

Resolved, nem. con. in the affirmative.

Question 2. Is the present situation of that nature?

Resolved, nem. con. That the present situation justifies a capitulation upon honourable terms.

The Lieutenant-General then drew up the message, marked No. 2, and laid it before the council. It was unanimously approved, and upon that foundation the treaty opened.

October 14. Major Kingston having delivered the message marked No. 2. returned with the proposals marked No. 3, and the council of war being assembled again, the Lieutenant-General laid the proposals before them, when it was resolved unanimously to reject the 6th article, and not to admit of it in any extremity whatever.

The Lieutenant-General then laid before the council the answers to Major-General Gates's proposals, as marked in the same paper, together with his own preliminary proposals, which were unanimously approved of.

October 15. The council being assembled again, Major-General Gates's answers to Lieutenant-General Burgoyne's proposals were laid before them, whereupon it was resolved, that they were satisfactory, and a sufficient ground for proceeding to a definitive treaty.

No. 2. *Major Kingston delivered the following Message to Major-General Gates, October 14.*

AFTER having fought you twice, Lieutenant-General Burgoyne has waited some days, in his present position, determined to try a third conflict against any force you could bring to attack him.

He is apprised of the superiority of your numbers, and the disposition of your troops to impede his supplies, and render his retreat a scene of carnage on both sides. In this situation he is impelled by humanity, and thinks himself justifiable by established principles and precedents of state, and of war, to spare the lives of brave men upon honourable terms. Should Major-General Gates be inclined to treat upon that idea, General Burgoyne would propose a cessation of arms during the time necessary to communicate the preliminary terms by which, in any extremity, he and his army mean to abide.

No. 3. *Major-General Gates's Proposals; together with Lieutenant-General Burgoyne's Answers.*

I. General Burgoyne's army being exceedingly reduced by repeated defeats, by desertion, sickness, &c. their provisions exhausted, their military horses, tents, and baggage, taken or destroyed, their retreat cut off, and their camp invested, they can only be allowed to surrender prisoners of war.

Answer. Lieutenant-General Burgoyne's army, however reduced, will never admit that their retreat is cut off, while they have arms in their hands.

II. The officers and soldiers may keep the baggage belonging to them. The generals of the United States never permit individuals to be pillaged.

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