

Reasons of American Government's refusal to admit *Loyalists* to the benefit of 10th Article of Treaty of Peace.

17. So many difficulties arose respecting the 10th Article of the Treaty, which related to the recovery of *Lobbs*, that it finally became necessary for the British Government to send out a Minister Plenipotentiary to bring the difficulties, if possible, to an amicable conclusion; and in 1791 Mr. Hammond was appointed for the purpose. His Letter of the 5th March 1792, to Mr. Jefferson, Secretary of State to the United States, he completed of the *Lobbs* sustained by the *Loyalists* or *Debtors* during the Revolutionary War in consequence of Resolves of Congress, and Laws of the different State Legislatures in violation of the Treaty of Peace. Mr. Jefferson in his answer of the 20th May following, shows that the Article in favor of the *Loyalists* was only recommendatory, observing, "That when the American Government consented to Negotiating the Peace, in every other than the 10th Article of the Treaty agreed expressly to do; why in 1791 do they change suddenly and agree only to recommend? Because the things here proposed to be done were retrospective to their nature; would tear up the Laws of the several States, and the contracts and transactions, private and public, which had taken place under them; and retrospective Laws were forbidden by the Constitutions of several of the States. Hence, by way of *preliminary*, placed out of the present discussion, all acts and proceedings prior to the Treaty of Peace, considering them as settled by that Instrument, and that the then state of things was adopted by the Parties."

Treaty of Amity 1794

18. At length the Negotiation terminated in a Treaty of Amity, Commerce, and Navigation between His Majesty and the American Government, signed at London the 19th November 1794; by the 6th Article of which the American Government agreed to make full and complete Compensation to *British Creditors* who had been prevented by legal impediments from recovering Debts contracted before the Peace, and still owing to them by Citizens or Inhabitants of the United States; and Commissioners were appointed for ascertaining the Amount of such Losses. This Commission was established in Philadelphia in May 1797; and being ordered by the British Government, the American *Loyalists* made their Claims at that Board. The first claim so made was objected to by the Attorney-General and official Agent of the United States asserting "That the Claimant having been attainted by an Act of the State of New York, passed before the Peace, on Account of his Adherence to his Britannic Majesty, and being one of that Description of Persons known under the Denomination of *Loyalists* or *Refugees*, he did not possess a Character entitling him to claim before that Board; that the Debts due to him having been confiscated by the said Act, he was not a Creditor within the meaning of the 6th Article of the Treaty of Peace; and came only within the recommendatory provisions of the 5th Article thereof." And such difficulties were imposed by the American Commissioners, who at length altogether withdrew themselves from the Board, that no one Object of the Treaty could be effected; and the British Commissioners, after remaining some months longer, returned to England in August 1800.

Commissioners meet at Philadelphia.

Loyalists precluded benefit of 6th Article of Treaty of Peace by Acts of Attainder and Confiscation.

Treaty of Amity ineffectual.

Convention of 1802

19. Negotiations however were renewed between the two Governments, and on the 5th of January 1802, a Convention was signed; by which the United States engaged to pay, and His Majesty consented to accept, for the Debt of the Persons described in the 6th Article of the Treaty of 1794, the Sum of £600,000 sterling, in Six Annuities, and the Course of the Money which the United States might have been liable to pay in pursuance of that Article, which was thereby declared to be cancelled and annulled. And on the 23d of April 1803, an Act of Parliament was passed, 44 Geo. III. ch. 39, appointing Commissioners for apportioning and dividing the same. The *Loyalists*, by Order of Government, presented their Claims for Losses by Debts to this Board, whose Adjudications on the entire Claims presented to them amounted to £1,120,000; of which the Sum adjudicated to the *Loyalists* was £237,837; 12s. 8d. and the Payments thereon £103,813; 11s. 8d.

Balance due to the *Loyalists*

Leaving a Balance of £882,074; 11s. 8d. still due to them on their adjudged Claims, exclusive of Interest from the 1st of June 1784; to which time only Interest was calculated in their Schedules by order of the Commissioners; and before a shilling was allowed to a *Loyalist*, the most distinct and unequivocal proof was required of his title to that Character. But in resorting to this Fund by order of Government did they obtain such redress as to shut out their future Claims as *Loyalists*? or did they abandon their final Claims sanctioned by the Act of Parliament? Certainly not. They took what they were ordered in part discharge of their Debts, and profited in discharge of their Claims as *Loyalists*, upon the *Public*; but they did not abandon, and it never can be supposed for a moment that they ever thought of abandoning their Claims as *Loyalists*, for Compensation of the balances to the extent of the Awards in their favor; which Awards, on account of the Investigation being deferred upwards of twenty years, and the loss of evidence by deaths in that long interval, do not in general amount to more than a third part of the real Losses bona fide sustained.

Commission completed in 1811.

20. The Distribution of the £600,000 occupied the Commissioners till 1811; their last Report is dated 19th May in that Year.

Petition of *British Merchants* to the House of Commons

21. On the 22d of January 1812 a Petition, prepared by the *British Merchants trading to America before the War*, for the Balances due upon the Adjudications of the Commissioners and Interest thereon, was presented to the House of Commons. The Commissioners having expressed their decided opinion that the Balances would be paid to all the Claimants to the extent of their Awards, this Petition was signed as a matter of course by some of the *American Loyalists* in their capacity of Creditors who had gone before that Board by order of Government; but their Character of *American Loyalists* was not noticed in that Petition.

Memorial of the *Loyalists* to the Lords of the Treasury.

22. Wherefore on the 3rd of December 1812, finding that the sentiments of Government were not favorable to the Claims of the *British Merchants*, the present Claimants presented a Memorial to the Lords of the Treasury, setting forth their distinct pre-claim as *American Loyalists*.

Report on the *Merchants' Petition*.

23. The Report of a Committee of the House of Commons on the Petition of the *British Merchants* completely establishes that the Whole of that Proceeding had no Reference whatever to the Case of the *American Loyalists*; about whom, as in the Petition, not one Word was said. This Report was taken into consideration the House on the 26th of May 1813, and the Petition rejected.

Communications of the *Loyalists* with His Majesty's Ministers.

24. Before the consideration of this Petition, Mr. Matthew White, one of the present Claimants, had several conversations on the subject of the *American Loyalists' Claim* with Lord Liverpool and the *Connector of the Telegraph*, who acknowledged the distinction between the two Cases. It was suggested to Mr. Vansittart to move for the Amount of the Balances due to the *Loyalists* on the Adjudications of the Commissioners, in a Committee of Supply, as Mr. Pitt had done in 1788; or to bring it forward himself in any other way that he might prefer; or to concur in its being brought forward by Mr. Wilberforce, who had expressed his willingness to undertake this kind office, with Mr. Vansittart's assent to the measure. This last was considered the arrangement; and a Petition to the House was prepared and transmitted for the purpose, in a Letter from Mr. White to Mr. Wilberforce, dated 8th April 1813; of which the following is an extract. "Lord Liverpool and Mr. Vansittart are sensible of the difference between this Case and the *Merchants' trading to America before the Revolutionary War*; and the latter has assented to the Petition being entertained by the House." Mr. Wilberforce was accordingly about to present it. Mr. Vansittart not being in the House, Mr. White applied to Mr. Bathurst, who being aware of the many conversations that had taken place between Mr. Vansittart, Mr. Wilberforce, and Mr. White, upon the subject, rose to give the assent of the Crown; but observing Lord Castlereagh in his place, requested His Lordship to do it, which he accordingly did. The time for receiving private Petitions having expired, the forms of the House precluded its being received without a Petition for leave to present it; which alone prevented the Case of the *American Loyalists* from being before the House at that time. Such a Petition was prepared; and would have been presented; but was postponed, at the request of Mr. Vansittart, first until the *British Merchants' Petition* had been decided upon; afterwards, on account of the pressure of public business, and until he had contracted for the Loan, and brought forward the Budget.

Continued.

25. On the 30th of June, the *Loyalists* had an interview with Lord Liverpool and Mr. Vansittart; who required an account of the Adjudications of the Commissioners in favor of the *Loyalists*. This was transmitted in a Letter from Mr. White to Mr. Vansittart on the 6th of July 1813; to which Mr. White received the following answer.

"SIR,
"I have to acknowledge the receipt of your Letter of the 6th instant, transmitting a List of Awards to the *American Loyalists*, and to acquaint you, that having communicated with Lord Liverpool on the Subject, it is both His Lordship's Opinion and my own that it is decidedly too late to propose any Measure founded on them during the present Session, even if it be the opinion of Government that Parliament should be resorted to, after the Consideration which they will give to these Claims. The Causes which have rendered the further Consideration of this Subject necessary are so well known to the Gentlemen interested that I feel it quite unnecessary to restate them, and I much regret that so much time has been lost. I am aware that the List of Claims before me is distinguishable in principle from the *Reminders* of the Claims lately decided upon by Parliament; but notice having been given to renew the Application of the other Claimants, some Difficulty may be occasioned by that Circumstance.

"I am, Sir, &c.
"S. VANSITTART"

"M. White, Esq."