

British creditors; and it does not appear that any complaint has ever been made, that those claimants, who were American loyalists, have been particularly unfortunate under the proceedings of the board. Nor is it improper just to mention, though not as matter of correct consideration, that great as were the reductions made on many of their claims, proceeding often on grounds which, with them, as with others, were their misfortune, not their fault, it will be found that reductions equally great, if not greater, took place in the cases of British merchants, and other claimants, before the board.

It is indeed fair to say, that if any distinction, in favour of a particular class of claimants, had occurred, it would have received its full effect before the board, and yet their impartiality and equal attention to the peculiar merits of every particular case cannot now be proved; but it will be presumed, their adjudications being not only conclusive under the Act, and actually carried into effect by the immediate distribution of the money at their disposal, but having proceeded on grounds and inferences, of which the commissioners themselves could now give no other account, than that they satisfied their own minds at the time, as far as they could be satisfied on such a subject. The evidence on which they decided was of every possible kind, including a voluminous mass of American letters of correspondence, which was obtained, under their authority, from their claimants, or their agents; and laid open the most useful and pertinent information, respecting the situations of debtors, and other circumstances generally or specially affecting the value of the debts claimed on at the different periods in question; the losses to which creditors in that country had at all times been subject; the game of hazard, in giving credits, which many of them played; the delays and disappointments to which the necessities, loose principles, and general habits of debtors, before as well as since the revolution, gave rise, for none of which, as causes of loss, the United States were liable; from all which matter, *taken* together, including the facts communicated in special orders to the parties, and the explanation in their representations, (many circumstances appearing, in one case, which materially affected others,) with the addition of those impressions which, in many instances, the manner in which claims were conducted before them, whether by open and candid disclosure on the one hand, or attempts to conceal the truth and deceive the board on the other, they drew their final conclusions to the best of their judgment, considering themselves, as they explained in their general printed order of the 17th of May 1806, as placed in the situation of "jurors assessing damages in a complicated cause, where it was not possible to arrive exactly at the truth, but which they were nevertheless bound to decide."

But, although nothing express or implied is to be found in the treaties, or the proceedings under them, or in the act of Parliament, or the proceedings under it, to distinguish the case of those holders of adjudications who were American loyalists, it may perhaps be said, that they derived pretensions, on this subject, from a former proceeding, which related to them only. The 5th article of the treaty of peace had *recommended* to the United States the restitution of the real and other property, which had been confiscated, as belonging to the loyalists, on the principle already referred to, but, as might well have been anticipated, no regard whatever was paid by the United States to that recommendation; a board of commissioners was therefore, in 1784, established by act of Parliament, with power to inquire and report on the actual losses sustained by those loyalists, and on the estimates and report of that board, including, on principles of great liberality, allowances for loss of profession and office, adequate provision was made for them by Parliament. But claims for loss of *debts* were not admitted by that board, the loyalists having, on that head, been referred to the 4th article of the treaty of peace; to the benefit of which, and all its consequences, they would be entitled in the distinct character of *British creditors*, in common with all other His Majesty's subjects of that description. On this it is said they contend, that because they were prevented by this reference to the 4th article of the treaty of peace, from receiving, at that time, a full and adequate allowance for loss of debts, they hold a stronger pledge now, for the *full* and complete benefit of that article, and all its consequences, than the other creditors it was meant to secure. But, in fact, they were not prevented by the reference to the above article, rightly so made by that board, from receiving an allowance for any such loss, but by the nature of the case; for no such loss could at that time (immediately after the peace) be charged as incurred in breach