

continued

26. The "Causes for the further consideration of this Subject" alluded to in the above Letter are entirely unknown to the Claimants, who were led to believe, by the concluding Paragraph, that after the Merchants' Petition had been finally disposed of (the renewal of the Royal Assent being refused, it was never afterwards brought forward,) the payment of the Balances due to the *American Loyalists* would be no longer delayed, as the *Distinction* between their Claims and those of the *British Merchants* had been admitted by His Majesty's Ministers on several Occasions, and *Lord Liverpool had observed*, at a conference with the *British Merchants* previous to the consideration of their Petition by the House of Commons, on signifying the intention of Government to oppose their Petition, and being in consequence reminded of the Compensation granted to *American Loyalists*, that *there was no similarity in the two Cases, and expressed much surprise at the idea of resolving, as a Precedent in their favor, in what had been done by Parliament for the Loyalists; in which opinion the Chancellor of the Exchequer expressed his concurrence.*

continued

27. After this admission of the distinction between the Cases of the *British Merchants* and the *American Loyalists*, the latter were not a little surprised on learning, by a Note from Lord Liverpool and the Chancellor of the Exchequer, that "they found much difficulty in making such a distinction between this Case and that of the general Claimants, which had been already decided upon, as would justify His Majesty's Government in departing from the principle applied to the general Claims." In a subsequent Note from Lord Liverpool and Mr. Vansittart to the Claimants (23 September 1814) the difficulty of making this distinction is again noticed.

continued

28. In order to obviate this difficulty the Claimants employed a Barrister of the first eminence to draw up a clear Statement of the distinction, which was presented in a Note F from the *Loyalists* to Lord Liverpool and Mr. Vansittart on the 31st January 1815; and on the 17th of May following a Letter was addressed by Mr. Layie, on their behalf, to Mr. Vansittart, who, in answer to a personal application by Mr. Layie a few days afterwards, was pleased to declare that their Claims were put forth in such forcible terms, that *even if Government should determine not to admit them, a mere Negative would not be sufficient; that he would submit both the Note and the Letter to Lord Liverpool's further consideration, and confer with his Lordship as to the answer to be given as soon as the recess took place.* Then numerous written and personal applications for the promised answer in the succeeding period of 1815, 1816, 1817 and 1818, having failed to procure the Claimants the honor of any reply from Lord Liverpool or Mr. Vansittart, they conclude that their Claim has not yet received the further consideration which his Lordship and the Chancellor of the Exchequer appeared to think it required.

The Loyalists excluded from 4th Article by the Negotiators of the Treaty of Peace.

29. A Work of unquestionable authority, the "Private Correspondence of Doctor Franklin," published since the above Note was presented, shows vol. 2, page 410 that the American Negotiators of the Peace of 1783, in their Official Letter to the Secretary of State of the United States, dated July 1783, containing their remarks upon the Treaty, stated that "The words for restoring the Property of *real British Subjects*" see 36: "were well understood and explained between us *not to mean American Refugees.*" Mr. Oswald and Mr. Fitzherbert, know this to have been the case, and will readily confess and admit it. This mode of expression was preferred by them as a more delicate mode of excluding those Refugees, and of making a proper distinction between them and the Subjects of Britain, whose only particular interest in America consisted in holding Lands or Property there."

30. This more than corroborates Mr. Jefferson's answer to Mr. Hammond § 17; and the object of the Attorney General of the United States to the Claims of the *Loyalists* being received by the Board of Commissioners at Philadelphia § 18; and the three shew clearly that a distinction was made by both the British and the American Negotiators between the *American Loyalists* and *other British Subjects* for the purpose of specifically excluding the former even from the benefit of the clause in the 5th article of the Treaty which stipulated *only that Congress should recommend to the State Legislatures a restitution of the property of real British Subjects; but not of persons who had borne arms against the United States* § 6: "Therefore it is utterly impossible that the 4th Article containing a positive stipulation for the recovery of Debts, could be intended to apply to the *American Loyalists; who had borne arms against the United States. They consequently ought not to have been referred to it.*"

Eronomous reference to the 4th Article—same cause why Claimants were not paid in the year 1780.

31. His Majesty's Government will surely not attempt to take advantage of the failure of its own error in ordering this mistaken reference, to deprive these Claimants of their just rights. It is manifest from the letters of Mr. Wilnot and Mr. Marsh, § 16: two of the first Board of Commissioners, that this erroneous reference was the *sole cause* that the present claimants did not receive compensation in the year 1788 together with their fellow sufferers whose rights were exactly similar § 14; and of the grievous hardships they have endured from being so long deprived of their property; in consequence of which most of them have been driven from their former affluent station in society, and reduced to penury and distress.

Distinction established between British Merchants and American Loyalists.

32. The official opinions before mentioned of persons holding such high situations under the American Government establish the distinction between the *British Creditors* and the *American Loyalists* beyond the possibility of doubt: if any doubt could exist of the distinction between a *Merchant residing in Britain*, trusting his property to persons in America in the course of his trade, and losing it; and a *person born or residing in America* being deprived of his possessions and rendered incapable of holding property there, and banished the Country by Acts of Attainder and Confiscation, which operate against him to this day. This distinction and the injury to the *Loyalists* from the want of due attention to the existence and the force of it are more particularly detailed in their Note of 31 January 1815, before referred to.

Long and distinction between Loyalist and Loyalist related.

33. But as the above important distinction appears to have been overlooked by His Majesty's Ministers, so another distinction of a most injurious nature to the present Claimants would seem, from the course of these proceedings, to have been assumed or imagined as an argument for withholding from them that redress to which they are entitled. So long ago as the year 1788 those *Loyalists*, whose confiscated Property consisted of any thing except Debts received their indemnification. *But were they the only Loyalists whose services were accepted by the State—whose lives were endangered—whose fortunes were sacrificed—or whose merits and sufferings were contemplated by Parliament as worthy the consideration of their Country?* The present Claimants were equally *Loyalists*, and had their property in Debts, chiefly on Bonds and Mortgages, confiscated at the same time, and are of course equally within the meaning of the Act 23 Geo. III. ch. 80: and unhappily they have not yet been able to realize their corresponding right to Compensation; and the unpaid balances upon the Awards of the last Board of Parliamentary Commissioners constitute their actual Claims.

Conclusion.

34. The foundations of these Claims are not of a doubtful or perishable nature,-----

- The Proclamations of HIS MAJESTY, His ADMIRALS, and His GENERALS;
- The Resolutions of BOTH HOUSES OF PARLIAMENT;
- The Manifesto of HIS MAJESTY'S COMMISSIONERS acting under the Act 18 Geo. III. ch. 18;
- The Speech of HIS MAJESTY to both Houses of Parliament after the Peace;
- The Addresses of BOTH HOUSES OF PARLIAMENT in answer to the King's Speech;
- The Speeches of the MINISTERS, &c. in both Houses on the discussion of the Treaty of Peace;
- The ACT OF PARLIAMENT (23 Geo. III. ch. 80.) embodying all the foregoing;

These are the solemn pledges of the Executive and Legislative Bodies of an Empire pre-eminent amongst Nations for its faithfulness and honor, even to its enemies. *Will then His Majesty's Advisers, in the exercise of that exalted Office, make themselves parties to a Violation of the faith of all the highest Authorities in the State, and of the sacred word of Majesty itself, to its own Subjects, bereft of their Property and Outcasts from their Native Land, in consequence of the part they took under an implicit reliance on the fidelity of the promises held out to them?* It is impossible! And the injurious delay of payment of the Balances still due can only have proceeded from their not having yet fully considered the Case of these Claimants; who now look with confidence to the justice of Parliament for the fulfilment of those engagements in the same manner as to their fellow sufferers thirty years ago, trusting to the support of every Member who shall kindly condescend to examine the fair pretensions of their Claim.

LONDON, 1 June, 1815.

4 Case, page 52

‡ The British Negotiators.