

work for some time.³⁸ Early in May, 1780, he was acting for Captain Decrine (or Deorame or Durome) Delaporte³⁹ to pay a reward for information about one Thomas Andrews, who had absconded with materials from Delaporte's store to the value of £12,000, leaving behind only a draft on the treasury which had not been honored.⁴⁰

The General Assembly convened on May 1st and the House of Delegates first had a quorum on Tuesday, the 9th, when important committees were organized. Innes was present for assignment to the standing committees on Propositions and Grievances and Courts of Justice and on the special committee to bring in a bill to embody militia for the relief of South Carolina. Before the week was out he was serving also on special committees to plan the defense of the frontier, to regulate the militia, and to provide against invasion and insurrection. On the 13th he was added to the committee chosen the day before to bring in a bill to repeal the act establishing the Board of War and the Board of Trade.⁴¹

Discussions of this bill became absorbed in considerations of the state of the Commonwealth when the house sat in Committee of the Whole. Other, more urgent, military matters were decided first and the bill to repeal the

³⁸ Innes to Tucker, Gloucester, October 22, 1782, Tucker-Coleman MSS.

³⁹ He is identified as a captain in the state artillery and in the state militia, and his name is variously spelled. 2 V 358; Gaius M. Brumbaugh, Revolutionary War Records (Washington, 1936), pp. 127, 147; Francis B. Heitman, Historical Register of Officers of the Continental Army... (Washington, 1914), p. 192.

⁴⁰ VG(CD) 13 My 80:42. The date when Captain Delaporte first opened a Williamsburg store is not known. In October he advertised that he had just opened a store "on his own account, in the house lately occupied by Mr. Beall." VG(CD) 30 Oc 79:42. This was probably Samuel Beale, whose establishment was on Lot 20, Block 9.

⁴¹ Journal of the House of Delegates, May 1780, pp. 1-8.

two boards did not receive its third reading until June 29th. Approval of Senate amendments was finally made on July 6th,⁴² and the Board of War officially went out of existence at that time.

Innes was consistently active in military problems until early in June, when he was absent for a few days. Returning to Richmond on the 10th he wrote to Jefferson:

I this morning arrived in Town from Williamsburgh charged with some dispatches for your Excellency, which I herewith transmit you. On my arrival, I was astonished to be informed, that a Report had been industriously handed to you, of intentions in me, to impeach your Excellency before the general assembly, of illegal conduct relative to the palace furniture. I would fain flatter myself, that your knowledge of me, will not permit you hastily to harbour suspicions so injurious to my character. Had Instructions to that purport been laid upon me, by my Constituents, or had such an insane measure been the spontaneous production of my own Brain, I should surely have been called upon by every Tie of Honor, and fair Dealing, to have candidly apprized your Excellency thereof. But I am happy that, I stand in neither of those predicaments. I declare to the eternal God that this Report, which I suppose some busy go between has communicated to you, is foundationless and void of truth. If I know my own Heart, there is no man upon earth would more heartily oppose, than I would, the measure alluded to, which would inevitably tend to excite bitter animosities, tarnish the Dignity of Government, and expose the Character of a fellow Citizen (whom I have ever thought meritoriously exalted) to Cowardly and Envious attacks, without affording him the Opportunity of Exculpation.

That I have, among others, censured some principles of your administration, I will not hesitate Candidly to Confess to you. As the Citizen of a free State, I thought myself at liberty to express my sentiments, of the Conduct of those magistrates into whose Hands are committed the Reins of Government. I deemed the Dismantling the Forts and the Removal of so great a proportion of military stores from the Eastern Frontier impolitic, because it not only rendered the exposed Country incapable of defending itself, until it might be succoured, but because too, it made a very evil Impression on the minds of the people below, and induced them to believe, they were consigned to a State of dereliction. I spoke of this measure, as the act of the Executive collectively, and did support a motion in the House of Delegates that your Excellency might be advised to adopt a System, which I thought (and the major part of the House concurred with me) a Salutary one.

If either an involuntary warmth of temper, or excited feelings, have hurried me into Indiscretions, of which I am not at present

⁴² Ibid., pp. 47, 66, 67, 75. The act is in 10 H 291-292.

sensible, I shall with pleasure when reminded of them, make the necessary Concessions. This is not the first time, I am apprehensive, that attempts have been made to foment Discord between us. I own I shall be unhappy if such machinations ever succeed. I know your attachment to the great cause of Liberty. I know your abilities, and repose a firm confidence in your virtues, my Respect for which a Difference of opinion shall never shake, tho' it may induce me to declare my sentiments, which I wish to be ever charitably construed.

I have the honor to remain with high Regard and Esteem yr Excellency's obt. Sert.⁴³

Of the several intriguing subjects Innes discussed, the affair of the Palace furniture is the most puzzling. When the capital was moved to Richmond, the standing furniture in the Palace was certainly taken along as part of the public equipment. Did Jefferson dispose of some of it without consulting the legislature? Not likely, for such an action would have been wholly out of character. Whatever the questionable action was, some of Innes's James City County constituents must have been gossiping about it.⁴⁴

Innes had had several opportunities to speak out against the removal of military stores in the lower Peninsula when the house sat in Committee of the Whole to ponder the state of the Commonwealth and debates were not recorded in the journal--for example, in the discussion preceding the resolution of May 24th:

Resolved, That a camp or camps for 5,000 men ought to be formed in such part of the State as may be most convenient for succouring our southern friends, and if occasion shall require it, for defending this State on its eastern frontier; that provisions, arms, military stores and all other necessaries for that number of men, ought to be procured as near the said camp or camps as may be without delay, so far as the present situation of affairs will permit.

⁴³ Innes to Jefferson, Richmond, June 10, 1780, in Boyd, Papers, III, 430-431.

⁴⁴ The next spring Carter Braxton informed Governor Jefferson that the Palace was not in fit condition to rent because the militia had damaged it and its outbuildings while they occupied it. Braxton to Jefferson, April 1, 1781, Myers Collection, N.Y. Public Library. M-29.

Resolved, That his excellency the Governor, be desired with the advice of the Council, to carry the foregoing resolution into full effect.⁴⁵

Until this session closed on July 14th, Innes was present. When the delegates reassembled October 16th, he was absent--doubtless excused for the reason given in a letter to Tucker written at Randolphsville on the 10th:⁴⁶

I thank you and your better half very cordially for yr Congratulations on the late increase of my family--an Event which you may be assured has relieved my mind from sollicitudes to which ere a few months past, it had been a Stranger--That I have not been at Bizarre for these some days past has proceeded from a double cause--one it would be needless to mention--the other, the want of clothes to make even a decent appearance for my wardrobe miserable as it was, did not escape the Enemy's Depredations--However I have at last found out a Taylor--and I have my hopes that in a few Days I shall have some whole clothes tho not fine ones.⁴⁷

We shall expect you tomorrow morning at Randolphsville.⁴⁷

⁴⁵ Journal of the House of Delegates, May 1780, p. 20.

⁴⁶ Journal of the House of Delegates, October 1780. The last session of the General Assembly of 1780-1781 met in March; it was a slim house, briefly reported, and Innes is not mentioned as present or reprimanded as an unexcused absentee. In the new Assembly (May 7-June 23, and October 1-January 5, 1783) Innes represented Williamsburg.

⁴⁷ Innes to Tucker, October 10, [1780], Tucker-Coleman MSS.

CHAPTER VII. SERVICE IN THE FIELD RESUMED, 1780-1781

At about the time when Innes appeared in the House of Delegates, John Page resigned his seat in the Council of State. Jack Walker had already left the Council to go to the Continental Congress in December of 1779, when Madison had retired for the same reason. But Jefferson remained chief executive and faced the emergencies of the new year without the administrative assistance of his close friends.

Military problems steadily increased. All the troops and supplies sent south to Charleston at such cost were lost in May when Lincoln surrendered to Clinton. New recruits were harder to raise and equip, but the Assembly ordered 3000 regulars to the support of Gates. They reached him in time to take an inglorious part in the defeat at Camden in August; untrained and inexperienced, they behaved badly in combat and recklessly abandoned cannon, small arms, wagons and tents which were especially hard to replace.

While new recruits from the western counties--courageous fighters who owned their own guns--were being raised for service in North Carolina, Jefferson did not forget the vulnerability of the east coast; yet he did not strengthen its defenses because he believed that only important centers of trade and population would attract Clinton's attention away from the Carolinas and New York. He was mistaken. Towards the end of the third week in October Commodore George Rodney and General Alexander Leslie with 2500 men entered Chesapeake Bay and quickly occupied Portsmouth. Innes was so alarmed that he wrote Jefferson at once:

Ere this reaches you, you will doubtless have heard of the arrival of an inimical fleet in our Bay. Being vested with no public authority, I do not presume to address you officially. Yet as a friend, an

appellation I shall always wish to merit, I will venture to offer you my Sentiments on the present Critical Conjunction. From a close attention to the Dispositions of the people in the Lower Country, I think I know them well. Their attachment to the great Cause in which they are engaged is I am certain as unanimous and firm, as of any Class of people upon the Continent, but the extremely exposed Situation of their properties and families, and the anticipation of Captivity or famine may act so strongly upon them in the hour of alarm and danger, when their Hearts too are soften'd by the forebodings of the miseries, impending over their dearest domestic connections, as to produce a Languor, and Indecision, totally incompatible with the rapid and determinate movements of War. The feelings of the man, may in a fatal moment, swallow up the sentiments of the patriot. During my little experience in the Northern Army, I learnt by observation one Truth--which I ever found invariable--which was that no aid of militia could ever be drawn from the part of the Country immediately invaded. The strong Impulses on the Heart, I have just now described, forever produced Inactivity, but transfer the Scene of war from their own Doors, and the very men who before had been so tame and inactive, flew to arms with fierceness and unanimity, and were of very important Service. This was truly the Case with the now famed Jersey militia in 1776-1777. In 1777 I very well remember, when Sir William Howe's Army was on the Banks of the Skuykill, the populous City of Philadelphia and the thickly inhabited Counties immediately around it, did not furnish three hundred men altogether to Genl. Washington's army. Yet I observe that the other Day Govr. Reed marched three thousand men from the city of Philadelphia only, to join our army, in offensive operations against N. York. I mention these instances only to evince the propriety of the observations I have made above, and to shew too, the impolicy of estimating in the number requisite to repel the invading foe, the militia on the Spot of Invasion. It follows of Course then that the only effectual Service in our present Circumstances must be derived from the aid of militia's less exposed in their Situations than the Counties on the Bay and sea shores. If such aid should be speedily sent, I am Confident it would animate the lower Counties to make that proper Stand, which, without such Support I fear they will not be equal to. Besides a speedy assistance from above will inspire them with a proper Confidence in Government and banish from their minds the baneful Idea (which has been too prevalent since the Removal of the Seat of Government) of being abandoned and deserted by their upland Brethren. These opinions, believe me, I consider as foundationless, and reprobate as pernicious to the common weal. Yet as they are but too popular, I humbly conceive it might be productive of beneficial Consequences to eradicate them entirely, tho the accomplishment of so desirable an object, might be attended with some trouble and Expense. These crude Sentiments written amidst much Haste and Confusion I submit to your better Judgement, happy, if upon perusing them you shall find one Hint worthy adoption. I trust you will consider me on this occasion as divested of all local partialities and governed solely by disinterested attachment to the general good. Should you not coincide with me in opinion, I pray to Heaven, my augury may prove

false. Do not conceive from the style of this letter that I am appal'd at approaching Danger, or that my soul feels one sentiment of Despair. I thank my God, I am free from such Influences. My poor Exertions shall not be wanting to animate the people to action tho' my present Decripitude will not permit me to be so active, as I could wish. I hope this letter will be understood as I wish it, I mean, as originating from Duty to my Country, and affection for your Excellency.¹

Once again luck saved Virginia from invasion. Leslie expected strong opposition on both sides of the James and instead of moving up the river to Richmond and Petersburg, went to Charleston to join Cornwallis.

In November General Nathanael Greene took over Gates's command and visited Richmond to present a personal plea for men and supplies. Jefferson urged the Assembly to give him aid, and he went back to North Carolina, leaving von Steuben in Richmond to command the Continentals in Virginia. The Prussian drill master trained the new recruits quickly enough to send reinforcements to Greene in December. Then, on the last day of the year-- disaster.

Another fleet entered the bay--twenty-seven sail this time. And this was not a raid but an invasion, led by Benedict Arnold. When on Tuesday, January 2nd, the Council of State learned the renegade's intentions, they gave General Nelson blanket authority to call out the militia in the lower counties and prepared defenses for the Richmond area. On Wednesday the enemy were at anchor opposite Jamestown, threatening Williamsburg. A first-hand account of the situation there were written twenty-odd years later by the flamboyant William Tatham, engineer and adventurer. Tatham recalled that:

¹ Innes to Jefferson, [October 21, 1780], in Julian P. Boyd and others, eds., The Papers of Thomas Jefferson (Princeton, 1950--), IV, 55-56.

At the time General Arnold arrived within the Capes, I was preparing for a journey from Richmond, on James River, to the Southern States: I had my horses Portmanteau &c. ready fixed at the door (and perhaps my foot actually in the stirrup) when an express was said to have that moment arrived at the Governor's with intelligence of the approach of an invading Enemy. I immediately rode to his house, and met Governor Jefferson walking out on the hill, by the side of his Garden....

He told me he had recieved such an express, but that, as other intelligence led him to suppose they were nothing more than a foraging Party, unless he had farther information to justify the measure, he should not disturb the Country by calling out the Militia: he would thank me, nevertheless, if I would go down to the late Major General Baron Steuben, who was at Wilton, (then the Estate of Peyton Randolph Esqr.) and recieve his orders if needful. I rode immediately to Wilton, and was dispatched by General Steuben to General Nelson at Williamsburgh; but, on my arrival there, I found the Town in confusion, and the inhabitants alarmed by the expectation of an immediate engagement at Kings Mills, near that Place, (an Estate then belonging, I believe, to Lewis Burwell Esqr.) whither I directly hastened.

On my arrival I found the late General Nelson, and the late Col. James Innes at the head of about fifty five men, under the more immediate command of a Major Harrod, waiting to give the Enemy battle as they landed; and most of the Enemy's Ships were come to an anchor off the Place, a small boat taking the Soundings towards the Shore, and larger boats filled with men were manoeuvring towards the land in readiness for debarkation. I delivered Baron Steubens orders to General Nelson, and was invited to join his suite.

I believe the Enemy were deterred from effecting their purpose on this occasion, partly by Col. Innes's good management, and partly by an accidental occurrence, which happened, much to the soldierly credit of old Chancellor Wythe, and one or two other old Gentlemen who "took a pop at them" while Partridge shooting near the mouth of Archers Hope Creek.²

The next day, Thursday, the enemy landed at Westover. Nelson notified Jefferson from Byrd's Tavern just after nightfall that he had summoned the whole militia strength of four neighboring counties to meet him near New Kent Court House, whence he would "march them as will appear best for the Service." A post script added: "Col. Innes is with me, and is without a Commission. Col. Griffin is also in this Neighborhood. His

² Tatham to William Armistead Burwell, June 13, 1805, in Boyd, Papers, IV, 273-274. For editorial comment on Tatham's veracity see Ibid., 266-267n. An account of Tatham's remarkable death in 1813 may be found in 25 W(1) 83-86.

Colonels Commission from Congress was dated the 26. June 1776."³

Knowing the impossibility of gathering militia in time to defend Richmond, Jefferson immediately prepared to remove the State records and military supplies across the river; earlier in the day many had been taken to the foundry near Westham for safety. The British raided Richmond and the foundry on Friday, then returned to Westover, whence they sailed back down the river to Portsmouth.⁴ Nelson went back to the lower Peninsula, where new enemy raids were daily expected. Everyone hoped that French aid would arrive in time to capture Arnold before he could achieve his objective in Virginia.

At the end of January John Page summarized the situation as he saw it from Rosewell. Arnold had been able to disgrace our country, he thought, because after five years of war our militia was still unarmed and undisciplined. Ashamed to call himself a Virginian, he added:

I must however in justice to the militia of Williamsburg and James City, which first turned out under General Nelson and Colonel Innes, and that of Gloucester, which I had the honor of leading out to re-inforce those gallant few, not omit the virtues they displayed on that occasion. Nelson and Innes with 150 of the first mentioned militia, opposed Arnold's landing at Burwell's ferry, and beat off his boats, after returning a verbal answer of defiance to his written letter, which you will see in the Richmond paper, though no notice is there taken of General Nelson or his answer. Arnold desisted from his attempt and Nelson retreated above Williamsburg. Arnold stood up the river, and our little band of heroes left their town exposed to the enemy, who kept a frigate and several transports off Burwell's ferry, as if they meant to land, threatening their destruction--but to no purpose--they nobly left their homes, and followed up the river the enemies of their country. The same noble spirit actuated above 300 of our Gloucester Militia, who live much exposed to the enemy,--they readily turned out and joined Nelson, who with a handful of men, badly provided with ammunition, had been endeavoring to get in between Arnold and Richmond, but in vain.

³ Nelson to Jefferson, January 4, 1781, in Boyd, Papers, IV, 307.

⁴ Jefferson to Washington, January 10, 1781, Ibid., pp. 333-335.

A heavy rain prevented Innes from throwing himself with his little regiment in between them and Westover, on their retreat from Richmond. But when we joined them at Holt's forge, the general was not able to muster above 400 men tolerably well armed; so that as the enemy had returned to Westover flushed with success, and had begun to enterprise upon little posts in our neighbourhood, a council of war advised a retreat that night to a more secure post, which we effected through a heavy rain. However on that very night the enemy embarked at Westover and fell down the river, and we by a forced march reached Williamsburg, just before they came to, off Jamestown, where, I suspect, Arnold had an inclination to land and have the credit of marching through Jamestown, Williamsburg, York and Hampton, which he might easily have done after a little skirmishing; but finding that there would probably be less resistance to him on the other side of the river, he landed there with part of his forces and marched down, his ships falling down and keeping pace with him, re-inforcing him occasionally. When they passed Burwell's ferry, which was the next day about 2 o'clock on Saturday the 13th instant, between 3 and 400 men were paraded to oppose their landing, which were commanded by General Nelson and Col. Innes, for the rest of the little army had not reached the town and were halted a few miles above it, to keep open our retreat in case we should have been obliged to retire.... The next day reinforcements came in, so that we were above 1200 strong; but the enemy were out of our reach. The readiness with which numbers of people who live exposed in the lower country, turned out, made some amends for the disgrace that we sustained by losing our metropolis.⁵

From Williamsburg Colonel Innes informed Jefferson on February 21st:

The present distressed Situation of the militia, under my Command induces me, to address your Excellency on their behalf. The most of them are totally destitute of the necessary cloathing to protect them from the Inclemency of the weather. They are lousy dirty and ragged, and from those Circumstances becoming every day more sickly. In addition to this such a spirit of disquietude prevails among the poorer Class, whose Corporeal Labours are necessary to sustain their families that I have been, and still am apprehensive of a mutiny, unless some assurances can be given of a speedy relief. I have sent up Capt. Richeson (in whom I repose much Confidence) personally to report to you the wretched Situation of the troops which compose my Regiment. The Evil consequences which would flow from a mutiny of the militia in our present Circumstances, induces me, contrary to my Ideas of military Discipline to adopt a temporizing Conduct. I have prevailed on the troops to wait patiently your Excellencys Answer, which I supposed would be the prospect of relief in some given time.

The enclosed Letter furnishes the latest advices we have had of the french Squadron. Capt. Edden's [Samuel Eddins'] Company of Artillery with two field pieces are detached to York, to give protection to the prizes sent to that post by Commodore Tilly.

⁵ Page to Theodorick Bland, Jr., January 21, 1781, in 4 R 195-199.

General Nelson is at present confined to his Chamber with a violent pleurisy, by whose Request during his Indisposition, I have taken Command of the troops in this Quarter. I am still, tho' I have been in service from the Commencement of the Invasion, without a Commission. I only mention this Circumstance to your Excellency, as in case of capture I should be very hardly treated.

I imagine ere this you have heard of the black affair at Westover.⁶

Jefferson had indeed heard of "the black affair at Westover," and everyone was to hear much more later--so much, in fact, that the relatively trivial incident for some time monopolized the thoughts and activities of civil and military officials at the expense of the larger problems of arranging militia defense against Arnold.⁷

Mrs. William Byrd III had asked Steuben for a flag of truce to be used for the return of slaves taken from Westover while Arnold was there. Lieutenant Charles Hare (a brother of her Tory brother-in-law, Robert Hare of Philadelphia) was then on board H.M.S. the Swift, anchored at Portsmouth, and had permission from Arnold to return her slaves. Steuben was on friendly terms with Mrs. Byrd and granted her request. Accordingly, on February 10th Hare came up the river in a flag vessel, bringing one of her captured horses but none of her slaves. He was stopped at Sandy Point and detained for several days by Major George Lee Turberville, commandant. On the 15th Turberville first permitted Hare to go to Westover by carriage, accompanied by Mrs. Byrd's patriot stepson Otway, and then changed his mind and ordered Hare's return, notifying Jefferson that he was awaiting Steuben's instructions.

⁶ Innes to Jefferson, February 21, 1781, in Boyd, Papers, IV, 675-676.

⁷ All the extant documents relating to this complex subject (except letters to and from Jefferson) have been assembled and printed with a narrative as Appendix I of Volume V in Boyd, Papers. Jefferson's correspondence is printed in Volumes IV and V by date. The summary account which follows here is largely taken from materials collected by Boyd, notably Innes correspondence in the Steuben Papers, New-York Historical Society.

Mrs. Byrd wrote Steuben that she was willing to assume responsibility for Hare and demanded immediate use of the flag. Hare was angry and threatened British retaliation, at the same time accusing Jefferson of receiving British bribes and intimating that other Virginia officials intended to follow Arnold's example and join the enemy. Hare's charges and insinuations produced an investigation. Innes was involved as Turberville's immediate superior officer; his version of the story was given Steuben on the 27th:

I am honored with your Letter on the Detention of Lieut. Hare, and the violences offered to Mrs. Byrd. To each of these Subjects, I shall take Liberty to give a full answer. Representation having been made to me, by the Commandant at Sandy point, that a vessell bearing a Flag not addressed to any person capacitated to receive one--its ostensible object too of an illegal nature--had attempted at an unreasonable hour of the night, to pass by the posts on James River, refused to come to when hailed and fired upon by the Guards, and was stoped by being actually Boarded by a party of Armed Men. Under these suspicious Circumstances, I directed Major Turberville not to permit the officer or vessell to proceed further, without having previously obtained permission from you, or his Excellency the Governor. Not long after this, Mr. Turberville informed me, that Lieut. Hare had endeavored to circulate a report among the militia, that our Supreme Magestrate was in british pay--that he had declared he would take the earliest opportunity of laying the Country in ashes--that he had refused an officer admittance in the cabbins of the vessell, to search for papers--that the officer on forcing in, found several packages of papers in flames and other evident marks of letters, which had been destroyed--that he had refused to come on shore when politely required and bid Defiance to any force which might be sent against him--in short, that Mr. Hares Conduct was characterized by every mark of Impropriety, Indecency, and rudeness. On this state of matter, I ordered Major Turberville by force of Arms to take Lieut. Hare and the Vessell into Custody--to seize on Mr. Hare's papers, and search into the Contents of the vessell. Among Hare's papers was found the enclosed letter from Mrs. Byrd which induced Major Turberville, without my order, or knowledge, to make a visit to Westover, for the purpose of securing any suspicious papers, which might be found there. In the vessell were discovered several Articles of merchandize, such as Brandy, porter, port wine, China, Linnen, Broad Cloth &c &c &c. These Mr. Hare asserted to be sea stores, but upon Examination Invoices and Bills of Cost Corresponding with the Articles of Merchandize on Board were found upon Mrs. Byrd, clearly demonstrating the clandestine and illicit Commerce which was in agitation. By the Resolutions of Congress and the Laws of this Commonwealth, which I shall ever make the Guides of my Conduct, the vessell was subject to Seizure. She has been seized accordingly and is now within the Jurisdiction of the Court of Admiralty, from whence she can not be taken

but by legal Acquittal. How consistent Mr. Hares Conduct has been in this Affair, with the sacred character of a flag of Truce, I submit to your superior Judgement to determine. This is not the first time that this Gentleman has sported with flags. It is scarcely twenty [days] since I made him a prisoner of War at Hampton, for coming in shore under the semblance of a flag, without any credentials designating the objects of his Business, and exchanged him under a License you gave to General Nelson, for a Capt. Barron of this state's Navy. In obedience to your Orders however, I will take measures to have him returned to Portsmouth, as expeditiously as possible.

As to Mrs. Byrd, I assert upon my honor, that I never gave any orders impliedly, or positively, relative to her person, property, or papers. Nor did I know, that a single armed man had been to Westover, until Major Turberville informed me by Letter of his having searched for, and found on Mrs. Byrd several papers of an illicit nature; none of which, have I yet seen. It would give me pain to believe you could suppose me capable of treating Mrs. Byrd, or any of her defenseless sex, with the smallest Degree of Asperity. I shall take pleasure in obeying your orders to ward off every Insult from her and to place a Guard for her protection, whenever she may require it. I have never presumed to sit in Judgement on her Conduct--that, I leave to the Civil Magistrate. I compassionate her Imprudence, and sincerely wish it may have a favorable Issue.

I intended several Days ago to have made a full Report of this matter to you, and waited only for some Depositions relative to this subject, which I had directed Major Turberville to have taken, and forwarded to me. If I have been unhappy enough in the transaction of this disagreeable affair, to adopt any measure meriting your Disapprobation, I beg you will not conceive it, to have originated from Design, or want of proper Respect for your Character.

The basic point at issue--"the sacred character of a flag of Truce"--was a touchy one involving concepts of honor and justice, both personal and official. Jefferson discouraged the use of private flags for the return of plundered slaves and other property because of the innate danger of enemy discrimination in favor of persons with loyalist sympathies if not outright illegal commerce or espionage. Eventually the United States Congress and the Virginia General Assembly tried to stop all private communications with the enemy, and both civil and military officers were charged with the responsibility of careful check on transactions under flags of truce.

⁸ Innes to Steuben, Williamsburg, February 27, 1781, in Boyd, Papers, V, 694-696.

But early in 1781 policy was not yet fixed and as late as August Mrs. Byrd, among others, was still requesting a private flag. The question of the legality of her traffic with the enemy was a civil one, Steuben thought, and he declined to have anything to do with it beyond reprimanding Innes for Turberville's raid on Westover. Papers discovered there and on board Hare's vessel clearly indicated that she was guilty of illegal traffic with the enemy. Whether she was guilty of treason was another matter. Many Virginians thought she was. Everyone was suspicious of her loyalty because of her family connections. Her deceased husband had been a passive Tory. One of her stepsons was an officer in the British army. Her Philadelphia relations were Loyalists. Most damning of all--she was a cousin of Mrs. Benedict Arnold. She was never brought to trial or formally charged with treason, and she cannot be tried today in the court of history because the documents needed for evidence have not survived.⁹

The other question--whether Hare had "sported with" the flag or been a victim of colonial violation of its sanctity--was a military one entirely, Jefferson decided, and the problem was Steuben's. Steuben agreed that Hare's conduct warranted investigation and the detention of the man and his vessel but did not put him under arrest. After an investigation, he reprimanded Hare and at the same time ordered Innes to withdraw his guard and allow him to return to Portsmouth.

⁹ Two letters supporting her claim of £1460 for property losses to Arnold's invading army may be found in extracts from the Minutes of the Board of Commissioners for Claims, June 5, 1783, PRO/AO/12-117/ff. 33-35. The board's action on her claim is not given in these minutes; if subsequent installments of records in the Auditor's Office (now being photographed in the Colonial Records Project) complete the story, the question of Mrs. Byrd's loyalty can be reviewed.

Before writing the letter of February 27th, Innes seized the vessel and ordered Capt. Edward Travis of the State navy to take it up the Chickahominy River to a shipyard for libel proceedings. Then, after agreeing to send Hare back to Portsmouth, Innes changed his mind and held him at Sandy Point while awaiting Jefferson's reply to a special appeal for civil administration of the problem. Jefferson declined to interfere with Steuben's handling of what was a military matter but added that he would ask Attorney General Edmund Randolph for an opinion about the seized vessel.

Steuben was angry with Innes and furious with Turberville, who had carried Innes's letter of March 3rd to Jefferson and had intercepted a letter of Steuben's to Hare. He tried to persuade the governor to discipline the two Virginia officers, but Jefferson once more refused to interfere, although he did ask Turberville to return Steuben's letter and apologize. Turberville accepted Jefferson's suggestion and penned a handsome apology but requested a personal interview with Steuben. After the two met in Williamsburg on the 15th, a number of angry letters were exchanged. Steuben threatened arrest and courtmartial for insubordination, among other charges. Turberville insulted and defied Steuben, promised to remove himself from his control by joining Lafayette, threatened to challenge him to a duel, and finished off his second hot letter penned in the Raleigh Tavern on this note:

If I am arrested I shall repair to Colo. Innes. After having thus repeatedly applied for trial I must as a man, a freeman, a VIRGINIAN, demand categorically your Answer and your Motives for denying me that justice which I have an undoubted right to demand.¹⁰

There is no evidence that a courtmartial was ever held or a duel ever fought. Turberville had already been removed from his command and soon

¹⁰ Turberville to Steuben, The Rawleigh, March 16, 1781, in Boyd, Papers, V, 700-701.

after retired to his home in Westmoreland. Innes proved to be wrong about the vessel's being libelled; it never was. Both Hare and his vessel had returned to Portsmouth before April 1st.

The darkest element in the "black affair at Westover" was its unfortunate timing, when British-American relations were especially delicate. The Americans were trying to keep Arnold quiet until Lafayette could arrive and capture him in an assault on Portsmouth similar to the later and successful arrangements at Yorktown for Cornwallis. Arnold used the incident as an excuse to charge Virginians with violation of the flag and retaliated with raids throughout the Chesapeake area while Hare was detained at Sandy Point.

For the more serious and pressing problems reported in Innes's letter of February 21st, Governor Jefferson offered sympathetic understanding and promised help as soon as it could be arranged. About the commission, he explained:

On the present invasion the favour was asked of Baron Steuben to arrange the commands on principles laid down by the Executive, being the same determined on Leslie's invasion. We have awaited the receipt of his arrangement to issue Commissions: this alone is the [reason] why not a single commission has issued during the Invasion. I will take care to remind the Baron of the want of his report and in the mean time should any gentleman have the misfortune to be captured not a moment shall be lost in sending him a commission.¹¹

Relief for the militia whose time had expired would be ordered as soon as Steuben sent in the returns. Meanwhile General Weedon was hastily collecting 1,000 militia at Fredericksburg and would march to Williamsburg with them.¹²

While planning Arnold's capture at Portsmouth, Steuben was also preparing against the possibility of having to face Cornwallis suddenly in

¹¹ Jefferson to Innes, February 22, 1781, Ibid., IV, 686.

¹² Ibid., p. 687--an enclosure addressed to Nelson.

the Southside. On February 23rd he informed Jefferson that he was instructing Innes to have his troops ready for transport across the James on a moment's notice.¹³ Jefferson warned the Baron that if Innes's naked and mutinous men did not receive immediate relief, they could not be depended upon.¹⁴ At the same time the Governor asked Innes to use his own discretion about discharging any militiamen unwilling to wait for reinforcements and replace them if necessary from York and James City.¹⁵

On the same day, the 24th, before receiving Jefferson's letter Innes wrote again urging immediate replacements and protesting that he had sent proper returns "above 9 days since" but enclosing a second account. "I can with truth assure your Excellency," he lamented, "that I never within the Compass of my short existence experienced so much real anxiety as has fallen to my lot for a few Days past, on account of the mutinous spirit that prevails among the militias on Service in this Quarter. The promise of reliefs has appeased them for a time and I hope they will remain quiet until actual reliefs do arrive." The disturbed colonel concluded the letter with another request for action from Steuben: "General Nelson desires me to remind your Excellency that in a few Days legislative Duty will call us from our Commands. He requests that you would inform the Baron of this Circumstance that officers may be timously¹⁶ sent down to supply our places."¹⁷

¹³ Steuben to Jefferson, February 23, 1781, *Ibid.*, 695.

¹⁴ Jefferson to Steuben, February 24, 1781, *Ibid.*, 700-701.

¹⁵ Jefferson to Innes, February 24, 1781, *Ibid.*, 699.

¹⁶ A word still used in Scotland, indicative perhaps of the influence of Innes's Scots father and teacher.

¹⁷ Innes to Jefferson, Williamsburg, February 24, 1781, in Boyd, *Papers*, IV, 699.

That same day Steuben announced that he was leaving Chesterfield on the morrow for Dinwiddie, where Colonel John Banister was collecting men and arms to support Greene. Muhlenburg was staying at Suffolk. Weedon was ordered to Hanover Court House and Innes to Cabin Point.¹⁸ The next day, however, when he learned that Cornwallis was rapidly retreating towards Hillsboro, he countermanded Innes's instructions,¹⁹ and Innes acknowledged receipt of the changed order on February 26th.²⁰

Communications from Chesterfield to Richmond seem to have been slow, for on March 2nd Jefferson informed Innes that he had just learned that day of Steuben's order countermanding the move across the James and transmitted new instructions:

...the Baron...desires as your militia are not going over to the South Side of the River that you will have their Arms carried to General Muhlenburg's head Quarters where they will be wanting by the 6th instant, and that you will have measures taken to bring Arms from Gloucester for the Militia of the adjacent Counties who are called in to take the place of those now under your Command. As the French Squadron will restrain the Enemy within Elizabeth River there will probably be little to do on the North Side of James River. These Arrangements will take a very short Time, and I hope therefore they will not be the means of detaining [you] from the Assembly.²¹

Innes replied on the 6th that he would be able to change recent arrangements to fit the new orders. He hoped to "reinforce Muhlenburg with a very respectable detachment" from the "governable" men under his own command as well as those at Hampton and Sandy Point. At least 400 stands of good arms would be sent to Smithfield that day, and the promise of 200

¹⁸ Steuben to Jefferson, February 24, 1781, *Ibid.*, 701.

¹⁹ Steuben to Jefferson, February 25, 1781, *Ibid.*, V, 9.

²⁰ Innes to Steuben, Williamsburg, February 26, 1781, *Ibid.*, 9n.

²¹ Jefferson to Innes, March 2, 1781, *Ibid.*, 42.

stands of arms from Gloucester had already been received. Then, he concluded,

If I find it impracticable to march over the troops at present embodied here, to join General Muhlenburg, after executing your last orders I will immediately repair to the assembly. But if I fortunately can have Influence enough to cross the men over the River, I shall prefer the Service of the field to that of the Senate.²²

As it turned out, neither Nelson nor Innes attended the March Assembly. Nelson's illness continued into the next month and Innes, still acting in his place, became involved in another bit of trouble with Steuben. In an order that has not been preserved, the Baron sent him to Half-Way House and he went on to Yorktown without orders to do so. There he learned of the capture of Colonel William Roscoe Wilson Curle in an engagement on March 8th between a small group of Elizabeth City militia and a detachment under Dundass. He immediately appealed to Steuben to arrange Curle's exchange, addressing his note from York Garrison. Curtly Steuben answered on the 11th:

Whatever talents you may possess, I must desire an obedience to the orders I have or shall give. Your staying at York after receiving my positive orders to march to the Vicinity of Half Way house is extremely surprizing to me. As I expect the strictest obedience to be paid to my orders, so those you give you must see put in execution.

The proposed exchange, too, surprised the Baron, who had positively forbidden all intercourse with the enemy. Innes's reply on the 13th dropped the matter of Curle's exchange but protested the injustices of Steuben's charges.²³ Perhaps he went on to Half-Way House--a point midway along the road between Williamsburg and Yorktown and at the center of the lower Peninsula, whence militia units might readily march to any threatened area upon short notice. He was again (or still) at the York Garrison on the 30th, when he appealed

²² Innes to Jefferson, Williamsburg, March 6, 1781, Ibid., 73-74.

²³ Ibid., V, 294n. Steuben's letter of the 11th exists today only in draft form, partly French.

to Jefferson on behalf of Colonel Curle, the "life and soul" of Elizabeth City patriots.²⁴

By this time--the end of March--the happy plan to capture Arnold was being abandoned. Lafayette had arrived at York on the 13th, ahead of schedule; his Continentals to be used against Arnold were at Head of Elk awaiting transport to the lower Chesapeake. In the face of all but insurmountable obstacles 4,000 armed militia had been assembled and everything needed for the surprise attack was ready except the support of the French fleet. The two frigates and the ship of the line under Commodore de Tilly which had been received at York with such optimism the middle of February had gone back to Newport before the end of the month for reinforcements, which were anxiously expected all during March. No one in Virginia knew that they had been overtaken off the Virginia Capes on March 16th by a British fleet under Admiral Arbuthnot and forced to return to Rhode Island. Even as late as March 23rd, when Arbuthnot could be seen in the Bay, Lafayette still expected French allies to arrive at any moment. Finally, on the 27th, the Marquis reluctantly abandoned hope of carrying out the campaign against Portsmouth and set off for Annapolis. To Jefferson he explained:

I am truly Unhappy that so much trouble, so many Expenses Have Been the only Result of our Enterprise to Relieve Virginia. But knowing that the French fleet and troops were to Sail on Such a day, fully Convinced that on their Arrival Nothing Could prevent our Success, I Could Not But Be Sanguine in My Hopes, and of Course Pressing in our Preparations.²⁵

Steuben now planned to join Greene with 2,000 Virginia militia and defeat Cornwallis before he could meet with Arnold. His plan was approved

²⁴ Innes to Jefferson, York Garrison, March 30, 1781, Ibid., 293-294.

²⁵ Lafayette to Jefferson, March 27, 1781, Ibid., 261-262.

by Richard Henry Lee, who talked with him in Williamsburg on the 26th or 27th, by Weedon, Jefferson and others, but it was canceled by the Council, who did not want to risk the removal of so many men and arms at this critical time.²⁶

Jefferson described Virginia's situation early in April when he acknowledged the welcome promise of new French help offered by the Minister, the Chevalier de la Luzerne:

I assure you Sir that these Prospects are necessary to inspirit them under the present Aspect of their Affairs. We suppose one half of the enemys force in the United States to be to the Southward. Georgia and South Carolina have been long theirs, and North Carolina however well disposed convulsed by the ravages of two Armies her Citizens are too much engaged in saving their families and Property to join the American Army. I believe it may therefore with truth be said that the opposition to the two hostile Armies in North Carolina and Virginia falls at present on Virginia only, aided with about 500 Men from Maryland: While our Northern Brethren infinitely superior in numbers, in compactness, in strength of Situation, in Access to foreign Supplies of necessaries, possessed of all the Arms and military Stores of the Continent, opposed by an Enemy not superior to ours, have the protection of almost the whole of the Continental Army, with the very important Addition of the Army and fleet of our Allies. A powerful Enterprize meditated by the Northwestern Savages, has obliged this State to have an Army of between two and three thousand men collected at this Time on the Ohio. The Cherokees on our Southwestern Corner take off the Aid of our most valuable Counties in that Quarter. To support General Greene and prevent the enemy entering our Country on the South we are obliged to send the whole of our regulars and continual reliefs of Militia, and on our Seaboard an enemy three thousand strong is firmly posted, has totally shut up the only door we had to Commerce for either private or publick purposes, and lays us under the necessity of keeping up two Armies of Militia to prevent their ravaging the adjacent Country. Notwithstanding all this I believe from what I have lately seen that we should be substantially safe were our Citizens Armed, but we have not as many Arms as we have Enemies in the State.

Under such Circumstances it is not easy to foretell events, and it is natural for our People to ask if they are to have no help from others.²⁷

Once again, therefore, Virginia was unprepared when the British

²⁶ Weedon to Jefferson, Williamsburg, March 27, 1781, *Ibid.*, 267; see also Boyd's summary, pp. 275-277n.

²⁷ Jefferson to Luzerne, April 12, 1781, *Ibid.*, 421-422.

attacked. At 4 p.m. on the 18th of April--a Wednesday--Colonel Innes informed Jefferson from Williamsburg:

I have this Moment received by Express from Captain Kelly, stationed a little above Newport News, an Account that eleven Vessels, chiefly Square rigged, have turned Newport News Point on their Way up the River. His Letter bears Date at 10 this Morning, so that, the Wind being fresh at South East, they could with Ease reach Burwell's Ferry this Evening. I am making the best Disposition to receive them, and have ordered the Stores to be removed from this Place. Having very lately taken the Command, I am not well informed what there are at this Post! I enclose you a Return of the Troops in this Neck, some of which are as low down almost as Newport News. Any and Every Intelligence of Consequence shall be immediately transmitted to you.

[P.S.] Since writing the above I am informed by the officer at Burwells Ferry that the van of the fleet is in sight.²⁸

At the same time he notified Steuben. For the next week, while he did his best to defend the Peninsula, he kept his promise to collect and forward information about the movements of the enemy as soon as he received it. At midnight he sent another express to Steuben reporting:

I have received further intelligence of the enemy's vessels--two of which carry cavalry, are ascending the James River, and are this evening several miles advanced up. At the stern of the vessels are a number of flat-bottomed boats. I have ordered all the public stores at this place to be packed up and in readiness to move at a moment's warning. I wish my present force was adequate to the opposition I wish to make. However, weak as I am, nothing shall be left unassayed that can with propriety be attempted.²⁹

On the 19th at 6 p.m. he wrote Jefferson:

Since I have received the enclosed I am just informed by an officer at Burwells ferry, that there are opposite that place 9. flatt bottomed Boats fully manned. Two armed ships a Brig and a schooner--more in sight. I am preparing to take the most expedient measures my poor Judgment dictates for the honor and Service of the State. I will not fail to acquaint of every material contingency.³⁰

²⁸ Innes to Jefferson, April 18, 1781, *Ibid.*, 489.

²⁹ Innes to Steuben, April 18, 1781, Steuben Papers, N Hi, quoted in Marie Kimball, *Jefferson War and Peace 1776 to 1784* (N.Y., 1947), p. 203.

³⁰ Innes to Jefferson, Williamsburg, April 19, 1781, in Boyd, *Papers*, v, 499.

The enclosure was probably Thad Kelly's report from Blunt Point, where a brig and schooner with twenty flat-bottomed boats had been sighted earlier in the day.

On the 20th he sent three express messages to the governor. At 7 a.m. he wrote:

Fourteen flatt bottomed Boats a ship two brigs two sloop's and one schooner heavily manned, have just arrived at Burwells Ferry. From every appearance I think they mean to land, as they have halted with a favorable Tide. I believe they wait for nothing but the arrival of two schooners which have their Cavalry on board. These vessells I am this moment informed have just turned Mullberry Island point. I moved out all the stores at this post last Evening.

[ENCLOSURE]

Five Ships Five briggs three Sloops, four Scouners, are now in my Sight. Six and Twenty flat Bottom Botes. The Botes one Brigg one Sconer are Standing up the River some of them as high as the point of Hog island. I am Convinced they intend up the River.

Wm Davenport³¹

Then:

I enclose you the latest Intelligence of the movements of the Enemy. I shall immediately march the troops up the New Kent Road, and take such a position as to enable me, to operate vigorously without exposing my Rear and Flanks.

N.B. Since writing the above, I have received Information that 16 flatt Bottomed Boats are above James Town.³²
[Enclosure not identified.]

At the end of the day from Allen's Ordinary, six miles from Williamsburg on the road to New Kent, he wrote:

This Day at two o'clock, the Enemy attempted and made good their Landing at Burwells Ferry. At the same time several armed vessells and 16 flatt bottomed Boats proceeded up to James Town where I have been informed they have since Landed. As soon as I found the Designs of the Enemy to circumvent me, I moved the troops to this place which is the nearest position to the Town that can be taken with safety while the Enemy are masters of the water. There was some slight skirmishing between the advance of the Enemy and our Guards of observation at Burwells ferry. We have sustained no loss. All our Guards have joined the main

³¹ Innes to Jefferson, Williamsburg, April 20, 1781, Ibid., 504-505.

³² Innes to Jefferson, Williamsburg, April 20, 1781, Ibid., 505-506.

Body. By several persons Just from Williamsburg I am informed that the british troops were in a mile of the Town. Some Hospital stores, about fift[en] sick men unable to move and some stores belonging to the Commissary's Department to transport which waggons could not be obtained, I have been obliged to leave behind me. The Troops under my Command are extremely harrassed having laid upon their arms for upwards of fifty hours during such time they have received no Sustinance. They discover however a good countenance and I have my hopes that when I can give the Enemy action on fair terms we shall acquit ourselves honourably. We suffer extremely for want of provision. I write again so soon as I have leisure.³³

On the 21st Innes paused in the middle of the afternoon at Hickory Neck Church, fourteen miles northwest of Williamsburg, and sent off another report:

About 3 o'clock Yesterday the Enemy landed at Burwell's Ferry 500 Infantry 50 Horse and 4 Peices Artillery, which with a seeming Intention of landing in force at Jamestown or on some part of the River above us, obliged us to evacuate the Town, and move up to Allens Ordinary six Miles above, about 12 o'clock in the Night. Major Armistead with 150 Men and Capt. Kelly with 50 Riflemen were ordered down and had a Skirmish with the Enemy which terminated rather in our favour.

We have just now received Information that they are above James-town with 14 Square rigged Vessels, and 16 flat bottomed Boats are now in Chickahominy River within 3 Miles of the Shipyard, and in our present situation I think, there is no probability of our obviating their Inten-tions without risqueing every thing....

P.S. Since writing the above we have received Information that the Enemy are in Possession of the Shipyard.³⁴

Early Sunday morning, the 22nd, he was at Frank's Tavern in New Kent, twenty-four miles from Williamsburg, when he wrote almost identical letters to Jefferson and Steuben. The Governor's reads:

The movements of the Enemy on the Western side of chickahominy River of which I apprized you yesterday by Express has renderd it expedient for me to take my present position which I think a very defencible one, from which too I can file off towards Richmond without exposing my flanks or Rear to annoyance. They possessed themselves of the Ship Yard about 4 o'clock yesterday, and I am apprehensive from the fire discoverd in that Quarter last night they have totally destroyed

³³ Innes to Jefferson, Allen's Ordinary, April 20, 1781, Ibid., 506.

³⁴ Innes to Jefferson, Hickory Neck Church, April 21, 1781, Ibid., 521-522.

it. The troops by intense fatigues and vigilance and a scarcity of provision are much worn down. These Circumstances increase our number of Invalids daily. I am determined to halt at this place until the Men can be comfortably recreated. I am sorry to inform you I have in vain called for the aid of the adjacent Counties. I am at present almost totally without Horse. If I had the power of impressing I should be able to form a very useful Corps of observation. I will immediately order a Return of my strength and Stores and enclose it by the next Express. I am in want of waggons, provision and almost every necessary. When I get an hours sleep which I have not enjoyed for upwards of sixty hours, I will write you more fully.³⁵

Jefferson received this one the same day and replied at 8 p.m.:

Your favours of yesterday and to day came to hand about an hour ago. I am equally astonished and concerned to hear of your sufferings for provision. We will send off four waggons tomorrow with Flour, animal food and Spirit. I inclose you two impressing Warrants to obtain the means of transporting provisions to your Army and if you will let me know the number of waggons and Carts now belonging to your Corps and what Addition is necessary we will endeavour to supply you. I am in hopes you will give orders to Mr. Brown (who I expect is with you) to provide small magazines of provisions at such places as you shall think proper.

I would willingly have extended the impressing powers to horses for Troopers but that measure on former Occasions has given such Disgust as to induce me to avoid it. There is a Body of Militia Cavalry forming. About sixty are said to be already collected at Manchester who with the Infantry there and here (about 400) will I expect receive immediate Order from Baron Steuben, to join you. This is the fourth Day since the Orders for calling in the Militia were issued and those are the whole yet assembled at this place and Manchester.

The Account of the Arrival of the second Division of the French Fleet having been published here in a hand Bill I inclose you a number to be circulated among your troops.

I had a Letter [to] Day from the Marquis Fayette dated Baltimore April 17th. in which he informed me is hastening on by forced Marches to Virginia.³⁶

By Monday morning Innes had moved across the Pamunkey River to a camp at Ruffin's Ferry, where he reported to Jefferson:

Having received Intelligence last Evening that the Enemy were moving up Chickahominy River Road with an Intention to attempt a Stroke at the Party under my Command, and had actually advanced so far up as

³⁵ Innes to Jefferson, Frank's Tavern, April 22, 1781, *Ibid.*, 532-533.

³⁶ Jefferson to Innes, Richmond, April 22, 1781, *Ibid.*, 533-534.

to be able to compel me to give them Action on the most disadvantageous Terms, should I endeavour to retreat by the Way of New Kent Court house. In this Situation, encumbered as my Line was by upwards of an hundred sick and wounded, without Hospital Stores or Surgeons, burthened too with twenty Waggons loaded with the public Stores, which I had ordered from Wmsburg and its Environs--considering the fatal Consequences that must result from a Defeat of my Party, by the Loss of the public Arms in their Hands and the two Field Pieces annexed to it, knowing too the Superiority of the Enemy's Numbers and the Advantage they must derive from having a Body of Cavalry and fresh Troops in acting against my Detachment without one well equipped Horse, and almost worn down with Fatigue and Hunger--influenced by these Considerations and the Advice of all the Field officers, I determined to run no Hazard at such a critical Juncture as the present. I accordingly changed my Route, and filing off to the Right, passed all the Stores and Troops over Pamunkey River at this Place, where I found, according to Information, a very welcome supply of Provisions. I shall now have it in my Power to dispose of the Invalids, give the Troops a little Refreshment, send the Baggage and Stores off to a Place of safety, and either march up towards Richmond with the Troops light, disencumber'd and refreshed, by recrossing the River and falling into the Road through N. Kent; or by continuing up on this side and crossing the River at Pages Warehouses, which I am told makes only the Difference of 7 Miles. I have sent out to discover the real Designs of the Enemy; and the Moment I receive authentic Information, I shall put the Troops in Motion. Last Night they destroyed the Vessels and Buildings at the Ship Yard and some naval Stores at Diascon Bridge. I am also informed, tho' not officially, that the Party which moved up the Chickahominy Road have burnt Holt's Forge, and are moving in three Columns towards N Kent C. House. In a few Hours I shall know the Truth of these Reports. At all Events I think it would be proper to stop the Provisions you have ordered down on the Road to N. Kent Court house.³⁷

At noon that day, the 23rd, Steuben wrote Innes that he expected the enemy "to Occupy the Neck of Land between the York and James River as high up as Williamsburg," but at 8 p.m. another message informed him:

I have this moment received intelligence that the enemy have left your side and come too at Hoods this afternoon at three o Clk. This being the case it would be necessary you should approach James river. Should they land on your side a more excellent position can not be found to oppose the enemy than at turkey island. I this day ordered one half the militia assembled at Richmond to that place and the other half to long bridge. You will dispose of the whole according to circumstances; acquaint me by return of express where to find you, and from time to time of your situation.³⁸

³⁷ Innes to Jefferson, Camp Ruffin's Ferry, April 23, 1781, *Ibid.*, 539-540.

³⁸ Steuben to Innes, 23 April 1781, noon and 8 p.m., *Ibid.*, 543n.

When Innes received the Baron's order, he was unable to go at once to Turkey Island. He had crossed the Pamunkey, where he had learned that a detachment of 1,000 British troops were marching rapidly toward Richmond by the Charles City road. Instead of recrossing the Pamunkey at Ruffin's Ferry, therefore, he marched up the north bank of the river, approaching Richmond via Page's Warehouse, where he camped the night of the 24th and wrote Jefferson:

I have this moment arrived at this place--and shall loose no time. I beg to recieve your orders as I am Ignorant of the Situation of Richmond.... I hope to hear from you by the Dawn of Day.³⁹

The next morning he reported to Steuben:

I advertised you by Express of the reasons which obliged me to take this Route. Fearing that from the carelessness of the Express riders, that my Letter may not have reached you, I enclose a copy of it. In addition to the reasons therein urged, I may add that some of the lower Counties woud not turn out and I was informed by the Governor that the Tardiness of the upper counties was such that speedy reinforcements could not be expected. I shall encamp within ten miles of Richmond tonight in a safe position from whence I can move either up or down as exigencies may require or as my orders desire.⁴⁰

Steuben received Innes's letter early in the morning of the 26th and replied that he had "not the smallest Doubt" but that his maneuvers had been made "from the Dictates of Reason" but ordered him to Osborne's,⁴¹ a point about fifteen miles below Richmond on the south bank of the James, where a number of vessels had been gathered. When Innes received this order, he was within six miles of Richmond and eager to go on to the defense of the capital. He asked Steuben:

³⁹ Innes to Jefferson, Camp 2 mi. from Page's, April 24, 1781, 7 p.m., Ibid., 548.

⁴⁰ Innes to Steuben, April 25, 1781, Ibid., 544n.

⁴¹ Steuben to Innes, April 26, 1781, Ibid.

May I be pardoned for wishing to have the honor to be called into immediate and active service? Various reasons both of a public and private nature induce me to take the Liberty to express the inclinations of myself and of my Corps on this Subject.⁴²

Steuben replied the next day that he could not call Innes "into more immediate or more active service" than by placing him "at Osborns where it is most likely the enemy will attempt something if they come any higher up the river."⁴³

The Baron's prediction was quite right about Osborne's but not about Innes's active service there. Before the British were to approach Osborne's, they went to Petersburg,⁴⁴ on Wednesday, the 24th, plundered that area, and crossed the Appomattox River on the 27th. While a detachment under Phillips marched toward Chesterfield Court House, another group under Arnold went south toward Osborne's, where they arrived only a few hours after Steuben had written to Innes. Innes, therefore, was not present in time to take part in the action.

Lafayette arrived at Richmond on the 29th--in time to save the capital. The British then dropped down the river and by May 2nd had reached Bermuda Hundred. Jefferson sent Innes new instructions:

As it may be necessary to reestablish the Batteries at Gloucester and York Town, and for this Purpose to transport thither Cannon from other Places, which probably cannot be effected but by impressing Waggon, Teams and Drivers, Boats or other vessels and their navigators, you are therefore hereby empowered to make impresses of the said Articles for the purposes aforesaid, having them appraised as the Laws require, and giving to the Persons interested, Certificates of the Articles impressed,

⁴² Innes to Steuben, April 26, 1781, Ibid.

⁴³ Steuben to Innes, April 27, 1781, Ibid.

⁴⁴ For a detailed description of the action there and plundering in the neighborhood, see a letter of Innes's friend Col. John Banister to Theodorick Bland, May 16, 1781, in Charles Campbell, ed., The Bland Papers (Richmond, 1860), II, 68-70.

their worth or hire as established by Appraisement or Agreement, and where they shall be injured, or lost in the use, stating that also in the same or a subsequent Certificate.

I am further to desire that you cause an exact list to be returned to the Auditors of all Certificates you shall give, stating the Parties, names, Article, appraised or agreed value or hire, and any other Circumstances necessary as a Check on Counterfeits or unjust Claims.⁴⁵

Later in the day the governor addressed another letter to Innes on a different problem:

Having received information that divers Citizens of this Commonwealth in the Counties of James City and York, have lately committed Acts, some of which amount to high Treason, and others to Misprision of Treason; and that some, tho' they have been able so to disguise and conceal their Trans- actions as that legal evidence cannot be obtained by which they might be subjected to prosecution for treason or a Misprision of Treason, in a due Course of law, yet have so conducted themselves as to furnish the most pregnant Circumstances of Suspicion that they have been guilty of those offences or are disaffected to the Independence of the United States, and will, whenever they shall have opportunity, aid or advise the Measures of the Public Enemy, which persons, in the present critical Situation of this Commonwealth, it is indispensably necessary to punish for their Crimes by way of Example to others, or to disable from doing Mischief: I must therefore, as you are proceeding to that part of the Country, desire and authorize you to make enquiry into the premises, and where you shall have probable Cause to believe that any persons have been guilty of Treason or Misprision of Treason, that there is legal evidence to convict them thereof, and that an examining Court can be had on them in the County where the offence was committed before there shall be any Danger of a Rescue by the Enemy, you have them delivered to the Warrant of a Justice of the Peace, in order that they may be prosecuted in the usual Forms of the law, and be aiding in their safe Conveyance to the Public Jail in Richmond, if they be ordered to be so conveyed: But where you shall be of Opinion that legal evidence cannot be obtained, that an examining Court can not be procured in the County before there will be Danger of a Rescue by the Enemy, and that there are pregnant Circumstances of Suspicion that they have been guilty of the offences of treason or Misprision of Treason, or where there shall be pregnant Causes of Suspicion that persons in those Counties are disaffected to the Independence of the United States, and will, when Occasion serves, aid or advise the Operations of the Enemy, that in those Cases you apprehend such Persons and send them in safe Custody to the Jail of this County reporting to the Executive the facts and Circumstances of Suspicion whereon you proceed.

In the execution of these Powers, I must recommend to you that you have no Retrospect to any fact prior to the 17th of April last, being

⁴⁵ Jefferson to Innes, May 2, 1781, in Boyd, Papers, V, 592.

the Day the Enemy embarked at Portsmouth, that you single out only those who have been foremost or most daring in their offences, and that even these be treated by those into whose hands they shall be committed with no Insult or Rudeness, unnecessary for their safe Custody.⁴⁶

A letter of Phillips to Lafayette on the 29th of April partly explains the situation:

When I was at Williamsburg, and at Petersburg, I gave several inhabitants and country people protections for their persons and properties. I did this without asking, or even considering, whether these people were either friends or foes, actuated by no other motive than that of pure humanity. I understand, from almost undoubted authority, that several of these persons have been taken up by their malicious neighbours, and sent to your quarters, where preparations are making for their being ill treated....

I shall insist upon my signs manual being held sacred, and I am obliged to declare to you, sir, that if any persons, under the description I have given, receive ill treatment, I shall be under the necessity of sending to Petersburg, and giving that chastisement to the illiberal persecutors of innocent people, which their conduct shall deserve.⁴⁷

Late in May Cornwallis joined Arnold at Petersburg, crossed the river and harrassed Lafayette's inferior force, then sent Tarleton after the Governor and Assembly at Charlottesville. Innes was then attending to his usual duties in the lower counties on both sides of the York River--collecting militia and supplies and keeping order as best he could. Even when Wayne joined Lafayette the middle of June, Colonel Innes remained in the York-Gloucester area.

His plans for the defense of Gloucester were being worked out with his friend John Page, who informed him on June 27th:

I had the Pleasure of receiving your Letter by Captn. Dixon last Night. We are pleased with the Marquis's Attention to our County, & I approve highly of his Plan of rendering it as little an Object of the Enemy as possible--but if the Cannon are moved from G. Town the Enemy will immediately send up their Ships, Privateers & Boats, & plunder not

⁴⁶ Jefferson to Innes, May 2, 1781, Ibid., 593-594.

⁴⁷ Phillips to Lafayette, April 29, 1781, Ibid., 591n.

only Gloster, but the whole Coast of York River on both Sides, & this before we can possibly remove our Negros, Stocks or even Furniture out of their Way--I humbly conceive that the 2 or 3 Guns at G. Town are no Object sufficient to induce an Alexander like Cornwallis to make a serious Attack upon that Place--but as they are of importance to us, they may lead him to send a small Detachment to dispossess us of them--& such an Attempt I am in hopes we should be able to frustrate. The Work is insignificant open behind, & we have only now Militia to defend it--this Consideration I suppose would lead Cornwallis to conclude that a few of his veteran Troops would easily do the Business--but as I had advised Col. Peyton, on the first Notice of the Enemys Reinforcement being arrived (as was said) in Hampton Road, to embody the Whole Militia & had strengthened Captn. Eddens, placing also lookouts on every Part of the River above & below him where the Enemy can possibly land, I think we may hope, as I observed above, that we could frustrate such an Attempt. It is true Col. Peyton did not embody the Militia till on my second Application earnestly made after we had received certain Information of the Enemy's being near Wmsburg--I had therefore after placing the lookouts above mentioned & enabling Captn. Eddens to place a Picket on the Road above him directed him remove one of his Cannon, & furnished him with the means of doing so I judged that as he has but little very little Powder 1, 18#ber & the old 12, would be as much as he could serve, & be a sufficient check to the Enemys Vessels, & that then we might if necessary remove the other 18 Pounder, & by this means save both, which could not be done if delayed till attacked & this would give no Allarm to the Inhabitants--whereas were both immediately removed to West Point as directed, & the Stocks driven off, I should despair of keeping up the Spirits of our County men--I fear they would look upon our Affairs as in the Situation the Tories represent them--I hope by this Time one of the Guns is removed, as the Lorry-log [Carry-log?] & Oxen were near Gloster Town when I left it yesterday Evening. I found at the Court House about sunset about 150 Men tolerably armed. We have 25 Men at Fox's Ferry & another small Party at Duval's. As to moving off the Stock could it be done without giving too much Uneasiness to the ignorant wellmeaning People, & too great an Handle to the Tories it would be well to set about it immediately--but instead of this general Removal, I would with submission propose to remove only all the public Stock of Beeves, & Grain, & prevail on Individuals to remove their Familys, Negroes & Stocks, without attempting to compel them to it--as they seem so well disposed to defend their Property, & say if they lose it, it is only what they expected. As I was much fatigued Yesterday, slept but little last Night & have much Business on Hand today I must conclude & bid you Adieu--

P.S. I can not omit mentioning the Consternation Eddens threw the british Horse into when they were returning over the Beech at York by firing an 18#er at them which was so well directed that it covered them with Sand & made them scamper off like Devils. They then drew up on the Bank higher up the River, but Eddins soon dislodged & broke them by a second Shot as well directed as the first--they have not been seen in that Neighbourhood, since--Twenty Rods will not be sufficient for the Tories of Urbanna.⁴⁸

On June 25th Cornwallis entered Williamsburg and set up headquarters in the President's House, where he remained for ten days. After he left, Innes's friend St. George Tucker returned to the town and described in a letter to his wife what had happened to some of their Williamsburg friends:

Could I have entertained a doubt of the propriety of my conduct in endeavouring to remove you beyond the reach of the British army, the sight of this unhappy spot must immediately have removed it. The traces of British cruelty were faint as they marched through the country. Here they remained for some days, and with them pestilence and famine took root, and poverty brought up the rear. Instead of attempting a florid description of the horrors of this place, I will endeavour to give you an account of the situations of a few individuals with whom you are acquainted. Our friend Madison and his lady (they have lost their son) were turned out of their house to make room for Lord Cornwallis. Happily the College afforded them an asylum. They were refused the small privilege of drawing water from their own well. A contemptuous treatment, with the danger of starving were the only evils which he recounted, as none of his servants left him. The case was otherwise with Mr. McClurg. He has one small servant left, and but two girls. He feeds and saddles his own horse and is philosopher enough to enjoy the good that springs from the absence of the British without repining at what he lost by them. Poor Mr. Cocke [probably Innes's father-in-law] was deserted by his favorite man Clem: and Mrs. Cocke by the loss of her cook is obliged to have recourse to her neighbours to dress her dinner for her. They have but one little boy--who is smaller than Tom--left to wait on them within doors. I believe they are as badly off without. The old gentleman talks of going to Cumberland, as he says he is entirely ruined. But this is not all. The small-pox, which the hellish polling of these infamous wretches has spread in every place through which they have passed has now obtained a crisis throughout the place so that there is scarcely a person to be found to nurse those who are most afflicted by it. Your old friend Aunt Betty [Mrs. Peyton Randolph] is in that situation. A child of Sir Peyton Skipwith's who is with her, was deserted by its nurse, and the good old lady was left without a human being to assist her in any respect for some days. As the British plundered all that they could, you will conceive how great an appearance of wretchedness this place must exhibit. To add to the catalogue of mortifications, they constrained all the inhabitants of the town to take paroles. After tyrannizing ten days here, they went to James Town where they were attacked by our advanced parties.... The British have since crossed at Cobham, and their ships have gone down the river. Our army is in motion. I am told we cross at Hoods...Among the plagues the British left in Williamsburg, that of flies is inconceivable. It is impossible to eat, drink, sleep, write, sit still or even walk about in peace on account of their

confounded stings. Their numbers exceed description, unless you look into the eighth chapter of Exodus for it....⁴⁹

Cornwallis had moved toward Portsmouth, taking the 3,000 men that Clinton had requested, but no one in the American army knew what he planned to do next. Lafayette in camp at Long Bridge had to depend on Innes to defend the lower Peninsula. As he explained to Thomas Nelson, who was now governor of Virginia, "Should Lord Cornwallis detachment enterprise any thing against Innes, we have everything to dread from his vast superiority."⁵⁰ Later, from headquarters at Malvern Hill (between Richmond and Westover) he assured Governor Nelson:

...
I shall take measures to increase Col. Ennises command--indeed if I am to judge from our circumstances I am apt to believe he has not any body with him--the Militia that goes far exceeds the numbers that we receive--but I hope that this will soon alter for the better--Both Brigades are extremely weake.

I am sorry for the establishment of a post at Point Comfort.

I will try to have the Ennemy annoyed--but give me leave to observe that while two or three thousand men are in Hampton Road it would become dangerous to carry any serious operations down that much--we must depend upon what Col. Ennis may effect.⁵¹

In a letter that has not survived, Governor Nelson ordered Innes to Williamsburg, where he reported on July 24th:

I repair'd immediately after the Rec't of yr: Letter to this miserable place--where there is not one necessary supply to be procured. The Officers & Soldiers are really in a most distressed situation. No Liquor of any kind can be had--and nothing issued out to them, but very indifferent beef and Indian Bread. Doctor Tucker, the Director General of the Southern Hospital, has just waited on me, to inform me that there are ninety sick men under his charge, for whom he can procure neither Bedding, Blankets, Straw, Medicines, Wine, Spirits nor any other

⁴⁹ Tucker to Fanny (Bland) Randolph Tucker, Williamsburg, July 11, 1781, Tucker-Coleman MSS.

⁵⁰ Lafayette to Nelson, July 13, 1781, in Gilbert Chinard, ed., Lafayette in Virginia (Baltimore, 1928), p. 27.

⁵¹ Lafayette to Nelson, July 27, 1781, Ibid., p. 33.

necessary--The Officers who have liberty to go to their respective homes, cannot, for want of the means of transporting their Baggage, which to most of them, is their little all. Neither waggons nor carts can be had here--Every thing of that nature the Enemy have either taken away or destroyed--Add to all this, the Staff Departments here are so unhinged that there are no persons, the Commissioners excepted, who think they are obliged to obey orders. In this Situation am I Surrounded by a number of necessitous claimants who expect much from me. To execute properly the object of my being called to this place, it would require at least Twenty thousand pounds cash--15 waggons and as many horses--Had I money, I might be able to purchase poultry, mutton, and possibly some spirits for the sick--without it nothing can be had--I have call'd upon the Commissioners of Gloster for supplies & do expect some beef from thence.⁵²

Nelson had already called out the city militia, but only four or five men had appeared for duty because of confusion about paroles and the new deterrent to recruitment--the smallpox scare, aggravated by the circumstance that so many townsmen had recently been inoculated and were yet unfit for service.⁵³

On the 29th Innes again reported to Nelson:

Here I am still without one man--either Horse or foot, and as much expected from as if I had a thousand. I have not an assistant of any kind, either in the Staff or line. The fear of the Small pox, paroles and various other causes will I believe prevent the assemblage of the Militia in the counties you have ordered to be under my command. The Determination of the citizens you may learn from the within Report. Indeed were the people collected, there are neither arms nor ammunition to put into their Hands--Unless I am properly supported in the command to which I have been called, I beg to obtain yr: permission to retire. Capt: Wright, who will deliver you this, being lately from the neighborhood of Portsmouth, will give you all the Intelligence from that Quarter.⁵⁴

Governor Nelson replied at once:

As I imagine it is still undesirable to make Wmsburg the Rendezvous of the Militia ordered to be embodied under your Command for the Protection of the lower part of this Neck, you will appoint such place as your Judgment shall direct for that Purpose. The bad consequences of spreading the Small Pox, will not escape you, so that I shall suggest no caution.

⁵² Innes to Nelson, July 24, 1781, in 2 C 243.

⁵³ Benjamin Waller to Innes, Williamsburg, July 26, 1781, 2 C 258.

⁵⁴ Innes to Nelson, July 29, 1781, 2 C 267.

to you on that score. Should any of the Militia persist in pleading their Paroles as an excuse for not performing military service, which I hope no one will be so ignorant or unmindful of his Duty as to do, it is necessary that he be proceeded against, according to the Proclamation issued by the late Governor, which Proclamation has received the Sanction of the General Assembly. A strict adherence to this Order of Government may in some cases bear an appearance of cruelty, but the insidious Arts of the Enemy & the general welfare render it indispensable. It is however, my Desire, that no Person be rigorously dealt with, when there is a Prospect of bringing back to a better sense of what is due to his Country.⁵⁵

Early in August Innes chose Gloucester as his base of operations.

On the 6th, while he was on the south bank of the York three miles from Brick House, he wrote to Sir John Peyton, in camp at Whiting's Mill on the north side of the river:

I expected to have cross'd last night, but was prevented by the receipt of a letter from the Marquis: I have however sent off an express urging the necessity of reinforcing the Gloster Militia with the men under my command immediately, and expect either to hear from or see him very shortly, as I imagine he may possibly be at New Kent Court house this eveng: You will please to despatch an express giving me the fullest accts. you possess of the enemy's depredations and manoeuvres in Gloster, that I may be enabled to transmit them immediately to the Marquis.

It is sometimes absolutely necessary and politic to make use of small deception and finesse, you may therefore circulate in Gloster, that the Marquis has cross'd 5000 men over at Ruffin's Ferry to sustain your little armament and annoy the enemy; that he is marching down on this side in person, with 8000 men, and that he will be as far advanced as New Kent Court house this eveng:

Keep your light parties continually on the enemy's lines; you will by that means curtail their limits, and blind them to our advantage. If you should want to write to the Marquis, by sending your letter to me, I shall be able to transmit it to him in the most expeditious manner.⁵⁶

Ten days later Lafayette informed Nelson:

Col. Innes is now on the Gloster [side] driving off the stock and making a forage. His force appears to restrain the enemy's small parties. I would have ordered the militia you speak of, could I have done it without exposing the Northern neck to be plundered by privateers. They will

⁵⁵ Nelson to Innes, July 30, 1781, 2 C 268.

⁵⁶ Innes to Peyton, August 6, 1781, 2 C 296.

also be in check should Lord Cornwallis advance towards Fredericksburg.

The enemy have drawn a reinforcement from Portsmouth without evacuating the place. Their principal force is at Gloucester, and from some circumstances it would seem as if a movement was intended.

Col. Matthews covers the York side, and has my orders to communicate any move towards Richmond.⁵⁷

On the 19th Lafayette added the intelligence that during the preceding day

"Col. Innes made a forage towards Gloster, with a very inconsiderable loss: only three men and two horses were taken."⁵⁸

When September brought the rendezvous at Williamsburg of the French and American armies that were to meet the French fleet at Yorktown, Colonel Innes was still in Gloucester. General Washington's arrival in Williamsburg on the 14th was described by St. George Tucker:

About four o'clock in the afternoon his approach was announced. He had passed our camp, which is now in the rear of the whole army, before we had time to parade the militia. The French line had just time to form. The Continentals had more leisure. He approached without any pomp or parade, attended only by a few horsemen, and his own servants. The Count de Rochambeau and General Hand, with one or two more officers were with him. I met him as I was endeavoring to get to camp from town, in order to parade the brigade; but he had already passed it. To my great surprise he recognized my features and spoke to me immediately by name. General Nelson, the Marquis, etc., rode up immediately after. Never was more joy painted in any countenance than theirs. The Marquis rode up with precipitation, clasped the General in his arms, and embraced him with an ardor not easily described. The whole army and all the town were presently in motion. The General, at the request of the Marquis de St. Simon, rode through the French lines. The troops were paraded for the purpose, and cut a most splendid figure. He then visited the Continental line. As he entered the camp the cannon from the Park of Artillery and from every brigade announced the happy event. His train by this time was much increased; and men, women and children seemed to vie with each other in demonstrations of joy and eagerness to see their beloved countryman. His quarters are at Mr. Wythe's house. Aunt Betty [Mrs. Peyton Randolph] has the honor of the

⁵⁷ Lafayette to Nelson, August 16, 1781, in Chinard, Lafayette in Virginia, p. 48.

⁵⁸ Lafayette to Nelson, August 19, 1781, Ibid., p. 50.

Count de Rochambeau to lodge at her house. We are all alive and so sanguine in our hopes that nothing can be conceived more different than the countenances of the same men at this time and on the first of June.⁵⁹

In spite of the best efforts of the Governor and the Marquis, supplies for the new arrivals were inadequate. Nelson had been in town since the 11th, when he took active command of the Virginia militia, and knew very well what the most critical deficiencies were. He appealed to Innes on the day of Washington's arrival:

It is probable that some Salt may be procured for public Use in the County of Gloucester. The Army is at present much in Want of it, & you will oblige me, if you will have, what is to be had, collected & Secured.

With Respect to Military Operations on the North Side of York River, they must be left to your own Judgment. You will however be pleased to communicate to me every Event of any Importance; & you may rest assured that equal Attention shall be paid to the Militia on both Sides of the River. The necessary Appointments in the Medical Departments or others in your Command, you will make.⁶⁰

Four days later the Governor sent on a request for other administrative assistance:

Information having been given me, that Ralph Wormeley, Ralph Wormeley jr. Philip L. Grymes, James Mills, Simon Frazer, Robt. Gilmore, Hugh Walker, & Jonathon Denison of the County of Middlesex; Dr. Brokenborough & Archibald Ritchie of the County of Essex, & Anthony Mc.Kittrick of Stafford County have been guilty of Conduct which manifests Disaffection to this Government & the Interest of the United States, you are hereby required & empowered to apprehend their Persons & papers, & to have them conveyed to the Town of Richmond under proper Guard.--You are authorized, for this Purpose to call upon the Militia of any Countys you think proper, either of those in actual Service, or otherwise, to aid & assist you.⁶¹

⁵⁹ Tucker to Frances (Bland) Randolph Tucker, September 15, 1781, printed in 16 W(1) 58-59.

⁶⁰ Nelson to Innes, Williamsburg, September 14, 1781, in Henry R. McIlwaine, ed., Official Letters of the Governors of the State of Virginia (Richmond, 1926-1929), III, 49.

⁶¹ Nelson to Innes, Williamsburg, September 18, 1781, Ibid., 55-56.

Innes replied on the 24th from his camp at Ware Church:

General Weedon is putting into immediate Execution the powers you were pleased to vest me with, to procure supplies of provisions--and I have no doubt but that the Army on the other side will soon feel the beneficial Effects of his Efforts. I am sorry to inform you that yr: Expectations of the strength of General Weedon's Army far exceed what it really is--The General will, as soon as possible put me in possession of the honorable Command you have thought proper to recommend me to, but the troops in this quarter are so few as not to be competent to the formation of even one tolerably strong Brigade--nor is there a prospect of a speedy augmentation, unless it may be thought expedient to throw over two or three well organized and officered Battalions from the South Side of York River--The Northern Neck Counties are extremely deficient in their quotas, and those few men they have sent forward are quite raw & undisciplined, and diminishing every Day by Desertion.

I have done myself the honor to make this Representation of the State of affairs in Gloster, and have not a doubt, but that you will adopt proper measures to give us a speedy Reinforcement; without which we expend rations to no purpose.⁶²

No further military communication from Colonel Innes is known today. He seems to have stayed on the Gloucester side throughout the siege of Yorktown, busy with the duties that absorbed his attention during the whole of his military service--recruiting, organizing and supplying units of the Virginia militia, obtaining and forwarding military intelligence, and administering problems of loyalist disaffection.⁶³

⁶² Innes to Nelson, September 24, 1781, 2 C 486.

⁶³ The next spring he was still trying to collect public money for sums paid out for information relative to enemy and Tory activities. Governor Harrison assured him in a letter of February 13, 1782: "The names of the acting Persons may be kept a secret and a warrant or warrants will be given you for the money." Official Letters, III, 150.

VIII. POST-WAR POST SCRIPT

After the war Colonel Innes returned to the law, practicing in the county courts of the Tidewater and in Richmond. For the remaining years of his life he suffered from ill health, and recurrent "bouts" with fever and pain interrupted the conduct of public and private business. In October of 1782, for example, he complained dismally to Tucker:

You will observe by the Date of this Letter--that I am at present in Gloster, where I have constantly been for some weeks past during which period I have been afflicted with the most severe bilious disorder I ever experienced--a very dangerous fever was succeeded by a most torturous Cholick and jaundice, which convulsed and tore my Stomach to pieces, and turned my whole Hide as yellow as Buff. I am now, I thank God, resuscitating rapidly--and I hope I shall shortly be well enough to enter into the busy Scenes of my laborious and disagreeable profession, to which I have for these six months past, paid the most slavish Devotion--and should most completely have surmounted all my misfortunes had not my untimely and unfortunate Indisposition checked me in the full career of Business and Success--I derive, however, this Consolatory reflection from my ills--that by the many evils I have lately endured--I have made full attonement for all the Sins I ever committed in my short Life--expecting, therefore, that my accts. above, are fairly balanced.--I shall push forward again on the Journey of human Life with a light and cheerful Heart. Is my Divinity sound or not?

John Page, too, had his troubles; his second son had recently been drowned while trying to swim across a creek. But Page bore his grief with such unshaken confidence in his religious convictions that Innes, admiring his heroism, "nearly cried out in the Language of Agrippa--thou almost persuadest me to be a christian."¹

The next year he inquired: "How like you the county Court practice? Is it not grating to yr feelings? I so cordially despise it that I have

¹ Innes to Tucker, Gloucester, October 22, 1782, Tucker-Coleman MSS.

half a mind to turn itinerant preacher."² Gradually he was able to concentrate his practice in the Richmond courts, especially after 1790. His most famous case, perhaps, was Ware v. Hylton, in which he was associated with Patrick Henry, Alexander Campbell, and the young John Marshall for the defendant against British creditors. It was one of several important test cases involving the validity of a State law in conflict with a United States treaty, and modern lawyers still pay tribute to the "brilliant display of eloquence, reasoning, and erudition" in the Richmond hearings.³

Innes continued to serve his community and State in public office. He retained his interest in the College of William and Mary as a member of the Board of Visitors and as rector in the 1780's.⁴ He represented Williamsburg in the House of Delegates in 1781-82, 1785-86, and 1786-87 and in the Constitutional Convention of 1788.⁵ For a few months in 1784 he was Notary Public for the District of York and Williamsburg, with an office on Duke of Gloucester Street opposite the Raleigh Tavern.⁶ In 1786 he was chosen by the General

² Innes to Tucker, Williamsburg, September 20, 1783, Ibid.

³ For a short summary of the cases see Albert J. Beveridge, The Life of John Marshall (Boston, 1916), II, 186ff.

⁴ Appointed about 1782. A Provisional List of Alumni, Grammar School Students, Members of the Faculty, and Members of the Board of Visitors of the College of William and Mary in Virginia, from 1693 to 1888 (Richmond, 1941), p. 53. In 1784 Dudley Digges, rector, announced visitations. Innes to Tucker, March 10, 1784, Tucker-Coleman MSS; The Virginia Gazette or American Advertiser (Hayes), February 10, 1784, p. 4. In 1788 Innes signed as rector. The Virginia Independent Chronicle (Davis), January 2, 1788.

⁵ Earl G. Swem and John H. Williams, A Register of the General Assembly of Virginia, 1776-1918 and of the Constitutional Conventions (Richmond, 1918), p. 390.

⁶ 3 C 606, 623; Virginia Gazette or American Advertiser (Hayes), December 18, 1784.