

for the final settlement of this important business by a special article, drawn up with much accuracy and anxious precision, after a long and laborious negotiation between lord Grenville, in person, (who was in constant communication with the London and Glasgow committees,) and Mr. Jay, chief justice of the United States, the minister plenipotentiary appointed (as being a lawyer, with a view to that difficult subject,) in the treaty of amity commerce and navigation, concluded in November 1794.

This article (the 6th) authorized the establishment of a board of commissioners, finally as arbitrators, to decide on the matter between the two nations, by awarding to the individual sufferers such compensation, as after the fullest investigation, (the means of which were amply provided for,) those commissioners should find to be just. The preamble of which referred to the complaints of "divers British merchants and others," giving the lead to the particular description so specified, not as having any higher pretensions, but being more prominent in the proceedings, and more deeply interested than others. The description of "British creditor," being the essential character which applied equally to all.

Accordingly, the majority of the commissioners, who were appointed and sat at Philadelphia, under this article, considered themselves as bound to proceed on the claims of all persons, without distinction, whose *national character* came within the description of the treaties, and who had not lost the benefit of it under them, that is, of all who appeared to their satisfaction to be, in the general language of the above article, "His Majesty's subjects," and had not, by accepting of American citizenship after the peace, barred their claim, including those who, having been colonists, were, according to the 4th article of the treaty of peace, "on the side" of His Majesty at the peace, and to whom, as already mentioned, the appellation of American loyalists had been given; no such appellation, or distinct class or character, had; however, been recognized before the board; there being no difference whatever, under the above articles of treaty, between the individuals of that description and the rest of His Majesty's subjects generally; though, on the part of the United States, the loyalty of those former colonists was made the ground of a favourite objection to their claims. They contended, with much warmth, that their own declaration of independence, in 1776, was the instrument which, even as to Great Britain, gave them independence as a nation; that all who were then settled on their territory became instantly their subjects; and that the acts of attainder and confiscation, which their legislatures had passed during the war, against those who, in breach (it was said) of their *new* allegiance, had adhered to His Majesty, were justly recognized by their courts of law, as having divested the persons, thereby attainted, of all right to recover payment of their debts, which had been thereby confiscated to the state; but the board decided, that as *against His Majesty and his subjects*, the date of the treaty of peace, whereby His Majesty, without any retrospect, acknowledged their independence was the rule; and that those previous acts of attainder and confiscation against His Majesty's subjects, instead of barring their claims, did, in fact, so far as they affected the recovery of debts, constitute clear and manifest "lawful impediments," within the direct meaning of the treaties; entitling them in common, and as standing exactly on a level with the rest of His Majesty's subjects, to compensation for whatever loss the board should, on investigation, see cause to ascribe to their operation.

When, after a long protracted course of controversy on points of construction and principle, the further proceedings of that board were prevented by the unexampled conduct of both the American commissioners, who in obedience, as they avowed, of the instructions of their Government, and notwithstanding their oaths of office, and the nature of their trust, which rendered all instructions, from either of the parties, altogether inadmissible, seceded or withdrew from the board as soon as they found that the majority (whose voices, by the treaty, were to be decisive) could not be diverted from their duty, but were determined not to suffer the object of the commission to be defeated by those sinister and evasive means, which there was reason to believe had been contemplated from the beginning, the claimants of course complained loudly of the accumulated hardships they had so long suffered, but expressed their confidence, that His Majesty's Government would protect their rights to the full extent of whatever it might, on further investigation, be shewn that the above board would have awarded, if this flagrant infraction of treaty had not taken place. But those well founded complaints proceeded from all the claimants in the single character of His Majesty's subjects, and on grounds which were common to all without distinction. The *British merchants*, properly so called,