

were left by those Parliamentary commissioners and by parliament, not "*erroneously*," as the note, without assigning any reason, asserts, but advisedly and as matter of course, to the protection and subsequent effect of the 4th article of the treaty of 1783, which laid a ground for future indemnification, in that respect, in favour of *all* His Majesty's subjects, without distinction, in terms which included the impediments of attainder and confiscation, attached to the character of the loyalist, along with all other impediments of the law whatever; and so the board, at Philadelphia, rejecting the argument of the Attorney General of the United States against their title, and sustaining their right to claim as British subjects, as well as the late board expressly decided, giving to them, of course, the same right to compensation for the impediment arising from attainder and confiscation of *debts*, in breach of the 4th article of the treaty, as to the British merchant, for the various impediments which were directed against him, such, for example, as the total bar by the plea of "*British debt*," every adjudication of the late Board having for its rule the extent to which the impediment or impediments complained of operated, and consequently when the operation was a *total* bar to the remedy, (as that of *confiscation* in the one case, and plea of "*British debt*," in the other) adjudging a compensation to the amount of the *estimated* value of the *whole* debt or debts so affected.

The words of the fourth article of the treaty of 1783, were as general as possible, that "there should be no lawful impediments on *either side* to the recovery, &c." including, of course, *all* creditors on the side of His Majesty equally, whether in Great Britain or America, that is, whether, as the note distinguishes, "*English merchant* creditors," or "*American loyalist* creditors;" and the terms of the sixth article of the treaty of 1794, "whereas it is alledged by divers *British merchants and others*, His Majesty's subjects," were at least equally so; containing no other allusion to any one class of creditors in particular, than what might be inferred from the special description and precedence given to "*British merchants*," on account no doubt of the superior magnitude of their interest; and yet, if there had been persons who possessed rights of a superior nature to those who were thus expressly described and prominently brought forward, it is not probable that they would have been thus thrown behind, under the general expression "*and others* His Majesty's subjects."

The assertion in the note, that the stipulation by the 4th article of the treaty of 1783, was solicited by "the *English merchant creditors*," only, and that the negotiator who settled that business, was sent to Paris for that purpose, on the application of those English merchant creditors only, as if the creditors, who were American loyalists had then stood aloof, or some peculiar title which required no stipulation to protect it, as apparently, though of little consequence, without foundation. Nor does it appear, that in any part of the long train of communication between Government and the creditors, including the American loyalists as creditors, from the year 1783 till the 6th article of the treaty of 1794, was, after an intricate and laborious negociation, agreed on; or in any part of the terms of that well considered article; in the commission, or any of the anxious and controversial proceedings at Philadelphia under it; or in the remonstrances and manifold applications to His Majesty's Government from the creditors at large, including those of them who were American loyalists, on the disappointment of that commission; or in the Act of Parliament passed in 1803, in consequence of the compromise with the United States, by the convention of 1802, appointing the new commission; or in any of the proceedings under that new commission; or in the petitions to the House of Commons of the holders of adjudications under that commission, including those loyalists; or in the reports of the select committees of the House of Commons on those petitions, and the evidence taken before them, any such separation of character or distinction of title, as that now set up, was ever recognized.

The writer of these remarks, therefore, presumes to think it perfectly clear, that the answer stated in the note to have been given by His Majesty's ministers, viz. "that there did not appear any such material distinction between the case of the loyalists and creditors, as to justify any new proceeding; and that it is not possible now to separate the case of the loyalists from that of the creditors, with which it has

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*Note.*—Accordingly this paper, which abounds in assertions against the plainest facts and documents, presents the following axiom—"It is clear, that the 4th article never contemplated the situation of the loyalists in any shape!" What, not *as creditors on the side of His Majesty*; their claims and complaints, and the adjudications they obtained, proceeding expressly on the losses they sustained in breach of that article.