been a resident of Cecil County, Maryland, his remains being interred at North East River in that county. The father of the Judge was a captain in the French and Indian War, followed the trade of an architect, and was a resident of Philadelphia, having been an alderman in that city for several years previous to his death in 1802, at the age of eighty-two; and the mother of the Judge was Susannah Jacquett. There were eleven children, the fifth child and second son being Gunning, Junior, the Judge, who was born in Philadelphia in 1747. At the age of twenty he entered Princeton College, then known as Nassau Hall, where he graduated in the Class of 1771. He stood at the head of the class, being the valedictorian, and made an enviable record as a college

student. Among his classmates were James Madison, who afterwards became President of the United States, and Hugh M. Brackenridge.

He studied law under Joseph Reed, an eminent Philadelphia attorney, and about 1779 moved to Delaware and settled at Dover, where he was admitted to the bar under date of August 4, 1779, in Sussex County.

After a brief residence at Dover, finding that the climate did not agree with him, he removed to Wilmington. Winning a high reputation by his scholarship and oratorical ability, he was early recognized by the people and was soon honored with official station. In 1783 he was elected a member of the Continental Congress from Delaware and served for three years. On April 26, 1784, he was appointed Attorney-General of the State of Delaware, where he served with marked ability. On June 17, 1786, he was elected, with George Read, Jacob Broom, John Dickinson, and Richard Bassett, as a commission to meet commissioners from the other States in the Union for the purpose of forming a system of commercial regulations between the States, who were to meet in Annapolis on the first Tuesday of September of that year. His high rank as a professional man is shown by his association with the most distinguished men of his time. The same men who were delegated to attend the Annapolis convention were selected a year later as delegates from Delaware to frame the first Constitution of the United States.

In this Constitutional Convention Mr. Bedford was a prominent figure. Its membership represented the master



THE CITY RESIDENCE OF GUNNING BEDFORD, JUNIOR.
NO. 606 MARKET STREET, WILMINGTON, DELAWARE.

minds of that day. Gunning Bedford, Junior, frequently took the floor and argued questions brought before the body with marked ability and force. He combated strenuously the efforts made by the members from the larger States whereby they sought to give the more populous States a representation in both houses of Congress based on population. He frequently crossed swords with Alexander Hamilton, a member from New York, and James Madison, a delegate from Virginia, and it was largely due to his personal efforts and eloquent appeals that the provision of the Constitution was adopted whereby each of the States was accorded the same representation in the United States Senate, the wisdom of which provision the experience of a century has fully vindicated.

A recent article which appeared in *Munsey's Magazine* on "The Making of the Constitution," from the pen of Hon. Thomas B. Reed, says:

"The Constitution of the United States was not the work of inspiration, or even of genius. It had its origin in the good sense of able men applied to the practical work in hand, in a keen appreciation of the dangers already existing, and the greater dangers to come, and in the spirit of conciliation forced upon its authors by the ever-present nature of the troubles to be avoided.

"A little less than four months of almost constant discussion covered the period between the 25th of May, when they began, and the 17th of September, when all but three, who were present, signed and recommended the Constitution to the people of the United States. There were

twenty-nine members present when they organized, and during the four months, from time to time, came in other members to the number of twenty-three. Fifty-two men, therefore, contributed their wisdom to the final result, though only thirty-nine certified by their signatures to the 'Unanimous Consent of the States Present.'"

Mr. Reed pays a deserved tribute to the members of the Convention and commends the faithfulness of their work in his concluding paragraphs as follows:

"Nevertheless, the reader of the debates arises from their perusal with increased respect for the wisdom and foresight of the men of whom Madison justly says, 'There never was an assembly of men charged with a great and arduous trust who were more pure in their motives, or more exclusively or more anxiously devoted to the object committed to them.' Peace to their ashes. Reverence to their memories. If their work should not be eternal, that work and its results will have educated their children to meet successfully the problem of that future into which they could not penetrate.

"How earnest they were, and how doubtful was the issue, how often they were alternately torn by doubts and difficulties, and rejoiced by successful coping with their hazardous problems, was voiced by the many-sided intellect of the great Dr. Franklin.

"Whilst the last members were signing, Dr. Franklin, looking towards the President's chair, at the back of which a rising sun happened to be painted, observed to a few members near him that painters had found it difficult to

distinguish, in their art, a rising from a setting sun. 'I have,' said he, 'often and often, in the course of the session, and in the vicissitudes of my hopes and fears as to its issue, looked at that behind the President, without being able to tell whether it was rising or setting; but now at length I have the happiness to know that it is a rising, and not a setting sun.'"

Returning from the Convention to his home, Mr. Bedford exerted himself in having his State ratify the Constitution; and to no man more than to Gunning Bedford, Junior, is the credit due for having the name of Delaware at the very head of the sisterhood of States. In 1788 he was elected a member of the State Council from New Castle County, and continued to serve until his elevation to the bench a year later.

In 1789 he was appointed by President George Washington the first District Judge of the United States for the District of Delaware, the President doubtless being fully convinced of his eminent fitness for the place by reason of the long and intimate acquaintance which had existed between them beginning during the War of the Revolution and continuing until the death of Washington.

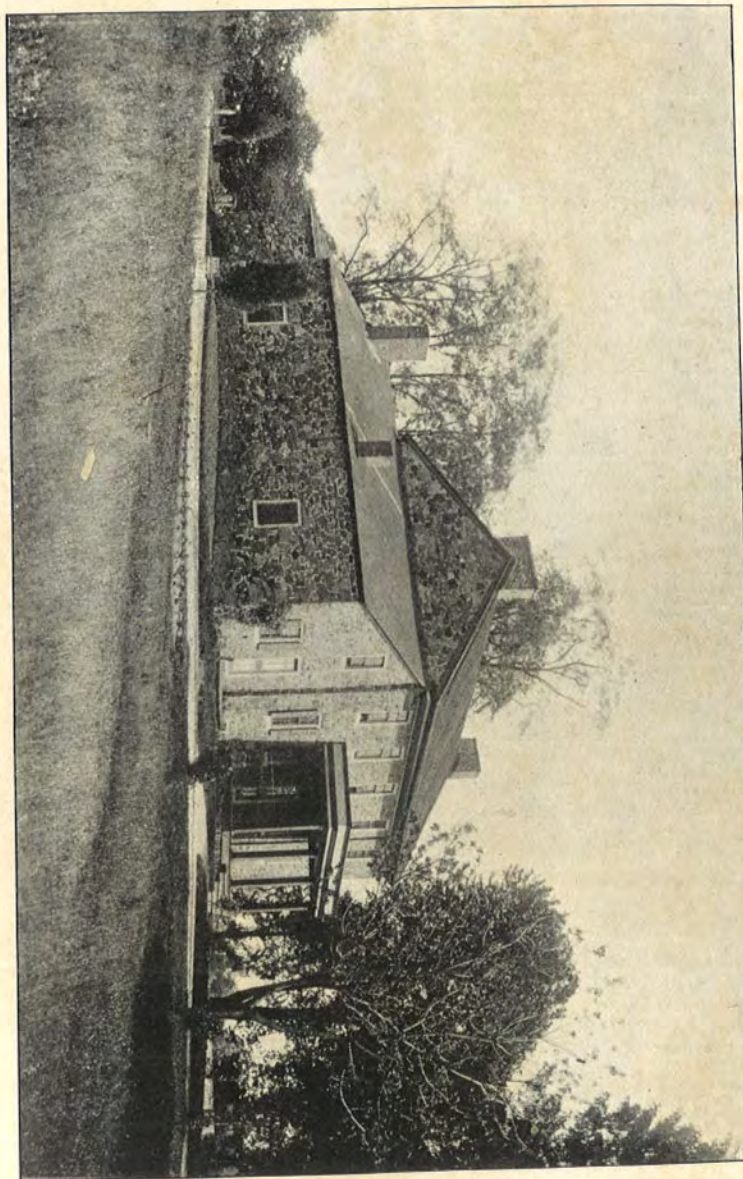
In times past much confusion has been caused by the mixing up of two Gunning Bedfords who figured in Delaware at the same time. Judge Bedford was always known as Gunning Bedford, *Junior*. He uniformly signed his name with the Junior attached. He had a cousin whose name also was Gunning Bedford. The latter was five years the senior of the Judge, being born in 1742, and was the

son of William Bedford, a farmer, who lived in New Castle Hundred. Gunning Bedford and not Gunning Bedford, Junior, married a sister of George Read, the signer, was Lieutenant-Colonel in David Hall's regiment in the Revolution, and in 1795 was elected Governor of Delaware. He also served as Prothonotary and Register of Wills for New Castle County, and is buried in Immanuel Church-Yard at New Castle. Even so careful a biographer as Judge Whitely made the mistake of giving to Gunning Bedford (the Governor) some of the credit and offices which belonged to Gunning Bedford, Junior (the Judge).

Judge Bedford married early, so early that on the occasion of his graduation at Princeton, in 1771, his wife was present with her first baby, and the story goes that the baby was left in the care of the wife of Dr. Witherspoon while Mrs. Bedford attended the commencement exercises. So the young college student stepped from the graduating desk to "family cares" in reality. His wife was Jane Ballaroux Parker, the daughter of James Parker, editor of the *Post Boy*, published in New York, and one of the earliest American printers. Parker learned his trade as a printer side by side with Benjamin Franklin in Boston, and he exchanged with Franklin the first dollar he ever made as an apprentice. That dollar, by the way, was afterwards fashioned into a punch-strainer, and is now among the valuable relics of the Historical Society of Delaware, having been bequeathed to the Society by Henrietta Jane Bedford, a daughter of Judge Bedford.

Mrs. Bedford is described as a lady of rare accomplish-

Melvin Hopkins
Dover, Delaware



"LOMBARDY," THE COUNTRY RESIDENCE OF GUNNING BEDFORD, JUNIOR.

*Melvin Hopkins
Dover, Delaware*

GUNNING BEDFORD, JUNIOR.

9

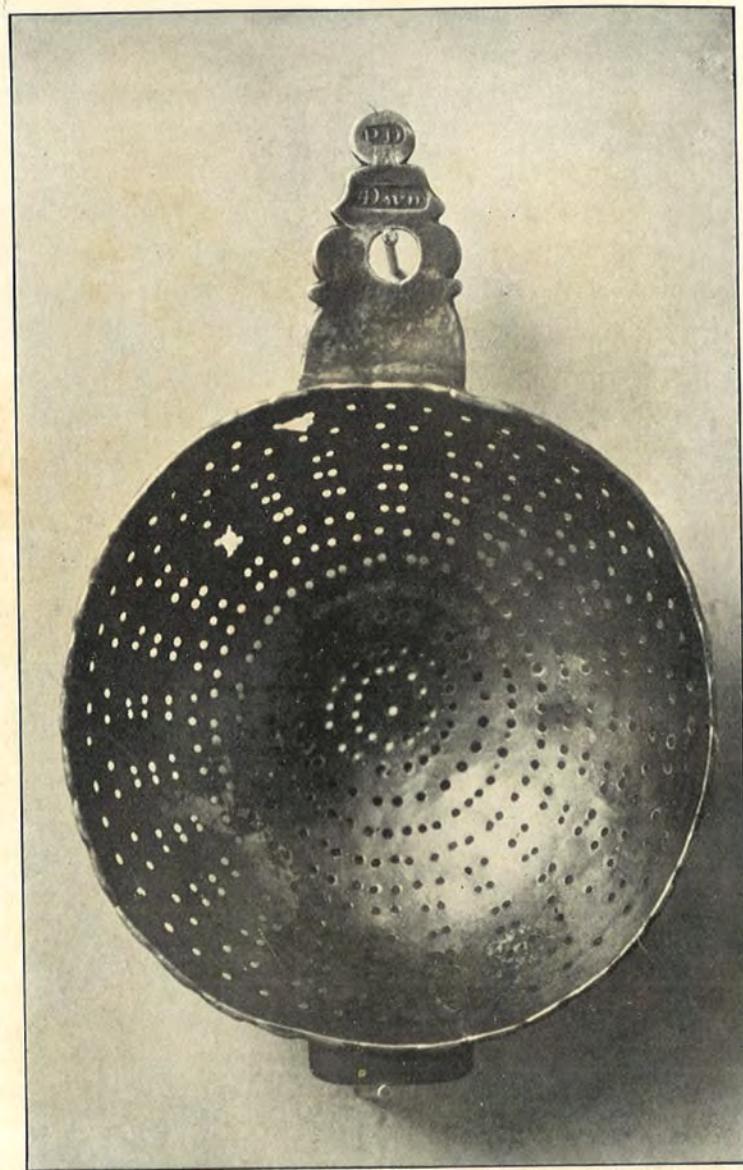
ments and great intellect, whose grace and conversational powers contributed much to the advancement of her husband's home, and naturally gave her a leading place in the most cultured society of that day.

Judge Bedford's residence in Wilmington was at what is now known as No. 606 Market Street (now occupied by William J. Fisher, and for many years known as the McCaulley house). It was built by Abijah Dawes, an early resident of Wilmington, and in the Revolution is said to have been the head-quarters of the French army. It was at that time the stateliest house in the borough. Afterwards this house was owned and occupied by Louis McLane, a distinguished Delawarean who served as United States Senator, Secretary of State, and Secretary of the Treasury under President Andrew Jackson, and twice as United States Minister to Great Britain. Judge Bedford occupied the house for some years, but in 1793 bought from the Charles Robinson estate a farm of two hundred and fifty acres on the Concord Turnpike in Brandywine Hundred, being, as described in the deed, "Pisgah, part of a larger tract called New-work." He renamed the place "Lombardy," and the present Lombardy Cemetery is a part of the same farm. The large and handsome stone mansion which he built on the farm is still standing; and there he made his home during the remainder of his life.

Elizabeth Montgomery in her "Reminiscences of Wilmington" says: "Judge Bedford and his lady were remarkably handsome persons and of noble stature. Mrs. Bedford received an accomplished education and spoke

French fluently, her mother being a native of France. When emigrants from that country crowded this town, Mrs. Bedford was their friend and patron. Her entertainments excelled in tasteful arrangement and ornamental display—so said foreigners.”

Judge Bedford died on March 30, 1812, in the sixty-fifth year of his age. His wife, one son, and a daughter survived him. Mrs. Bedford lived nineteen years after her husband, dying in 1831. For several of the last years of her life she was blind, yet still retained the charming manners which had characterized her youth and prime. The son, whose name was Gunning James Bedford, and who was always of feeble mind, died in 1845. The daughter, and youngest child of Judge Bedford, was Henrietta Jane Bedford, who lived to reach her eighty-third year, having died in this city in 1871. She possessed intellectual gifts of a high order. She alone of all the children of her father's house appeared to inherit the abilities with which her parents were endowed. Her education was the best that her day afforded for women, and she was trained in all the accomplishments then in vogue. She was a passionate lover of music, performing skilfully upon piano and guitar, and having learned to play the harp when nearly seventy years old. Her conversational powers were very fine, and even in her old age she entered most vivaciously into social intercourse. Retaining full recollection of most of the famous people who had gathered at her father's fireside, she brought the past into contact with the present in a remarkable manner. Animated, witty, full of anecdote,



THE SILVER STRAINER MADE FROM THE FIRST DOLLAR EARNED BY BENJAMIN FRANKLIN.

well informed in regard to current events as well as those of bygone times, she was a delightful companion, even when her life had long passed the limits of three score years and ten.

Her disposition was kindly and affectionate. To her suffering mother and afflicted brother she showed the utmost tenderness, fulfilling to the utmost every duty that devolved upon her as a daughter and sister.

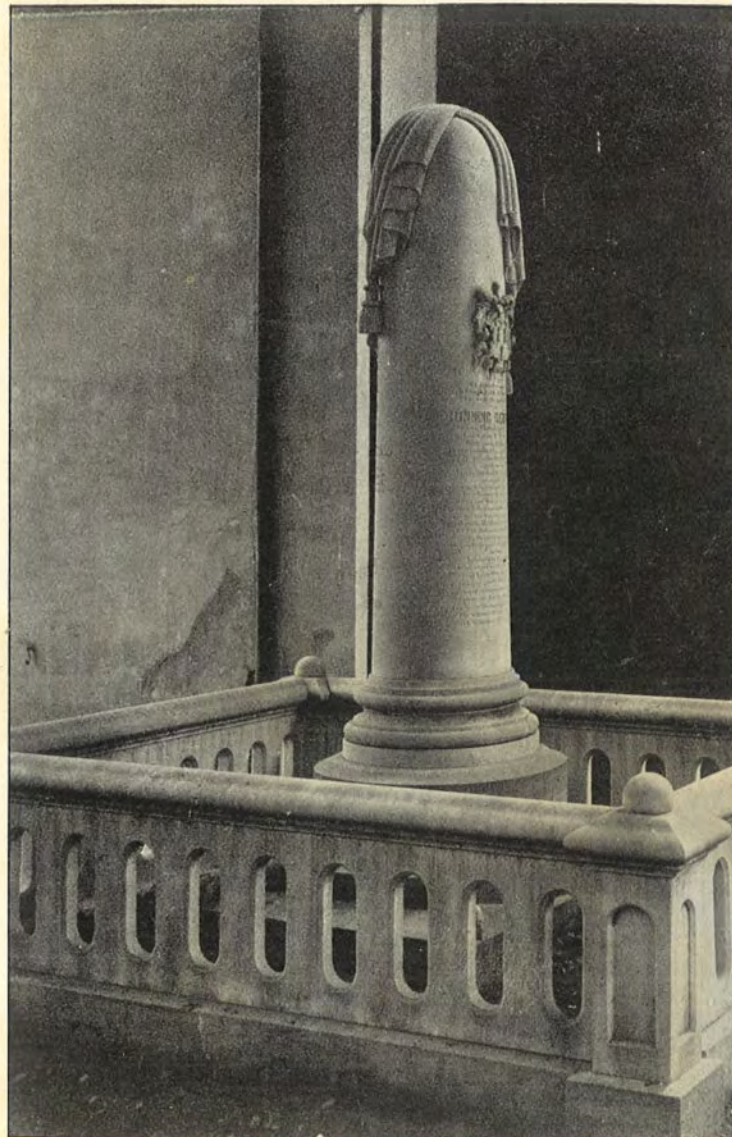
Miss Bedford by her will, which was proven in this county on the 21st of August, 1871, describes herself as a daughter of "Hon. Gunning Bedford, Junior, Aide-de-Camp to General Washington in the Revolutionary war." The will provides that a portrait of her father be placed in the Capitol at Washington near that of James Madison, a room-mate of her father's and one of the framers of the Constitution. It also provides that a pair of pocket-pistols be placed in the Smithsonian Institution at Washington, or if that cannot be done, that they be delivered to the Historical Society of Delaware. The portrait of her father was sent to Washington and now hangs on the wall of the corridor, in a conspicuous place, at the head of a stairway at the Senate end of the Capitol. The pocket-pistols were delivered to the Historical Society, and now remain in its collection. Her will gives the following history of the pocket-pistols: "During the Revolutionary war General Washington, desiring my father to go from Trenton to New York on some important secret embassy at night, and fearing that he was not sufficiently armed with the pistols in his holsters, presented him with a pair of pocket-pistols with a view to his protection and greater security."

The silver punch-strainer, of which I have spoken heretofore in this sketch, came to the Historical Society by Miss Bedford's will.

I presume that Miss Bedford's allusion to the military service of her father as aide-de-camp to General Washington must be correct, although I have found nothing in the records to corroborate the statement. He did not come to Delaware until about 1779. I am satisfied that he did not serve in the Revolutionary War in any of the Delaware regiments. He may have served from Pennsylvania and been credited to that State.

Gunning Bedford, Junior, was a Presbyterian in religion, and usually worshipped in the building in which we are now assembled. His remains lie buried in the graveyard adjoining this building, the First Presbyterian Church, and I cannot more concisely and appropriately close this sketch than by quoting the epitaph which was written by William T. Read and which appears on the handsome marble monument which was erected over his remains by Henrietta Jane Bedford, his daughter, in 1858:

" In hope
of a joyful resurrection,
through faith in Jesus Christ,
here rests the mortal part
of
GUNNING BEDFORD.
Born in Philadelphia, A.D. 1747,
Graduated at Nassau Hall, New Jersey, A.D. 1771,
with great distinction.



THE BEDFORD MONUMENT

Melvin Hopkins
Dover, Delaware

Melvin Hopkins
Dover, Delaware

GUNNING BEDFORD, JUNIOR.

13

Having studied law in Philadelphia,
he practised in Delaware
with success ;

distinguished by his eloquence as an advocate,
Attorney-General, member of the Legislature of Delaware
(and of Congress)

and one of the delegates to the Convention that
framed the Constitution of the United States (by whose
efforts, with those of other delegates, two Senators were obtained
for the State of Delaware).

He received from Washington the Commission of first Judge of the
District Court of the United States for the District of Delaware
which he held till his death in 1812.

He so behaved in these high offices as to deserve and receive
the approbation of his fellow-citizens.

His form was goodly, his temper amiable,
his manners winning, and his discharge
of private duties exemplary.

Reader, may his example stimulate
you to improve the talents—be they five or
two, or one—with which God has entrusted you."

#16

GUNNING BEDFORD, JUNIOR

United States District Judge, District of Delaware

1789—1812

**Paper on the Life of Gunning Bedford, Junior, by
John P. Nields, read November 18th, 1907, upon
presentation of Portrait to the United States Courts
at Wilmington, Delaware.**

GUNNING BEDFORD, JUNIOR.

1747. Born at Philadelphia.
1771. Graduated at Princeton.
- 1778—1789. Attorney General of Delaware.
- 1783—1786. Member of Continental Congress.
1787. Deputy to convention that framed Constitution of United States.
1787. Deputy to Delaware convention that ratified Constitution of United States.
- 1789—1812. United States District Judge for District of Delaware.
1812. Died.

GUNNING BEDFORD, JUNIOR.

Gunning Bedford, Junior, was born at Philadelphia in 1747. The name of his father and grandfather was also Gunning. The grandfather resided in Cecil County, Maryland. The father was a captain in the French and Indian War and afterwards a successful architect in Philadelphia. His mother was Susanna Jacquett. There were eleven children, Gunning being the fifth child and second son.¹

In 1771 he graduated at Nassau Hall, aged twenty-four, in the class with James Madison and Hugh Brackenridge. While a student he married Jane Ballaroux Parker who was five years his senior. She came to Princeton with her baby to hear his valedictory address at commencement. Mrs. Bedford was a very accomplished lady. She spoke French fluently as her mother was a native of France. She had assisted her father, James Parker, in editing his newspaper "The Post Boy of New York,"²

Franklin was a life-long friend of James Parker and took a lively interest in the Bedfords as shown in his letters. Writing to Mrs. Bedford from London on April 9, 1773, he addresses her as "Dear Jenky" and refers to "the ancient friendship that so long subsisted between Mr. Parker and me, whose memory as an honest, worthy man I shall always honour" and closes with "Present my affectionate respects to your good mother and my compliments to Mr. Bedford, though unknown, to whom with yourself I wish all happiness in your marriage."³ Some years

1.—Gunning Bedford, Jr. by H. C. Conrad, 3 Delaware Historical Papers.

2.—Life and correspondence of George Read, p. 510. Montgomery's Reminiscences of Wilmington, p. 288.

3.—Life and writings of Benjamin Franklin by A. H. Smyth, Vol. 6, p. 36.

later Franklin requested a service from Bedford and ended his letter with "Permit me to present my love to my good friend Jenky and accept my best wishes of health and happiness to both of you and your young family."¹

After graduation Bedford returned to Philadelphia and studied law under Joseph Read. Having been admitted to the Bar he removed to Dover. He practiced there a short while and then permanently settled in Wilmington.

What part Bedford took in the Revolutionary War is uncertain. Miss Montgomery describes him as "an officer of the Revolution."² His daughter Henrietta in her will, says: "During the Revolutionary War General Washington, desiring my father to go from Trenton to New York on some important secret embassy at night, and fearing he was not sufficiently armed with the pistols in his holsters, presented him with a pair of pocket pistols with a view to his protection and greater security."

Bedford was Attorney General of Delaware for eleven years—from 1778 until his appointment as District Judge in 1789. The records of the Court of General Quarter Sessions of the Peace and Gaol Delivery show that he was engaged in prosecuting cases of assault and battery, larceny, fornication, horse stealing, keeping tippling houses, &c. Unfortunately the history of some interesting cases is lost with the records of the Court of Oyer and Terminer. During the Revolution indictments for treason were found against a number of British sympathizers in Delaware. Bedford prosecuted the celebrated case of *State v. Cheney Clow*. Clow lived in the forest near Kenton in Little Creek Hundred. When the Sheriff went to arrest him on a charge of treason he found the house barricaded. Clow, with the aid of his wife, offered desperate resistance and was not

1.—Manuscript letter in Congressional Library.

2.—Montgomery's *Reminiscences of Wilmington*, p. 288.

captured until he had killed a man named Moore, one of the Sheriff's posse. Clow was wearing, when taken, a full British uniform. On December 10, 1782 he was tried for treason at a special session of the court of Oyer and Terminer at Dover. In defense he exhibited a commission as captain in the British Army, and claiming to be a prisoner of war, he was acquitted. This verdict aroused the greatest popular indignation. On May 5, 1783 at another term of the Court at Dover he was tried and convicted of the murder of Moore.¹

While Attorney General, Bedford served in the Continental Congress from 1783 to 1786. During this period the war ended. While in Congress Bedford writes of this in several letters.

PHILADELPHIA, MARCH 12, 1783.

DEAR SIR:—

I take the earliest opportunity of communicating the intelligence brought by Capt. Barney. He brings us the preliminaries as settled between us and Britain, and which are to make a part of the definitive treaty when finished between the belligerent powers. They acknowledge the independence of the States, have bounded Nova Scotia and Canada agreeable to the treaty of Paris, given us a line from thence through all the northern lakes, from thence to the head waters of the Mississippi, then down the waters of that river to Florida and then to the sea coast including all the isles within 20 leagues of our coast. This gives us a vast extent of country back not included with any of our states, reserves to us the navigation of those great lakes of the fine river Mississippi which we are to enjoy in common with them. We are to have equal privileges in the fisheries, to take and cure fish on the uninhabited isles as usual, but if on the land in territory of either, the permission of the inhabitants to be obtained. All old debts contracted before the war on either side to be paid, and our commissioners agree that Congress shall recommend to the different States to repeal their confiscatory laws, and to permit the offenders to come in and purchase of the holders by paying the real value of the consideration they had paid for the property, that the property of British subjects shall also be restored, and that all others shall have the privilege of staying one year to settle their affairs, that no more confiscations shall be made and no further prosecutions.

1.—Huffington's *Delaware Register*, Vol. II, p. 220.

for offences hitherto committed. The whole of this you will observe is but a recommendation, which the wisdom of each State will not hesitate to reject, and only consented to, to gratify in appearance the foolish pride of Britain. The preliminaries give satisfaction, and come up to the full wish of every American, we had rather the mention of refugees had been omitted, but in fact it amounts to nothing as it stands, and is a mere finesse to avoid doing anything for them.

Barney had a letter from Franklin as late as the 6th of January. He left France the 17th January and his dispatches were made up the 5th and 14th of December. The preliminaries signed the 30th November. In Franklin's letter to Barney he says the negotiations seem further from a conclusion than they expected. The Count de Vergennes in his letter to Franklin enclosing dispatches to the French Minister here, says that he still rather hopes that the definitive treaty will be completed.

By all these you will find a peace still doubtful, and our hopes and fears not yet satisfied.

Should tomorrow's papers produce anything, I will send them to you, if the preliminaries should not be published, I will copy them and send them down.

I am in great haste, with compliments to the family.

Your most obedient and very humble servant,
GUNNING BEDFORD, JR.

His Excellency

Nicholas Van Dyke, Esquire,
Governor of Delaware,
New Castle.¹

PHILADELPHIA, MARCH 24, 1783.

DEAR SIR:—

I do myself the honor to inclose you a hand-bill containing the most agreeable intelligence of the signature of the General Preliminaries of Peace.

We have to thank the Marquis Lafayette for the early information, who obtained leave that the sloop of war called The Triumph, who touched here, though but the secondary purpose of her voyage.

I most sincerely congratulate you upon the happy prospect of public liberty and independence.

The Superintendent of Marine is directed to call in all our cruisers, and dispatches are sent to New York informing Sir Guy and Digby of the news that they may take the necessary steps on their side,

I am with great regards,

Your obedient and very humble servant,

Gunning Bedford, Jr.

To

George Read, 1st

1.—Letter from Manuscript collection of Mr. Richard S. Rodney.

PHILADELPHIA, MARCH 24TH, '83

DEAR SIR:—

I do myself the honor to enclose you extracts from some dispatches received last night by Sloop of war from Cadiz under cover from the Marquis La Fayette informing us of the signature of the preliminary articles of a general peace among the belligerent powers. France keeps Tobago and Senegal, she restores to Britain Grenada, St. Vincent's, Dominique, (Dominica), St. Christopher's. Britain restores to Holland St. Eustatius, Demarari, (Demarara), Esquebo, (Essequibo), Berbice. Britain restores to France Gorie, (Goree), St. Lucia, St. Pier, (Pierre), and Miquilon, (Miquelon). The fisheries between Great Britain and France on the Coast of New Foundland to continue as in the treaty of 1763, except from the coast of the Cape of Boni-Visto, (Bonavista) to Cape St. John which is ceded to Britain. France to be established in the East Indies as well at Bengal as on the eastern and western coast of Presque isle, (Presqu' ile-de-Giens) as regulated by the treaty of 63. The article of preceding treaties concerning the demolition of Dunkirk shall be suppressed. Spain to retain Minorca and West Florida, Great Britain to cede East Florida to Spain, an arrangement to be made between Spain and Britain about cutting of wood at Campeachy in the Bay of Honduras. Britain to retain the Dutch settlement of Negapatam in the East Indies, Great Britain to restore Trinquemala (Trincomalee) to the Dutch if not retaken. Britain acknowledges the sovereignty and independence of thirteen United States. The limits of the United States to be as agreed upon as agreed on by the provisional articles, except that they shall not extend further down the river Mississippi than the 32d degree of North latitude from whence a line to be drawn to the head of the river St. Mary's, and along the middle of that river to its mouth. The Capt. of the Sloop of war has written orders of Count D'Estaing to inform all cruisers of the signing the preliminaries and to call in all the French frigates and all other vessels belonging to his Majesty.

I most sincerely congratulate you on the most agreeable intelligence and on the glorious prospects of peace and happiness. The general signature to be placed on the 25th February, official accounts are hourly expected. The Marquis out of his abundant love for America, procured this Sloop from D'Estaing to come with the earliest intelligence.

I am with much regard,

Your obedient and humble servant,

GUNNING BEDFORD, JR.

N. B. The above was wrote in great haste, the moment the dispatches were read since I have got a hand bill which will be more satisfactory. Our Superintendent of Marine is directed to call in all our cruisers, and letters are dispatched immediately to New York with the intelligence.

His Excellency

Nicholas Van Dyke, Esquire,
Governor of Delaware.¹

1.—Letter from Manuscript collection of Mr. Richard S. Rodney.

The Journals of the Continental Congress for June 12, 1777 narrate an episode of considerable historical importance. It was the occasion for a strong resolution by Congress establishing the freedom of debate. Whether it relates to this Gunning Bedford or to his cousin, Gunning Bedford, a prominent officer in the Revolutionary Army, is uncertain. It undoubtedly presents correctly the temper and character of the subject of this paper. It appears that Bedford was in Philadelphia but not in attendance as a member of Congress, and that Jonathan D. Sargeant a member of Congress, referred to him in some way in open debate. Thereupon Bedford sent to Sargeant the following challenge to fight a duel:

SIR:—

You having reflected very illiberally on my character, and refusing to give me that satisfaction, which a gentleman is entitled to; without further ceremony I beg you will meet me at 6 o'clock on Friday morning at the Centre House armed with a Pair of Pistols.

I await impatiently your answer and expect it immediately.

Your humble servant,

GUNNING BEDFORD.

City Tavern, Wednesday night."1

In reply Sargeant wrote to Bedford:

"SIR:—

I do not recollect mentioning your character or name on any occasion unless in Congress in the course of business. For my conduct there I conceive I am answerable only to that Body and to my constituents. I flatter myself, however, that no illiberal expressions have escaped me respecting either you or any other subject.

"Your humble Servant,

Wednesday.

Jona. D. Sargent."1

Bedford replied:

1.—Manuscript letter in Congressional Library.

"SIR:—

The reputation of a gentleman is not to be trifled with and you have attempted to injure mine, for which I expect the satisfaction of a man of honor.

Your evasion is mean and pitiable; and so far from being an extenuation of the insult, the place where the assertion was made rather heightens it. I have been much abused and ill-treated by the arbitrary and ungenerous conduct of that House and have long wished to lay my hands on some one particular member whom I could prove had traduced my character. I am at length so happy as to have fixed on one and could only wish he was an object more worthy of resentment.

I am by no means satisfied, sir, with your answer. I am determined and fixed as to my conduct and must insist on it, that you either make me an ample acknowledgement for what you have said, or meet me according to my appointment. I will accept of no excuse whatever. I will expect no further trouble in the matter. If you refuse to make me the satisfaction I ask as to meet me at the place appointed; remember, I shall treat you as a scoundrel wherever I meet you and publish you to the world as a person destitute of every spark of honor, a poltroon and a coward.

Your humble servant,

GUNNING BEDFORD.

Thursday morn. 8 o'clock.
Jon. D. Sargent." 1

On June 13, 1777 Thomas Heyward, a member of Congress, offered the following resolution:

RESOLVED that Congress have and always have authority to protect their members from insult for anything by them said or done in Congress, in the exercise of their duty, which is a privilege essential to the freedom of debate, and to the faithful discharge of the great trust reposed in them by their constituents.

RESOLVED that Mr. Gunning Bedford be served with a copy of these letters (letters received by Sargeant) and that he be summoned to attend Congress tomorrow morning at eleven o'clock to answer for his conduct."2

In obedience to the summons Bedford appeared and spoke on the floor in justification of his conduct. There-

1.—Manuscript letter in Congressional Library.

2.—Papers of the Continental Congress No. 36, IV, folio 191, in Congressional Library.

upon he was requested to ask the pardon of the House and the member challenged. This he did and was dismissed.

By an Act of Assembly of Delaware dated June 23, 1786 Bedford with George Read, Jacob Broom, John Dickinson and Richard Bassett was appointed a Delaware Commissioner to meet Commissioners from other States at Annapolis "for the purpose of considering the trade of the United States, to examine the relative situations and trade of the said States, to consider how far an uniform system in their commercial regulations may be necessary to their common interest and permanent harmony and to report to the United States in Congress assembled such an act relative to this great object" &c. Only four States were represented at Annapolis. A report to Congress by Dickinson, the President of the Convention, recommended the calling of another convention at Philadelphia.¹

By an Act of Assembly dated April 2, 1787 the same persons were appointed Deputies from Delaware to meet Deputies from other States at Philadelphia on May 2, 1787 "to join with them in advising, deliberating on and discussing such alterations and further provisions, as may be necessary to render the Federal Constitution adequate to the exigencies of the Union; * * * So always and provided, that such alterations and further provisions or any of them, do not extend to that part of the fifth article of the Confederation of the said States, finally ratified on March 1, 1781, which declares that in determining questions in the United States in Congress assembled each State shall have one vote."²

On May 28, 1787 Bedford took his seat in the Convention and regularly attended its sessions. His speeches as reported in Madison's Debates are confined to two or

1.—Life and Correspondence of George Read 430.
2.—2 Laws of Delaware 893.

three subjects. His plan of Government was apparently a simple one. He believed in a federal government whose powers should be vested in Congress and withheld from the Executive. He feared the undue preponderance of the larger states and repeatedly insisted upon equal State representation.

In discussing the general powers of Congress it is reported, "Mr. Bedford was opposed to every check on the Legislative, even the Council of Revision first proposed. He thought it would be sufficient to mark out in the Constitution the boundaries to the Legislative Authority, which would give all the requisite security to the rights of the other departments. The representatives of the people were the best judges of what was for their interest, and ought to be under no external control whatever. The two branches would produce a sufficient control within the Legislature itself."¹ And on a later day "Mr. Bedford moved that the clause defining the powers of Congress be so altered as to read 'and moreover, to legislate in all cases for the general interests of the Union and also in those in which the States are separately incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation.'"² This motion prevailed and was adopted by the Convention, although Randolph declared "it involved the power of violating all the laws and constitutions of the States and of intermeddling with their police."³ Recently the language of this resolution offered by Bedford was declared to properly define the measure of power intended to be conferred upon Congress by the Constitution.⁴

1.—3 Documentary History of the Constitution 58.

2.—3 Documentary History of the Constitution 350.

3.—3 Documentary History of the Constitution 351.

4.—Speech of Judge Amidon before American Bar Association, Annual Meeting at Portland, September 2, 1907; Speech of President Roosevelt at St. Louis, October 2, 1907.

In discussing the proper powers of the Executive, Bedford approved a Presidential term of three rather than seven years.¹ He seconded Dickinson's motion, "That the Executive be made removable by the National Legislature on the request of a majority of the legislatures of individual States."² He desired federal judges to be appointed by the Senate.³

Bedford was ever mindful of the express proviso in his commission against depriving Delaware of an equal representation with the other States in Congress. Devotion to his own State led him to make the most intemperate speech uttered in the convention. In discussing the basis of representation in Congress, "Mr. Bedford contended there was no middle way between a perfect consolidation and the mere confederacy of the States. The first is out of the question, and in the latter they must continue if not perfectly, yet equally sovereign. If political Societies possess ambition, avarice, and all the other passions which render them formidable to each other, ought we not to view them in this light here? Will not the same motives operate in America as elsewhere? If any gentleman doubts it let him look at the votes. Have they not been dictated by interest, by ambition? Are not the large States evidently seeking to aggrandise themselves at the expense of the small? * * * The three large States have a common interest to bind them together in commerce. But whether combination as we suppose, or a competition as others suppose, shall take place among them, in either case, the smaller States must be ruined. We must like Solon make such a Government as the people will approve. Will the smaller States ever agree to the proposed degradation of them? It is not true that the people will not agree to enlarge the powers of the present Congress. The Language

1.—3 Documentary History of the Constitution 40.

2.—3 Documentary History of the Constitution 48.

3.—3 Documentary History of the Constitution 366.

of the people has been that Congress ought to have the power of collecting an impost, and of coercing the States when it may be necessary. On the first point they have been explicit and in a manner, unanimous in their declarations. And must they not agree to this and similar measures if they ever mean to discharge their engagements? The little States are willing to observe their engagements, but will meet the large ones on no ground but that of Confederation. We have been told with a dictatorial air that this is the last moment for a fair trial in favor of a good Government. It will be the last indeed if the propositions reported from the Committee go forth to the people. He was under no apprehensions. The Large States dare not dissolve the confederation. If they do the small ones will find some foreign ally of more honor and good faith, who will take them by the hand and do them justice."¹

The suggestion of an alliance between the small States and some continental power against the large States brought down on Bedford's head the severest censure. King of New York "could not sit down without taking some notice of the language of the honorable gentleman from Delaware (Mr. Bedford). It was not he that had uttered a dictatorial language. This intemperance had marked the honorable gentleman himself. It was not he who, with a vehemence unprecedented in that house, had declared himself ready to turn his hopes from our Common Country and court the protection of some foreign hand—this, too, was the language of the honorable member himself. He was grieved that such a thought had entered into his heart. He was more grieved that such an expression had dropped from his lips. The gentleman could only excuse it to himself on the score of passion."²

1.—3 Documentary History of the Constitution 258.

2.—3 Documentary History of the Constitution 262.

On a subsequent day Randolph "animadverted on the warm and rash language of Mr. Bedford on Saturday."¹ Madison said "he was not apprehensive that the people of the small States would obstinately refuse to accede to a Government founded on just principles and promising them substantial protection. He could not suspect that Delaware would brave the consequences of seeking her fortunes apart from the other States, rather than submit to such a Government; much less could he suspect that she would pursue the rash policy of courting foreign support, which the warmth of one of her representatives had suggested, or if she should that any foreign nation would be so rash as to harken to the overture."²

Bedford replied to his critics. "He found that what he had said as to the small States being taken by the hand had been misunderstood; and he rose to explain. He did not mean that the small States would court the aid and interposition of foreign powers. He meant that they would not consider the federal compact as dissolved until it should be so by the acts of the larger States. In this case the consequence of the breach of faith on their part, and the readiness of the small States to fulfill their engagements, would be that foreign nations having demands on this country would find it to their interest to take the small States by the hand in order to do them justice. This was what he meant. But no man can foresee to what extremities the small States may be driven by oppression. He observed also in apology that some allowance ought to be made for the habits of his profession in which warmth was natural and sometimes necessary. But is there not an apology in what was said by Mr. Gouverneur Morris that the sword is to unite; by Mr. Gorham that Delaware must be annexed to Pennsylvania and New Jersey divided

1.—3 Documentary History of the Constitution 268.

2.—3 Documentary History of the Constitution 272, 273.

between Pennsylvania and New York? To hear such language without emotion, would be to renounce the feelings of a man and the duty of a citizen."¹

Bedford was a member of the Delaware Convention that ratified the Federal Constitution on December 7, 1787. The resolution of the Convention was as follows:—"We the Deputies of the People of the Delaware State, in convention met, having taken into our serious consideration the Federal Constitution proposed and agreed upon by the Deputies of the United States in a general convention held at the City of Philadelphia on the seventeenth day of September, A. D. 1787, have approved, assented to, ratified and confirmed and by these presents do, in virtue of the power and authority to us given for that purpose, for and in behalf of ourselves and our constituents, fully, freely and entirely approve of, assent to, ratify and confirm the said Constitution."²

Under the new Constitution George Read and Richard Bassett were the Delaware senators. While the first Judiciary Bill, providing for the establishment of this court, was under consideration in the Senate, a copy of the Bill was sent by Read for Bedford's criticism. On June 16, 1789 Read wrote from New York to Dickinson:—"As the bill to establish the Judicial Courts of the United States is for the consideration of the Senate, Mr. Bassett and myself have thought it our duty to transmit the inclosed copy of the same to you for your perusal and comments upon its respective provisions, hoping that we may obtain them in time before the Senate shall have entered upon the third reading—the second reading being appointed for Monday next as in a Committee of the whole; after which it is to be gone over on such its second reading in the Senate, as a House. Mr. Bassett and myself hope that we shall

1.—3 Documentary History of the Constitution 276.

2.—2 Documentary History of the Constitution 25.

be favored in time with a return of the copy, with your observations thereon in its margin. And we must beg the favor of you to give the Attorney General, Mr. Bedford, an opportunity to peruse and consider this copy, expecting his observations also," &c.¹

Bedford replied as follows:—

WILMINGTON, JUNE 24TH, 1789.

"DEAR SIR:—

Your letter of the 16th only came to my hands this morning, and Mr. Dickinson last evening sent me a copy of the proposed law, with a request that I would make my observations on it and return it to him this morning to be sent back to New York by this day's post.

I should ill requite the honor done me by the communication, and but abuse the confidence reposed in me, were I to attempt any remarks on a subject of so much importance, so entirely new to me, with so little time for reading or reflection. To those who have thoroughly digested the whole system, and who have considered this as the foundation upon which the most grand and elegant superstructure of jurisprudence is to be built, crude and hasty thoughts can give no information. The objects are too extensive and complicated for me so immediately to understand that I might make a just criticism on this proposed bill. It appears to me a noble work, and must do the framers of it, as well as our government, great credit. I flatter myself our State governments will have wisdom enough to follow the example in new modelling their legal systems.

It will be very difficult accurately to define the jurisdiction of the Federal courts, so as to prevent controversies with the State Courts. Indefinite expressions, unavoidably made use of, will create difficulties. Common law and statute law are referred to in the act. Have the States the same accurate and fixed idea of both or either as applied to themselves individually or to the States generally? Do we refer to the common law or statute law of England? This is derogatory. What, then, is the common and statute law of the United States? It is difficult to answer. Yet the dignity of America requires that it be ascertained, and that where we refer to laws they should be laws of our own country. If the principles of the laws of any country are good and worthy of adoption, incorporate them into your own. I think we ought not to refer, at this day, to the law of any nation as the rule of our conduct. This is the moment for legal emancipation; as the foundation is laid so must the superstructure be built. Pardon these

1.—Life and Correspondence of George Read 480.

observations, sir, I am transgressing my own bounds. Your good sense would rather censure than approve (under my circumstances) any further remarks.

You will be pleased to present my respects to Mr. Bassett, and my acquaintance in Congress.

I am, with much respect and consideration, your most obedient humble servant,

GUNNING BEDFORD, JUNIOR.

George Read, Esquire."¹

Washington appointed Bedford the United States District Judge for the Delaware District on September 26, 1789. The commissions of ten of the thirteen original Districts Judges bore that date. On the following day Washington, writing to Edmond Randolph, the newly appointed Attorney General, said:—"Impressed with a conviction that the due administration of justice is the firmest pillar of government, I have considered the first arrangement of the judicial department as essential to the happiness of our country, and to the stability of its political system. Hence the selection of the fittest characters to expound the laws and dispense justice has been an invariable object of my anxious concern."²

The district judges were selected on account of distinguished public service. Nearly all had served in the Continental Congress. Bedford of Delaware, Brearly of New Jersey and Pendleton of Georgia had participated in the great debates in the Constitutional Convention of 1787 under the eye of Washington. General Sullivan of New Hampshire and Duane of New York had been leaders in State conventions called to ratify the Federal Constitution. Hopkinson of Pennsylvania and Drayton of South Carolina were Judges in State Admiralty courts. Lowell of Massachusetts, Paca of Maryland and Griffin of Georgia

1.—Life and Correspondence of George Read 482.

2.—Sparks' Letters of Washington.

with Read of Delaware were the judges in "The Court of Appeals in cases of Capture," a tribunal created by the Congress in 1780 and the forerunner of the Supreme Court of the United States.¹

The first Judiciary Act divided the country into thirteen districts and three circuits. Under this Act, the District and Circuit courts were held alternately at New Castle and Dover. The Circuit Court consisted of one or two Supreme Court Justices and the District Judge. The Supreme Court Justice who regularly sat with Bedford was Wilson in the early days and afterwards Chase, although each of the other Associate Justices occasionally sat with him. For a year Bedford did not sit in the Circuit Court. By the Judiciary Act of February 13, 1801 each circuit was provided with three Circuit Judges. The act relieved Supreme Court Justices and District Judges from Circuit Court work. Richard Bassett of Delaware, William Tilghman of Pennsylvania and William Griffith of New Jersey were appointed for the third circuit but held court at Dover in October 1801 and June 1802. These circuit Judgeships were abolished in 1802 and the old order was restored.

From the beginning the District and Circuit courts were clothed with a large measure of their present jurisdiction. Yet the records during the time of Judge Bedford show that comparatively little business was done in his court. By far the most important litigation arose from the seizure of vessels and their cargoes for violations of the revenue laws and the non-intercourse and embargo

1.—See 30 Federal Cases, Appendix.

acts.¹ Between 1795 and 1812 thirty-eight seizures by the United States were made in this district. Ten of these cases were appealed to the Circuit Court and the decrees in two cases were reversed. Eight of these ten cases in turn were appealed to the Supreme Court. In the joint appeals of *Peisch v. Ware* and *United States v. The Cargo of the Ship Favorite*, 4 Cranch, 347, Marshall construed the Revenue Act of 1799 and held that goods saved from a derelict ship without custom house marks were not for-

1 The District Court for the district of Delaware, has been sitting three days; examining witnesses in support of informations lodged against the speculators of Baltimore, Wilmington, (Del.) Philadelphia, Bridgetown, (New Jersey,) and New York. It has been proved, that vessels under American papers, are trading boldly in the Island of St. Domingo. Some have degraded our flag so far as to coast it for the contending powers of that devoted island. Some of our seamen have been forced by the masters of vessels into this infamous trade, and others have been imprisoned and left on the island, for refusing to serve under the Haytian colors.

It appears that many of the agents for British vessels now in our ports, that must depart in ballast, are also agents for vessels under American colors, lading with corn meal, white oak hogshead staves, and other articles, suitable for the Jamaica market; that those vessels are clearing out for St. Jago de Cuba; and that large quantities of provisions are collected in the district of Bridgetown, on the Jersey side of the Delaware—and passengers assemble there waiting the arrival of British vessels bound out. A large schooner owned at Bridgetown, has lately been stopped in the district of Delaware, by the cutter *Gen. Green*, without clearance (as the non-intercourse law, 3d sect. provides) from Philadelphia, said to be bound to St. Jago de Cuba, with an assorted cargo between decks and 15,000 white oak hogshead staves on deck. The agent—the noted doctor of Sally memory.

On the 20th inst. the schooner *Experiment*, burthen 102 tons, from Philadelphia, said to be bound to St. Jago de Cuba, was boarded by the officer of the revenue cutter—no clearance on board—cargo assorted—198 barrels Indian meal, and sundry other articles on board, better suited for the Jamaica market than St. Jago.

(*American Watchman and Delaware Republican* for September 23, 1809.)

feited and were subject to salvage.¹ At least half the fines and forfeitures in these cases inured to the benefit of the Collector and informant. The seizures were due to the remarkable courage and vigor of Col. Allen McLane, Collector of the Port of Wilmington for many years.²

No judicial utterance of Judge Bedford is preserved in the records of the Delaware District except one. It has no other significance. On June 16, 1802 in the case of *United States v. Part of the Cargo of the Schooner Delaware* the following decree was filed:—

“On the within statement of facts, which is submitted as the ground of my determination in the case and which I have compared with my notes and find generally correct, I am of opinion that the said two barrels of sugar and one barrel of molasses are not forfeited under that section of the Act of Congress upon which they are libelled. It does not appear that they were ‘belonging or consigned to the Master, mate, officers or crew’ of the Schooner Delaware. It is true, their being left out of the manifest, and other circumstances in the case, make it very suspicious, that both the captain and the claimant intended to defraud the revenue; but as I must decide upon the charge in the libel, compared with the facts and the law, the libel is not supported by the facts and there is evidence of the property in the claimant. I therefore decree that the said two barrels of sugar and one of molasses be restored to the claimant on his paying or securing the duties thereon.

G. BEDFORD.”

While Philadelphia was the centre of the national life, the Bar of Philadelphia was the strongest in the country. Upon the Appearance Docket in Judge Bedford’s court are the names of William Lewis, Edward Tilghman, Jared Ingersoll, Alexander J. Dallas, Joseph Hopkinson, Moses Levy and Richard Peters, Jr. For a generation before and after the establishment of the Government Lewis

1.—Dockets of District and Circuit courts 1789 to 1812; *Peisch v. Ware*, 4 Cranch 347; *United States v. Brig Union*, 4 Cranch 216; *United States v. Sloop Sally of Salem*, 4 Cranch 216; *United States v. Sloop Deborah of Bridgeton*, 4 Cranch 216; *United States v. Brig Eliza*, 7 Cranch 113.

2.—*McLane v. United States*, 6 Peters 404; *Bayard v. McLane*, 3 Harrington 139.

was the leader of the Bar. Hamilton consulted him in preparing his great argument for the establishment of the United States Bank. In an important case Tilghman was able to explain Burrow’s report of a judgment of Lord Mansfield from his note book prepared while attending the Courts of Westminster as a student of the Middle Temple. Jared Ingersoll was the greatest trial lawyer of his day. These leaders frequently appeared in Delaware and particularly in a long series of ejectment suits brought in this district.¹

Judge Bedford usually held the District Court in the City Hall in Wilmington. The Wilmington Bar included James A. Bayard, Caesar A. Rodney, James M. Broom, Louis Mc Lane, Archibald Hamilton, Nicholas Williamson and Outerbridge Horsey. The leading practitioners were the political rivals—James A. Bayard, the Federalist and Caesar A. Rodney, the Republican. Bayard was probably the ablest lawyer in either House of Congress and made the great arguments against the policies and measures of Thomas Jefferson.² Caesar A. Rodney was the representative of Jefferson, an Attorney General of the United States and the head of two important missions to South America.³ Louis McLane frequently appeared with Bayard in the interest of his father, the Collector of the Port. He was Secretary of the Treasury and of State in Jackson’s Cabinet, and twice Minister to England.

New Castle, the largest town, had the influential Bar of the State. It included Kensey Johns, Sr., Nicholas Van Dyke the younger, George Read, 2d, James Rogers James R. Black. Kensey Johns, Sr. succeeded George Read, 1st as Chief Justice in 1798 and Nicholas Ridgley

1.—*Leaders of the Old Bar of Philadelphia*, by Horace Binney.

2.—*Huffington’s Delaware Register*, Vol. II, p. 344; *History of the United States*, by Henry Adams.

3.—*Life and Correspondence of George Read*, p. 230.

as Chancellor in 1830.¹ Nicholas Van Dyke, the younger, succeeded Bayard in the Senate.² George Read, 2nd was the United States Attorney from the time of Washington until the time of Monroe.

Members of the Dover Bar practicing before Judge Bedford were John Vining, Nicholas Ridgely, Henry M. Ridgely, Thomas Clayton, Alexander Reynolds, William C. Frazier, James Battle, John Fisher and Willard Hall. The brilliant and improvident Vining was known in his day as the "Pet of Delaware".³ Nicholas Ridgely followed Bedford as Attorney General for ten years and afterwards was Chancellor for thirty years. Thomas Clayton was for many years Chief Justice of Delaware and a senator of the United States. John Fisher and Willard Hall were the successors of Bedford as District Judge.

The so-called Sedition Act of July 14, 1798 was one cause of the downfall of the Federalists. Samuel Chase, an Associate Justice of the Supreme Court, had presided at the trials of Callender, Cooper and others for the violation of this law. He was an able, overbearing judge with an excellent record of public service before he went upon the Bench. The Mirror of the Times and General Advertiser published by James Wilson at Wilmington criticised his conduct at these trials. Judge Chase considered this criticism a violation of the Sedition Act. The Circuit Court for the June term 1800 was held by Judge Chase and Judge Bedford at New Castle. The proceedings of the Court for June 27th are narrated in a newspaper of that day as follows:—

1.—Life and Correspondence of George Read, p. 571.

2.—Huffington's Delaware Register, Vol. I, p. 255.

3.—Montgomery's Reminiscences of Wilmington, p. 152

"On Friday, the twenty-seventh ultimo, the Circuit Court of the United States for the District of Delaware, commenced its sitting at New Castle,—Judge Chase presided. After he had delivered a charge to the grand jury, in which religion, morality and humanity were inculcated, and the Liberty of the Press advocated; and after the jury under solemn oath or affirmation, had returned to the court that they could find no bill, Judge Chase, in the stile of a true * * * (Mem. Not to forget the Sedition Law) to the astonishment of the greater part of those who heard him, propounded the following questions to the Attorney General and to the grand jury:

Have you found no bill, gentlemen of the jury! Mr. Attorney, have you nothing to prefer to the grand jury?

Atty. Gen.—I believe not sir. No indictable offence has come under my notice.

J. Ch.—Well but can't you find something? Have you no person in this State guilty of libelling the Government of the United States? I am credibly informed, and report says, you have a printer who publishes a very seditious paper in this State; his name is—but stop—perhaps I may commit myself, and do injustice to the man.—Have you not two printers in this State?

Atty. Gen.—Yes, sir.

J. Ch.—Very well; one of them is said to be a seditious printer, and must be taken notice of. It is part of my duty and it shall be attended to. This is your business also, Mr. Attorney, to search minutely and constantly into matters of this nature. It is high time, sir, that the spirit of sedition which prevails among many of our printers should be checked. Can you not obtain some of this man's papers by tomorrow and inquire and examine and search diligently whether he has not libelled the Government of the United States? It is your duty, sir, and it must be done.—If you will inquire, the court will not discharge the jury.

Atty. Gen.—Certainly, sir, I conceive it my official duty and will make it my business to inquire.

J. Ch.—What do you say, sir?

Atty. Gen.—I will inquire, sir, by tomorrow.

J. Ch.—Very well. Gentlemen of the jury the court cannot discharge you I believe. Will it be inconvenient for you to attend here tomorrow?

Foreman.—It will be very inconvenient for many of us who are farmers. May it please your honor, harvest is at hand and is a very busy time.

J. Ch.—It makes no odds; the court will not discharge you under the present circumstances. You must be in court, gentlemen, tomorrow at ten o'clock.—I am determined to have these seditious printers prosecuted to the extremity of the law. The safety and prosperity of the Government depend upon it."¹

1.—Mirror of the Times and General Advertiser, July 4, 1800.

Judge Chase was impeached by the House of Representatives and in 1805 he was tried and acquitted by the Senate. One of the managers on the part of the House was Caesar A. Rodney. The seventh article of impeachment was based upon the conduct of Judge Chase at New Castle above described. The interest of Judge Bedford in the trial is shown in the following letter to Judge Chase.

LOMBARDY, JAN. 15TH 1805

MY DEAR SIR:—

I am glad to find Mr. White, (Senator from Delaware) was mistaken respecting the manner of your proceeding in your defense. It certainly would have been attributed to want of firmness in you—you have begun well, and God send you success—in the issue—For your encouragement, it has been whispered that Mr. Rodney on his return from Washington, said, he did not think they would be able to convict you—As your witnesses will be a heavy expense to you, you will judge of the necessity of calling upon many—Those I mentioned, were some of the Bar, and one from the grand jury, and one from the petit jury—our old friend DR. McMICKEN is the name that you could not make out, he was on the grand jury—S. P. Moore on the common jury—George Read is summoned, but I can't learn that any other is yet, and I believe will not, as no other name, I was informed, was in the summons.

I made some inquiry in Wilmington after Carpenter, I was told, there was a person of that name in Philadelphia, who was the publisher of a magazine; probably it may be him. I will write to Relf whose paper I take, on the subject, and request him to give you the information.

I only know what is doing at Washington, from Philadelphia papers. I have not yet seen the circumstance you mention, of the *personal indignity*, offered you by the Vice Presidt. above all others he ought to be decent, who will probably have soon to stand a more awful trial—The seconds in that unfortunate duel, the papers state, have been convicted.

May God bless you, prosper you, and give you final success, prays

Your affectionate friend and obedient servant,

G. BEDFORD.

Honorable S. Chase Esqr."1

1.—Manuscript letter in Pennsylvania State Historical Society.

Judge Bedford was a pillar in the social life of this community a hundred years ago. He was President of the Board of Trustees of the Wilmington Academy. In soliciting financial aid for the school, he said: "The establishment of schools for the purpose of education is, on all hands, justly acknowledged to be an object of the first public importance. In a free country it is peculiarly so. Under the influence of these impressions the trustees of the Wilmington Academy appear before the public to give a candid statement of the exertions they are making to restore that institution to its former flourishing condition. * * * The trustees have already appointed a committee to inquire into the application of the sum granted by Congress to the seminary. * * * The Borough of Wilmington is perhaps as healthy as any place on the continent. Its moral character is generally known. While sufficient objects of recreation are furnished to conduce to the health of the students, they are not tempted into any of the vices so ruinous to youth.¹ On January 26, 1803 he presented a memorial to the Legislature asking that the chartered powers of the Academy be enlarged so as to embrace a collegiate course. This was done and he became the President of Wilmington College. The Judge was also President of the Lyceum of Delaware. In January, 1800 he announced that the subject for discussion on Monday at six o'clock would be "Whether disappointment in love or loss of fortune be most difficult to be endured."²

Bedford was the leading member of the Masonic Order. On the death of Washington he delivered a eulogy to the Masons of Delaware. According to a contemporaneous account "during this discourse, which was delivered with great propriety and rendered still more impressive from the circumstance that gave rise to it, many a tear rolled

1.—Mirror of the Times and General Advertiser for August 7, 1802.

2.—Mirror of the Times and General Advertiser for January 1, 1800.

down the cheek and many a sigh sprung from the heart of sensibility."¹ "Lady Washington" gave to Bedford a part of Washington's Masonic vestments.² When the Grand Lodge of Masons was established in Delaware in 1806 Bedford became the first Grand Master.

Bedford went on the Bench before political parties were organized, but he undoubtedly sympathized with Federalist Principles. In that day it frequently happened that judges publicly avowed their political sentiments. In 1801 Bedford presided at a political meeting where James A. Bayard was Vice-President and a toast to Thomas Jefferson was voted down.

In physical appearance Judge Bedford was probably an imposing figure. In a caricature of federal officeholders he was described as "a very large, stout, bony, brown horse 16½ hands high."³ Miss Montgomery says "Judge Bedford and his lady were remarkably handsome and of noble stature."⁴ Like Chief Justice Marshall and Chancellor Ridgely, he disliked French doctrines and habits of dress. He never adopted trousers but adhered to short breeches, knee buckles and wore a cue with powdered hair.

Intensity of feeling and frankness of utterance were probably the salient features of Bedford's character. He held public office most of his life and belonged to a small class that then regarded office as its birthright. He enjoyed the personal acquaintance and friendship of the leaders of the country in a stirring period of history. He had splendid opportunities for distinguished service. He failed to make a lasting impression, although he doubtless served his day and generation with force and dignity.

1.—Mirror of the Times and General Advertiser for December 28, 1789.

2.—Montgomery's Reminiscences of Wilmington 288.

3.—Mirror of the Times and General Advertiser for February 2, 1803.

4.—Montgomery's Reminiscences of Wilmington, p. 288.

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Sydney H. M...
November 19, 1907. *copy*

GUNNING BEDFORD, JUNIOR

United States District Judge, District of Delaware

1789—1812

Paper on the Life of Gunning Bedford, Junior, by
John P. Nields, read November 18th, 1907, upon
presentation of Portrait to the United States Courts
at Wilmington, Delaware.

G

William 3-28-18 #3

GUNNING BEDFORD, JUNIOR.

- 1747. Born at Philadelphia.
- 1771. Graduated at Princeton.
- 1778—1789. Attorney General of Delaware.
- 1783—1786. Member of Continental Congress.
- 1787. Deputy to convention that framed Constitution of United States.
- 1787. Deputy to Delaware convention that ratified Constitution of United States.
- 1789—1812. United States District Judge for District of Delaware.
- 1812. Died.



GUNNING BEDFORD, JUNIOR.

Gunning Bedford, Junior, was born at Philadelphia in 1747. The name of his father and grandfather was also Gunning. The grandfather resided in Cecil County, Maryland. The father was a captain in the French and Indian War and afterwards a successful architect in Philadelphia. His mother was Susanna Jacquett. There were eleven children, Gunning being the fifth child and second son.¹

In 1771 he graduated at Nassau Hall, aged twenty-four, in the class with James Madison and Hugh Brackenridge. While a student he married Jane Ballaroux Parker who was five years his senior. She came to Princeton with her baby to hear his valedictory address at commencement. Mrs. Bedford was a very accomplished lady. She spoke French fluently as her mother was a native of France. She had assisted her father, James Parker, in editing his newspaper "The Post Boy of New York,"²

Franklin was a life-long friend of James Parker and took a lively interest in the Bedfords as shown in his letters. Writing to Mrs. Bedford from London on April 9, 1773, he addresses her as "Dear Jenky" and refers to "the ancient friendship that so long subsisted between Mr. Parker and me, whose memory as an honest, worthy man I shall always honour" and closes with "Present my affectionate respects to your good mother and my compliments to Mr. Bedford, though unknown, to whom with yourself I wish all happiness in your marriage."³ Some years

1.—Gunning Bedford, Jr. by H. C. Conrad, 3 Delaware Historical Papers.

2.—Life and correspondence of George Read, p. 510. Montgomery's Reminiscences of Wilmington, p. 288.

3.—Life and writings of Benjamin Franklin by A. H. Smyth, Vol. 6, p. 36.



later Franklin requested a service from Bedford and ended his letter with "Permit me to present my love to my good friend Jenky and accept my best wishes of health and happiness to both of you and your young family."¹

After graduation Bedford returned to Philadelphia and studied law under Joseph Read. Having been admitted to the Bar he removed to Dover. He practiced there a short while and then permanently settled in Wilmington.

What part Bedford took in the Revolutionary War is uncertain. Miss Montgomery describes him as "an officer of the Revolution."² His daughter Henrietta in her will, says: "During the Revolutionary War General Washington, desiring my father to go from Trenton to New York on some important secret embassy at night, and fearing he was not sufficiently armed with the pistols in his holsters, presented him with a pair of pocket pistols with a view to his protection and greater security."

Bedford was Attorney General of Delaware for eleven years—from 1778 until his appointment as District Judge in 1789. The records of the Court of General Quarter Sessions of the Peace and Gaol Delivery show that he was engaged in prosecuting cases of assault and battery, larceny, fornication, horse stealing, keeping tippling houses, &c. Unfortunately the history of some interesting cases is lost with the records of the Court of Oyer and Terminer. During the Revolution indictments for treason were found against a number of British sympathizers in Delaware. Bedford prosecuted the celebrated case of *State v. Cheney Clow*. Clow lived in the forest near Kenton in Little Creek Hundred. When the Sheriff went to arrest him on a charge of treason he found the house barricaded. Clow, with the aid of his wife, offered desperate resistance and was not

1.—Manuscript letter in Congressional Library.

2.—Montgomery's Reminiscences of Wilmington, p. 288.

captured until he had killed a man named Moore, one of the Sheriff's posse. Clow was wearing, when taken, a full British uniform. On December 10, 1782 he was tried for treason at a special session of the court of Oyer and Terminer at Dover. In defense he exhibited a commission as captain in the British Army, and claiming to be a prisoner of war, he was acquitted. This verdict aroused the greatest popular indignation. On May 5, 1783 at another term of the Court at Dover he was tried and convicted of the murder of Moore.¹

While Attorney General, Bedford served in the Continental Congress from 1783 to 1786. During this period the war ended. While in Congress Bedford writes of this in several letters.

PHILADELPHIA, MARCH 12, 1783.

DEAR SIR:—

I take the earliest opportunity of communicating the intelligence brought by Capt. Barney. He brings us the preliminaries as settled between us and Britain, and which are to make a part of the definitive treaty when finished between the belligerent powers. They acknowledge the independence of the States, have bounded Nova Scotia and Canada agreeable to the treaty of Paris, given us a line from thence through all the northern lakes, from thence to the head waters of the Mississippi, then down the waters of that river to Florida and then to the sea coast including all the isles within 20 leagues of our coast. This gives us a vast extent of country back not included with any of our states, reserves to us the navigation of those great lakes of the fine river Mississippi which we are to enjoy in common with them. We are to have equal privileges in the fisheries, to take and cure fish on the uninhabited isles as usual, but if on the land in territory of either, the permission of the inhabitants to be obtained. All old debts contracted before the war on either side to be paid, and our commissioners agree that Congress shall recommend to the different States to repeal their confiscatory laws, and to permit the offenders to come in and purchase of the holders by paying the real value of the consideration they had paid for the property, that the property of British subjects shall also be restored, and that all others shall have the privilege of staying one year to settle their affairs, that no more confiscations shall be made and no further prosecutions.

1.—Huffington's Delaware Register, Vol. II, p. 220.

for offences hitherto committed. The whole of this you will observe is but a recommendation, which the wisdom of each State will not hesitate to reject, and only consented to, to gratify in appearance the foolish pride of Britain. The preliminaries give satisfaction, and come up to the full wish of every American, we had rather the mention of refugees had been omitted, but in fact it amounts to nothing as it stands, and is a mere finesse to avoid doing anything for them.

Barney had a letter from Franklin as late as the 6th of January. He left France the 17th January and his dispatches were made up the 5th and 14th of December. The preliminaries signed the 30th November. In Franklin's letter to Barney he says the negotiations seem further from a conclusion than they expected. The Count de Vergennes in his letter to Franklin enclosing dispatches to the French Minister here, says that he still rather hopes that the definitive treaty will be completed.

By all these you will find a peace still doubtful, and our hopes and fears not yet satisfied.

Should tomorrow's papers produce anything, I will send them to you, if the preliminaries should not be published, I will copy them and send them down.

I am in great haste, with compliments to the family.

Your most obedient and very humble servant,
GUNNING BEDFORD, JR.

His Excellency

Nicholas Van Dyke, Esquire,
Governor of Delaware,
New Castle.¹

PHILADELPHIA, MARCH 24, 1783.

DEAR SIR:—

I do myself the honor to inclose you a hand-bill containing the most agreeable intelligence of the signature of the General Preliminaries of Peace.

We have to thank the Marquis Lafayette for the early information, who obtained leave that the sloop of war called The Triumph, who touched here, though but the secondary purpose of her voyage.

I most sincerely congratulate you upon the happy prospect of public liberty and independence.

The Superintendent of Marine is directed to call in all our cruisers, and dispatches are sent to New York informing Sir Guy and Digby of the news that they may take the necessary steps on their side,

I am with great regards,

Your obedient and very humble servant,

Gunning Bedford, Jr.

To

George Read, 1st

1.—Letter from Manuscript collection of Mr. Richard S. Rodney.

PHILADELPHIA, MARCH 24TH, '83

DEAR SIR:—

I do myself the honor to enclose you extracts from some dispatches received last night by Sloop of war from Cadiz under cover from the Marquis La Fayette informing us of the signature of the preliminary articles of a general peace among the belligerent powers. France keeps Tobago and Senegal, she restores to Britain Grenada, St. Vincent's, Dominique, (Dominica), St. Christopher's. Britain restores to Holland St. Eustatius, Demarari, (Demarara), Esquebo, (Essequibo), Berbice. Britain restores to France Gorie, (Goree), St. Lucia, St. Pier, (Pierre), and Miquilon, (Miquelon). The fisheries between Great Britain and France on the Coast of Newfoundland to continue as in the treaty of 1763, except from the coast of the Cape of Boni-Visto, (Bonavista) to Cape St. John which is ceded to Britain. France to be established in the East Indies as well at Bengal as on the eastern and western coast of Presque isle, (Presqu' ile-de-Giens) as regulated by the treaty of 63. The article of preceding treaties concerning the demolition of Dunkirk shall be suppressed. Spain to retain Minorca and West Florida, Great Britain to cede East Florida to Spain, an arrangement to be made between Spain and Britain about cutting of wood at Campeachy in the Bay of Honduras. Britain to retain the Dutch settlement of Negapatam in the East Indies, Great Britain to restore Trinquemala (Trincomalee) to the Dutch if not retaken. Britain acknowledges the sovereignty and independence of thirteen United States. The limits of the United States to be as agreed upon as agreed on by the provisional articles, except that they shall not extend further down the river Mississippi than the 32d degree of North latitude from whence a line to be drawn to the head of the river St. Mary's, and along the middle of that river to its mouth. The Capt. of the Sloop of war has written orders of Count D'Estaing to inform all cruisers of the signing the preliminaries and to call in all the French frigates and all other vessels belonging to his Majesty.

I most sincerely congratulate you on the most agreeable intelligence and on the glorious prospects of peace and happiness. The general signature to be placed on the 25th February, official accounts are hourly expected. The Marquis out of his abundant love for America, procured this Sloop from D'Estaing to come with the earliest intelligence.

I am with much regard,

Your obedient and humble servant,

GUNNING BEDFORD, JR.

N. B. The above was wrote in great haste, the moment the dispatches were read since I have got a hand bill which will be more satisfactory. Our Superintendent of Marine is directed to call in all our cruisers, and letters are dispatched immediately to New York with the intelligence.

His Excellency

Nicholas Van Dyke, Esquire,
Governor of Delaware.¹

1.—Letter from Manuscript collection of Mr. Richard S. Rodney.

The Journals of the Continental Congress for June 12, 1777 narrate an episode of considerable historical importance. It was the occasion for a strong resolution by Congress establishing the freedom of debate. Whether it relates to this Gunning Bedford or to his cousin, Gunning Bedford, a prominent officer in the Revolutionary Army, is uncertain. It undoubtedly presents correctly the temper and character of the subject of this paper. It appears that Bedford was in Philadelphia but not in attendance as a member of Congress, and that Jonathan D. Sargeant a member of Congress, referred to him in some way in open debate. Thereupon Bedford sent to Sargeant the following challenge to fight a duel:

SIR:—

You having reflected very illiberally on my character, and refusing to give me that satisfaction, which a gentleman is entitled to; without further ceremony I beg you will meet me at 6 o'clock on Friday morning at the Centre House armed with a Pair of Pistols.

I await impatiently your answer and expect it immediately.

Your humble servant,

GUNNING BEDFORD.

City Tavern, Wednesday night."1

In reply Sargeant wrote to Bedford:

"SIR:—

I do not recollect mentioning your character or name on any occasion unless in Congress in the course of business. For my conduct there I conceive I am answerable only to that Body and to my constituents. I flatter myself, however, that no illiberal expressions have escaped me respecting either you or any other subject.

"Your humble Servant,

Wednesday.

Jona. D. Sargent."1

Bedford replied:

1.—Manuscript letter in Congressional Library.

"SIR:—

The reputation of a gentleman is not to be trifled with and you have attempted to injure mine, for which I expect the satisfaction of a man of honor.

Your evasion is mean and pitiable; and so far from being an extenuation of the insult, the place where the assertion was made rather heightens it. I have been much abused and ill-treated by the arbitrary and ungenerous conduct of that House and have long wished to lay my hands on some one particular member whom I could prove had traduced my character. I am at length so happy as to have fixed on one and could only wish he was an object more worthy of resentment.

I am by no means satisfied, sir, with your answer. I am determined and fixed as to my conduct and must insist on it, that you either make me an ample acknowledgement for what you have said, or meet me according to my appointment. I will accept of no excuse whatever. I will expect no further trouble in the matter. If you refuse to make me the satisfaction I ask as to meet me at the place appointed; remember, I shall treat you as a scoundrel wherever I meet you and publish you to the world as a person destitute of every spark of honor, a poltroon and a coward.

Your humble servant,

GUNNING BEDFORD.

Thursday morn. 8 o'clock.

Jon. D. Sargent." 1

On June 13, 1777 Thomas Heyward, a member of Congress, offered the following resolution:

RESOLVED that Congress have and always have authority to protect their members from insult for anything by them said or done in Congress, in the exercise of their duty, which is a privilege essential to the freedom of debate, and to the faithful discharge of the great trust reposed in them by their constituents.

RESOLVED that Mr. Gunning Bedford be served with a copy of these letters (letters received by Sargeant) and that he be summoned to attend Congress tomorrow morning at eleven o'clock to answer for his conduct."2

In obedience to the summons Bedford appeared and spoke on the floor in justification of his conduct. There-

1.—Manuscript letter in Congressional Library.

2.—Papers of the Continental Congress No. 36, IV, folio 191, in Congressional Library.

upon he was requested to ask the pardon of the House and the member challenged. This he did and was dismissed.

By an Act of Assembly of Delaware dated June 23, 1786 Bedford with George Read, Jacob Broom, John Dickinson and Richard Bassett was appointed a Delaware Commissioner to meet Commissioners from other States at Annapolis "for the purpose of considering the trade of the United States, to examine the relative situations and trade of the said States, to consider how far an uniform system in their commercial regulations may be necessary to their common interest and permanent harmony and to report to the United States in Congress assembled such an act relative to this great object" &c. Only four States were represented at Annapolis. A report to Congress by Dickinson, the President of the Convention, recommended the calling of another convention at Philadelphia.¹

By an Act of Assembly dated April 2, 1787 the same persons were appointed Deputies from Delaware to meet Deputies from other States at Philadelphia on May 2, 1787 "to join with them in advising, deliberating on and discussing such alterations and further provisions, as may be necessary to render the Federal Constitution adequate to the exigencies of the Union; * * * So always and provided, that such alterations and further provisions or any of them, do not extend to that part of the fifth article of the Confederation of the said States, finally ratified on March 1, 1781, which declares that in determining questions in the United States in Congress assembled each State shall have one vote."²

On May 28, 1787 Bedford took his seat in the Convention and regularly attended its sessions. His speeches as reported in Madison's Debates are confined to two or

1.—Life and Correspondence of George Read 430.
2.—2 Laws of Delaware 893.

three subjects. His plan of Government was apparently a simple one. He believed in a federal government whose powers should be vested in Congress and withheld from the Executive. He feared the undue preponderance of the larger states and repeatedly insisted upon equal State representation.

In discussing the general powers of Congress it is reported, "Mr. Bedford was opposed to every check on the Legislative, even the Council of Revision first proposed. He thought it would be sufficient to mark out in the Constitution the boundaries to the Legislative Authority, which would give all the requisite security to the rights of the other departments. The representatives of the people were the best judges of what was for their interest, and ought to be under no external control whatever. The two branches would produce a sufficient control within the Legislature itself."¹ And on a later day "Mr. Bedford moved that the clause defining the powers of Congress be so altered as to read 'and moreover, to legislate in all cases for the general interests of the Union and also in those in which the States are separately incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation.'² This motion prevailed and was adopted by the Convention, although Randolph declared "it involved the power of violating all the laws and constitutions of the States and of intermeddling with their police."³ Recently the language of this resolution offered by Bedford was declared to properly define the measure of power intended to be conferred upon Congress by the Constitution.⁴

1.—3 Documentary History of the Constitution 58.

2.—3 Documentary History of the Constitution 350.

3.—3 Documentary History of the Constitution 351.

4.—Speech of Judge Amidon before American Bar Association, Annual Meeting at Portland, September 2, 1907; Speech of President Roosevelt at St. Louis, October 2, 1907.

In discussing the proper powers of the Executive, Bedford approved a Presidential term of three rather than seven years.¹ He seconded Dickinson's motion, "That the Executive be made removable by the National Legislature on the request of a majority of the legislatures of individual States."² He desired federal judges to be appointed by the Senate.³

Bedford was ever mindful of the express proviso in his commission against depriving Delaware of an equal representation with the other States in Congress. Devotion to his own State led him to make the most intemperate speech uttered in the convention. In discussing the basis of representation in Congress, "Mr. Bedford contended there was no middle way between a perfect consolidation and the mere confederacy of the States. The first is out of the question, and in the latter they must continue if not perfectly, yet equally sovereign. If political Societies possess ambition, avarice, and all the other passions which render them formidable to each other, ought we not to view them in this light here? Will not the same motives operate in America as elsewhere? If any gentleman doubts it let him look at the votes. Have they not been dictated by interest, by ambition? Are not the large States evidently seeking to aggrandise themselves at the expense of the small? * * * The three large States have a common interest to bind them together in commerce. But whether combination as we suppose, or a competition as others suppose, shall take place among them, in either case, the smaller States must be ruined. We must like Solon make such a Government as the people will approve. Will the smaller States ever agree to the proposed degradation of them? It is not true that the people will not agree to enlarge the powers of the present Congress. The Language

1.—3 Documentary History of the Constitution 40.

2.—3 Documentary History of the Constitution 48.

3.—3 Documentary History of the Constitution 366.

of the people has been that Congress ought to have the power of collecting an impost, and of coercing the States when it may be necessary. On the first point they have been explicit and in a manner, unanimous in their declarations. And must they not agree to this and similar measures if they ever mean to discharge their engagements? The little States are willing to observe their engagements, but will meet the large ones on no ground but that of Confederation. We have been told with a dictatorial air that this is the last moment for a fair trial in favor of a good Government. It will be the last indeed if the propositions reported from the Committee go forth to the people. He was under no apprehensions. The Large States dare not dissolve the confederation. If they do the small ones will find some foreign ally of more honor and good faith, who will take them by the hand and do them justice."¹

The suggestion of an alliance between the small States and some continental power against the large States brought down on Bedford's head the severest censure. King of New York "could not sit down without taking some notice of the language of the honorable gentleman from Delaware (Mr. Bedford). It was not he that had uttered a dictatorial language. This intemperance had marked the honorable gentleman himself. It was not he who, with a vehemence unprecedented in that house, had declared himself ready to turn his hopes from our Common Country and court the protection of some foreign hand—this, too, was the language of the honorable member himself. He was grieved that such a thought had entered into his heart. He was more grieved that such an expression had dropped from his lips. The gentleman could only excuse it to himself on the score of passion."²

1.—3 Documentary History of the Constitution 258.

2.—3 Documentary History of the Constitution 262.

On a subsequent day Randolph "animadverted on the warm and rash language of Mr. Bedford on Saturday."¹ Madison said "he was not apprehensive that the people of the small States would obstinately refuse to accede to a Government founded on just principles and promising them substantial protection. He could not suspect that Delaware would brave the consequences of seeking her fortunes apart from the other States, rather than submit to such a Government; much less could he suspect that she would pursue the rash policy of courting foreign support, which the warmth of one of her representatives had suggested, or if she should that any foreign nation would be so rash as to harken to the overture."²

Bedford replied to his critics. "He found that what he had said as to the small States being taken by the hand had been misunderstood; and he rose to explain. He did not mean that the small States would court the aid and interposition of foreign powers. He meant that they would not consider the federal compact as dissolved until it should be so by the acts of the larger States. In this case the consequence of the breach of faith on their part, and the readiness of the small States to fulfill their engagements, would be that foreign nations having demands on this country would find it to their interest to take the small States by the hand in order to do them justice. This was what he meant. But no man can foresee to what extremities the small States may be driven by oppression. He observed also in apology that some allowance ought to be made for the habits of his profession in which warmth was natural and sometimes necessary. But is there not an apology in what was said by Mr. Gouverneur Morris that the sword is to unite; by Mr. Gorham that Delaware must be annexed to Pennsylvania and New Jersey divided

1.—3 Documentary History of the Constitution 268.

2.—3 Documentary History of the Constitution 272, 273.

between Pennsylvania and New York? To hear such language without emotion, would be to renounce the feelings of a man and the duty of a citizen."¹

Bedford was a member of the Delaware Convention that ratified the Federal Constitution on December 7, 1787. The resolution of the Convention was as follows:—"We the Deputies of the People of the Delaware State, in convention met, having taken into our serious consideration the Federal Constitution proposed and agreed upon by the Deputies of the United States in a general convention held at the City of Philadelphia on the seventeenth day of September, A. D. 1787, have approved, assented to, ratified and confirmed and by these presents do, in virtue of the power and authority to us given for that purpose, for and in behalf of ourselves and our constituents, fully, freely and entirely approve of, assent to, ratify and confirm the said Constitution."²

Under the new Constitution George Read and Richard Bassett were the Delaware senators. While the first Judiciary Bill, providing for the establishment of this court, was under consideration in the Senate, a copy of the Bill was sent by Read for Bedford's criticism. On June 16, 1789 Read wrote from New York to Dickinson:—"As the bill to establish the Judicial Courts of the United States is for the consideration of the Senate, Mr. Bassett and myself have thought it our duty to transmit the inclosed copy of the same to you for your perusal and comments upon its respective provisions, hoping that we may obtain them in time before the Senate shall have entered upon the third reading—the second reading being appointed for Monday next as in a Committee of the whole; after which it is to be gone over on such its second reading in the Senate, as a House. Mr. Bassett and myself hope that we shall

1.—3 Documentary History of the Constitution 276.

2.—2 Documentary History of the Constitution 25.

be favored in time with a return of the copy, with your observations thereon in its margin. And we must beg the favor of you to give the Attorney General, Mr. Bedford, an opportunity to peruse and consider this copy, expecting his observations also," &c.¹

Bedford replied as follows:—

WILMINGTON, JUNE 24TH, 1789.

"DEAR SIR:—

Your letter of the 16th only came to my hands this morning, and Mr. Dickinson last evening sent me a copy of the proposed law, with a request that I would make my observations on it and return it to him this morning to be sent back to New York by this day's post.

I should ill requite the honor done me by the communication, and but abuse the confidence reposed in me, were I to attempt any remarks on a subject of so much importance, so entirely new to me, with so little time for reading or reflection. To those who have thoroughly digested the whole system, and who have considered this as the foundation upon which the most grand and elegant superstructure of jurisprudence is to be built, crude and hasty thoughts can give no information. The objects are too extensive and complicated for me so immediately to understand that I might make a just criticism on this proposed bill. It appears to me a noble work, and must do the framers of it, as well as our government, great credit. I flatter myself our State governments will have wisdom enough to follow the example in new modelling their legal systems.

It will be very difficult accurately to define the jurisdiction of the Federal courts, so as to prevent controversies with the State Courts. Indefinite expressions, unavoidably made use of, will create difficulties. Common law and statute law are referred to in the act. Have the States the same accurate and fixed idea of both or either as applied to themselves individually or to the States generally? Do we refer to the common law or statute law of England? This is derogatory. What, then, is the common and statute law of the United States? It is difficult to answer. Yet the dignity of America requires that it be ascertained, and that where we refer to laws they should be laws of our own country. If the principles of the laws of any country are good and worthy of adoption, incorporate them into your own. I think we ought not to refer, at this day, to the law of any nation as the rule of our conduct. This is the moment for legal emancipation; as the foundation is laid so must the superstructure be built. Pardon these

1.—Life and Correspondence of George Read 480.

observations, sir, I am transgressing my own bounds. Your good sense would rather censure than approve (under my circumstances) any further remarks.

You will be pleased to present my respects to Mr. Bassett, and my acquaintance in Congress.

I am, with much respect and consideration, your most obedient humble servant,

GUNNING BEDFORD, JUNIOR.

George Read, Esquire."¹

Washington appointed Bedford the United States District Judge for the Delaware District on September 26, 1789. The commissions of ten of the thirteen original Districts Judges bore that date. On the following day Washington, writing to Edmond Randolph, the newly appointed Attorney General, said:—"Impressed with a conviction that the due administration of justice is the firmest pillar of government, I have considered the first arrangement of the judicial department as essential to the happiness of our country, and to the stability of its political system. Hence the selection of the fittest characters to expound the laws and dispense justice has been an invariable object of my anxious concern."²

The district judges were selected on account of distinguished public service. Nearly all had served in the Continental Congress. Bedford of Delaware, Brearly of New Jersey and Pendleton of Georgia had participated in the great debates in the Constitutional Convention of 1787 under the eye of Washington. General Sullivan of New Hampshire and Duane of New York had been leaders in State conventions called to ratify the Federal Constitution. Hopkinson of Pennsylvania and Drayton of South Carolina were Judges in State Admiralty courts. Lowell of Massachusetts, Paca of Maryland and Griffin of Georgia

1.—Life and Correspondence of George Read 482.

2.—Sparks' Letters of Washington.

with Read of Delaware were the judges in "The Court of Appeals in cases of Capture," a tribunal created by the Congress in 1780 and the forerunner of the Supreme Court of the United States.¹

The first Judiciary Act divided the country into thirteen districts and three circuits. Under this Act, the District and Circuit courts were held alternately at New Castle and Dover. The Circuit Court consisted of one or two Supreme Court Justices and the District Judge. The Supreme Court Justice who regularly sat with Bedford was Wilson in the early days and afterwards Chase, although each of the other Associate Justices occasionally sat with him. For a year Bedford did not sit in the Circuit Court. By the Judiciary Act of February 13, 1801 each circuit was provided with three Circuit Judges. The act relieved Supreme Court Justices and District Judges from Circuit Court work. Richard Bassett of Delaware, William Tilghman of Pennsylvania and William Griffith of New Jersey were appointed for the third circuit but held court at Dover in October 1801 and June 1802. These circuit Judgeships were abolished in 1802 and the old order was restored.

From the beginning the District and Circuit courts were clothed with a large measure of their present jurisdiction. Yet the records during the time of Judge Bedford show that comparatively little business was done in his court. By far the most important litigation arose from the seizure of vessels and their cargoes for violations of the revenue laws and the non-intercourse and embargo

1.—See 30 Federal Cases, Appendix.

acts.¹ Between 1795 and 1812 thirty-eight seizures by the United States were made in this district. Ten of these cases were appealed to the Circuit Court and the decrees in two cases were reversed. Eight of these ten cases in turn were appealed to the Supreme Court. In the joint appeals of Peisch v. Ware and United States v. The Cargo of the Ship Favorite, 4 Cranch, 347, Marshall construed the Revenue Act of 1799 and held that goods saved from a derelict ship without custom house marks were not for-

1 The District Court for the district of Delaware, has been sitting three days, examining witnesses in support of informations lodged against the speculators of Baltimore, Wilmington, (Del.) Philadelphia, Bridgetown, (New Jersey,) and New York. It has been proved, that vessels under American papers, are trading boldly in the Island of St. Domingo. Some have degraded our flag so far as to coast it for the contending powers of that devoted island. Some of our seamen have been forced by the masters of vessels into this infamous trade, and others have been imprisoned and left on the island, for refusing to serve under the Haytian colors.

It appears that many of the agents for British vessels now in our ports, that must depart in ballast, are also agents for vessels under American colors, lading with corn meal, white oak hogshead staves, and other articles, suitable for the Jamaica market; that those vessels are clearing out for St. Jago de Cuba; and that large quantities of provisions are collected in the district of Bridgetown, on the Jersey side of the Delaware—and passengers assemble there waiting the arrival of British vessels bound out. A large schooner owned at Bridgetown, has lately been stopped in the district of Delaware, by the cutter Gen. Green, without clearance (as the non-intercourse law, 3d sect. provides) from Philadelphia, said to be bound to St. Jago de Cuba, with an assorted cargo between decks and 15,000 white oak hogshead staves on deck. The agent—the noted doctor of Sally memory.

On the 20th inst. the schooner Experiment, burthen 102 tons, from Philadelphia, said to be bound to St. Jago de Cuba, was boarded by the officer of the revenue cutter—no clearance on board—cargo assorted—198 barrels Indian meal, and sundry other articles on board, better suited for the Jamaica market than St. Jago.

(American Watchman and Delaware Republican for September 23, 1809.)

feited and were subject to salvage.¹ At least half the fines and forfeitures in these cases inured to the benefit of the Collector and informant. The seizures were due to the remarkable courage and vigor of Col. Allen McLane, Collector of the Port of Wilmington for many years.²

No judicial utterance of Judge Bedford is preserved in the records of the Delaware District except one. It has no other significance. On June 16, 1802 in the case of *United States v. Part of the Cargo of the Schooner Delaware* the following decree was filed:—

“On the within statement of facts, which is submitted as the ground of my determination in the case and which I have compared with my notes and find generally correct, I am of opinion that the said two barrels of sugar and one barrel of molasses are not forfeited under that section of the Act of Congress upon which they are libelled. It does not appear that they were ‘belonging or consigned to the Master, mate, officers or crew’ of the Schooner Delaware. It is true, their being left out of the manifest, and other circumstances in the case, make it very suspicious, that both the captain and the claimant intended to defraud the revenue; but as I must decide upon the charge in the libel, compared with the facts and the law, the libel is not supported by the facts and there is evidence of the property in the claimant. I therefore decree that the said two barrels of sugar and one of molasses be restored to the claimant on his paying or securing the duties thereon.

G. BEDFORD.”

While Philadelphia was the centre of the national life, the Bar of Philadelphia was the strongest in the country. Upon the Appearance Docket in Judge Bedford’s court are the names of William Lewis, Edward Tilghman, Jared Ingersoll, Alexander J. Dallas, Joseph Hopkinson, Moses Levy and Richard Peters, Jr. For a generation before and after the establishment of the Government Lewis

1.—Dockets of District and Circuit courts 1789 to 1812; *Peisch v. Ware*, 4 Cranch 347; *United States v. Brig Union*, 4 Cranch 216; *United States v. Sloop Sally of Salem*, 4 Cranch 216; *United States v. Sloop Deborah of Bridgeton*, 4 Cranch 216; *United States v. Brig Eliza*, 7 Cranch 113.

2.—*McLane v. United States*, 6 Peters 404; *Bayard v. McLane*, 3 Harrington 139.

was the leader of the Bar. Hamilton consulted him in preparing his great argument for the establishment of the United States Bank. In an important case Tilghman was able to explain Burrow’s report of a judgment of Lord Mansfield from his note book prepared while attending the Courts of Westminster as a student of the Middle Temple. Jared Ingersoll was the greatest trial lawyer of his day. These leaders frequently appeared in Delaware and particularly in a long series of ejectment suits brought in this district.¹

Judge Bedford usually held the District Court in the City Hall in Wilmington. The Wilmington Bar included James A. Bayard, Caesar A. Rodney, James M. Broom, Louis Mc Lane, Archibald Hamilton, Nicholas Williamson and Outerbridge Horsey. The leading practitioners were the political rivals—James A. Bayard, the Federalist and Caesar A. Rodney, the Republican. Bayard was probably the ablest lawyer in either House of Congress and made the great arguments against the policies and measures of Thomas Jefferson.² Caesar A. Rodney was the representative of Jefferson, an Attorney General of the United States and the head of two important missions to South America.³ Louis McLane frequently appeared with Bayard in the interest of his father, the Collector of the Port. He was Secretary of the Treasury and of State in Jackson’s Cabinet, and twice Minister to England.

New Castle, the largest town, had the influential Bar of the State. It included Kensey Johns, Sr., Nicholas Van Dyke the younger, George Read, 2d, James Rogers James R. Black. Kensey Johns, Sr. succeeded George Read, 1st as Chief Justice in 1798 and Nicholas Ridgley

1.—*Leaders of the Old Bar of Philadelphia*, by Horace Binney.

2.—*Huffington’s Delaware Register*, Vol. II, p. 344; *History of the United States*, by Henry Adams.

3.—*Life and Correspondence of George Read*, p. 230.

as Chancellor in 1830.¹ Nicholas Van Dyke, the younger, succeeded Bayard in the Senate.² George Read, 2nd was the United States Attorney from the time of Washington until the time of Monroe.

Members of the Dover Bar practicing before Judge Bedford were John Vining, Nicholas Ridgely, Henry M. Ridgely, Thomas Clayton, Alexander Reynolds, William C. Frazier, James Battle, John Fisher and Willard Hall. The brilliant and improvident Vining was known in his day as the "Pet of Delaware".³ Nicholas Ridgely followed Bedford as Attorney General for ten years and afterwards was Chancellor for thirty years. Thomas Clayton was for many years Chief Justice of Delaware and a senator of the United States. John Fisher and Willard Hall were the successors of Bedford as District Judge.

The so-called Sedition Act of July 14, 1798 was one cause of the downfall of the Federalists. Samuel Chase, an Associate Justice of the Supreme Court, had presided at the trials of Callender, Cooper and others for the violation of this law. He was an able, overbearing judge with an excellent record of public service before he went upon the Bench. The Mirror of the Times and General Advertiser published by James Wilson at Wilmington criticised his conduct at these trials. Judge Chase considered this criticism a violation of the Sedition Act. The Circuit Court for the June term 1800 was held by Judge Chase and Judge Bedford at New Castle. The proceedings of the Court for June 27th are narrated in a newspaper of that day as follows:—

1.—Life and Correspondence of George Read, p. 571.

2.—Huffington's Delaware Register, Vol. I, p. 255.

3.—Montgomery's Reminiscences of Wilmington, p. 152

*Samuel
Chase*

"On Friday, the twenty-seventh ultimo, the Circuit Court of the United States for the District of Delaware, commenced its sitting at New Castle,—Judge Chase presided. After he had delivered a charge to the grand jury, in which religion, morality and humanity were inculcated, and the Liberty of the Press advocated; and after the jury under solemn oath or affirmation, had returned to the court that they could find no bill, Judge Chase, in the stile of a true * * * (Mem. Not to forget the Sedition Law) to the astonishment of the greater part of those who heard him, propounded the following questions to the Attorney General and to the grand jury:

Have you found no bill, gentlemen of the jury! Mr. Attorney, have you nothing to prefer to the grand jury?

Atty. Gen.—I believe not sir. No indictable offence has come under my notice.

J. Ch.—Well but can't you find something? Have you no person in this State guilty of libelling the Government of the United States? I am credibly informed, and report says, you have a printer who publishes a very seditious paper in this State; his name is—but stop—perhaps I may commit myself, and do injustice to the man.—Have you not two printers in this State?

Atty. Gen.—Yes, sir.

J. Ch.—Very well; one of them is said to be a seditious printer, and must be taken notice of. It is part of my duty and it shall be attended to. This is your business also, Mr. Attorney, to search minutely and constantly into matters of this nature. It is high time, sir, that the spirit of sedition which prevails among many of our printers should be checked. Can you not obtain some of this man's papers by tomorrow and inquire and examine and search diligently whether he has not libelled the Government of the United States? It is your duty, sir, and it must be done.—If you will inquire, the court will not discharge the jury.

Atty. Gen.—Certainly, sir, I conceive it my official duty and will make it my business to inquire.

J. Ch.—What do you say, sir?

Atty. Gen.—I will inquire, sir, by tomorrow.

J. Ch.—Very well. Gentlemen of the jury the court cannot discharge you I believe. Will it be inconvenient for you to attend here tomorrow?

Foreman.—It will be very inconvenient for many of us who are farmers. May it please your honor, harvest is at hand and is a very busy time.

J. Ch.—It makes no odds; the court will not discharge you under the present circumstances. You must be in court, gentlemen, tomorrow at ten o'clock.—I am determined to have these seditious printers prosecuted to the extremity of the law. The safety and prosperity of the Government depend upon it."¹

1.—Mirror of the Times and General Advertiser, July 4, 1800.

Judge Chase was impeached by the House of Representatives and in 1805 he was tried and acquitted by the Senate. One of the managers on the part of the House was Caesar A. Rodney. The seventh article of impeachment was based upon the conduct of Judge Chase at New Castle above described. The interest of Judge Bedford in the trial is shown in the following letter to Judge Chase.

LOMBARDY, JAN. 15TH 1805

MY DEAR SIR:—

I am glad to find Mr. White, (Senator from Delaware) was mistaken respecting the manner of your proceeding in your defense. It certainly would have been attributed to want of firmness in you—you have begun well, and God send you success—in the issue—For your encouragement, it has been whispered that Mr. Rodney on his return from Washington, said, he did not think they would be able to convict you—As your witnesses will be a heavy expense to you, you will judge of the necessity of calling upon many—Those I mentioned, were some of the Bar, and one from the grand jury, and one from the petit jury—our old friend DR. McMICKEN is the name that you could not make out, he was on the grand jury—S. P. Moore on the common jury—George Read is summoned, but I can't learn that any other is yet, and I believe will not, as no other name, I was informed, was in the summons.

I made some inquiry in Wilmington after Carpenter, I was told, there was a person of that name in Philadelphia, who was the publisher of a magazine; probably it may be him. I will write to Relf whose paper I take, on the subject, and request him to give you the information.

I only know what is doing at Washington, from Philadelphia papers. I have not yet seen the circumstance you mention, of the *personal indignity*, offered you by the Vice Presidt. above all others he ought to be decent, who will probably have soon to stand a more awful trial—The seconds in that unfortunate duel, the papers state, have been convicted.

May God bless you, prosper you, and give you final success,
prays

Your affectionate friend and obedient servant,

G. BEDFORD.

Honorable S. Chase Esqr."1

1.—Manuscript letter in Pennsylvania State Historical Society.

Judge Bedford was a pillar in the social life of this community a hundred years ago. He was President of the Board of Trustees of the Wilmington Academy. In soliciting financial aid for the school, he said: "The establishment of schools for the purpose of education is, on all hands, justly acknowledged to be an object of the first public importance. In a free country it is peculiarly so. Under the influence of these impressions the trustees of the Wilmington Academy appear before the public to give a candid statement of the exertions they are making to restore that institution to its former flourishing condition. * * * The trustees have already appointed a committee to inquire into the application of the sum granted by Congress to the seminary. * * * The Borough of Wilmington is perhaps as healthy as any place on the continent. Its moral character is generally known. While sufficient objects of recreation are furnished to conduce to the health of the students, they are not tempted into any of the vices so ruinous to youth.¹ On January 26, 1803 he presented a memorial to the Legislature asking that the chartered powers of the Academy be enlarged so as to embrace a collegiate course. This was done and he became the President of Wilmington College. The Judge was also President of the Lyceum of Delaware. In January, 1800 he announced that the subject for discussion on Monday at six o'clock would be "Whether disappointment in love or loss of fortune be most difficult to be endured."²

Bedford was the leading member of the Masonic Order. On the death of Washington he delivered a eulogy to the Masons of Delaware. According to a contemporaneous account "during this discourse, which was delivered with great propriety and rendered still more impressive from the circumstance that gave rise to it, many a tear rolled

1.—Mirror of the Times and General Advertiser for August 7, 1802.

2.—Mirror of the Times and General Advertiser for January 1, 1800.

down the cheek and many a sigh sprung from the heart of sensibility."¹ "Lady Washington" gave to Bedford a part of Washington's Masonic vestments.² When the Grand Lodge of Masons was established in Delaware in 1806 Bedford became the first Grand Master.

Bedford went on the Bench before political parties were organized, but he undoubtedly sympathized with Federalist Principles. In that day it frequently happened that judges publicly avowed their political sentiments. In 1801 Bedford presided at a political meeting where James A. Bayard was Vice-President and a toast to Thomas Jefferson was voted down.

In physical appearance Judge Bedford was probably an imposing figure. In a caricature of federal officeholders he was described as "a very large, stout, bony, brown horse 16½ hands high."³ Miss Montgomery says "Judge Bedford and his lady were remarkably handsome and of noble stature."⁴ Like Chief Justice Marshall and Chancellor Ridgely, he disliked French doctrines and habits of dress. He never adopted trousers but adhered to short breeches, knee buckles and wore a cue with powdered hair.

Intensity of feeling and frankness of utterance were probably the salient features of Bedford's character. He held public office most of his life and belonged to a small class that then regarded office as its birthright. He enjoyed the personal acquaintance and friendship of the leaders of the country in a stirring period of history. He had splendid opportunities for distinguished service. He failed to make a lasting impression, although he doubtless served his day and generation with force and dignity.

1.—Mirror of the Times and General Advertiser for December 28, 1789.

2.—Montgomery's Reminiscences of Wilmington 288.

3.—Mirror of the Times and General Advertiser for February 2, 1803.

4.—Montgomery's Reminiscences of Wilmington, p. 288.

The Delaware State

To Gunning Bedford Jun: D:

1787

Dec: 7. To 5 days Attendance on the Convention @ 12/- 3

To mileage on 50 miles ----- @ 8⁰ 1-13-4

4-13-4

The Delaware State

To Gunning Bedford Jun^r. Dⁿ.

1787¹²

Dec. 7. To 4 days attendance of the Convention @ 12¹ - 2 - 8 -

To mileage on 50 miles ----- @ 8 - 1 - 13 - 4

£ 4 - 1 - 4

10

TE 49

Dover

October 1788.

Sec^y The Delaware State

To Gunning Bedford Jun^r Esq.

For 7 Days attendance a 12/10th diem.

£ 4.. 4..

Mileage


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
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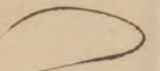
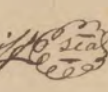
Gunning Bedford Esq.

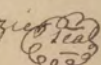
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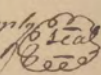
This Indenture made in full County of Newcastle held at the Court house in the Town of Newcastle the first day of October in the year of our Lord one thousand seven hundred and eighty eight Between Thomas Kean Esquire High Sheriff of the said County of the One part and Archibald Alexander and James Boggs Inspectors legally chosen and qualified to serve at the General Election of Members of the Legislative Council and House of Assembly, Sheriffs and Coronors for the County of Newcastle in the ensuing year, which by the Constitution and Laws of the Delaware State was opened and commenced on the first day of October, and Jacob Gazier, William Sharpley, David McMechan and Archibald McMurphy — four of the Freeholders of the said County present at the said Election of the Other part, Witnesseth that the Freeman and Inhabitants of this County of Newcastle did meet for the purpose aforesaid according to the said Constitution and Laws of the Delaware State on the aforesaid first day of October at the Court house in the Town of Newcastle, and that the said Thomas Kean High Sheriff as aforesaid having first administered to the Inspectors the Qualification directed by Law, and also appointed and qualified a sufficient number of clerks to attend the said Election, did then and there cause Proclamation to be made in full County that the said Election was open: And this Indenture further Witnesseth that the said Freeman and Inhabitants qualified to Elect, then present did then and there Elect and choose Gunning Bedford Junr a Member of the Legislative Council, also Thomas Kean — a new member of the Council to supply the vacancy of Thomas McDonough Esquire, for the said County of Newcastle in the ensuing years, and further that the said Thomas Kean High Sheriff did then and there forthwith pronounce publicly to the People in full County the Names of the Persons so Elected as aforesaid: In Testimony whereof as well the said Sheriff as the Inspectors and Freeholders first before named have to these Presents set their hands & seals the day and year first above written.


Arch^d. Alexander 


James Boggs 


Thos Kean Sheriff 

Jacob Gazier 

William Sharpley 

David McMechan 

Arch^d. McMurphy 

Newcastle County
Return of members
of the Legislative Council
Elected

October 1st 1788

3