Introduction: The United States, Spain, and the Navigation of the Mississippi River

The question of the free navigation of the Mississippi River extended back into the late 1770s and apparently had been resolved in favor of the United States in the Treaty of Peace of 1783. The treaty provided that the Mississippi River was the western boundary of the United States and also guaranteed Americans the right of free navigation. In June 1784 Spain closed the navigation of the Mississippi to Americans. Westerners were outraged and threatened war against Spain. In November 1784 and March 1785 respectively, the Virginia and Massachusetts legislatures instructed their delegates to Congress to urge that every effort be made to secure the navigation of the Mississippi.

In the spring of 1785 Don Diego de Gardoqui arrived in America to negotiate a commercial treaty, with instructions not to surrender Spain's claim to the exclusive navigation of the Mississippi. On 25 August 1785, a month after receiving Gardoqui's credentials, Congress instructed John Jay, the Secretary for Foreign Affairs, "to stipulate the right of the United States to their territorial bounds, and the free Navigation of the Mississippi. . . ." Jay and Gardoqui entered into negotiations, but were soon at loggerheads over the Mississippi. Consequently, on 3 August 1786 Jay asked Congress if they would forbear the navigation for a period of twenty-five or thirty years, because, according to Jay, that right could not be used effectively by Americans. More important would be the immediate benefits to the United States of a commercial treaty with Spain.

Southern delegates in Congress, especially those from Virginia, were angered by Jay's request. After a bitter three-week debate, Congress on 29 August voted seven to five to repeal Jay's instructions respecting the Mississippi. The vote was strictly sectional—the seven Northern States (Delaware was absent) voted for repeal; the five Southern States against it.

Congress insisted that the debates be kept secret, but news spread quickly throughout the United States. Southerners and Westerners were indignant. Many of them believed that Jay had already given up the American right to the navigation of the Mississippi for twenty-five or thirty years. Bellicose Westerners threatened to raise thousands of troops and drive the Spanish out; war seemed imminent in the West.

The news of the debates endangered the stability of the Union and the movement to strengthen the central government. The already wide breach between the Northern and Southern states was widened even further. In August and September 1786 disgruntled New Englanders and New Yorkers considered establishing a Northern confederacy because, if the Southern States continued to vote as a bloc, congressional passage of a commercial treaty would be impossible. At the end of October, "enlightened men" in the North were considering the establishment of

three separate confederacies. And in February 1787 a Massachusetts newspaper article, which was reprinted widely, openly advocated separate confederacies.

The Union was further imperiled by the attitude of people in the Western settlements. In late 1786 and early 1787 a letter circulated in the West, declaring that, if Congress ceded the navigation of the Mississippi, the allegiance of Westerners would be thrown to Great Britain. A Pittsburgh correspondent reiterated this threat in a letter to James Madison. The correspondent stated that Westerners viewed the proposed cession as the "greatest Injustice and Despotism." Moreover, he believed that the people in Kentucky and Tennessee might form a separate state.

In Virginia, James Madison feared that, unless Congress reversed its position on Jay's instructions, "the hopes of carrying this State into a proper federal System will be demolished. Many of our most federal leading men are extremely soured with what has already passed. Mr. [Patrick] Henry, who has been hitherto the Champion of the federal cause, has become a cold advocate, and in the event of an actual sacrifice of the Misspi. by Congress, will unquestionably go over to the opposite side." John Marshall reported that Henry, perhaps Virginia's most influential politician, "has been heard to say that he would rather part with the confederation than relinquish the navigation of the Mississippi."

Between November 1786 and March 1787, several state legislatures considered the Mississippi question. In November 1786 the New Jersey legislature instructed the state's delegates to Congress to oppose the closing of the Mississippi out of the fear that this would affect the sale of western lands—the proceeds of which would pay the public debt. In December 1786 and January 1787, the Virginia and North Carolina legislatures similarly instructed their congressional delegates that any cession of the right of navigation would violate the Articles of Confederation. The Virginia resolutions, possibly written by James Madison, were widely reprinted in the newspapers. In March 1787 the Pennsylvania legislature postponed action on the Mississippi question. Pennsylvania advocates of free navigation, mostly from western Pennsylvania, had assumed the same position as the Virginia and North Carolina legislatures.

In mid-February 1787 James Madison—after an hiatus of more than three years—returned to Congress intent on pressing the Mississippi question. On 4 April Congress ordered John Jay to report on the state of his negotiations with Gardoqui. On 13 April Congress read the report, in which Jay declared that he had suggested to Gardoqui that the United States was prepared to relinquish the "*Use*," but not the "*Right*," to the free navigation of the Mississippi for the term of the treaty with Spain. Jay also declared that he had not admitted Spain's "right" to prohibit the free navigation of the river. An outraged Madison moved on 18 April that negotiations be transferred to Thomas Jefferson, who should proceed to Madrid. Because of Jay's opposition, however, Congress balked and soon dropped the whole issue of the treaty negotiations. On 26 April Madison noted: "the project of shutting the Mississippi was at an end; a point deemed of great importance in reference to the approaching Convention for introducing a Change in the federal Government, and to the objection to an increase of its powers foreseen from the jealousy which had been excited by that project." A few months later, William Grayson, another Virginia delegate, declared that "The Mississippi is in a State of absolute dormification."

Outside Congress, however, newspapers kept up their incessant clamor over the Mississippi question through the spring and summer, so much so that Richard Henry Lee was prompted to declare that "Our Gazettes continue to be filled with publications against the Spanish Treaty

and for opening the Mississippi, some of them plausible, but generally weak and indecent." On 3 July the *Maryland Journal* published three important items on the Mississippi: (1) two letters from the Falls of the Ohio dated 4 and 6 December, protesting Congress' attempts to make Westerners "vassals to the merciless Spaniards" and threatening to raise 20,000 troops to march against the Spanish; (2) a circular letter from Danville, Ky., voicing alarm over the proposed treaty with Spain and requesting that Congress be petitioned; and (3) a letter from Fayette County, Ky., expressing the hope that the Constitutional Convention would help Westerners by increasing the powers of Congress. Four days later the *Pennsylvania Packet* reprinted these three items and published (for the first time) a long letter from Nashville, Tennessee, to "B. H.," dated 1 May 1787. The letter, a classic example of saber-rattling, was written by Hugh Williamson, a North Carolina Convention delegate with large western land holdings, to Benjamin Hawkins, a North Carolina delegate to Congress. Williamson asserted that Spain only understood force and warned that in ten years the West could raise 60,000 men capable of bearing arms.

On 12 July a correspondent in the *New York Journal* lamented the growing evils in the West and the fact that the people could not adequately obtain a redress of grievances from the inefficient central government. The correspondent also objected to the inflammatory material that filled the newspapers. On 30 July the *Charleston Morning Post* published an alleged letter from Captain John Sullivan, an adventurer and freebooter, in which Sullivan informed Gardoqui that he would not serve as a Spanish mercenary. Sullivan criticized the closing of the Mississippi, and claimed that 50,000 Americans could be raised on the frontier to keep the river open. After reading the letter, Gardoqui protested to Congress. On 21 August the *New York Morning Post* reprinted an item from the *Charleston Morning Post* reporting that a former Continental army officer employed by the State of Franklin was in Charleston buying arms and ammunition. It was believed that "a daring enterprize against New Orleans is in agitation."

The Mississippi question had a profound impact on the Southern delegates to the Constitutional Convention. They realized that, in order to defeat any treaty ceding the navigation of the Mississippi, it was imperative that all treaties be ratified by a two-thirds vote of the Senate. According to Hugh Williamson, the two-thirds vote was included in the Constitution "for the express purpose of preventing a majority of the Senate or of the States . . . from giving up the Mississippi."

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