

## R E P O R T.

THE COMMITTEE to whom it was referred to consider of the REPORT which, upon the 25th of March 1812, was made from the Committee on the Petition of the several Persons whose names are thereto subscribed, on behalf of themselves and others whose Claims have been adjudged good by the Commissioners appointed by the Act of Parliament passed in the 43d year of His Majesty's reign, intituled, "AN ACT for appointing Commissioners for distributing the Money stipulated to be paid by *The United States of America*, under the Convention made between His Majesty and the said United States, among the Persons having Claims to Compensation out of such Money;" and who were empowered to report their Observations thereupon to the House;

HAVE, pursuant to the Order of The House, considered the said Report: And no further Evidence being adduced before Them, they beg leave to refer The House to the said Report, and the Appendix thereto annexed.

REPORT from the COMMITTEE on *American Claimants* Petition:  
Ordered, by The House of Commons, to be printed, 25 March 1812.

THE Committee to whom the Petition of the several Persons whose Names are thereto subscribed, on behalf of themselves and others, whose Claims have been adjudged good by the Commissioners appointed by the Act of Parliament passed in the 43<sup>d</sup> year of His Majesty's reign, intituled, "AN ACT for appointing Commissioners for distributing the Money stipulated to be paid by *The United States of America*, under the Convention made between His Majesty and the said United States, among the Persons having Claims to Compensation out of such Money," was referred;—HAVE, pursuant to the Order of The House, examined the matter of the said Petition; and have agreed upon the following REPORT:

IT appears to Your Committee, that an extensive Commerce, in British manufactures and other articles, was carried on between *America* and *Great Britain* before the war of 1776 with America; and in the course of such commerce, a very large credit was given to America, so that at the time when hostilities commenced, a Debt, amounting to several millions, was due from the Citizens of America to the British Merchants, and considerable sums to others His Majesty's subjects; and that during the continuance of the war, it was scarcely possible to recover any part of such debt.

Appendix,  
No. 1.

That by the 4<sup>th</sup> Article of the Treaty of Peace between His Majesty and the United States of America, signed at Paris 3d September, 1783, it was provided, "that Creditors on either side should meet with no lawful impediment to the recovery of the full value in sterling money of all bona fide debts theretofore contracted."

That in breach of this Article of the Treaty, certain Laws were made in the different States of America, immediately subsequent to the Peace, for the direct purpose, as it appeared to one of the Witnesses, of defeating that Article; and other laws

REPORT (March 1812) FROM COMMITTEE ON

- laws which had been made prior to the Treaty of Peace, and during the war, and which ought to have been repealed in conformity to the Treaty, remained still in existence; and by the instructions given by Judges to Juries, and the practice of American Courts, the plea of "British Debt" was held in those Courts to be a good plea, and decisive against the claimants.
- That by these means, the recovery of debts to a very great amount was prevented; and in consequence thereof, many and urgent representations were made by the British Creditors, to His Majesty's Government, complaining of the existence of legal impediments in America, which, by preventing the recovery of debts in that Country to British Subjects, rendered altogether ineffectual the provision contained in the 4<sup>th</sup> Article of the Treaty of Peace. That the case of the British Creditors occupied a very considerable portion of the time and attention of Lord Grenville, after he became Principal Secretary of State for Foreign Affairs; and his Lordship appears to have been convinced that such representations were perfectly well founded. And the redress of these grievances being an object of primary importance with the Government in negotiating the Treaty of Amity, Commerce and Navigation concluded between His Majesty and the United States of America in the year 1794, it was by the 6<sup>th</sup> Article of that Treaty agreed, that in all cases where full compensation for the losses and damages sustained by British Subjects, by the operation of lawful impediments to the recovery of their debts, subsequent to the Peace, could not be obtained by the Creditors in the ordinary course of justice, the United States would make full and complete compensation for the same to the said Creditors; and that for the purpose of ascertaining the amount thereof, five Commissioners should be appointed, of whom three were to constitute a Board, with full power; and all decisions were to be made by the majority of the Commissioners present, and their Award to be final and conclusive. And the United States undertook to cause the sums awarded, to be paid in specie to the Creditors without deduction.
- That another Article (the 7<sup>th</sup>) was introduced into the said Treaty, in favour of the Citizens of the United States, whereby it was in like manner agreed, that in all cases where adequate compensation for the losses and damages sustained by American Citizens, by irregular or illegal captures or condemnations of their vessels and other property, during the course of the war in which His Majesty was then engaged, could not be obtained in the ordinary course of justice, the British Government would make full and complete compensation to such American Citizens; and that for the purpose of ascertaining the amount thereof, Commissioners should be appointed in like manner, and with the like powers in all respects, as the Commissioners under the 6<sup>th</sup> Article.
- That this Treaty was negotiated by Lord Grenville in person, and that a system of reciprocity was in his Lordship's view, and, as his Lordship believed, in that of the American Minister, meant to be established by the said 6<sup>th</sup> Article, containing stipulations in favour of His Majesty's Subjects, and the 7<sup>th</sup> Article, containing stipulations in favour of the Subjects of the United States.
- That a Board of Commissioners, duly appointed under the 6<sup>th</sup> Article of the said Treaty, met accordingly at Philadelphia in May 1797, and Claims were brought in before them to the amount of £. 5,638,629 sterling. That, after certain progress had been made in deciding on principles necessary to regulate the decision of the Commissioners on the Claims made before them, and after a controversy which arose, and continued for a long time, the American Commissioners adopted the practice first (in the course of the year 1799) of withdrawing themselves from the Board, when they found the opinion of a majority of the Board against their opinions, the American Commissioners alleging, that the stipulation of the 6<sup>th</sup> Article did not require them to give effect, by their presence, to proceedings which they said they deemed injurious to the just rights of the United States, and which they also stated they believed it to be their duty to resist in such cases, by all the means to which the Treaty enabled them (as they stated) to resort. That they afterwards entirely absented themselves, and withheld their attendance; by reason of which no effectual proceedings could be had, it being necessary by the Treaty, that one Commissioner on each side, and the Fifth Commissioner should be present. The British Commissioners and the Fifth Commissioner, continued to attend for more than a twelvemonth after the withdrawing of the American Commissioners, who had given in a Minute, implying, as stated by Mr. Macdonald, that they would not attend without certain radical points were conceded, which, in the opinion of the other Commissioners, being a majority of the Board, would have defeated the object of the Treaty. That in the month of August 1800, Mr. Macdonald, who was the First Commissioner
- named**

named on the part of His Majesty, returned to Great Britain; and the conduct of the British Commissioners, in the whole of the proceedings under the said Commission, was most highly approved by His Majesty's Government.

Appendix,  
No. 1.

That the execution of the said 7<sup>th</sup> Article, was suspended by orders from the British Government in July 1799, immediately upon Government being apprized that the proceedings of the Commissioners at Philadelphia, under the 6<sup>th</sup> Article had been interrupted; and that such suspension was continued until after the Convention of 8 January 1802, hereinafter mentioned.

Appendix,  
No. 1.

That previously to the signing of the Treaty of Amity in 1794, communications were made from Lord Grenville to Messrs. Nutt and Molleson, who acted as a Committee for the London Creditors, enclosing Questions, in order to collect information of the Claimants, whether they would prefer a fixed sum in lieu of all their claims, or the adoption of measures for opening the Courts of Law in America to British Creditors, with an appeal to some special Court or Commission.—These questions, however, were not put as a proposal to which their consent was required, but as a matter for consideration, and on which the King's Government wished to have their sentiments, it being the desire of Lord Grenville to inform himself of the wishes of the Claimants on the subject as fully as possible, before any step was taken.—These questions also appear to have been transmitted to the Glasgow Creditors, and a correspondence in consequence took place: whereby it appears that the whole sum which, upon a scale of compromise therein mentioned, the Claimants wished to be negotiated for, or to be provided by the British Government, would not probably amount to much more than £. 2,000,000. sterling.

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Appendix,  
Nos. 7, 8, 9.

That in or about the month of April or May 1800, subsequent to the interruption of the proceedings of the Commissioners at Philadelphia, Lord Grenville made the following Propositions to the Claimants, which his Lordship thought were stated to them in the same manner as the Questions in 1794; viz.

First: A renewed Commission, in conformity with the Treaty of Amity.

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Second: Or, to accept a sum of Money in lieu of the Claims under the 6<sup>th</sup> Article of the Treaty of Amity.

That various communications, in consequence of these Propositions, took place between the London and Glasgow Committees or Agents of the Claimants and Lord Grenville; in some of which the Claimants expressed their wish for a stipulated sum to be paid to them, finally to put an end to the whole business; and with regard to the amount of the sum (they stated) they were more at a loss from not knowing the exact amount which had been claimed under the 6<sup>th</sup> Article of the Treaty of 1794, or the manner in which the different claims had been made up with regard to interest, &c.; but, from what they were informed of the amount being about Five millions, and allowing that some part might be cut off, either from being improperly claimed or not sufficiently ascertained, both of which might be better known to His Majesty's Ministers (as they stated) and deducting such payments as might have been made on their debts before the ratification of the proposed agreement, they were willing, on obtaining the guarantee of the British Government, to accept of Two Millions and an half sterling, rather than those claims should continue as a subject of contention and a source of discontent between the two Countries, or that they should experience the hardships and vexations which they had reason to expect in the prosecution of their debts in that country.

Appendix,  
Nos. 17, 18,  
19, 20, 21,  
22, 23, 24

Appendix,  
No. 25.

That His Majesty's Ministers declined advising his Majesty to guarantee to the Creditors the payment of any sums which the American Government might agree to give in liquidation of their demands.

Appendix,  
No. 26.

That in or soon after December 1800, during the negotiation which led to the Convention between His Majesty and the United States in January 1802, Mr. Macdonald, at the request of the Under Secretary of State for Foreign Affairs, communicated to him, that he conceived a sum between a million and an half and two millions. would be a fair sum to be demanded from the United States, for the loss which their laws or judicial practices in breach of the Treaties had brought upon the Creditors. And afterwards, on 4<sup>th</sup> May 1801, Mr. Macdonald, in answer to certain verbal inquiries, made a further communication to Mr. Hammond, Under Secretary of State for Foreign Affairs, that he imagined a fair execution of the Treaty of 1794 would have made good about two millions of the sums claimed.

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No. 29.

That other communications were made in the year 1801 to his Majesty's Government by the Claimants, urging His Majesty's Ministers to take measures to procure their just demands, and stating, that if that was not done, their only resource would

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Nos. 28, 33.

be to throw themselves, by an application to Parliament, upon the justice of the Nation, for fulfilment of the 4<sup>th</sup> Article of the Provisional Treaty with America, and of the 6<sup>th</sup> Article of the Treaty of Amity; or if, for political reasons, the execution of these Articles on the part of America should not be rigorously exacted, that compensation should be made to the Claimants by Great Britain.

Appendix,  
No. 35.

That a Convention was signed on 8th January 1802, between His Majesty and the United States of America, whereby the United States engaged to pay and His Majesty consented to accept, for the use of the persons described in the said 6<sup>th</sup> Article of the Treaty of 1794, the sum of £. 600,000 sterling, in satisfaction and discharge of the money which the United States might have been liable to pay in pursuance of the provisions of the said 6<sup>th</sup> Article; which was thereby declared to be cancelled and annulled, except so far as the same might relate to the execution of the 7<sup>th</sup> Article of the said Treaty. And it was further agreed, that the Commissioners appointed in pursuance of the said 7<sup>th</sup> Article, and whose proceedings are therein and hereinbefore mentioned to have been suspended, in consequence of difficulties having arisen in execution of the 6<sup>th</sup> Article, should immediately reassume and proceed in the execution of their duties.

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No. 36.  
No. 37.

That the said Convention was first communicated by Lord Hawkesbury, then Secretary of State for Foreign Affairs, on the 14th day of January 1802, to the Committee of London Claimants. And they, by letter dated the 19th of that month, and the Committee of Glasgow Claimants, by a letter dated the 24th of the same month, expressed their dissatisfaction therewith, and claimed the due execution of the 6<sup>th</sup> Article of the Treaty of 1794, or a proper compensation for their losses.

Appendix,  
No. 1.

That the said Convention was concluded by Lord Hawkesbury without the concurrence of the British Claimants, and his Lordship stated, that he could not speak as positively from recollection whether without their privity, but he had no reason to think it was with their privity; and he also said, that when he came into office as Secretary of State for Foreign Affairs, he had a personal communication from Lord Grenville, of all the circumstances of the Negotiation as it then stood; that he had likewise one conversation at least with Mr. Pitt upon the subject; that his Lordship had likewise several interviews with Mr. Molleson and Mr. Nutt; and he had also access to all the documents at that time in the Office—That the result of this information was an opinion formed by his Lordship, that the Claimants had no chance of recovering their dues in the American Courts—That the sum of £. 600,000.

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then offered by the American Government was as large a sum as could be obtained, and that in consequence of the unfavourable change that had taken place in the American Government towards the end of the year 1800 or beginning of the year 1801, by the Federal Administration being changed for that of Mr. Jefferson and his friends, his Lordship was of opinion that if the offer then made had been refused, so favourable an offer was not likely to be renewed. And his Lordship having been asked whether the circumstances alluded to in his Lordship's answer had any object in them of a national nature, or were confined simply to the probability and improbability of the recovery of the demands made by the British Merchants, said, that he conceived the considerations to have been of both descriptions; that at the time when his Lordship accepted the sum of £. 600,000. the 7<sup>th</sup> Article of the Treaty of Amity had been suspended; but the sittings of the Commissioners under the 7<sup>th</sup> Article of the Treaty of Amity, recommenced soon after by virtue of the 3<sup>d</sup> Article of the Convention, and the sum of £. 1,369,448. 15. 10. was paid by His Majesty's Government to American Citizens, in pursuance of awards made by the Commissioners under those Articles, except only a sum of £. 25,284. 14. 1. which had been previously paid in the year 1798.

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No. 1.

Appendix,  
No. 1.

That in March 1803 the Claimants presented a Memorial to His Majesty's Government, and had an interview with Mr. Addington, the Chancellor of the Exchequer, and thereby protested against the proceedings of Government in accepting the said sum of £. 600,000; whereupon Mr. Addington said he considered their case to be a hard one, so much so, that he had no objection to the Claimants applying to Parliament or to His Majesty's Government; but that he meant to give no opinion upon the merits of the case, and that as the losses were not ascertained, he did not conceive that Parliament would then entertain a Petition—To which the Claimants acceded, laying in their claim that such acquiescence should not be considered as barring them from bringing forward their case at a future time. And accordingly the Claimants did not then present any Petition to Parliament.

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No. 1.

That an Act of Parliament was passed in April 1803, for the apportioning, dividing, and distributing the said sum of £. 600,000 amongst the several persons who should be found entitled to receive compensation out of the same; and Thomas Macdonald, Esquire, Henry Pye Rich, Esquire, and John Guillemard, Esquire, were thereby appointed Commissioners, whose adjudications were to be final.

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That the Commissioners so appointed, were the same persons who had acted as the British Commissioners and the Fifth Commissioner at Philadelphia, under the Treaty of 1794. And claims were made by the King's Subjects in general of various descriptions, to the amount of £. 5,408,766. 6s. And the Commissioners made adjudications thereon, to the amount in the whole, of £. 1,420,000, which were not completed until the 19th May 1811.

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That such adjudications proceeded on an estimate in every case, from the various materials before the Commissioners, of the loss which they conceived had been sustained by the respective parties, and did not comprehend any losses, excepting those which America was bound to compensate under the 6<sup>th</sup> Article of the Treaty of Amity; besides which, it appeared from the materials before the Board, that the British Creditors had sustained great losses, for which the United States were not bound to give compensation under the 6<sup>th</sup> Article of the Treaty of Amity, in furtherance of the 4<sup>th</sup> Article of the Treaty of Peace.

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No. 1.

That the Commissioners having thus made adjudications in favour of various Claimants, to the amount in the whole of £. 1,420,000. have apportioned and divided amongst those persons, the above-mentioned sum of £. 600,000. together with the further sum of £. 59,493. which had been made as interest by investing the said principal sum in Exchequer Bills previous to its being divided amongst the Claimants; and the difference between the £. 659,493. so divided, and the £. 1,420,000. so adjudged, together with interest on such difference, from the 1st day of June 1804 (to which day the interest on the sums adjudged, had, by order of the Commissioners been calculated) constitutes the sum for which the Petitioners make the present application.

Appendix,  
No. 39.

25 March 1812.

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APPENDIX.

## A P P E N D I X,

Appendix, No. 1.

## MINUTES OF EVIDENCE.

*Lunæ, 17<sup>o</sup> die Februarij, 1812.*

JOHN INGRAM LOCKHART, Esquire, in The Chair.

*James Richard Millar, Esquire; called in, and Examined.*

WHAT Situation are you in?—A Merchant.

Were you so in 1776?—No; I was then a merchant's clerk in the Virginia trade, in America.

Did you ever reside in Virginia?—Yes, several years.

How long previous to the year 1776 had you acted as Clerk?—About eight years.

During that time did you acquire a knowledge of the course of trade between this Country and the United States;—Yes, I was employed in the collection of several debts, from 1772 to 1776, due from American merchants to merchants in Glasgow.

Do you know whether there was an extensive commerce carried on between America and England before the war of 1776?—Very extensive.

What was the general nature of it?—All sorts of British manufactures from hence; and tobaccos and wheat from Virginia.

Do you know whether that commerce was beneficial to this Country?—I think it was.

In what particular respects?—As a proof of that being my opinion, I entered into the same business myself as soon as the peace.

You mean after the peace of 1783?—Yes.

Who gave the largest credit, American or English merchants?—The British merchants by far.

You mean there was more owing from American merchants to the British Merchants, than from the British merchants to the American merchants?—Yes, by far.

Can you state at all in any proportion?—No, I cannot; but I can say that there was very little due to the Americans.

Then the credit was mainly given to the Americans?—Yes; they imported goods for a capital to trade upon merely.

After the war broke out, did you find it possible to recover any debts due to the British merchants from America?—Scarcely any at all.

Did you remain in America during the war?—No, I did not, I left it in August 1776.

Did you solicit any debts after the peace of 1783, in America, that were refused?—I recovered a trifle for myself.

Did you recover the whole amount of your debts?—No, I did not; they deducted the interest for eight years.

Do you know, of your own knowledge, of any lawful impediments that existed in the Courts of America to prevent the British merchants from recovering, after the peace?—I do not know that, I did not return to America for some time after, I did not return till 1790; I did not recover any thing by process of law; some people did, I believe.

Do you know of your own knowledge of any persons after 1790 being prevented by any legal obstacle from recovering their debts in the American Courts?—I cannot say I can charge my memory with it; I was going to state, the House I did business for had £.20,000. owing to them from America, that I did not collect.

Did you afterwards collect it?—I did not.

During the whole war, what length of credit were the British merchants accustomed to give to the Americans?—Twelve or fifteen months was the allowed credit.

What length of credit did the American merchants give to the British merchants?—I cannot answer that.

*J. R. Millar,  
Esq.*

*Martis, 18<sup>e</sup> die Februarij, 1812.*

JOHN INGRAM LOCKHART, Esquire, in The Chair.

*Thomas Macdonald, Esquire; called in, and Examined.*

No. 1.  
 T. Macdonald,  
 Esq.

WERE you appointed Commissioner under the Sixth Article of the Treaty of 1794 with the United States?—In consequence of having been honoured with an invitation to accept of that appointment by Lord Grenville, I was appointed First Commissioner.

In consequence of that appointment, did you meet the American Commissioners?—I did.

There were five Commissioners in the whole appointed?—Two by each of the Governments, with the power to them to appoint a fifth.

What year did you meet in?—I sailed first from England in December 1796, and we met in May 1797 at Philadelphia, having been previously occupied in the necessary enquiries for the choice of a fifth Commissioner.

Was that Commissioner appointed, and by whom?—The arrangement was left in a great measure to the management of the Commissioners, but the plan adopted was this—On the part of Great Britain, I and my colleague proposed three English gentlemen then in America; on the part of America, there were proposed to us three American gentlemen; they made choice of one of the three suggested by us, and we made choice of one of the three suggested by them, upon which a ballot took place, giving by that means some participation in the appointment to both Countries; the lot fell upon one of the English gentlemen, Mr. John Guillemard.

And he became the fifth Commissioner?—He did.

How soon did you begin to examine into the claims of the British merchants?—Immediately after the appointment of the fifth Commissioner.

At Philadelphia?—At Philadelphia.

Were very large claims preferred?—Claims to a very large amount were preferred, but not till after considerable delay.

Did that delay appear to be imputable to the British merchants, or in part to the difficulties they might labour under?—I think partly to the difficulties, and the wish to see what might take place in the cases of others before they came forward.

In the course of the discussions of the Commissioners, did any impediment take place against a decision?—After a long continued controversy, carried on partly verbally and partly by written minutes, the American Commissioners adopted the practice first of withdrawing themselves from the Board when they found the opinions of a majority of the Board against their opinions, and afterwards of entirely absenting themselves and withholding their attendance; it being necessary by the Treaty that one Commissioner on each side and the fifth Commissioner should be present.

At the time that these impediments began to manifest themselves, had you made any decision upon any claims?—We had not made any absolute decision, that is, any award for money, because it was thought desirable, as there was a variety of points under the Article, which had been drawn up with great labour and ability, first to establish the constructions or principles which might afterwards apply to the facts that came before us; and it was in the course of the discussion on those preliminary points of construction and principle that the controversy took place.

At that time had you received many claims?—Eighteen months by the Treaty was limited, we had therefore received all the claims.

Had you made any progress in ascertaining the amount of any of them?—Not in ascertaining the amount, the amount being matter of fact, which of course would follow the constructions that we meant to establish; and I should add, that the parties had presented to us very full statements of the facts and the averments on each side of the question.

Had you heard any evidence at that time in support of the claims?—We had, both parol and written; the claims amounted to nearly six millions sterling.

Then delivered in?—Then delivered in.

To what result did the conduct of the American Commissioners absenting themselves lead?—A very full Minute or Resolution was drawn up by me, in answer to a very elaborate Minute on the part of the American Commissioners, and communicated to them by the majority of the Board, who were always ready to attend, and who always did attend for more than a twelvemonth after the withdrawing of the other Commissioners; the Minute remonstrating on the proceeding that had taken place, and stating the grounds of dispute between us.

Previous to this, had the American Commissioners entirely refused to attend?—They had.

Upon any condition?—They did not express any condition, but their Minute implied that they would not attend unless certain radical points were conceded, which in the opinion of the other Commissioners would have defeated the object of the Treaty.

Is that Minute in existence?—Both Minutes and many others are ingrossed in the books of the Board of Philadelphia, which I have in my possession; they were also printed,

and



and copies sent to the Government of this Country; therefore they are in the proper offices.

Do you remember the dates of them?—No; but I refer to the books.

Did they withdraw?—They did in fact withdraw, to prevent a vote, and at last absented themselves altogether.

When did the last meeting take place?—I would beg leave to refer to those books which I have in my possession, and which shall be forwarded to the Committee.

Will the books containing the claims distinguish between debts that were on contract and those of a mercantile nature?—There is no such distinction in the classification of the debts in the books; but in point of fact there were many of the King's subjects made claims which did not relate to mercantile concerns.

You made no such classification;—No; because we thought we were to do equal justice to every description of the King's subjects without distinction, and also to the United States.

What was the proceeding, after the American Commissioners withdrew entirely?—The course or manner of proceeding was to notify, from time to time, our readiness to attend, to keep up the establishment of the Board, Secretary, and Clerks, with our Office as usual, and occasionally to appear in that Office for that purpose.

Can you tell generally how long that course was adopted?—Till the summer of 1800.

At what time did they retire?—In the course of the year 1799 they had, in the way I have stated, withdrawn, and at last altogether absented themselves.

Do the books contain the evidence of any of the claims?—Not the books; they only minute the claims and proceedings, referring to the memorials, the statements, lists of debts, depositions of witnesses, and written documents before the Board.

Was any verbal evidence given in support of the claims?—Yes, in many instances.

Was that put down in writing, and preserved?—Yes; and regularly referred to in the books, which I presume to say will be found extremely complete.

Was any evidence given of legal impediments that occurred to the recovering of debts in the Courts of America in 1783? Certainly; and evidence of the strongest nature.

Is that preserved?—It is, in essential points.

Did it appear to you that the absence of the American Commissioners was occasioned by difference of opinion as to the general principles laid down for the government of the conduct of the Board, or that they withdrew themselves whenever any decision was likely to be given that might possibly lead to an award inconsistent with what they considered the interest of the American Government?—I have no doubt in saying, that the motives of their conduct were in general those stated in the latter part of the question; and that they acted in consequence of direct instructions often daily given by their Government. My reason for stating this thus distinctly is, that one of the points of discussion was the character and proper duties of the Commissioners; I and my colleague maintaining on the one hand, that the original appointment of a Commissioner ought to cease to have any operation whatever, that a Commissioner appointed by His Majesty as a National Arbitrator was as much bound to protect the interests of the United States as to forward and maintain the rights of the particular claimants; the American Commissioners, on the other hand, almost avowing that they considered themselves as National Agents, bound to act according to the instructions of their Government; in consequence of which, I moved that the oath of office should be read from the Treaty.

It seems that the answer given applies rather to the first point than to the latter of the former question; how do you reconcile this apparent inconsistency?—My meaning is, that although in general it did appear to me, especially in the latter stage of the proceedings, that the American Commissioners acted upon the principle of preventing awards, except to some evasive or colourable amount, yet their individual opinions may in many instances have gone along with their opposition, and that therefore I do not charge them with meaning, in every instance, to act entirely as agents, but in consequence of their own judgments.

Is the Committee to understand, that they sometimes withdrew for the reasons stated in the first part of the former question, though generally for those stated in the latter part?—I conceive it would be impossible for me to ascertain their motives in every instance, so as to distinguish when they acted on the one principle and when on the other.

Do you mean that the American Commissioners withdrew rather with a view to prevent decisions in point of construction of the Treaty from being made adverse to their interests, than in order to prevent specific decisions upon the merits of particular claims?—They withdrew, as I conceive, to prevent decisions on points of construction such as would unavoidably have drawn after them special awards against the United States.

Were not general principles agreed to by the Board on the construction of the Treaty?—General principles were understood to be established by the opinions of three members of the Board, which we hold to be decisions, because the three members having expressed their opinions in the Board, we considered that, under the Treaty, that was decisive.

You conceive that the three Commissioners could decide on principles, but not make an award?—Three Commissioners, including one on each side, and the fifth Commissioner, could do every thing under the Treaty, make awards, as well as decide on questions of construction or principle.

After the American Ministers had withdrawn from the Board, did they at any time offer to return on condition that the opinions offered by them on any question should be the rule?—They did not speak out their purpose so broadly, but the Minutes will shew.

After all intercourse had ceased between the English and American Commissioners, did His

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His Majesty's Government express any approbation of the conduct of the three Commissioners who remained at the Board?—I was prepared to expect that no communication whatsoever would take place between His Majesty's Government and myself or any of my colleagues after the business commenced in America, having learned from the Secretary of State, previous to my departure from England, that the idea I had presumed to state respecting the nature of the office, namely, that I was not to be subject to instructions, but to consider myself as I have already stated, as a national arbitrator, entitled and bound under the oath in the Treaty, even to disobey instructions if they had been given contrary to my judgment in the Board, was correct. The fact accordingly was, that no communication whatsoever of approbation or disapprobation was made by His Majesty's Ministers to the three Commissioners forming a majority of the Board, or to any one of them; and it was not till my return to England, on leave of absence, in the autumn of the year 1800, that I had the honour of receiving the thanks of the Principal Secretary of State for Foreign Affairs, for the conduct I had been fortunate enough to pursue. Till then I did not know whether that conduct would be approved or not, and will confess, that as the tenor of the conversations I had held with His Majesty's Ministers implied a wish on the part of this Government, that nothing that was not perfectly just and even moderate, should be done against the United States, I was fearful that whatever might have been my own conviction, both as to what we had done and our intentions to apply our principles with liberality, the constructions I had moved, and which were maintained by the majority of the Board, might possibly be thought too severe as against the United States.

Did you receive any public and official approbation of your conduct in the commission from any of the Ministry, at the time of your return or since?—In the first instance I had only a private conversation with the Lord Chancellor at Weymouth, where I landed from the frigate, on finding the King was there; the Lord Chancellor presented me to the King, in my hearing explained to His Majesty the nature of the controversy and the trust I had held, in consequence of which I had His Majesty's orders to attend Him on the Esplanade the next morning, where, by His Majesty's command, I further explained the nature of the business: I then went to Town, and having called at the Foreign Office to give notice of my arrival, an appointment was made by Lord Grenville, Principal Secretary of State for Foreign Affairs, for my attendance on him at his Office; I did attend, and there I received his approbation in very flattering terms, his Lordship having suggested the propriety of presenting me at St. James's, where he was pleased to observe, he would mention the matter to the King. Afterwards, in November 1802, I had the honour of receiving a letter, now in my hand, from Mr. Addington, then Chancellor of the Exchequer, expressive also of his entire approbation, in these terms:

“ Dear Sir,

“ Richmond Park, Nov<sup>r</sup> the 5th, 1802.

“ I think myself very much obliged to you for your letter, and for the publication with which it was accompanied.

“ It is a great satisfaction to me to assure you, that there will be very little farther delay in completing the arrangements for your pension, which you will consider not merely as a pecuniary compensation for the loss you sustained by withdrawing from your professional pursuits, but as an honourable testimony of the great sense that is entertained of your able and upright conduct in a most delicate and trying situation,

“ I have the honour to be, with sincere esteem,

“ Dear Sir,

“ Your faithful and obedient Servant,

“ Henry Addington.”

I had the honour of receiving accordingly a grant from His Majesty of five thousand pounds, with reference also to a pension of £.770. for life, which repeated nearly the same words as are to be found in Mr. Addington's letter, as the cause of the grant, and to which grant, dated in April 1800, I refer. I may here also state, that after my return to England, I received a private letter from Mr. Thornton, then Chargé d'Affaires in America, in which, knowing that I was perfectly ignorant whether my conduct had been approved or disapproved when I left America, he congratulated me on the subject of a dispatch which had just been received from the Principal Secretary of State for Foreign Affairs, expressive, in strong terms, of the approbation of His Majesty's Government of the constructions maintained, and of the conduct which the majority of the Board had pursued under the Commission.

What was the date of that dispatch?—Dated probably in the month of May 1800.

Can you state what would have been the probable amount of the sum under an award in favour of the English claimants, if the Commissioners had duly proceeded to an award, and the opinion of the majority of the Commissioners had been adopted on the points in discussion?—Having had the memorials of the parties, their schedules, averments, and all the evidence which had been adduced, for a considerable time before me, and after the American Commissioners had withdrawn, having had little else to occupy my attention, I did certainly bestow considerable pains to arrive at something like a rational conjecture on that subject; and although I speak from memory of what my impressions then were, not having taken any exact note of them, I think I was clearly of opinion that about two thirds of the claims would have been rejected, under the constructions and principles we had maintained, not meaning however to say that any thing like that amount was unfounded in point of justice, but that, on account of defective evidence and other causes, it would not have been possible for the Board to have avoided rejecting a very great part of the claims under the Treaty.

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When you formed this opinion, was it upon any investigation of the cases of the American Debtors that might have been brought forward in answer to the claims of the British Merchants?—Certainly not on any particular investigation.

Upon what principle then did you form that opinion?—I have made use of the phrase rational conjecture, for the purpose of giving the Committee to understand, that I do not think it entitled to be considered as an opinion beyond that sort of impression which a general view of the circumstances before me, and to which I have alluded, might have enabled me to form.

Were those circumstances *exparte* only, or had you any statement on the other side upon which to found your rational conjecture?—There were statements on the other side drawn up by the Attorney General and Agent for the United States, the course having been for the Board, when a claim was presented which did not contain in it its own ground of rejection, to order it to be answered by the United States; answers were accordingly in many instances made, which however in general applied to objections on the construction of the Treaty, without entering specially, but in a few instances, into the facts, except in so far as was necessary for the argument on construction; therefore so far as regarded the situation of debtors, for instance, their solvency or insolvency, that is, whether the debts were good or not at the Treaty of Peace, the grounds from which I drew the conclusion I have presumed to state, were in a great measure *exparte*.

Then you had no accounts before you, except upon one side?—I think not; if there were, they were in very few instances.

In point of fact then it was an *exparte* consideration?—With the qualification I have given.

Were those debts considered, at the time of the appointment of the Commissioners, as private debts due from individual to individual, or as a debt due from the Government of America?—They were private debts assumed by the Government of the United States, who were liable under the Treaty for the awards, whatever might be their amount, which should be given by a majority of the Board.

Was it understood that the American Government was to pay those debts without looking for any reimbursements from the individuals who were still solvent or not?—The Board were authorized by the Treaty to order an assignment to the United States of the private debts of individuals, on which their award should proceed, in consequence of which they might have relieved themselves so far as the debtors were solvent.

In framing any award, though the American Government might be deemed the ostensible party, would you have conceived yourself exempt from the ordinary duty of inquiring into the details of a case from the American Debtors themselves?—Certainly not.

If the awards made under the Commission which sat subsequent to the Convention of 1802, had been made so early as the year 1797, and the decisions had been framed upon the principles which guided your adjudications, to what amount do you conceive those adjudications would have extended?—I cannot undertake to give an opinion as to the precise amount to which they would have extended, but I may safely state, in consideration of the subsequent death of claimants and agents, as well as loss of evidence in support of good claims, that a larger proportion of the sum total claimed would have been adjudged to be good than has been so adjudged by our Board.

*Jovis, 20<sup>o</sup> die Februarij 1812.*

JOHN INGRAM LOCKHART, Esquire, in The Chair.

*Maurice Swabey, Esquire, LL.D. called in, and Examined.*

WERE you appointed a Commissioner to ascertain the losses of the American Citizens, alluded to in the 7th Article of the Treaty of 1794?—I was appointed one of the Commissioners on behalf of the British Government, for the execution of the 7th Article of the Treaty between His Britannic Majesty and the United States of America.

Under that Treaty did you make awards in favour of the claims of the citizens of the United States?—Perhaps the majority of those claims, as one of the Commissioners.

Do you mean to say, that you sat on the majority of those claims as a Commissioner?—I took my seat in 1798, after Sir John Nicholl was appointed King's Advocate, and sat till July 1799, when those functions were suspended by directions from the British Government.

Do you recollect when you made the first award?—There had been several awards made during the time of Sir John Nicholl, and there were some awards made after I became a member of the Board; but the majority of the awards, I believe, were subsequent. There are many hundreds, I believe.

You cannot tell the amount of the sums under those awards?—Perhaps by infinite trouble I might be able to do it, but by no means so easily as it can be done at the Treasury, where they were all paid, or by the Votes of the House of Commons.

*Thomas Macdonald, Esquire; again called in, and Examined.*

Have you any further explanation or addition to make to your former evidence?—With the permission of the Committee I have. I should in the first place beg leave to state, that having received the summons late in the evening preceding my examination, and not being

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aware that certain particulars would be enquired into on which I was examined, the answers I gave are not entirely to my own satisfaction, in some respects: not essentially erroneous, but requiring some explanatory additions. In the first place, on the subject of the conduct of the American Commissioners, I think it my duty to state, that during the life of Colonel Innis, who was one of the Commissioners appointed by General Washington, the proceedings of the Board were perfectly unanimous, his conduct throughout having been correctly honourable. After his death, which happened in August 1798, dissents were first entered in the form of protests by the Commissioners on the part of America against the opinions of the majority of the Board, and such dissents were entered on very important subjects: Among others, on the case of Dulany, on the subject of forced payments of British debts, during the war, in paper money depreciated many hundreds to one; and which it was contended on the part of America were a complete extinction of the debt, barring all claim before the Board: In the case of Cunningham and Company, a whole body of lawful impediments had been completely proved to the satisfaction of a majority of the Board, as existing and operating against His Majesty's subjects in Virginia; on which subject a special resolution or decision in that form was regularly entered on the Minutes, only dissented from by the American Commissioners: In like manner a very important resolution or decision took place in the case of Strachan and Mackenzie, by which it was resolved by the Board, that the Instalment Laws, passed during the war in South Carolina, had been proved to their satisfaction to be complete lawful impediments within the Treaties. These and various other important points were understood by the majority of the Board to have been completely settled; and they affected large classes of Claimants, entitling them in the first instance to claim, so as to have the particulars of their statements investigated. And here I should mention, that as I have said the proceedings were unanimous during the life of Colonel Innes, that there were also some most important points decided during that period; such as in the case of the Right Reverend Charles Inglis, Bishop of Nova Scotia, who with many others of His Majesty's loyal subjects had been attainted during the war, and their estates confiscated, including all debts due to them. It was decided unanimously, but not till after long discussion, that such attainder and confiscation was no bar to the claim on the part of the claimant, as a British subject. It was also there decided, that the confiscation of personal debts during the war had not the effect to bar the claim for compensation on account of those debts. These cases last mentioned were unanimous decisions; those before mentioned were decisions held to be equally valid, but under the protest or dissent I have mentioned. On the 28th of August 1798, Mr. Sitgreaves, a leading Member of Congress, and very able man, having vacated his seat for that purpose, was appointed Commissioner in the place of Colonel Innis, deceased, and immediately after the long-continued course of controversy I have before mentioned commenced, an incessant debate having been kept up in the Board. Still, however, certain decisions were allowed to take place with the dissent only of the American Commissioners, as in the case of payments during the war, under a law specially made by the Americans for that purpose, of debts due to British subjects into the State treasuries, in the highly depreciated paper I have already described, which were also held by the Americans to have been complete extinctions of the debts; these were decided to be no bar to claims, the American Commissioners only dissenting. On the 19th of February 1799, the opposition was, however, carried further, the American Commissioners having withdrawn from the Board so as to prevent a vote on the subject of a Resolution in the case of the claimant who has been already mentioned, the Bishop of Nova Scotia, on which occasion a very long Minute was entered, to be found in page 460 of the Minute Books of the Board, arguing the whole matter first in the form of the Resolution proposed; the conclusion of which, upon the point of secession, or the right to secede or withdraw, as explanatory of what I formerly stated on that subject, is the following sentence, which, with the permission of the Committee, I will read from the Minutes; it is as follows: "And in regard to the right of secession assumed and now acted upon by the Commissioners named on the part of the United States, the merits of which are sufficiently discussed in the Minutes of the 11th of January last, that as they had thought fit to carry it into effect in the present case on a question of evidence upon which a majority of the Board were completely satisfied, and on conclusions so little manifest as to require or admit of arguments so voluminous, it is impossible to conceive a case in which the same course of conduct may not ultimately be pursued; thereby reducing the majority of the Board to a state of absolute dependence on the minority, and, with all the powers of definitive settlement which they possess, consigning them to the occupation of investigating facts which they cannot apply, and maintaining discussions on which no decision may ever be permitted to follow." The above passage is in page 635 of the Minutes. The next instance of secession took place on the 9th of July 1799, in the case of Andrew Allen, in consequence of a Resolution by the majority of the Board, that as he was on the side of His Majesty at the date of the Treaty of Peace, he was well entitled to claim as His Majesty's subject, although he had at first taken part with the Americans, and not joined the British forces (as it was stated) till December 1776; the American Commissioners insisting on that ground that he was the subject of their Government, and notwithstanding the unanimous decision of the Board in the case of Inglis, maintaining that he was not entitled to the benefit of the Treaties. The Resolution of the Board on that subject will be found in page 807 of the Minutes of the Board; and as the ground or pretence on which the American Commissioners on this occasion withdrew, was, that this doctrine was inconsistent with their independence, endeavouring to make the objection in this case to the proceedings of the Board a political question,

question, the concluding sentence of the Resolutions was on that account in these words: "The said principles and the conclusions containing nothing inconsistent with that perfect respect which is due to the independence of the United States, as the same was recognized on the part of His Britannic Majesty by the first Article of the Treaty of Peace." For I should say that the doctrine of the Americans was, that whatever was done by them subsequent to the declaration of independence, was to be held even under these Treaties as good law affecting the national character of individuals, and barring their right to claim before the Board. Afterwards, viz. on the 17th of July, they attended; when I made a motion (as I had done on other occasions) in favour of the United States, for rejecting the claim of Robert Williams on a general ground of affecting other cases; and on that occasion there was no difference of opinion. But when the British Commissioners and the Fifth Commissioner arrived at the Office, to hold a Board, two days after, they received a Letter from the American Commissioners, giving them notice that they were determined, "under existing circumstances, not to give their further attendance." Accordingly, in attending afterwards on the 31st of July, at my request, to receive and enter a Minute I had drawn up on all the disputes between us, they did so on the express condition that no other business should be proposed. I now present the Minute Books of the Board in America, authenticated by the signatures of all the Commissioners, which have ever since been allowed to remain in my possession; they consist of three volumes, and an index. I also present a List of the Claims, made up in columns under my directions in America, but not as an act of the Board, stating the amount of these presented, and classing them according to their different natures: which leads me to observe on an answer made in my last examination, respecting the conjecture which I presumed to make as to the probable amount of what might have been made good under the decisions of the Board, if it had been allowed to proceed, that in forming that conjecture, I had probably before me this classification: and applying the several cases according to their nature to the principles which I conceived to be decided, and binding on the two nations; also considering that there was no dispute with respect to a very great part of the debts as between the private individuals, the Debtors and Creditors, many of them having been debts by speciality or books, admitted to have been due, the Debtors being dead, no appearance made on their part, and all investigation in many instances rendered impossible in consequence of the lawful impediments which had been proved, creating so great a delay that the means of inquiry had been lost; considering further, that the decision of the Board upon the whole could not have proceeded on specific grounds respecting each of the particular items of debt claimed before them, which amounted to many thousands of articles; but that the Commissioners, as I conceive, must have acted as a Jury in many instances, assessing damages where they were absolutely compelled to decide whether with or without entirely satisfactory grounds, and must have given their award therefore on general conclusions; I beg leave to explain, that it was on these grounds that I took the liberty of even forming a conjecture on the subject, having it completely in view that as it seemed to me impossible that, with the dispositions and ideas of such duties which seemed to prevail in that country, to bring the matter to an amicable conclusion there, the question might be asked, with a view to the negotiation which I supposed would be unavoidable, What would be a fair and moderate demand on the part of Great Britain for the purpose of settling the matter, as I have every reason to know was the earnest wish of his Majesty's Government; on amicable terms? it was impossible to do more than say such a sum would be a reasonable demand, and with that view alone it was that I formed the estimate. At the same time I did not think it necessary to preserve any note of my grounds of conclusion, because I will admit they were extremely general, and I had no doubt that some measure, such as has taken place, would be adopted for ascertaining in a conclusive manner the amount of the sums which would have been adjudged good under the 6th Article of the Treaty of 1794, if the Commission had been executed so far as it was at all possible to ascertain that amount. For the convenience of the Committee, I also lay on their table printed copies of the principal Minutes I have now referred to.

[The Witness delivered in printed Copies of five different collections of Minutes, from December 1798 to the 31st of July 1799; together with the List of Claims, and the Minute Books of the Board which sat at Philadelphia; and then proceeded as follows:]

These Minutes were printed in America by order of the Board, and Copies of them transmitted to his Majesty's Government; on which I have reason to believe their opinion of the proceedings was formed.

Were the decisions of the Board prior to the 19th February 1799, considered by you to be completely valid under the 6th Article of the Treaty of 1794, notwithstanding the dissent of the American Commissioners, as they did not on those occasions withdraw themselves from the Board?—In my opinion they certainly were, although the American Commissioners did on various occasions maintain, that, considering this matter as an amicable adjustment, so much respect was to be paid to their dissent; that a Resolution ought not to be considered as decisive where such dissent took place; it being in vain represented in answer, that the Treaty was the law of the Board, and that although nothing was more amicable than the wishes and intentions of the three Commissioners forming the majority of the Board, yet they could look at nothing but the Treaty. It was however evident, that ever since the death of Colonel Innes, the American Commissioners acted under the immediate instructions of their Government; and on some occasions, particularly when the Board decided in favour of compensation for loss occasioned by payments forced on the Agents of British Subjects in depreciated paper money

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money during the war. The ferment among the people was very great; for however unimportant the proceedings of that Board may have been considered in this country at large, they formed, while it sat, a great topic of popular discussion in many parts of the United States.

That ferment was, I suppose, in disapprobation of the decision of the Board?—Certainly so.

As affecting their interest?—Yes; for nothing was so odious as the idea of a tax to pay what they thought had been already extinguished in a manner, which had cost them little or nothing; and as the manifest breach of the Treaty by the secession of their Commissioners, had been justified by gross misrepresentations in many of the innumerable newspapers in that country, I thought it advisable, previous to my departure for England on leave of absence, to publish a "Brief Statement," as it was entitled, "of Opinions given in the Board of Commissioners," with explanations of the conduct of the British Commissioners, for the purpose of shewing that nothing improper had either been done or intended towards America; which, I understood, was circulated by Mr. Liston after my departure; and I received a Letter from him, stating, that he had no doubt it would produce the best effects. I have this Publication now in my hand.

[The Witness delivered it in.]

When the American Commissioners withdrew from the Board, did the Attorney General of the United States also withdraw, or did he remain to rebut the claims that were to be made?—No appearance was afterwards made on the part of the United States.

Will you have the goodness to state in what manner the proceedings before the Board were conducted on the part of the Claimants and United States, and what agents were present, both to bring forward the claims, and to give the necessary answers?—On the part of the Claimants, the memorials and various statements were drawn up by themselves or their own special agents, many of whom had been sent over to that country, or remained there for the purpose of attending the Board; but it was thought advisable by His Majesty's Government, to appoint one general Agent, who should superintend the proceedings of the special agents, and to whom the Board might direct all orders, the special agents being very numerous, and occasionally in very distant parts of the country. A Lawyer of Philadelphia was accordingly appointed to that situation, with a salary from this country, which was intended as a full recompence; notwithstanding which, it was afterwards discovered that he had taken large fees from the Claimants, for doing his duty. On the one hand, therefore, there were special agents and a general Agent for Claimants, by whom all cases were argued; on the other side, the Attorney General for the United States was placed in opposition to the general Agent for Claimants; but he obtained an appointment from the Government, of a special Agent for the United States, to act subordinately to him; all papers were therefore signed by the one or the other of those agents: and all verbal pleadings, though they seldom occurred, were carried on by them accordingly.

Did either of those attend the Board after the secession of the American Commissioners?—The general Agent for Claimants, as well as some of the claimants themselves, and many of their special agents, remained in attendance for a very considerable time, having presented first a remonstrance to the Board against what had taken place, and then a representation to His Majesty's Minister there, complaining in strong terms of the breach of the Treaty, and of the extreme hardship they had suffered; but on the part of the United States, neither the Attorney General nor any person whatsoever on their part ever attended or appeared. One of the American Commissioners, Mr. Sitgreaves, however, was sent by the American Government to England, to represent what they stated to be the erroneous doctrines which I had moved, and a majority of the Board had maintained, and if possible to obtain a new Convention, with an appointment of other Commissioners, and instructions on the subject. He arrived in England, and made his representations without effect. Meanwhile an intimation was given to me privately, but coming, as I imagine, from the American Secretary of State, that such complaints were to be made, and suggesting that it was expected I should also return for the purpose of defending the proceedings; instead of which I thought it my duty to remain, being accompanied by Mr. Guillemard, the fifth Commissioner, (who, with my colleague Mr. Rich, then gone home in ill health, had always observed the most honourable conduct) so as to be able at any time to form a Board, and to prevent the possibility of its being said that they would have again proceeded if we had not been absent: it was not therefore till leave of absence was transmitted to me from the Secretary of State for Foreign Affairs that I returned, the Commission being still kept up and ready for the conclusion of the business.

You having stated the grounds upon which you had formed an estimate of the probable amount of claims that would have been made good before the Commissioners, had the Commission continued to sit; the Committee wish to know from you whether you ever furnished His Majesty's Government with the estimate you have so made?—At that time no question was asked me on the subject, and I did not think it would have been becoming in me to obtrude any communication respecting it.

Were you asked at any after period, as to the probable sum that would have been awarded?—I was, at a subsequent period:

Have you a copy of the oath of office taken by the Commissioners?—It is here in the books, and a very strong one it is, not only against all partiality, but against all voluntary remission of the duty, diligence being expressly promised.

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The American Commissioners took that oath?—They did; in page 6 of the Minute Book, there is a Minute of the taking the oath by the five Commissioners; and I believe in my former examination I mentioned I had been under the necessity, however unpleasant, to order the Secretary to read the oath of office in the course of the business.

During the negotiations which led to the conclusion of the Convention between His Majesty and the United States in January 1802, did any communications take place between you and His Majesty's Principal Secretary of State for Foreign Affairs, relative to the claims of British creditors; and what was the nature and purport of those communications?—At the request of the Under Secretary of State for Foreign Affairs, I did make a communication, stating, after preparing myself by a recollection of all the circumstances, and a consideration of such papers as were in my possession, what I conceived to be a fair sum which might be demanded from the United States.

What was that sum?—I think I did not speak precisely, the nature of the subject being such as to render it extremely difficult to answer the question; but according to the best of my recollection, I proposed something between a million and a half and two millions, not less I think than a million and a half.

Was this communication in writing?—I did transmit certain remarks in writing, and as I remember they were of very considerable length, being intended however as a private communication.

Was the application to you in writing?—It was by a note from Mr. Hammond.

Was the first communication of the sum made verbally or in writing?—Not having retained a copy of my notes, for which I made a search this morning, in order to be able to speak correctly, I really am not quite certain whether I stated the result of my opinion verbally or by those notes; I thought it of the less importance, because I was convinced that some regular proceeding must take place to ascertain conclusively and correctly the amount of what was due to the creditors under the Treaties, which I imagined might perhaps have taken place before a final settlement with America; being at the same time extremely aware of the vague nature of such conclusions.

You are quite sure of having made the communications either verbally or in writing?—Of that I am certain.

Have you now stated the substance of all the communications which you made to His Majesty's Government on this subject, previous to the termination of the Convention in 1802?—To the best of my recollection I have stated all that fell within the description of communications to His Majesty's Government, but I frequently conversed on the subject with a variety of persons.

In making this calculation, did you advert at all to the probability of such a sum being recoverable in the American Courts, or did you put it only on the footing of what was really legally due to the British creditors?—I had it in view, that as it had been a recommendation of our Board at Philadelphia to all claimants, to proceed honestly in the relief of the United States by such reasonable compromises and recoveries as might be obtained, so I knew that certain recoveries would be made, and had that consideration doubtless in view when I gave my opinion as I have stated.

Do you mean that the United States would be enabled to recover them from the debtors?—By recoveries I mean what the British creditors might still obtain from their debtors; the United States being liable only, according to my conception of the Treaties, for what had been rendered irrecoverable by the operation of what the Board had decided and defined to be "lawful impediments;" but as I knew that the United States had considered that liability as much more formidable since the above constructions had been settled by the Board in a manner which they were aware was binding under the Treaty, I conceive that they would be prepared to pay a large sum on that account.

What was the decision of the Board as which you allude, with respect to lawful impediments?—I mean the various decisions of the Board ascertaining what was or what was not a lawful impediment in every particular case which came before us, and to some of which I have already alluded; the terms "lawful impediments" having been, as might be supposed, the subject of considerable dispute. But the idea suggested in the Board on this subject, among others, at an early period of the proceedings, will be found in certain Notes which I communicated, and had subscribed on the 23<sup>rd</sup> July 1798, in page 130 of the Minute Book, "as the substance of what I had occasionally" (these are the words) "submitted to their consideration, and which I wished to have entered in the Minute Book as such, in order to subject them to that close examination which the importance of the matter demanded, and my desire to be explicit and correct had prompted me to invite." The principles laid down in those Notes were the result of many conversations between Colonel Innes and myself, while he was prevented by indisposition from attending the Board, but yet applied his mind very diligently to the subject; on which principles therefore I have reason to believe the Treaty would have been well executed, had he happily survived. The definition of lawful impediments generally was understood to be whatever in law, or from defect of law, or in the practice of the Courts, produced an impediment in breach of the fourth Article of the Treaty of Peace, that is an impediment arising out of the law either positively or negatively to that effect, certain laws having been made, immediately subsequent to the Peace, for the direct purpose, as it seemed, of defeating that Article, and other laws which had been made prior to the Treaty of Peace and during the war, and which ought to have been repealed in conformity to the Treaty, remaining still in existence, with the instructions given by Judges to Juries, and the practice of the Courts, all proved before us: one instance of which was, its being held a good plea and

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conclusive against the claimants, simply to state on the Record "British Debt;" this was decisive, as will be found proved in many instances, but is stated I think in particular in the Resolution I have already alluded to, in the case of Cunningham and Company, respecting lawful impediments in Virginia.

Is that an unanimous Resolution of the Board?—No; it was dissented from by the American Commissioners, but was not the less good, I conceive, on that account.

Did the sum which you conceived to be a fair compensation for the losses under the sixth Article of the Treaty of Amity of 1794, include compensation for any debts due by persons who were supposed to be solvent in that year?—No, it did not; because I conceived the creditor to have his private remedy, and I meant to confine it only to the loss which I conceived the British creditors had sustained in breach of the fourth Article of the Treaty of Peace, and the Sixth Article of the Treaty of Amity.

Did the Board come to any decision with respect to the validity of the claim on the part of claimants to interest upon their debts during the war?—They certainly did, and it has been an important omission on my part, in not stating that most material proceeding, on which perhaps nearly one-third of the amount of all the claims depended. The Americans maintained that all interest ceased on the commencement of hostilities, on the ground that the means of payment and remittance were prevented. The argument on the part of the claimants I will not trouble the Committee with, but only state the opinion of the Board, which was decisively, after the most mature consideration, and after hearing and receiving long and able arguments against it on the part of the United States, that interest, if otherwise due on the contract, express or implied, was due as much during the war as before or after, for reasons which will be found stated in the Minute Book, page 343, a Resolution on that special point, in the case of Cunningham and Company, a printed copy of which is among those I have already presented to the Committee, and contains the whole matter and decision of the Board on that important subject. When I make use of the word Board, I always mean the Board as legally constituted under the Treaty, that is, a Commissioner on each side, and the fifth Commissioner being present.

Is the Committee to understand, that it was the business of the Board to enquire only into such debts as were not recoverable in the due course of law in the Courts of Justice, on account of the lawful impediments before stated?—It was the business of the Board to enquire into all losses sustained by Creditors through the operation of those lawful impediments, from the deaths, insolvencies or removal of debtors which had taken place during or under the shelter of those impediments, and not to require the institution or prosecution of suits, either at law or equity, which to their satisfaction, on evidence before them, would have been altogether in vain. When I said therefore that, I think I stated from a million and a half to two millions as a fair sum demandable from the United States, I meant to confine the claim entirely to the debt due from the United States to the British Government, for the loss which their laws or judicial practices, in breach of the Treaties, had brought upon the British Creditors, and did not mean to include the private rights of those creditors against their debtors, which were not impeded or affected by those laws.

You have stated, that the interest was only to run on contracts where it was otherwise due; did the decision of the Board, in allowing interest, relate only to securities in which interest was specified, or was interest in any case granted upon simple contract debts?—We only decided the general principle, that the war was to have no operation whatsoever, and that every case would remain exactly on its legal grounds upon the subject of interest.

Was that interest, simple or compound?—Some of the claimants charged compound interest.

What should you have conceived yourself authorized to have allowed by virtue of your Commission?—Certainly in no case compound interest, except where the precise terms of the contract stipulated, or the course of the trade, proved to our entire satisfaction, authorized it; in forming my ideas as to the probable amount of what would have been allowed by the Board, I certainly did not conceive that compound interest would be allowable in almost any case.

In the sum of one million and a half to two millions, which you think you stated to the Under Secretary of State, as in your opinion due from the American Government to the British Merchants, did you in that sum include any and what interest?—I did, interest being due to a very large amount; but I have already said that I did not conceive at that time compound interest was due in almost any case. I ought however to add, that I am now of opinion, that in some cases compound interest might have been made out during the course of the trade, and on the custom of trade, which is in itself an implied contract.

Veneris, 21<sup>o</sup> die Februarij 1812.

JOHN INGRAM LOCKHART, Esquire, in The Chair.

Thomas Macdonald, Esquire; again called in, and Examined.

AT the time that you gave your opinion to Government, as to what would be a fair sum, who was Secretary at State?—Lord Grenville; it was in December 1800, or soon after.

Do



Do you recollect ever being applied to by Lord Hawkesbury, or any person for him, on this subject, after 1800?—I do not.

Had you any conversation with Lord Liverpool?—I had not the honour of any conversation or other communication with his Lordship on that subject.

Did you accept the office of Commissioner to distribute the sum of £600,000. under the Act of Parliament of the 43d year of His present Majesty?—I should state, that I agreed to accept of a Commission previous to the Act of Parliament, and I will explain it particularly: When in Scotland, I received, in February 1802, the Letter I now present, from the Under Secretary of State; it was marked "private;" but in consequence of it the proceeding took place.

[The Witness delivered in the Letter, and it was read, as follows;]

" Private."

" Downing-Street, Feb. 25, 1802."

" Dear Sir,

" A Convention having been concluded between His Majesty's Government and that of the United States, by which it has been agreed that a certain sum of Money should be paid by the latter, in order to its being divided among the British Creditors; and it being expedient, that a Commission should be appointed for the purpose of apportioning the precise sums to be allowed to the respective Claimants, I am directed by Lord Hawkesbury to inform you, that in consequence of the perfect knowledge which you possess of this subject, his Lordship is anxious that you should accept the appointment of First Commissioner of the Board to be appointed for this purpose. If this appointment should be agreeable to you, Lord Hawkesbury requests that you will have the goodness to come to London as soon as you conveniently can. Be assured that I am ever,

" Dear Sir,

" Your most faithful humble Servant,

" G. W. Hammond."

Was that the first communication you had with Lord Hawkesbury on the subject?—It was. In consequence of that communication, I came to Town from Scotland; and having agreed to accept of the situation, a draft of a Commission from the King was prepared, but on consideration it was deemed expedient to have a Commission under an Act of Parliament, in order to vest the Commissioners, as I conceived, with full and conclusive power on the whole subject. The intended Commission from the King had in fact passed the Sign Manual, and as Parliament was not sitting, it was thought proper, for the purpose of preventing further delay, that the Commissioners who were intended to be appointed, should act under a provisional authority, which accordingly we did, having received from the Principal Secretary of State for Foreign Affairs, an official Letter, authorizing us to give such Notices and adopt such preliminary proceedings as we might think fit, preparatory to the regular execution of the business under the intended Act of Parliament. An office was accordingly, under the authority of the Secretary of State, established, and various preliminary proceedings took place, commencing in the beginning of September 1802.

Are they preserved in writing?—They are regularly recorded in the Minutes of the Board afterwards constituted; the Act of Parliament passed in the course of the next Session of Parliament in April 1803.

Did you accept the office of First Commissioner under the Act of Parliament?—Yes.

Together with whom?—Together with the two Gentlemen named in the Act, who were the same who formed a majority of the Board at Philadelphia, namely, Mr. Rich, who was my colleague in that Commission, and Mr. Guillemard, who was appointed the Fifth Commissioner.

To what amount did the American Merchants prefer claims to the Board?—Claims were made by the King's subjects in general of various descriptions within the term prescribed by the Act, namely, before the 1st day of June 1804, to the amount of £. 2,437,658. 9. principal, and £. 2,071,107. 17. interest, making a total of £. 5,408,766. 6.

Did you and the other gentlemen, the Commissioners, make adjudications on the whole of those claims at the Board?—We did make adjudications, having completed them immediately preceding the 20th of May last, to the amount of £. 1,420,000. as notified in a General Order, which was published in the London Gazette and newspapers, and also transmitted to the parties or their agents; a copy of which I now present.

Did the amount of those adjudications include the principal-only claimed, or interest on that principal?—They proceeded on an estimate in every case, from the various materials before us, of the loss which we conceived had been sustained by the respective parties, both principal and interest on the claims which they had presented.

Did you proceed to divide among the claimants any and what sum?—In order to answer that question with accuracy, I must state, that as the Act of Parliament contained a power to make adjudications in part as well as on the whole of a claim, we had accordingly made such adjudications from time to time as the evidence before us appeared to justify; and although we were not absolutely called upon to have done so, with a view to an immediate award, yet we thought it would conduce so much to the convenience of parties, and, if we could accomplish it, it was so much their right to have an appropriation of the divisible fund on such parts of their claims as were adjudged to be good, that from time to time we made orders on the Bank for payments to claimants on such adjudications in part as soon as they were given; so that our last payments have been, in most instances, the balances due on our total and final awards.

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What was the total amount of the sum actually divided among the claimants?—£. 659,493. the sum of £. 600,000. having been increased by interest obtained on Exchequer Bills, in which the Board were authorized to invest whatever part of the money they should think proper by a supplementary Act passed in the 48th year of the King, cap. 21. the mode of our proceeding being this; the party received from the Board an adjudication signed by the Commissioners, adjudging his claim to be good to a certain amount, and the same instrument ascertained a proportional sum to be paid, for which an order on the Bank of England was immediately signed by the Commissioners.

What is your opinion as to the difficulty which the claimants might labour under, as to producing the requisite evidence in support of their claims; and would that difficulty have been materially less, if the investigation had taken place at an earlier period, and in America?—In my opinion, all their difficulties were increased by the delay, particularly on the important subject of the solvency or insolvency of debtors at the Treaty of Peace, which subject formed the chief difficulty on the part of the Board, the question being, Was this a good debt at the Treaty of Peace? so as to entitle the claimant to say, that if the laws had permitted, he could have recovered it. On that important subject, I should here observe, that as before the present Board there was only one party, so we were obliged to throw the *onus probandi*, so far as evidence was necessary, on the claimants, to a certain degree, to shew to our satisfaction that the debts were good, as I have already described, that is, the debtors reasonably solvent at the Treaty of Peace; whereas in the proceedings before the former Board, in America, where there were two parties before us, the Claimants on the one side and the United States on the other, the *onus probandi* on this subject, as soon as a lawful impediment was proved against the United States, was thrown on them, to shew that the circumstances of the debtor were such, that although their laws had permitted, the creditors could not have recovered, or in other words, that the debt was then bad, the claimants being required only to rebut this evidence if they could; therefore the loss of evidence on that subject, by lapse of time, might be considered as attended with greater disadvantages to the claimants now than it was formerly. I would further observe, however, that this applies only to just claimants, for we found that the lapse of time afforded means of bringing forward and supporting pretensions on the part of unjust claimants, which created a great deal of trouble to the Board, the apology being incessant, that they were unable to prove from the lapse of time.

Is the Committee to understand that the lapse of time and the removal of the investigation from America to England, may in your opinion have occasioned the admission of some claims which would otherwise have been rejected on the score of the insolvency of the debtors in 1783?—I think it may have operated both ways, but I am of opinion that the disadvantage to persons found to be just claimants preponderated over the advantage which might have been derived by unjust claimants. And here I would beg leave just to say that the General Order of the Board, of the 20th of May last, which I have already presented, contains this sentence on that subject:—"With this declaration on the part of the Board, that in deciding, with that anxiety which they could not but feel in the exercise of a jurisdiction without appeal, on a subject so large in amount and various in circumstances, at a distance in point of time which was equally a bar to good evidence as an encouragement to false pretensions," &c.

Are you of opinion that these circumstances might have operated in part against any of the persons whose claims have actually been admitted?—I cannot pretend to answer that question correctly from memory as it respects the grounds on which our adjudications proceeded, but speaking generally, I am of opinion that certain impressions were created in some cases rather unfavourable to the claims on the above ground.

Did the Board frequently reject claims, not because they knew them to be unfounded, but because the claimants could not prove them to be founded under the 6th Article of the Treaty of Amity?—By us they were to be considered as altogether unfounded, if they were not founded under the 6th Article of that Treaty.

From those parts of the claims which were found good, were there any deductions made on account of the commission charges and exchange which might have attended the collection of the debts in America, and their remittance to Great Britain?—In making our estimates we certainly had those charges in view, considering the payment of money here to the greater number of claimants, at least as saving them considerable expenses; and this was considered in forming those estimates on which our adjudications in such cases proceeded.

How much per cent. were those deductions?—Such considerations were in general only one ingredient of the many from which we drew our conclusions, and therefore whatever our general principles were, I should find it impossible to say what particular sum in any one case was deducted on that account; observing further, that this only applied to some of the claims before the Board.

Did the adjudication of the sum of £. 1,420,000. comprehend any losses, excepting those which America was bound to compensate under the sixth Article of the Treaty of Amity?—Certainly not, according to the best of our judgment, but what the United States were bound to compensate under that Article.

Besides those losses, did it appear during the investigations of the Board that the British creditors had sustained very large losses by the insolvency of debtors during the American war, for which no compensation has been made?—Certainly it did appear from the materials before our Board that the British creditors had sustained great losses for which the United States were not bound to give compensation under the Treaty, namely, the fourth Article of the Treaty of Peace, and the sixth Article of the Treaty of Amity; the principal ground from

from which I draw this conclusion having been an examination of all the letters of correspondence for many years preceding and also subsequent to the peace, which in consequence of our orders the claimants were obliged to collect and produce, and which letters of correspondence we found to be by far the most satisfactory evidence before us, often against, and, of course, frequently for the claimant; but from them it appeared that the losses for which they had claimed were but a part of the great losses they had actually sustained on the subject of debts.

Were the accounts of the proceedings of this Board submitted from time to time to the Lords of the Treasury, and Secretaries of State?—They were. The Act of Parliament required that the Commissioners should from time to time, at their discretion or as they should be required, give an account or statement of their proceedings to the Lords of the Treasury and the Principal Secretaries of State; which statement or account of proceedings the Board did accordingly at their discretion (never having been required so to do) from time to time give.

Did the Commissioners narrowly investigate the claims, and had they any apprehension that the difference between the amount received from America and the amount of their adjudications would be made good by Government?—Being thus called upon, I have no hesitation in stating what I should not otherwise have presumed to suggest, that I accepted of the Commission and directed the proceedings under an impression, that however vague the former conjecture on the amount of the liability of the United States might be, the result of the measure now adopted would put an end to all difficulties on that subject, and be absolutely conclusive to the amount of the sums which the Board, having a special jurisdiction for that purpose, should ascertain to be good, of the various claims preferred to them; and although one and the same principle ought to regulate every decision, whatever may be the amount at issue, yet I ought not to dissemble that much more anxiety was thereby produced, and more expense and delay may perhaps have been occasioned, under an impression, that a charge on the Country, to the extent by possibility of millions, might be the consequence of our proceedings, which would supersede all former statements or calculations on the subject, than if the question before us had only been, as the title of the Act announced, the distribution of £. 600,000. among His Majesty's subjects.

Is the Committee to understand, that you and the Board acted under the apprehension that the difference would be made good by Government?—Such was my impression; and accordingly in our very first communication to Government, I thought it right that the ulterior claims of the parties should be brought under their view, but without presuming to give any opinion upon it.

When was your first communication to Government?—Supposing the question to apply to the proceedings under the Act of Parliament, on the 17th of October 1803.

Did this impression arise from the suggestions of your own mind, or from any communications on the part of Government?—Entirely from the suggestions of my own mind; it did not arise from any authority.

Did you communicate these suggestions to any of the American claimants, or any Committee representing them?—Subsequent to my acceptance of the office, I had no communication whatever with American Merchants, or other claimants in that character, and in fact avoided all intercourse with them as much as possible individually; at the same time I ought to observe, that subsequent to my return from America, and before my acceptance of the present office, I had frequently expressed my opinion, which might be erroneous, that if any ascertainment took place of the loss which had been occasioned by the breach of the Sixth Article of the Treaty of Amity, the Government, whatever bargain they might make with the United States, would make that loss good to the claimants.

To whom was that opinion expressed?—To persons concerned, as well as others.

Not to any constituted authorities on either side?—No.

Not to Government?—Not so far as I recollect; although I have no doubt that I did express myself frequently in conversation on that subject, and may possibly have done so to persons who were concerned in the Government on the one hand, or the individual parties on the other.

In what did you bring the impressions you talked of before the view of Government?—If the Committee think proper, I will read the passage from the first communication of our Board to Government, entitled, "Statement or Account of the Proceedings of the Commissioners appointed by an Act passed in the forty-third year of the reign of His Majesty, cap. 39," dated the 17th of October 1803, a copy of which is now in my hand: After stating other matters, it goes on to say, "That many of these claims being defective (notwithstanding the instructions publicly given by the Board) in essential statements, we have been chiefly occupied in requiring the necessary additional information, and in forming such general proceeding, or making such particular orders, as circumstances have pointed out, for the purpose not only of promoting regularity and dispatch, but also of enabling us, by a course of correct though liberal investigation, to disappoint the attempts of individuals, who would convert an instrument of fair indemnification into the means of unjust advantage. That such attempts are already very apparent, and have suggested to us the necessity of being extremely guarded in our proceedings, more especially as claimants declare their purpose of stating our adjudications of the several amounts of such claims as we shall find to be just, as the basis of future claims on His Majesty's Government, beyond the proportional sums they shall have received under our orders."

In consequence of that communication, were you ever informed by Government that the expectations

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expectations of the parties were unfounded?—We never were; but I never considered that we were entitled to such communication.

To what office was that communication made?—To the Treasury and the three Secretaries of State, pursuant to the Act, as I have already explained.

Did the impression on the mind of the Board, that Government would make good the difference, produce any effect, either in increasing, or lessening, the sums adjudged?—I cannot conceive that it had the smallest effect; we acted under a very solemn oath, and upon our own honour.

Do you know whether these were the impressions of the other Commissioners as well as of yourself?—Certainly; I ought not to have stated my impressions in the first person, but to have said what I know to be the case, that it was the impression also of my colleagues; and when I say that I stated the pretensions of claimants in the paper to which I have referred, I say so because it was drawn up by myself, being properly, however, the statement of the Board.

Can you state from whence that impression you mentioned, as having been common to the other Members of the Board with yourself, was derived?—It proceeded entirely from our opinion of the justice of the case, suggested by our intimate knowledge of its very peculiar circumstances, the claim not being founded on any general or speculative loss occasioned by war, or such arrangements between nations as are always to be apprehended, but from transactions, between fellow-subjects, giving special rights to individuals which were repeatedly recognized by precise stipulations in Treaties, and surrendered by the nation for the general good.

In point of fact, did you receive any communication of the kind from any part of His Majesty's Government?—I have not the least recollection of our receiving any such, and did not conceive, as I have already observed, that we were entitled to it.

In what manner, and at what time was the sum of £.600,000 imprested to the Commissioners for the payment of the claimants?—I will refer to official Accounts, and answer that question at the next meeting of the Committee.

Were the Commissioners aware, that among the claimants to whom the fourteen hundred and twenty thousand pounds was adjudicated, there were many American Loyalists, whose property had actually been paid into the American treasuries?—We were aware of that fact, and it formed in many instances a ground of claim before the Board to which I have already alluded.

Did it appear to the Commissioners that there was any ground for placing those claimants in any different class from others? They certainly were not placed in any different class; and I do not recollect that any suggestion was laid before the Board to that effect, or occurred to ourselves.

Was any information ever given to the Board of the total amount of the Monies which had been so paid into the American treasuries?—None was ever given of the total amount.

Had the Commissioners any reason to suppose that the sum of £.600,000, which was agreed on to be paid by the American Government, had any reference whatever to the sums which the American treasuries had received?—We had none.

Had the Commissioners any information whatever as to the ground on which the sum to be paid was settled at £.600,000, or the ground on which it was accepted?—None; but indeed that matter could not come properly before us.

Were you ever consulted by His Majesty's Government in the formation of the Convention signed on the 8th of January 1802, by which the sum of £.600,000 was agreed to be accepted by His Majesty's Government from the United States, as a compensation for the claims of the British merchants?—I never was; the Under Secretary of State for Foreign Affairs having only transmitted me a copy of the Convention after it was concluded, which states the sum to be accepted by His Majesty, not in satisfaction to the creditors, but for their use.

Can you produce a complete list of the adjudications of the Board?—Certainly.

Up to what date was the interest included in the adjudications?—Our adjudications proceeded on claims in which interest was charged to the 1st of June 1804.

[It was moved, that the Petitioners be now called in, and informed, that the Committee will on Tuesday next proceed to hear their reasons for calling any witnesses they may have and the subjects on which they wish to examine them.

On which, the question being put, it passed in the affirmative.

The petitioners were called in, and informed of the determination of the Committee.]

*Martis, 25<sup>o</sup> die Februarij 1812.*

JOHN INGRAM LOCKHART, Esquire, in The Chair.

Joseph Alcock, Esquire, called in, and Examined.

J. Alcock, Esq.

WERE you in any, and what situation, under the Lords of His Majesty's Treasury, in the years 1803, 1804, and 1805?—I was chief Clerk in the Revenue department of the Treasury.

During

During all those years?—Yes, all those years.

Can you state the total amount of the sums paid in pursuance of awards made by the Commissioners under the 7th Article of the Treaty of Amity in 1794?—I paid £.1,267,326. 15s. 10d. but there was a sum previous to that paid by Mr. Moore, who is Secretary to the Commissioners, of £.102,122. making in the whole £.1,369,448. 15s. 10d.

J. Alcock, Esq.

Did you pay any sums under the third Article of the Convention between His Majesty and the United States of America of the 8th of January 1802?—I apprehend they were blended in the two, for they were not distinguished; £.25,284. 14s. 1d. part of the said sum of £.1,267,326. 15s. 10d. was paid by me in the year 1798.

Was the whole of the remainder of the sum total you have mentioned, excepting the sum of £.25,284. 14s. 1d. paid in the year 1798, paid subsequent to 1802?—Yes.

Can you state at what periods those payments were made?—In the year 1798 about £.25,000, in the year 1803 £.369,000, in 1804 £.426,000, and in the year 1805 about £.420,000. stating round sums.

To whom were those payments made?—To the holders of the several awards, or their assigns; of course I can tell the individuals if it is necessary.

Was the money paid into the Bank on their account?—No, by me to individuals; there were 509 awards.

Have you any knowledge of the sum of £.600,000 paid to the British Claimants in 1802?—No, that did not come before me.

Edward Thornton, Esquire; called in, and Examined.

WERE you in the City of Washington in the year 1802, and in any and what official situation at the time when the Convention of the 8th of January 1802 was made known there?—I was His Majesty's Chargé des Affairs from the end of the year 1800 to the end of the year 1803, or the beginning of 1804.

E. Thornton,  
Esq.

Can you state what was the general expression of sentiment in America with respect to the terms of that Convention?—It is rather a large expression; I must rather say what I observed among those people who felt a sort of interest in it, and took part in it, which happened to be the Members of the Delegation from Virginia. I will state a circumstance which has occurred to me of one person, either I was witness to it myself, or I heard it; that Mr. Giles, a very distinguished man from Virginia, reckoned the leader of that party, expressed great delight at the signing of this Convention, and declared, he would very willingly have given twice or three times that sum to have got rid of the question altogether. I am pretty sure Mr. Giles said this to me in a party, or in my hearing.

Was Mr. Giles in any official situation?—He was not; he was a Member of Congress, and could only be a Representative, and not any part of the Executive Government.

When you mentioned the Virginia delegation, did you mean only that he was a leading Member of the Representatives of Virginia?—Exactly so.

Was not Virginia the State of America most interested in those claims, and the State which had opposed them the most?—Certainly.

Did you hear any, and what sentiments, expressed on that occasion by other leading men of the Congress of the United States, or by those who were of the Executive Government of that country?—I have no particular recollection of persons, more than the general expression in the way I have put it in the former answer. In another way I ought to say, I remember the President himself, Mr. Jefferson, speaking to me on this Convention, and rather expressing an opinion that a great deal more had been given than could be possibly claimed; but he was a party concerned in it.

Did he then allude to the £.600,000. or to the whole amount claimed?—To the £.600,000.

What do you mean by that term "general expression," to which you have alluded?—I mean that persons connected with the Virginia delegation, and with the Southern part of the country, generally expressed themselves to that effect.

Was Mr. Giles known to be in the peculiar confidence of Mr. Jefferson?—He was certainly regarded as a man, generally, extremely in the confidence of Mr. Jefferson.

Did you hear at any, and what time, what was the ultimatum to which the instructions of the American Minister, who negotiated that Convention, authorized him to go in respect to the money to be paid to Great Britain in satisfaction and discharge of what the United States might have been liable to pay under the 6th Article of the Treaty of 1794, and what was that ultimatum?—I once heard that the American Government directed their Minister to go to the extent of five millions of dollars.

From what authority did you hear it?—It was from a private channel, but it was such a one as if I had heard it in time, I should have thought it my duty to write home to this Government to inform them of; I think it was a very good authority, but a private one.

Would you have transmitted that as an important communication to His Majesty's Government, if you had heard of it previous to the signing of the Convention?—I certainly should, I should have thought it deserving their attention.

Was the channel which you call private, at all connected with the Government of America?—No; he was in no official situation under Government; he was a very respectable merchant, a Scotchman born, who had an intercourse with the leading people in Washington.

No. 1.

E. Thornton,  
Esq.

Did he state this as his opinion, or as a fact which he knew?—He stated it as a thing he knew.

Did he state to you the authority for knowing it?—No.

Then you could not collect from him that he had received it from any part of the American Government?—I did not, certainly.

Did he communicate it to you in such a manner as led you to suppose that he received his information from any official source?—Certainly I should think so.

That is your own conclusion?—It is entirely my own conclusion, merely from knowing the man and his connexions.

As Chargé des Affairs, would not you have held yourself bound to acquaint your Court with any surmise which you heard more than common?—I should have done so in that case if it had been in time.

Did you receive this intelligence before or after the Convention?—It was after the account of its signature had arrived in America.

From the various channels you received that information, it left no doubt on your mind of the fact?—I had very little doubt of the fact, but I never heard it from any other channel.

Had you an opportunity of ascertaining, in consequence of your official situation, the circumstances which induced the American Government to resist the claim of the merchants, and to offer the sum of £.600,000 in lieu thereof?—With regard to the res. tances of the claims of the merchants, I should think that the Government sheltered itself behind the Commissioners, and did not resist itself, but encouraged them to opposition and their final secession, but in no other way came forward themselves till the matter came on in England after the secession had been produced in that way; but as to the circumstances, I cannot give any account of those that induced the American Government to do so, except an apprehension that the awards would be too extensive.

Did the American Commissioners, during the sitting of the commission, ever allege as reasons against their concurring in any award, the occupation of forts, or the detention of negroes?—That is rather a question that one of the Board can better answer than I can.

Had you, in your official capacity, any communication from the American Government to that effect?—No, certainly none at all.

Did you while in America receive any intimation to that effect from any other channel of the same respectability as you have before mentioned?—Never.

Did you ever hear of it through any channel?—Never.

*John Sargent, Esquire; called in, and Examined.*

J. Sargent, Esq.

I BELIEVE you were Secretary to the Treasury?—I was.

Was there a meeting in the month of March 1803 between Mr. Addington, then Chancellor of the Exchequer, and the Petitioners, and were you present?—Yes.

Did they, at that time protest against the proceedings of Government in accepting of the £.600,000, and was it so understood by Mr. Addington?—Mr. Addington certainly understood them to mention it in their conversation undoubtedly.

Did Mr. Addington state their case to be a very hard one?—Mr. Addington said, he considered their case to be a hard one, so much so that he had no objection to their applying to Parliament, or to His Majesty's Government; but he added at the same time, that he meant to give no opinion upon the merits of the case.

Did he advise the Petitioner, to delay their further proceedings till they could state the amount of their losses?—Upon the parties asking him whether he would advise their delaying their Petition, he said he could not give them any advice; that they were to shape the case as they thought fit; but he said as the losses were not ascertained, he did not conceive Parliament would entertain a Petition where the losses were not accurately ascertained.

Did the Petitioners accede to this, laying in their claim, that this acquiescence on their part should not be considered as barring them from bringing forward their case at a future time?—They did.

Did Mr. Addington state that he received the memorial as a protest, and that he would on any future opportunity acknowledge it to be such?—Mr. Addington certainly stated that the presenting the memorial was laying in a claim, though they could not at present bring it before Parliament; he said he should consider it as such, but that was I apprehend merely an after conversation after he had spoken to them on the memorial.

Do you know whether Mr. Addington had at the time any objection to the conversation that passed between himself and the claimants being made public?—I do not know that he had any objection.

Do you know that he did not acquiesce in that being made public?—I do not know that; I do not know one way or the other.

In point of fact, do you know that he did acquiesce in its being made known to the constituents of the Delegates with whom he conversed?—He certainly did not know that it was communicated to their constituents.

Were those gentlemen considered by Mr. Addington as the Delegates of the British claimants?—Yes.

Do you know of any memorial having been presented to the Treasury at that time?—I understood there was one.

Did

Did you ever see that memorial?—I never perused that memorial, I never saw it; but I do not doubt its existence, as Mr. Addington stated he saw it, and had perused it.

Did you understand that that memorial was a protest against the acceptance of the £.600,000. in satisfaction of all claims?—Undoubtedly the memorial was not.

Did Mr. Addington receive that memorial as a protest?—He said he should consider that application as a protest on their part; he did not say the memorial.

Did Mr. Addington say that bringing forward their claim at that time would be premature and injudicious?—He gave no advice upon that subject, he said he could give no advice upon it; but he did not think that Parliament would entertain a memorial where the losses were not ascertained.

Were you aware that the Glasgow Committee meant to communicate the heads of that conversation to their constituents?—I was undoubtedly.

Did you acquiesce in that being done?—I did certainly.

Did you acquiesce with the concurrence of Lord Sidmouth?—Not with the concurrence of Lord Sidmouth, who knew nothing of it.

No. 1.

J. Sargent, Esq.

*Mercurii, 26<sup>o</sup> die Februarij 1812.*

JOHN INGRAM LOCKHART, Esquire, in The Chair.

*Thomas Macdonald, Esquire; again called in, and Examined.*

DID the American Commissioners, after the commission was opened, ever allege the detention of the forts, and the seizure of the negroes from any individuals in any part of America, as reasons for their seceding, or for their non-concurrence in any of the decisions of the rest of the Board?—Certainly not, as no such topics could possibly have been admissible, inasmuch as the posts were given up agreeably to the second Article of the Treaty, and the seizure of negroes was no longer a subject of dispute.

Can you furnish this Committee with a correct abstract of the whole proceedings of the Board, under the Treaty of Amity?—I think I can.

Will that abstract give the Committee a full view of all the principal points in discussion?—I take upon myself to say that it will give a very accurate account or abstract of all the material proceedings, with all the grounds of difference and dispute which took place before the Board of Philadelphia; and further, that as it was our duty there, as matter of evidence, to ascertain the opinions and practices of the Courts of that country, so far as regarded proceedings in alleged breach of the fourth Article of the Treaty of Peace, those proceedings were accordingly so proved before the Board, and many material articles of them are to be found in an Appendix to the publication which is entitled "Brief Statement of Opinions," and was before presented by me to the Committee; it was composed by myself from the original minutes of the Board before me, and the evidence of the proceedings to which I alluded, with explanatory notes respecting the conduct of the Members of the Board; and an advertisement, giving an account of my motives for publishing it.

[The Witness delivered in the Book.]

Do those notes contain any facts, or opinions merely?—The notes, I think, are merely explanatory; it is the publication to which I before alluded as having been circulated by Mr. Liston after my departure.

[The witness delivered in certain Accounts marked from (A.) to (D.) together with an authenticated List of the adjudications of the Board of Commissioners appointed under the Act of the 43 Geo. III. c. 39.]

Was Mr. Liston the King's Envoy Extraordinary and Minister Plenipotentiary to the United States from His Majesty, during your residence in America?—He had been there some time before I arrived, and remained some short time after my departure.

T. Macdonald,  
Esq.

*Mercurii, 4<sup>o</sup> die Martii, 1812.*

LORD BINNING in The Chair.

The Right honourable Lord Grenville attending, by permission of the House of Lords, was Examined.

Lord Grenville.

WERE many and urgent representations made by the British creditors to His Majesty's Government, previously to the Treaty of Amity with the United States in 1794, complaining of the existence of legal impediments in America, which, by preventing the recovery of debts due in that country to British subjects, rendered altogether ineffectual the provision contained in the 4th Article of the Treaty of Peace?—There were many and urgent representations to that effect.

Did your Lordship ascertain that such representations were well founded?—I did; I have no doubt they were perfectly well founded.

Did the case of these creditors occupy a very considerable portion of your Lordship's time and attention, as Secretary of State for Foreign Affairs?—They did.

No. 1.

Lord Grenville.

In the course of the enquiries instituted by His Majesty's Government in consequence of these representations, and during the discussions which took place with the Ministers of the United States upon the subject of them previous to the Treaty of Amity in November 1794, was it ever proposed or suggested by His Majesty's Government to the creditors, that they should consent to accept a specific sum to be paid by the United States, in full satisfaction and extinction of all their claims on the citizens of the United States, for transactions before the American war?—I think the idea was suggested to them, not as a proposal to which their consent was required, but as a matter for consideration, and on which the King's Government wished to learn their sentiments.

Did your Lordship make to the British creditors the communications contained in the letter of the 23d of July 1794 now produced [It was shewn to his Lordship]?—The signature to the letter is my handwriting; with respect to the enclosure I cannot speak with certainty; but it is consonant to my general recollection of the transaction.

Did the further correspondence contained in the other papers now produced, viz. copy of a letter to your Lordship dated the 24th of July 1794; your Lordship's answer on the following day; and a copy of a letter to your Lordship of the 26th of August 1794, take place in consequence of the said communication from your Lordship?—I can only answer this as I answered the last question; the signature to the letter of the 25th of July is of my handwriting; but with respect to the other letters, I can only speak from my general recollection of the subject, with which they agree.

Was the redress of the grievances of the British creditors, on the part of His Majesty's Government, an object of importance in negotiating the Treaty of Amity, Commerce and Navigation, concluded between His Majesty and the United States of America in the year 1794?—It was an object of primary importance.

Did your Lordship in person negotiate that Treaty with the Minister plenipotentiary of the United States?—I did.

Was a system of reciprocity meant to be established by the 6th article of that Treaty, containing stipulations in favour of the subjects of Great Britain, and the seventh Article which contained stipulations in favour of the citizens of the United States? That certainly was my own view of the transaction; and I have no doubt that was the view of the American Minister.

When, and in what manner, was His Majesty's Government first apprized of the difficulties which occurred in the proceedings of the Commissioners at Philadelphia?—I cannot say with certainty; but I suppose it was through the correspondence of His Majesty's Minister in America.

Were the proceedings of the Commissioners under the 7th article of that Treaty, immediately suspended by His Majesty's Government, when information was received of the breaking up of the Board established at Philadelphia under the 6th article, and in consequence of that event; and how long was such suspension continued?—I think the proceedings were immediately suspended, but that will appear from the Minutes of the Commissioners themselves. How long the suspension continued I cannot say.

Was the conduct of the Commissioners, appointed by His Majesty under the 6th article of the Treaty of Amity, during the whole course of the proceedings of the Board established at Philadelphia, and at the period when it broke up, approved by His Majesty's Government?—It was most highly approved.

Did His Majesty's Government take any and what further proceedings, in consequence of the suspension of the proceedings at Philadelphia, except by suspending the proceedings of the Commissioners here, under the 7th article?—There were some communications on the subject with the Minister of the American Government.

Did your Lordship, in or about the month of April or May 1800, make the following propositions to the claimants, viz. First. A renewed Commission, in conformity with the Treaty of Amity? second, Or to accept a sum of money in lieu of the claims under the 6th article of the Treaty of Amity?—I think those two proposals were stated in the same manner as before, for their consideration.

Can your Lordship state the substance of the verbal communications which took place between your Lordship and the claimants in the months of May, June, and July 1800, or at any subsequent period?—I cannot, at this distance of time, undertake to speak as to the substance of verbal communications.

Was the paper now produced, bearing date 3d July 1800, given in by the claimants to your Lordship, in consequence of a desire expressed by your Lordship for that purpose at a previous conference between your Lordship and the claimants?—I cannot undertake to say.

Was any proposal made, either by your Lordship to the American Minister, Mr. Jay, or by the American Minister to your Lordship, to commute the demands of the British claimants for a specific sum?—It is now eighteen years ago; but as far as I recollect, nothing of the kind ever passed between us.

Should your Lordship have considered yourself justified in accepting a specific sum from the American Government, in liquidation of the claims of the British Merchants, without the previous knowledge and acquiescence of the Merchants?—I cannot undertake to say what my decision would have been at that time; certainly, my desire was to inform myself of their wishes on the subject as fully as possible before any step was taken in any part of the business.

Has



Has your Lordship attended the Committee this day with the knowledge and concurrence of His Majesty's Ministers?—Yes.

Did your Lordship receive, at any time, information either from the Commissioners appointed to examine into the claims of the British creditors, from the creditors themselves, or from any other person, of the sum which it might be proper to accept as an indemnity, from the United States for such of those claims as could not be recovered in the courts of law in America?—I cannot speak from recollection.

Should your Lordship, from your knowledge of the nature of the claims of the British Merchants, have considered the sum of £. 600,000. an adequate compensation for their demands, and the utmost that might have been obtained from the American Government at the period of your Lordship's negotiation with Mr. Jay?—I cannot speak, of course, to the disposition of the American Government; but I well remember, when I was first apprized of the Convention, by which the sum of £. 600,000. was accepted, that it struck me as a sum smaller than I should have expected.

Should your Lordship have recommended the 7th article of the Treaty to be carried into effect, upon the non-fulfilment of the 6th article on the part of America?—I think not.

*Thomas Macdonald, Esquire*; again called in, and Examined.

Have you any alterations to make in any part of your former evidence?—I have only to state, that having before mentioned in answer to a question put on a former day's examination, that the latest communication I made to the Office of Foreign Affairs on the subject of claims in America was in December 1800, or soon after; I think it accurate to say, that I now find I wrote a private letter to Mr. Hammond in answer to certain verbal enquiries which he had made of me in a conversation with him in the beginning of May 1801, at which time my Lord Hawkesbury was principal Secretary of State for that department. I have also to state, that having in the second day's examination presented a list of claims which were made up in America as having been made under my directions, I now recollect that that list was made up subsequent to my departure from America, and consequently not under my inspection, having been transmitted from America with the original minutes of the Board, which, on my leaving that country, I deposited in the hands of Mr. Liston.

Can you state to the Committee what the nature of your communication to Mr. Hammond was?—It was in answer to three different questions which he had put in conversation: the first, as to what I recollect of the amount of the claims in America; the second, as to what I conceived would have been made good of those claims had the article of the Treaty been fairly executed; and the third, with respect to the prospect which might be entertained by British creditors as to the recovery in America, by course of law, of what still remained due to them in that country. As to the first and second, my letter stated, that speaking from recollection the claims amounted to upwards of four millions, in which, however, I had not comprehended some interest, which was not at that time within my view, and that I imagined a fair execution of the Treaty would have made good about two millions; on the last point I gave very little expectation that much would be recovered by the creditors themselves, although the United States might have recovered very considerably under such an assignment as the Treaty authorized the Commissioners to give them.

*T. Macdonald,  
Esq.*

*Mercurii, 10<sup>o</sup> die Martii, 1812.*

LORD BINNING, in the Chair.

The Earl of *Liverpool*, attending by permission of the House of Lords; was Examined.

WAS the Convention of 1802, between His Majesty and the Government of the United States, by which the sum of £. 600,000. was accepted in lieu of all claims of the British creditors on the American Government, concluded by your Lordship as Secretary of State for Foreign Affairs, with or without the concurrence of the British claimants?—Certainly without their concurrence: I cannot speak as positively from recollection whether without their privity, but I have no reason to think it was with their privity.

Was your Lordship previously apprized of the extent of the demands and expectations of the claimants?—When I came into the office as His Majesty's Secretary of State for Foreign Affairs, I had a personal communication from Lord Grenville of all the circumstances of this negotiation as it then stood; I had likewise one conversation at least with Mr. Pitt upon the subject; Mr. Hammond, who was under Secretary of State, had been Minister in America, and had the custody of the American correspondence: I had likewise several interviews with Mr. Molleson and Mr. Nutt upon the subject of these claims, and I had access to all the documents at that time in the Office. The result of this information was an opinion formed by me, that the claimants had no chance of recovering their dues in the American courts; that the sum of £. 600,000. then offered by the American Government, was as large a sum as could be obtained; and that in consequence of the unfavourable change

*Earl of Liverpool.*

No 1.  
 Earl of Liverpool.

change that had taken place in the American Government towards the end of the year 1800, or the beginning of the year 1801, by the Federal Administration being changed for that of Mr. Jefferson and his friends, I was of opinion that if the offer then made had been refused, so favourable an offer was not likely to be renewed.

Did your Lordship consult the American Commissioners upon the claims of the British Merchants?—I am speaking now from a recollection of ten years; but I rather think I saw Mr. Macdonald previous to the Treaty being concluded; for this, however, I cannot positively answer.

Was it your Lordship's opinion alone, or the opinion of His Majesty's Government generally, that the sum of £.600,000. was the utmost that could have been obtained from the American Government?—In signing the Treaty, I considered myself as acting under the authority of His Majesty's Government.

At the time that your Lordship accepted the sum of £.600,000. had the seventh Article of the Treaty of Amity and Commerce been carried into effect?—I conceive not.

Was that Article taken into consideration at the time that the £.600,000. was accepted by your Lordship on the part of the British claimants?—I believe I have already said, that, as far as my recollection goes, all the circumstances of the transaction were taken into consideration before the Treaty was signed.

Does not your Lordship consider that the 6th and 7th Articles were so far reciprocal, that the American Government refusing to carry into execution the 6th Article, the British Government might have declined carrying into execution the 7th: and that the sum stipulated in that Article might have been reserved in payment of the demands of the British claimants?—I was not a member of the Government when the Treaty of 1794 was negotiating; I understood, that when the commission in America did not proceed, the commission here had been suspended. The negotiation afterwards commenced by an offer on the part of the American Government, to pay a given sum in lieu of the claims of the British merchants; this took place before I was a member of the Government, and the question for the Government of which I was a member to consider was, whether, under all the circumstances, it was proper and right to accept that sum: their decision was, to accept it under the circumstances I have already stated. To the best of my recollection, the sum of £.600,000. had been offered previous to my coming into office, but it had not been determined whether it should be accepted or not. I feel confident, that the offer of a sum of money in compensation of the claims of the British merchants was previously made, though I cannot speak with the same confidence as to the precise amount having been specified at that time.

Had those circumstances alluded to in your Lordship's answer any object in them of a national nature, or were they confined simply to the probability and improbability of the recovery of the demands made by the British merchants?—The considerations I conceive to have been of both descriptions.

Had your Lordship any other grounds than those you have mentioned, for believing £.600,000. to be the largest sum that could be obtained from the American Government?—I was as satisfied as one can be upon any subject of this nature, that £.600,000. was the largest sum that could be obtained. I did not sign the Treaty till I had satisfied my mind on this subject as far as I could.

Might not the suspension of the 7th Article have been continued?—Certainly.

Your Lordship has mentioned, that you had several interviews with Mr. Molleson and Mr. Nutt; do you recollect whether the circumstance of the offer made by America, of £.600,000. was ever made a part of communications with them?—I really cannot say from recollection; I do not know that it did.

#### Appendix, No. 2.

EXTRACT from the Minutes of the Board of Commissioners under the 6th Article of the Treaty of Amity, &c. 1794; dated 19 February 1799.

No. 2.

" WE are further most clearly of opinion, that the principles contained in the proposed Resolution, if carried into effect according to the latitude in which they are assumed, would lead to consequences of the most extensive import and injury to the United States—  
 " We believe that the stipulation of the 6th Article of the Treaty of Amity, which has directed that there should be two Commissioners named by each contracting Party, and that the presence of at least one on each side should be necessary to constitute a Board, cannot be justly so interpreted as to require us to become the passive instruments of what we deem to be an unauthorized assumption of jurisdiction by the Board on points of extreme importance, or to make it our duty to give effect by our presence to proceedings which we deem to be essentially injurious to the just rights of the United States—on the contrary, we believe it to be our duty to resist such proceedings in such cases by all the means to which the Treaty has enabled us to resort, and we shall therefore withdraw from the  
 " Board

Board on this occasion, declaring, however, our disposition and desire to proceed in such "business as may not be liable to the same or similar objections."

(Signed) THO' FITZSIMONS.  
SAM' SITGREAVES.  
19 Feb. 1799.

And the said Paper having been so read, Mr. Fitzsimons and Mr. Sitgreaves withdrew.

Tho' Macdonald.  
Henry Pye Rich.  
Tho' Fitzsimons.  
S. Sitgreaves.  
J. Guillemard.

EXTRACT from the Minutes of the Board of Commissioners under the 6th Article of the Treaty of Amity, &c. 1794; dated 20 February 1799.

"AND in regard to the *Right of Secession* assumed and now acted upon by the Commissioners named on the part of the United States (the merits of which are sufficiently discussed in the Minute of the 11th January last) that, as they have thought fit to carry it into effect in the present case on a *question of Evidence*, upon which a majority of the Board were completely satisfied, and on conclusions so little manifest as to require or admit of argument so voluminous, it is impossible to conceive a case in which the same course of conduct may not ultimately be pursued—thereby reducing the majority of the Board to a state of absolute dependence on the minority, and (with all the powers of definitive settlement which they possess) consigning them to the occupation of investigating facts which they cannot apply, and maintaining discussions on which no decision may ever be permitted to follow."

And the above Resolution having been read, and the question proposed to be taken on the same, Mr. Fitzsimons and Mr. Sitgreaves withdrew.

Tho' Macdonald.  
Henry Pye Rich.  
Tho' Fitzsimons.  
S. Sitgreaves.  
J. Guillemard.

### Appendix, No. 3.

Copy LETTER from Messrs. John Nutt and William Molleson, to the Right Hon<sup>ble</sup> Lord Grenville; dated 29th August 1792.

To the Right honourable Lord Grenville, one of His Majesty's principal Secretaries of State, &c. &c. &c.

My Lord,

IN the different conversations we have been honoured with by Mr. Secretary Dundas, on the subject of the claims of the British merchants trading to America, previous to the year 1776, for compensation for their losses by the American war, we stated, and truly, that these were principally occasioned by the operation of the prohibitory law passed in the year 1775, interdicting all intercourse, at once cutting off every source of remittance, and by the fourth Article of the Treaty of Peace not being carried into effect, although it was made, as we were informed, a *sine qua non* of the Peace with the American Commissioners, obtained with great difficulty, and for the special purpose of providing for the payment of the just debts due to the British merchants.

This Article was immediately violated by the American Legislatures in numberless instances, which were from time to time communicated to His Majesty's Ministers, but without redress. The retaining of the forts, on the part of Great Britain, has been the ostensible pretence for this violation of the treaty by America.

It is by the operation of the prohibitory law, and the infraction of the Treaty of Peace, that the British merchants have been so long and so deeply involved in distress. This will more fully appear in the brief state which we had the honour to transmit to Mr. Secretary Dundas, in our letter dated the 31st of August 1791, and to which we beg leave to refer.

Under these combined circumstances of distress, we are called upon as a Committee by our constituents, to request that some ostensible and effectual measure may be adopted by Government, for the relief and support of that numerous and oppressed body of His Majesty's loyal and dutiful subjects. The result of the negotiation through Mr. Hammond does not promise any substantial relief; for by the extract of his dispatch of the 8th of June, communicated to us, it appears that Mr. Jefferson has imposed upon him, by stating circumstances notoriously not founded on fact.

No. 3.

We trust, that having exerted our best though ineffectual endeavours to recover our debts in America, the courts of law being still unjustly shut against us, and our long forbearance to press our wants and difficulties upon Government, will not abate, but, on the contrary, give vigour and strength to our claim, which is founded in justice, and cannot be relinquished or done away without satisfaction and compensation; for we contend, that it stands on the basis of the Constitution itself; and if it was further necessary, we might add, that we are not only entitled to protection and compensation on public ground, but we have also a well founded claim on Government, His Majesty's Ministers, pending the negotiations for peace, having, we humbly conceive, virtually pledged the Crown, by engaging to us, that we might rest assured, whenever peace was concluded with America, our property and debts should be fully protected and secured, and on that engagement we fully confided.

With respect to opening the Law Courts of America at this distant period of time, it is a duty we owe to the trust reposed in us by our constituents to state unequivocally, that we have but too much reason to fear it will now avail us but little, such has been the devastation and change of property occasioned by deaths, insolvencies, removals, and other attendant circumstances of delay.

It is with satisfaction we reflect on the liberality of the public in so nobly and generously providing for the American sufferers by the war; and we applaud the magnanimity of the measure; but we cannot silently suffer it to be said, that the British merchants intrusting not only their fortune, but their credit, to their fellow-subjects in the colonies under the sacred laws of their country (laws which had their operation over every subject in America, with the right of appeal from the judgment of their Courts to His Majesty in Council, whose decision was final and binding upon the colonists, this, to us irreparable loss, was the price of peace) are less the objects of the protection and liberality of the public; nor shall we have any thing to fear, whenever that noble and generous spirit is awakened to our sufferings, and to the call of that justice which we claim.

We beg leave further to add, that being now daily importuned and urged by the great number of sufferers we represent, from almost every port and manufacturing town in Great Britain, who bear impatiently the protracted state of this business, we make it our humble request, that you will have the goodness to lay this representation before the rest of His Majesty's Ministers; and that we may be favoured with such information of their intentions, on this interesting subject, as may be proper to be communicated to our constituents.

We should be wanting in our duty, if we did not humbly acknowledge the great consolation we derive in knowing that we have a Sovereign whose heart is ever open to distress, and every action of whose life is governed by the great principles of benevolence and justice; and it is a further satisfaction to us to be sensible that the Ministers, to whom His Majesty has intrusted the direction of public affairs, are actuated by the same principles.

We have the honour to be, with great respect,

My Lord,

Your Lordship's most obedient and most humble servants,

London, 29 August 1792.

(Signed) *John Nutt,*  
*Will<sup>m</sup> Molleson.*

#### Appendix, No. 4.

LETTER from Messrs. Nutt & Molleson to Mr. Dundas; dated

Sir,

London, 31st May 1793.

SOMETIME ago we had the honour of requesting an audience on the subject of the American debts, which the pressure of other important objects has probably hitherto prevented. We are now again urged to the necessity of repeating our request, the situation of our constituents pressing upon us, several of whom have lately sunk under the delay and injustice of the Americans; others have ruin hanging over them from the same cause. Had those houses obtained their property from America, which they were entitled to by the Treaty of Peace, it would have prevented the misfortunes which have befallen them; and had the millions of British capital, so long and so unjustly detained by the Americans, been, as it ought to have been, in circulation in this country, the present commercial distress would neither have been so extensive nor so fatal to many as it now is. We have not ceased, for these nine years past, to remind His Majesty's Ministers of the violation and nonperformance of the Treaty by the Americans, and respectfully to represent that ruin must ensue, and which, with sorrow we add, has now fallen upon many respectable people by the long detention of their property, whose establishments were solid, and would have continued so had the Treaty been properly enforced at an early period, when the Americans were able, and we have reason to believe the greatest part of them willing, to comply with it. We admit, Sir, that our representations have been heard, but we are bound to add, that until lately, they have not been attended to in the manner we had

No. 4.

had just reason to hope for. When we informed our constituents what we were authorized to do by your official letter, that the principal object of Mr. Hammond's mission was to obtain us redress, they were satisfied; and, though sorely pressed by their necessities, determined patiently to wait a reasonable time for the effect of his negotiation. Near two years have now elapsed since that period without any satisfaction having been obtained, at least none effectual that has been communicated to us. In the mean time some of our constituents have fallen victims to the delay, and others are upon the brink of experiencing the same calamity. Impelled by these considerations, and by the urgency of the times, it becomes our duty respectfully, but firmly, to represent our claims to His Majesty's Ministers, and to apply to them for justice and for compensation. Our constituents cannot longer wait without fatal consequences attending it, the protracted state of a negotiation which America is interested to prolong, in order to retain the British capital, while Great Britain is suffering in her commerce, and her subjects in their property, by the delay artfully but too successfully spun out; nor can they, from the nature of their situation, avail themselves, in this present time of distress, of that liberal aid that is now given by the public to the commercial interests of their fellow subjects.

Thus situated, our duty calls upon us to request, Sir, that you will lay this just and true representation before the rest of His Majesty's Ministers, that we may be informed what answer to give to the daily anxious enquiries which are made of us.

With every dutiful and respectful sentiment for His Majesty's Government, and for those to whom he has entrusted the executive part of it, we are compelled to add, that nothing short of effectual and immediate relief, or some engagement to effect it, will now satisfy the unhappy sufferers by the American contest, whose claim is founded on the vital principles of the Constitution, and further supported by the solemn engagement made by His Majesty's Ministers, pending the negotiation for Peace at Paris, *That no Peace would be concluded without ample security being obtained for the full and complete payment of all the just debts due to the British merchants previous to the year 1776.* Under this engagement they conceive that the honour of the Crown, and the faith of the public, stand decidedly pledged to them for satisfaction and compensation.

We have the honour to be, with great respect, Sir,

Your most obedient and most humble Servants,

(Signed) *Dun Campbell,*  
*John Nutt,*  
*Wm. Molleson.*

R<sup>t</sup> Hon<sup>ble</sup> Henry Dundas, Esq.  
&c. &c. &c.

#### Appendix, No. 5.

LETTER from Mess<sup>rs</sup> Nutt and Molleson to Mr. Dundas; dated London, 18 December 1793.

Sir,

THE Committee of British Merchants trading to North America previous to the year 1776, beg permission to represent, that they have been waiting with the greatest anxiety to be informed of the progress which Mr. Hammond, the British Minister, has made with the executive Government of the American States, respecting the recovery of the debts due to them and their constituents.

In your letter of the 1st September 1791, in reply to ours of the preceding day, you did us the honour to inform us, that you had laid our letter before His Majesty's confidential Ministers; and that Mr. Hammond had received instructions to consider the recovery of the debts due to His Majesty's subjects as one of the most essential objects of his mission.

This information we did not delay communicating to the general Committee, who immediately transmitted the same to the numerous British creditors whom they represent.

That body of distressed subjects are now impatiently, and very pressing, calling upon their representatives to know the advance Mr. Hammond has made in that very interesting and important concern, and we are in consequence called upon by the general Committee for the information which we have received from His Majesty's Ministers on the subject; as it is our duty to attend to this call, we beg, Sir, that you will have the goodness to enable us to satisfy their reasonable and just enquiries; and as it appears to be the sense of the British creditors in every part of the kingdom, that any further delay will be attended with an additional degree of distress, it is their desire that the most effectual mode of application for compensation should be adopted; and they firmly join us in stating, that our claims on the public for the great losses sustained in consequence of the fourth Article of the Treaty of Peace not being carried into execution, is founded on the immutable principles of justice. The unexampled tedious delay of more than ten years, has, by deaths and other circumstances, rendered the recovery of debts almost utterly impracticable.

We must repeat, that His Majesty's Ministers, pending the negotiation for the Peace, pledged the honour of the nation by solemnly promising, and engaging to this Committee,

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No. 5.

that no Peace should be concluded without the debts due to the British merchants being fully secured and protected.

Compensation for losses has been liberally made to every other description of sufferers by the American war; the British merchants alone remain without having hitherto received any consideration whatever, notwithstanding the advantage derived to the public by retaining the forts. In all other cases, where the property of loyal and dutiful subjects has been appropriated for the use and advantage of the public, full satisfaction and compensation has been made for the same; and it is notorious, that the Americans urge the plea of the forts being withheld from them as a reason for the nonpayment of British debts contracted previous to the war.

For these reasons, Sir, we hope to be favoured as soon as possible with your answer, especially as it has now become the desire of our constituents that some effectual mode of application should be adopted without further delay, in order to bring the business to some determinate issue.

We have the honour to be, with great respect,

Sir,

Your most obedient and most humble servants.

Right Hon<sup>ble</sup>

Henry Dundas, &c. &c. &c.

Appendix, No. 6.

LETTER from the Right honourable Lord Grenville to Messrs. Nutt and Molleson; dated,

Whitehall, July 23d 1794.

No. 6.

Gentlemen,  
I request that you will take into your consideration the questions herewith enclosed, and that you will transmit to me your sentiments upon them as expeditiously as may suit your convenience.

I am, Gentlemen,  
Your most obedient humble servant,  
(Signed) Grenville.

ENCLOSURE in the above.

If, in the course of the discussions with Mr. Jay, the alternative should be proposed of the payment of a round sum by the American Government in liquidation of all British claims previous to the Peace, or the adoption of measures for opening the Courts of Law in America to British creditors, with an appeal to some special Court or Commission instituted under such provisions, as to remedy, as far as circumstances will admit, the difficulties arising from the defect of legal evidence, and from the unfavourable disposition of the mass of the people in that country,—

Which alternative would the British creditors prefer?

And what sum would they think it advantageous to accept, taking into their consideration the expense, risk and loss, incident to any further legal proceedings in whatever shape?

It must be understood that any sum so stipulated for, would be afterwards subject to distribution among the creditors, according to the judgment of Parliamentary Commissioners.

This question is proposed with a view of obtaining information for the guidance of His Majesty's Ministers in the course of the business, but without any previous knowledge of the disposition of Mr. Jay, with respect to the proposing or accepting the above-mentioned alternative.

It is therefore material that the opinion of the creditors in this respect should not be disclosed, except to Government.

Appendix, No. 7.

LETTER from Messrs. Nutt and Molleson to the Right honourable Lord Grenville; dated 24th July 1794.

No. 7.

My Lord,

WE have received the honour of your Lordship's letter of the 23d instant, with its enclosure, to which we shall give the most attentive consideration. But we beg leave to request an explanation of the first proposition, Whether it means a sum in liquidation and extinction of all our claims on our debtors in America, or, whether we are to understand it as a compensation for our losses sustained by the delay of the execution of the Treaty, leaving to us recourse on our still solvent debtors there for what we can obtain from them by the free course of justice in the Courts of Law in America, according to an idea we had the honour to communicate to Mr. Pitt, in our letter to him of yesterday's date.

When

When your Lordship is pleased to furnish us with this explanation, we shall take the earliest possible opportunity of giving an answer to the questions proposed.

We have the honour to be, with the greatest respect, my Lord,  
your Lordship's most obedient and most humble servants.

No. 33 Broad-street, }  
24th July 1794. }

No. 7.

## Appendix, No. 8.

LETTER from Lord Grenville to Messrs. Nutt and Molleson; dated

Gentlemen,

Downing-streer, 25th July 1794.

IN answer to the question contained in your letter of this date, I am to acquaint you, that the first of the alternatives mentioned in the paper which I transmitted to you on the 23d instant, is meant to include the liquidation *and extinction* of all British claims previous to the war.

I am, Gentlemen,  
Your most obedient humble servant,

(Signed) Grenville.

No. 8.

## Appendix, No. 9.

LETTER from Messrs. James Ritchie, Alexander Oswald, Gilbert Hamilton, and Robert Findlay, to the Right honourable Lord Grenville; dated

My Lord,

26th August 1794.

ON the 8th instant Messrs. Hamilton and Findlay wrote your Lordship, that we had been appointed a Committee by the associated merchants of this city, and full power granted us relative to the debts owing to them in America, which were contracted previous to the year 1776; they at the same time mentioned that we had made up our own mind w.th regard to the propositions delivered to them by Mr. Dundas upon the 23d of last month, but that to save trouble to His Majesty's Ministers, we thought it best to know the opinion of the gentlemen in London, that, in the event of their concurrence with us, the whole trade might be unanimous.

We have now therefore to inclose a Statement of the *principle* upon which we are willing to compromise the debts owing by America to the associated merchants of Glasgow, which were contracted previous to 1st January 1776, and at that period reckoned good debts, copy of which was sent by us to Mr. Molleson on the 8th of this month, for the inspection of the London Committee; and although the sacrifice of property is so great, we have no hesitation in acknowledging (in reference to the query in the paper received from Mr. Dundas on the 23d ult.) that we would prefer the mode of settlement therein mentioned, to the adoption of measures for now opening the Courts of Law in America, even with an appeal to some special Court or Commission, and we trust it will be equally agreeable to our constituents.

We likewise understand that it is to be left to the judgment of Parliamentary Commissioners to ascertain the *goodness* of debts due in 1775, or *about* the 1st January 1776, which may be claimed upon, having the fullest confidence that these Commissioners will require no other than such reasonable proofs of their goodness as the nature of the case, and the distance of time will admit. We use the words "in 1775, or *about* the 1st January 1776," in the above paragraph, because different merchants had different periods of the year for striking the balance of their books in America, and it will probably be from the last balance in 1775, or about the beginning of 1776, and from the statements then transmitted to Britain in consequence thereof, that they will respectively claim.

The within Statement is in itself so full and explicit as to require very few observations from us; your Lordship will thereby perceive, that after making the most liberal allowances for loss upon these debts during the war, and for the expenses and risque which might have attended their collection, we are willing, *if necessary*, to submit to a further deduction of no less than one-third from the remainder, in order to accomplish their liquidation and final extinction: we will then be ready to assign over the debts themselves, and all documents and vouchers in our power, to any person who may be appointed. We however consider these great deductions, particularly the last, to be intrusted in confidence to His Majesty's Ministers, in consequence of the desire of Mr. Pitt,—that of course a more favourable compromise will be allowed us if practicable, and that at all events, it will not be worse than is allowed to any other class of His Majesty's subjects.

Upon the whole we will candidly acknowledge to your Lordship, that in making up the within statement upon such moderate principles, we were swayed by the following motives:

1st.—To interest the zeal of His Majesty's Ministers in their endeavours to accomplish a negotiation with America, for the final liquidation and extinction of these old debts, which

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No. 9.

No. 9.

have already occasioned so much hot blood and animosity against Great Britain, and which will continue to do so while they are prosecuted for by British merchants in the American Courts.

And, 2.—To make so great a sacrifice of the debts justly owing us, previous to 1776, as would evince our hearty desire to contribute our full proportion, in doing away all subsisting differences betwixt this country and America, occasioned by these old debts.

Whether the compromise in said statement is to be allowed us by America, or by Great Britain, or in part by each, we judged it most honourable for ourselves, and most likely to obtain the important object, to have these motives always in our view.

We take the liberty, for your information, of inclosing two short extracts of letters from Virginia, lately received here; by the first of them dated Manchester, January 10, you will observe the little respect which the commanders of French ships of war pay the sovereignty of neutrality of the United States, when they not only prevent British merchant ships from sailing, but even seize them as prizes in the Bays of these States;—by the second, dated Port Royal, June 20th, you will see that judgments for British debts are as difficult to obtain in the American Courts as ever.

Should your Lordship require any explanation of the within statement, or any further information relative to America, we will most faithfully and candidly communicate to you every thing in our power, or that may come to our knowledge; and when you do us the honour to write to us, you may address to James Ritchie, Esq. our chairman.

Our constituents, to whom no part of this business is yet communicated, will naturally be under much anxiety till they know whether there is any reasonable prospect of a final settlement with Mr. Jay as to the old debts.

(Enclosure in the above Letter.)

Glasgow, 7th August 1794.

STATEMENT of the Principle upon which the Associated Merchants of Glasgow are willing to compromise with the British Government, for Debts owing them in America, previous to 1st January 1776, and then reckoned good Debts.

Suppose the principal sum of good Debts owing to any one individual on 1st January 1776, to have been	£.	s.	d.
			1,000 — —
Deduct 20 per cent. or 1-5th for supposed depreciation, by or during the war, which is a very liberal allowance			200 — —
Principal sum remaining good at the close of the war, is	£.		800 — —

Add 20 years Interest on £. 800. from 1st January 1776 to 1st January 1796, at which last period it is reckoned that the Debt may, by the event of the depending negotiation with Mr. Jay, be liquidated			800 — —
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Deduct, Payments received by this individual from his debtors in America, since 1st January 1776, as per List —  
 Deduct also, Payments made on his account into the different State Treasuries of America, upon the supposition that those sums will be recovered from said State Treasuries by the British Government, together with Interest thereon, and will now be paid this individual by said Government, according to justice, as per list —

Upon the supposition however, that no payments have been received by him, or made into the State Treasuries on his account, there will still remain	£.		
			1,600 — —

Deduct, £. 15. per £. 115. on £. 1,600. for commission and risque on collection, which is the very highest commission known here to have been given			208 13 11
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There will remain owing to this individual in America, upon Debts reckoned good 1st day of January 1776, after making the above liberal allowances of depreciation during the war, and commission on collection, the sum of			1,391 6 1
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But in order to have a final liquidation and extinction of these old Debts, the associated merchants of Glasgow are willing to make an abatement of no less than one-third, if necessary, in order to contribute their full proportion towards a final settlement of the unfortunate differences and heartburnings which must continue to prevail betwixt Great Britain and America, while these old Debts remain to be prosecuted for by British creditors in the American Courts of Justice—this is			463 15 4 1/2
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Remains to be paid to this individual by the British Government, or by the American Government under the guarantee of Great Britain, upon the 1st day of January 1796, bearing legal Interest from and after that date till payment, the sum of			927 10 8 1/2
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Upon



Upon the supposition therefore, that the whole original debt, owing by America to British creditors on the first day of January 1776, was three millions of principal (though it is believed to be rather under that amount) the whole sum to be provided for, according to the above plan of compromise, would be £. 2,782,608. 6. 8. sterling—But from thence will fall to be deducted the payments received by particular creditors from their debtors in America since the Treaty of Peace; and likewise the sums paid by debtors into the different State Treasuries on account of British creditors, which sums to be paid such creditors; so that the whole sum to be negotiated for, or to be provided by the British Government upon the above scale of compromise, would not, in all probability, amount to much more than two millions sterling.

No. 9.

## Appendix, No. 10.

ARTICLES Sixth, Seventh, and Twenty-second, of the Treaty of Amity, Commerce, and Navigation, between His Britannic Majesty and the United States of America; concluded at Westminster the 19th Day of Nov. 1794.

Art. 6th. WHEREAS it is alledged by divers British Merchants, and others, His Majesty's subjects, that debts to a considerable amount, which were *bonâ fide* contracted before the peace, still remain owing to them by the citizens or inhabitants of the United States; and that by the operation of various lawful impediments since the peace, not only the full recovery of the said debts has been delayed, but also the value and security thereof, have been in several instances impaired and lessened, so that by the *ordinary* course of judicial proceedings the British creditors cannot *now* obtain, and actually have and receive, *full and adequate* compensation for the losses and damages which they have thereby sustained: It is agreed, that in all such cases, where full compensation for such losses and damages cannot, for *whatever reason*, be actually obtained had and received by the said creditors, in the *ordinary* course of justice, the United States will make full and complete compensation for the same to the said creditors; but it is distinctly understood that this provision is to extend to such losses only as have been occasioned by the lawful impediments aforesaid, and is not to extend to losses occasioned by *such* insolvency of the debtors, or other causes, as would *equally* have operated to produce such loss if the said impediments had not existed; nor to such losses or damages as have been occasioned by the *manifest* delay or negligence, or willful omission of the claimant.

No. 10.

For the purpose of ascertaining the amount of any such losses and damages, *five* Commissioners shall be appointed and authorized to meet and act in manner following; viz. Two of them shall be appointed by His Majesty; two of them by the President of the United States, by and with the advice and consent of the Senate thereof; and the fifth, by the unanimous voice of the other four; and if they should not agree in such choice, then the Commissioners named by the two parties shall respectively propose one person, and of the two names so proposed, one shall be drawn by lot in the presence of the four original Commissioners. When the five Commissioners thus appointed shall first meet, they shall, before they proceed to act, respectively take the following *oath* or affirmation in the presence of each other, which oath or affirmation being so taken and duly attested, shall be entered on the Record of their Proceedings; viz. "I A. B. one of the Commissioners appointed in pursuance of the sixth Article of the Treaty of Amity, Commerce and Navigation, between His Britannic Majesty and the United States of America, do *solemnly swear* (or affirm) that I will honestly, diligently, impartially and carefully examine, and to the best of my judgment according to justice and equity, decide all such complaints as under the said Article shall be preferred to the said Commissioners; and that I will forbear to act as a Commissioner in any case in which I may be personally interested."

Three of the said Commissioners shall constitute a Board, and shall have power to do any act appertaining to the said Commission, provided that one of the Commissioners named on each side, and the fifth Commissioner, shall be present, and *all decisions shall be made by the majority of the voices of the Commissioners then present*. Eighteen months from the day on which the said Commissioners shall form a Board, and be ready to proceed to business, are assigned for receiving complaints and applications; but they are nevertheless authorized in any particular cases, in which it shall appear to them to be reasonable and just, to extend the said term of eighteen months for any term not exceeding six months after the expiration thereof. The said Commissioners shall first meet at Philadelphia, but they shall have power to adjourn from place to place, as they shall see cause.

The said Commissioners, in examining the complaints and applications so preferred to them, are empowered and required, in pursuance of the true intent and meaning of this Article, to take into their consideration all claims, *whether of principal or interest*, or balances of principal and interest, and to determine the same respectively according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require. And the said Commissioners shall have power to examine all such persons as shall come before them on oath or affirmation touching the premises; and also to receive in evidence, according as they may think most consistent with equity and justice, all written depositions, or books or papers, or copies or extracts thereof, every such deposition, book or paper, or copy or extract, being duly authenticated

No. 10.

authenticated, either according to the legal forms now respectively existing in the two countries, or in such other manner as the said Commissioners shall see cause to require or allow.

*The award of the said Commissioners, or of any three of them as aforesaid, shall in all cases be final and conclusive, both as to the justice of the claim, and to the amount of the sum to be paid to the creditor or claimant; and the United States undertake to cause the sum so awarded to be paid in specie to such creditor or claimant, without deduction and at such time or times, and at such place or places as shall be awarded by the said Commissioners, and on condition of such releases or assignments to be given by the creditor or claimant, as by the said Commissioners may be directed: Provided always, that no such payment shall be fixed by the said Commissioners to take place sooner than twelve months from the day of the exchange of the ratifications of this Treaty.*

Art. Seventh. Whereas complaints have been made by divers merchants and others, citizens of the United States, that during the course of the war in which His Majesty is now engaged, they have sustained considerable losses and damage by reason of irregular or illegal captures or condemnations of their vessels and other property, under colour of authority or commissions from His Majesty; and that from various circumstances belonging to the said cases, adequate compensation for the losses and damages so sustained cannot now be actually obtained had and received, by the ordinary course of judicial proceedings: it is agreed, that in all such cases, where adequate compensation cannot, for whatever reasons, be now actually obtained had and received by the said merchants and others in the ordinary course of justice, full and complete compensation for the same will be made by the British Government to the said complainants. But it is distinctly understood, that this provision is not to extend to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission of the claimants.

That for the purpose of ascertaining the amount of any such losses and damages, five Commissioners shall be appointed and authorized to act in London exactly in manner directed, with respect to those mentioned in the preceding article, and after having taken the same oath or affirmation (*mutatis mutandis*) the same term of eighteen months is also assigned for the reception of claims, and they are in like manner authorized to extend the same in particular cases. They shall receive testimony, books, papers and evidence in the same latitude, and exercise the like discretion and powers respecting that subject, and shall decide the claims in question according to the merits of the several cases, and to justice, equity, and the laws of nations. The award of the said Commissioners, or any such three of them as aforesaid, shall in all cases be final and conclusive, both as to the justice of the claim, and to the amount of the sum to be paid to the claimant; and His Britannick Majesty undertakes to cause the same to be paid to such claimant in specie, without any deduction, in such place or places, and at such time or times as shall be awarded by the same Commissioners, and on condition of such releases or assignments to be given by the claimants, as by the said Commissioners may be directed.

And whereas certain merchants and others, His Majesty's subjects, complain that in the course of the war, they have sustained loss and damage by reason of the capture of their vessels and merchandise taken within the limits and jurisdiction of the States, and brought into the ports of the same, or taken by vessels originally armed in ports of the said States:

It is agreed, that in all such cases, where restitution shall not have been made agreeably to the tenor of the letter from Mr. Jefferson to Mr. Hammond, dated at Philadelphia, September 5th 1793 (a copy of which is annexed to this Treaty) the complaints of the parties shall be, and hereby are referred to the Commissioners to be appointed by virtue of this Article, who are hereby authorized and required to proceed in the like manner relative to these as to the other cases committed to them; and the United States undertake to pay to the complainants or claimants in specie, without deduction, the amount of such sums as shall be awarded to them respectively by the said Commissioners, and at the times and places which in such awards shall be specified, and on condition of such releases or assignments to be given by the claimants as in the said awards may be directed. And it is farther agreed, that not only the now-existing cases of both descriptions, but also all such as shall exist at the time of exchanging the ratifications of this Treaty, shall be considered as being within the provisions intent and meaning of this Article.

Article 22d. It is expressly stipulated, that neither of the said contracting Parties will order or authorize any acts of reprisal against the other, on complaints of injuries or damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, and the same shall either have been refused or unreasonably delayed.

## Appendix, No. 11.

LETTER from Mr. Hammond to Messrs. Findlay, Oswald, and Hamilton; dated

Gentlemen,

Downing-street, December 9, 1799.

No. 11.

I am directed by Lord Grenville to acknowledge the receipt of your letter of the 26th ult<sup>o</sup>, and to inform you that Mr. King, the American Minister at this Court, is in daily expectation of receiving Instructions from his Government to enter into some amicable discussions,

discussions with His Majesty's Ministers on the subject of the difficulties which have arisen in America, with respect to the proceedings of the Commissioners appointed under the sixth Article of the Treaty of Amity, Commerce and Navigation, with the United States, and that his Lordship trusts, that the result of those discussions will be a satisfactory arrangement of the difficulties in question.—In the mean time the British merchants, who are entitled to relief under the terms of that Treaty, may be assured that His Majesty's Government will not be inattentive to their interests.

I am,  
Gentlemen,  
Your most obedient humble Servant,  
*Geo. Hammond.*

To  
Robert Findlay,  
Alexander Oswald, and  
Gilbert Hamilton, Esqrs.

No. 11.

## Appendix, No. 12.

LETTER from Messrs. A. Oswald, Robert Findlay, and Gilbert Hamilton, to Lord Grenville; dated Glasgow, 31st January 1800.

WE had the honour of receiving Mr. Hammond's letter of 9th December, informing us, that Mr. King, the American Minister, was in daily expectation of receiving Instructions from his Government, to enter into some amicable discussions with His Majesty's Ministers on the subject of the difficulties which had arisen in America, with respect to the proceedings of the Commissioners appointed under the sixth Article of the Treaty of Amity, Commerce and Navigation, with the United States; and that your Lordship trusted that the result would be a satisfactory arrangement of the difficulties in question; and saying, that the British merchants, who are entitled to relief under the terms of that Treaty, might be assured that His Majesty's Government would not be inattentive to their interest.

We were very happy to think, from this communication, that there was now a near prospect of obtaining that relief so long withheld from us; but not having been favoured with any further letter, the Gentlemen here who are interested are uneasy in case any thing should have intervened to frustrate the hopes they had formed.

We shall therefore esteem it a favour if your Lordship would have the goodness to inform us, if Mr. King has received the Instructions, or if we may expect that something decisive will now be done for the liquidation of those claims now so long postponed.

No. 12.

## Appendix, No. 13.

LETTER from Lord Grenville to Messrs. Findlay, Hamilton and Oswald; dated

Gentlemen, Downing-street, February 13, 1800.

I HAVE to acknowledge the receipt of your letter of the 31st ult<sup>o</sup>, on the subject of which it is not in my power to give you at present any further information than that which I have already transmitted to you.

I shall not fail, under His Majesty's Orders, to take such steps as may appear best calculated to remove the difficulties which have occurred in the proceedings of the Commissioners appointed under the sixth Article of the Treaty with the United States.

I am, with great truth and regard,  
Gentlemen,  
Your most obedient humble Servant,  
*Grenville.*

Robert Findlay,  
Gilb<sup>t</sup> Hamilton,  
Alex<sup>r</sup> Oswald, Esqrs.

No. 13.

## Appendix, No. 14.

NOTE from Lord Grenville to Messrs. Nutt and Molleson; dated

22 March 1800.

LORD Grenville presents his compliments to Messrs. Molleson and Nutt, and is sorry that he cannot give them any information upon the subject of the adjustment of the differences relative to the execution of the sixth Article of the Treaty of Amity, &c. with America, until His Majesty's pleasure is made known to him, as to the further steps to be taken upon the subject.

Cleveland Row,  
March 22, 1800.

No. 14.

## Appendix, No. 15.

LETTER from Messrs. Gilbert Hamilton, Robert Findlay, and Alexander Oswald, to Lord Grenville; dated Glasgow, 29th March 1800.

No. 15.

WE had the honour of your Lordship's letter of 13th February, and having now been informed that Mr. Sitgreaves, one of the American Commissioners, had come to Britain, in order as we suppose to make some arrangements relative to the Treaty of Amity, Commerce and Navigation, between His Britannic Majesty and the United States; we take the liberty of again mentioning the hardships sustained by the Merchants in this Country from the non-payment of the debts due to them, which have been contrary to expectation increased by the conduct of the American Commissioners, as fully stated in the memorial of the Agent for the British creditors transmitted to your Lordship; and to recal to your memory a statement made up at the desire of His Majesty's Ministers, when Mr. Hamilton and Mr. Findlay had the honour of waiting on them in summer 1794, of the principles on which we thought the Merchants here would be willing to compromise the debts due to them. A copy of this statement we now enclose, together with an extract from the letter which accompanied it, in case the former should either be mislaid or not perfectly in your recollection, and which statement we are confident would have been readily agreed to at that time, and we have little doubt would still be agreed to on making such alteration, with regard to interest, as the lapse of time may render necessary; though we do not pledge ourselves for this, not having consulted the trade thereon, as we judged such a step improper until we know the opinion of His Majesty's Ministers concerning it.

We can only add, that we are firmly of opinion that some such mode of settlement is the only method of getting these debts liquidated, and of preserving that friendship between the two countries which appears to be so much for the interest of both.

We shall be happy to hear from your Lordship.

## Appendix, No. 16.

LETTER from Lord Grenville to Messrs. Hamilton, Findlay, and Oswald; dated Downing-street, April 7th 1800.

No. 16.

Gentlemen,

I HAVE to acknowledge the receipt of your letter of the 29th ult. and to acquaint you, that as no material alteration has hitherto taken place in the state of the business to which it relates, it is not in my power to return you any other answer at present, than to refer you to my former letters upon this subject.

I am,

Gentlemen,

Your most obedient humble servant,

Grenville.

To Gilbert Hamilton,  
Robert Findlay, and Alexander  
Oswald, Esquires.

## Appendix, No. 17.

NOTE from William Molleson, Esquire, to George Hammond, Esquire; dated London, 26th of May 1800.

No. 17.

Sir,

THE Gentlemen from Glasgow have just put the inclosed paper into my hands, and desired that I would request you to transmit it to Lord Grenville; they propose waiting upon you on Thursday next, to receive his Lordship's answer.

I have the honour to be, &amp;c.

(Signed) W<sup>m</sup> Molleson.

PAPER enclosed in the above.

The two Propositions are; Viz.

First. A renewed Commission in conformity with the Treaty of Amity.  
Second. A sum of Money in lieu of the Claims.

Three

Three things are necessary to be known before an answer respecting the second can be given.

- 1st. The amount of the sum which Lord Grenville thinks he may be able to obtain from America.
- 2d. The periods at which the said sum is to be paid.
- 3d. The security which the British Claimants are to receive for punctual payment.

No. 17.

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Appendix, No. 18.

NOTE from Lord Grenville to the Committee of Claimants; delivered by Mr. Hammond, 29th May 1800.

IT is impossible to give any answer to these questions; the object which Lord Grenville has in view, is, to know whether the gentlemen concerned think it for their interest that the King's Government (which is about to send out fresh Commissioners to America) should authorize those Commissioners to agree to liquidate the whole demand at once, in consideration of any and what sum to be divided among the bonâ fide creditors by British Commissioners, acting under the King's authority?

No. 18.

The questions of the periods of payment, and that of the security of the American Government, are of course involved in the general consideration.

The King's Government has no precise proposition to make to the creditors on these points, but is desirous of knowing whether the creditors wish for such an arrangement, and to what terms they would think it for their interest that the Commissioners should be authorized to accede in the way of negotiation, rather than that the subject should remain open to the delay and inconvenience necessarily incident to a fresh Commission. Lord Grenville has some reason to suppose that the American Government will not object to treat for an immediate and final arrangement upon this footing, but he has no knowledge of the extent to which that Government may be willing to go in this respect.

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Appendix, No. 19.

NOTE from the Committee of Claimants; dated London, 29th May 1800, and delivered to Mr. Hammond the same day.

THE Committee of Claimants wish to be informed what they are to understand by the following expression in Lord Grenville's Note, delivered this day by Mr. Hammond; viz. "Whether the gentlemen concerned think it for their interest that the King's Government should authorize the Commissioners to agree to liquidate the whole demand at once, in consideration of any and what sum to be divided among the bonâ fide creditors by British Commissioners acting under the King's authority."

No. 19.

The debts which are at present deemed good, and to the recovery of which there is no impediment, were considered (as the Claimants are informed) by the Commissioners of both countries at Philadelphia, as not coming under the 6th Article of the Treaty of Amity; Lord Grenville's opinion is therefore requested on this point, whether debts of the above description are meant to be included by the words *whole demand at once*?

London, 29th May 1800.

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Appendix, No. 20.

NOTE from Lord Grenville to the Committee of Claimants; received by them 29th May 1800.

THE gentlemen of the Committee of Claimants under the 6th Article of the Treaty of America, are certainly much more competent than the King's Servants can be, to draw the line between the cases to be included or not, in any general agreement which they may wish to be proposed for the liquidation of their claims.

No. 20.

No. 20.

It is unquestionably true, that debts admitted on both sides to be good, and to the recovery of which no impediment exists, or has existed, are not within the provisions of that Article. But this very question, in what cases such impediments should be deemed to exist or to have existed; is one of those respecting which it appears most difficult for the two Governments to agree; and it seems indeed to be contended on the part of the United States, that no such impediment now actually exists in any case. It must therefore be supposed that in any such negotiation as is now in question, considerable stress will be laid by the Government of the United States, on the necessity of providing effectually that no claim included in the general estimate on which the amount of a gross sum, to be paid by them in the way of compromise, may be calculated, should afterwards be recoverable by suit at law against the individuals, in consequence of the non-existence, or of the removal of the impediments which have been alledged by the Claimants.

Lord Grenville will receive the gentlemen of the Committee at his own house, at the time mentioned in Mr. Mollison's Note.

## Appendix, No. 21.

LETTER from Mess<sup>rs</sup> Gilbert Hamilton and Rob<sup>t</sup> Findlay, to Lord Grenville; dated Glasgow, 31st May 1800.

No. 21.

IN consequence of some late letters which we have received from William Mollison, Esq. relative to certain propositions your Lordship has had the goodness to make him, about a settlement of the claims of British Merchants trading to North America previous to the year 1776, we thought it necessary to call together yesterday these gentlemen, who are resident in this city and its neighbourhood.

They have desired us to write to your Lordship, and earnestly to request in their name, that you would direct one of your Secretaries to state to us in writing the nature of these propositions, that there may be no risque of misapprehension thereof on our part.

If we understand them aright, as they have been stated to us, there is an alternative proposed for the consideration of these old traders.

1st. Either that a new commission should be appointed for settling these claims, under the 6th Article of the Treaty of Amity with the United States, in consequence of the late Commission having failed in effecting it; or,

2d. That a certain specific sum should be accepted by these traders, in full compensation and liquidation of these old claims for ever. In which case we presume it is meant that these claims should be assigned over to the Government of the United States.

If such is the alternative, we are authorized to say, that ever since the appointment of the late Commissioners, the gentlemen here have been so harrassed in all attempts to recover even their best debts in the Courts of Law in Virginia, in which State their debtors generally reside, that they will most cheerfully prefer the latter proposition; and, however hard the case may be, will be ready to make very large sacrifices, in order to accomplish such a settlement. The only question in that case would be, as to the quantum of compensation in proportion to their just claims, the period of payment, and the guarantee for such payment regularly; and in all these they would be as liberal as could well be desired.

But, my Lord, from the letters we have received, we are uncertain whether the proposition of compensation is to extend to all the claims given in to the Board of Commissioners, or if it is only meant to apply towards such of our debtors as we may be able to prove have become insolvent since the Peace, owing to the existence of legal impediments in their Courts of Law; and if we are now to be left to seek such debts as may be deemed still good (by what principle or decision we know not) in these Courts, without any Commissioners in America to act, or at least some kind of check upon them, your Lordship cannot be surprized that we should pause before coming to a determination; because, from our sad experience hitherto, we should consider nine-tenths of these debts, though called good, to be totally lost without any means or prospect of redress, if there was no Board of Appeal, independent of a Government so inefficient to insure us justice.

Your Lordship is in the knowledge, that a majority of the Board of Commissioners found such legal impediments to have existed in these Virginia Courts, as to have induced them to form a Resolution that they must consider the Government of the United States, under the 6th Article of the Treaty, to be liable for the bona fide good debts owing to the British Claimants; and when such pleas in bar of judgment, as "limitation of Actions," or a "British debt," were admitted in many of these Courts, they could not well do otherwise; and they also found, that the *onus probandi*, as to the debtors not being solvent before the War, lay upon the States.

But, my Lord, we mean not to go into any discussion of this nature; all that the gentlemen here are most anxious to know at present is, the specification of these propositions, and whether there is reason to presume that the Government of the United States will listen to such a plan of compensation. The uncertainty of the exact nature of the proposition

position, and the shortness of the time, rendered it impossible for the gentlemen here to give explicit instructions, or any person to go from this to attend a meeting, we understand, has been appointed by your Lordship, on the 5th proposition; but upon receiving your reply hereto, one or more gentlemen will, if necessary, be appointed by these old traders, to repair to London immediately with full powers; and your Lordship may be assured, that they will not be wanting to lend their aid in every thing which can be reasonably desired, for removing effectually and for ever, the bone of dissention betwixt the two Countries. We have confidence, likewise, that His Majesty's Ministers will also see the wisdom and the sound policy of removing these claims, even if the Government of the United States should not agree to such compensation as may be thought proper.

(Signed) *Gilbert Hamilton.*  
*Robert Findlay.*

No. 21.

## Appendix, No. 22.

LETTER from Lord Grenville to Gilbert Hamilton and Robert Findlay, Esquires;  
dated Downing-street, June 3d 1800.

Gentlemen,

I HAVE this morning received your Letter of the 31st ult.

The matter to which it relates, is one in which it seems to me very difficult to make any satisfactory progress (at least in its present state) by a correspondence in writing.

It was not my intention to state to the British creditors, as an alternative for their decision, the two propositions mentioned in your Letter; but to apprise them that His Majesty's Servants having determined to propose to the American Government the appointment of a fresh Commission, according to an arrangement to be treated of for that purpose in America, it had appeared desirable to ascertain whether the creditors thought it for their interest that proposals should at the same time be made for liquidating the whole demand, by the payment of any and what gross sum to be afterwards distributed among the bona fide creditors, by Commissioners acting solely under His Majesty's authority.

This matter was explained to Mr. Molleson and Mr. Nutt, in the course of a very long conversation which I had with those gentlemen, and their answer was deferred to a future day, when I was to see them for that purpose. I hardly conceive it possible that either the particular point alluded to in your letter (which is one of much intricacy and difficulty) or the various other details to which the consideration of this question must lead, should be settled by written correspondence between this place and Glasgow; nor does it seem to me to be for the interest of the creditors, that these things should be made the subject of much public discussion, previous to their being treated of in America.

I should therefore strongly recommend that the gentlemen of Glasgow who are now in London, or such other gentlemen as may be chosen for the purpose, should agreeably to what is mentioned in your letter, be authorized to act in this respect in behalf of the body of Glasgow creditors, as I conceive Mr. Nutt and Mr. Molleson to be in behalf of those in England.

I am, gentlemen,

Your most obedient humble servant,

(Signed) *Grenville.*

No. 22.

## Appendix, No. 23.

LETTER from Messrs. G. Hamilton, A. Oswald, and R. Findlay, to Lord Grenville.

My Lord,

Glasgow, 9th June 1800.

WE had the honour of receiving, upon Saturday the 7th, your Lordship's letter of the 3d instant, in consequence of which we have called a meeting upon Wednesday, of the old traders to America previous to the War, who have claims under the 6th Article of the Treaty of Amity, &c. We shall then propose, that a deputation of one or more gentlemen, according to your Lordship's recommendation, shall be appointed to go up to London as soon thereafter as practicable, with full authority to act for those traders, upon any points which may be the subject of discussion relative to their claims.

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No. 23.

40 APPENDIX TO REPORT (of March 1812) FROM COMMITTEE

No. 23.

So soon as such appointment is made, we will have the honour to inform you; at same time, your Lordship is aware that it may be some days after the proposed meeting, before these gentlemen who may be deputed, can make it convenient to set off from this place, or indeed before they can get such full powers from so numerous a body of traders, as will properly authorize them to act in their behalf.

We have the honour to be, &c.

To the Right Hon<sup>ble</sup> Lord Grenville,  
&c. &c. &c.

(Signed) *Gilb' Hamilton.*  
*Alexander Oswald.*  
*Rob' Findlay.*

Appendix, No. 24.

LETTER from G. Hamilton, R. Findlay, and A. Oswald, to Lord Grenville.

No. 24.

My Lord, Glasgow, 13th June 1800.  
WE had the honour of addressing you upon the 9th instant, and have now to say that the meeting of the old American traders here, then mentioned, took place upon Wednesday the 11th, and was very fully attended.

They came to the unanimous resolution of appointing a deputation of three of their number to proceed to London as soon as possible, in conformity to the desire of your Lordship; and of committing to them, or any two of them, full powers to settle all points that may be the subject of discussion with your Lordship relative to these old claims.

Messrs. Gilbert Hamilton, and Robert Findlay (the subscribers) and Mr. Andrew Buchanan, were the gentlemen requested to go; and upon either of them being unable to undertake the journey at this time, either from bad health or any other cause, the two former were authorized to name any other in his place, with the same powers.

It is the intention of these gentlemen to leave this next week for London; but we are sorry to say that Mr. Hamilton is at present confined with a severe cold, and the time of their being in London will in some measure therefore depend upon his recovery; but your Lordship may rest assured that there will be no unnecessary delay.

We have the honour to be, &c.

To the Right Hon<sup>ble</sup> Lord Grenville,  
&c. &c. &c. Whitehall.

(Signed) *Gilb' Hamilton.*  
*Rob' Findlay.*  
*Alexander Oswald.*

Appendix, No. 25.

MEMORANDUM from the Committee of Claimants to the Right honourable Lord Grenville; dated London, 3d July 1800.

No. 25.

THE Claimants for the debts due to the British creditors by the citizens of North America, having considered the conversations they have had with the Right honourable Lord Grenville, cannot, after the disappointments they have already experienced, both under the Fourth Article of the Treaty of Peace, and Sixth Article of the Treaty of Amity, and the methods taken by America to render these nugatory, place any faith in the success of a new Commission under these Treaties; and therefore, finally to put an end to the whole business, would prefer a stipulated sum to be paid them, in full of all debts claimed under the Sixth Article of the Treaty of Amity, provided they could be secured of the payment of such sum by instalments in a reasonable time; and in consequence of such security or guarantee, they would be willing to make a considerable sacrifice of their just rights.

With regard to the amount of such sum, the Claimants are more at a loss, from not knowing the exact amount which has been claimed under that Article, or the manner in which the different claims have been made up with regard to interest, &c.; but from what they are informed, of the amount being about five millions sterling, and allowing that some part may be cut off, either from being improperly claimed or not sufficiently ascertained, both of which may be better known to His Majesty's Ministers, and deducting such payments as may have been made on these debts before the ratification of this agreement, they are willing on obtaining the guarantee of the British Government, to accept of two millions and an half sterling, rather than these claims should continue as a bone of contention and a

source



source of discontent between the two countries, or that they should experience the hardships and vexations which they have reason to expect in the prosecution of their debts in that country.

The claimants consider that the United States are bound to this country to indemnify the British merchants for the losses they have incurred from the legal impediments experienced, and to open their Courts fully for the recovery of these debts which may be thought still good, and therefore they hope the sacrifice they propose to make will appear liberal: and should the sum be too great for the present situation of the funds of the United States, they trust that His Majesty's Ministers will see the justice of advancing, from the funds of this country, such sum as may make up the deficiency, in consideration of the hardships the Claimants have already sustained, and the sacrifice they are now willing to make.

Should His Majesty's Ministers not accede to the proposal of the Claimants, of giving the guarantee of this country for payment of the sum before mentioned, they the said Claimants cannot agree to any compromise with the United States, as it would be relinquishing a large part of their just rights, without obtaining sufficient security for the remainder; and therefore in that case they must trust to His Majesty's Ministers, that in any arrangements to be made under a new Commission, they should not experience these evasions of the true spirit and meaning of the Treaty which they have hitherto done.

At the same time, as a majority of the Commissioners, appointed under the Sixth Article of the Treaty of Amity, have found that there were legal impediments against the recovery of British debts in some of the United States, and as by the said Article the decision of such majority was to be final, the Claimants under the Treaty in these States consider themselves now entitled to full payment from the United States; and to the aid of His Majesty's Government for enforcing such payment, unless the above compromise is acceded to.

London, 3d July 1800.

No. 25.

#### Appendix, No. 26.

NOTE from Lord Grenville to the Committee of Claimants; dated Downing-street, July 10th 1800.

THE King's Government has taken into its most serious consideration the Memorandum transmitted to Lord Grenville by the Committee of British creditors. His Majesty's Servants do not think that they could with propriety advise His Majesty to guarantee to the creditors the payment of any sums which the American Government might agree to give in liquidation of the demands of the creditors. If such payments, so engaged for, should not be duly and regularly made, it would then be for the King's Government to consider of the measures to be taken by them, or to be proposed to Parliament on the subject, according to the circumstances of the case, and to the different considerations by which any decision upon it must necessarily be regulated; but a previous guarantee, such as is desired by the gentlemen of the Committee, appears to His Majesty's Servants to be not only unusual, but improper to be given.

No. 26.

#### Appendix, No. 27.

MEMORIAL to the Right honourable Lord Grenville; dated London, 12th July 1800.

Memorial to His Majesty's Secretary of State for Foreign Affairs.

IN behalf of the British merchants who have debts owing them in North America, which were bona fide contracted before the Peace, the subscribers have the honour to acknowledge receipt of a note from the Right honourable Lord Grenville, dated the 10th instant, by which he informs them that His Majesty's Ministers "do not think that they could with propriety advise His Majesty to guarantee to the creditors the payment of any sum which the American Government might agree to give in liquidation of the demands of the creditors."

After the long forbearance of these merchants, and the vexations, sufferings, losses and expenses of various kinds, which for so many years they have undergone, not only during the American War, but also by the non-fulfilment of the Treaty of Peace, and of the Treaty of Amity, on the part of the United States; the subscribers had flattered themselves that the period was now arrived, when they might have assured their constituents there was an immediate prospect of some compensation for their losses, and that they would no longer remain the only class of His Majesty's subjects whose interests were to be sacrificed as the price of making and preserving peace with the United States; without any indemnification or recompence whatever.

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No. 29.

The subscribers will not now recapitulate the prohibitory laws passed during that War, which so much affected the interest of these merchants, nor the many Memorials presented to the King's Ministers towards the conclusion of it, that their interests might be attended to in the Treaty of Peace; nor the disappointment which was felt when they found, notwithstanding assurances previously given by his Majesty's Government, that no effectual security was provided for the fulfilment of the Fourth Article thereof. But they cannot help expressing their mortification, that after all, the proposal of a compromise intimated by Lord Grenville should now prove nugatory, from the want of sufficient security for the payment thereof, even at distant periods.

The British merchants have always expressed their readiness to make large sacrifices of their just claims, but His Majesty's Ministers must be sensible that after what has passed, they, as individuals, can have no confidence in the security of the American Government for the payment of any sums in compensation which may be agreed to, because they have no means of enforcing it; but the British Government happily have such means in their power, if they shall interpose their guarantee for the same; and although the subscribers desire not to be understood as recommending war, in the eventual nonpayment on the part of the United States; yet it is obvious that it is at least as much the interest of these States as of Great Britain to preserve peace; and therefore little risk that such composition as may be agreed to, will not be liquidated, if payable to the British Government; even if the risk was greater, the subscribers never can believe it to be consistent with justice, that the property of a few individuals in a great nation should be made the sacrifice to the desire of preserving peace.

The Commissioners under the Sixth Article of the Treaty of Amity, as may be seen by their records, have been very far from giving every decision in favour of the British Claimants; and it is remarkable, that all decisions against them were unanimous; not a murmur against such decision, however, was ever heard among these Claimants. But whenever there was an opinion of a majority of the Commissioners in favour of that persecuted and unfortunate class of men, the American Commissioners withdrew from the Board, and by a mean and contemptible subterfuge, pretended that their doing so suspended all decisions. They afterwards exhibited long reasons, particularly *legal* reasons, for this conduct; when nothing is more clear than that by the said Sixth Article the decisions of the Board were to be founded, not upon law, but upon the broader foundation of equity and justice, according to the bearings of the cases which came before them, under the existing circumstances; and that such decisions of a majority, after the Board was constituted, were to be final and obligatory upon the United States. How far it may in this situation be consistent with the dignity of the British Government, or even with a sound and broad policy, to appoint new Commissioners, it is for His Majesty's Ministers to determine; but the British Claimants have reason to fear that in any such new appointment the chances must be against them, and they cannot conceive that any security for the fulfilment of the decisions of the Board can now be given, which did not formerly exist. If the decisions of such a majority of the new Board as of the present should be against the Claimants, there would perhaps be little doubt of their being effectual; unless indeed it could be supposed that British Commissioners were in that case to follow the late example, and by a similar quibble pretend to say that the opinions of the majority were not decisions, because they had withdrawn from the Board: but if the decisions of a similar majority of the new Board should again be in favour of these Claimants, the subscribers are of opinion, judging from what has passed ever since the Peace, that a similar or some other subterfuge would be resorted to, to elude their effect, however contrary such conduct may be to equity and justice, and to the opinions of some respectable American Judges, solemnly delivered from the Bench.

The British Claimants cannot therefore, by any act of theirs, sanction the appointment of such new Commissioners; but they will always be ready, as repeatedly expressed, to make large sacrifices of their claims, and to accept a compensation for the remainder, when they are secured that such remainder will be paid them under the direction of Commissioners appointed by His Majesty, to whom the vouchers of their claims would be in that case assigned.

They therefore trust with confidence that, sooner or later, the British Government, after having delivered up the forts which were long held as a security for their claims, will see the hardship of making them the only sufferers, as the price of peace.

London, 12th July 1800.

*Will<sup>ms</sup> Mollison.*

*John Nutt.*

*Gilb. Hamilton.*

*And<sup>r</sup> Buchanan.*

*Ro<sup>d</sup> Findlay.*

*Henry Glasford.*

*Henry Riddell.*

Appendix, No. 28.

LETTER from Messrs. Robert Findlay, Alexander Oswald, and Gilbert Hamilton, to the Right honourable Lord Hawkesbury; dated,

My Lord,

3d April, 1801.

THE merchants in this city, trading to North America prior to 1776, having some years ago appointed us a Committee to attend to their interests, we have had sundry conferences with the Right honourable Lord Grenville and His Majesty's other Ministers on that subject; in which, and in repeated written representations we had the honour to present to them, we stated the hardship we had suffered from the non-payment of the large debts due to us by the citizens of the United States. These debts we had been prevented from recovering after the Peace, by the impediments we met with in that country, but which we trusted would have been removed by the operation of the Treaty of Amity, Commerce and Navigation, between the two countries. In this, however, we have been disappointed, by the conduct of the American Commissioners.

No. 28.

When the subscribers (Robert Findlay and Gilbert Hamilton) had the honour of some conferences with Lord Grenville on that subject last June, they had hopes that matters would then have been put on such a footing as that at last we should have had that justice done us which we had so long been deprived of, as they were then assured His Majesty's Ministers had it much at heart. But as, from the late changes in His Majesty's Councils, they have retired without this matter having been settled, we now take the liberty of addressing ourselves to your Lordship, to request that as it now comes under your particular direction, you would take such measures as at last to bring it to a favourable conclusion; and which, from some correspondence we had lately with Mr. Anstey, we were led to believe was nearly accomplished.

We have no doubt that the communications we had the honour to make to the Right honourable Lord Grenville, Mr. Pitt, and Mr. Dundas, by Mr. Hamilton and Mr. Findlay in 1794, and those delivered by the joint Committees of the London and Glasgow Merchants to his Lordship last Summer, will be found in the Office, but should your Lordship wish to have copies of them, we should transmit such of them as may be thought essential. We would humbly solicit your Lordship's attention to this business, and shall be much obliged for such communications as you shall see proper to give us.

Appendix, No. 29.

LETTER from Mr. Macdonald to Mr. Hammond; dated,

Dear Sir,

Great George-street, 4th May 1801.

I THINK the questions which have been verbally proposed to me are these:

1. To what amount were claims presented under the Commission?
2. To what amount is it probable that awards would have been given if the Board had been suffered to proceed?

No. 29.

And 3. Is there good ground to believe that the principles I have published as now declared by the Judges of the Supreme Court of the United States, would be available to British creditors in the legal recovery of their debts?

Referring generally to the matters contained in two different Papers, which at the desire of Lord Grenville I drew up and delivered to you at different times in the course of last Winter, as well as in other statements, I will, as far as it is possible, and in a few words, give distinct answers to those questions.

And to the first, for the reasons I have elsewhere explained, an exact statement of the amount of the claims cannot be given, without resorting to the schedules and documents in America, and making up a great variety of necessary calculations; but judging from my notes, and the copies of claims in my possession, I would set down the amount, principal and legal interest, at upwards of four millions sterling.

To the second question it is with reluctance that I give an answer, because I cannot speak with any thing like the accuracy of business; and I am speaking of millions. But deducting claims which I know we should have rejected *in toto*, making allowance for well founded objections to parts of others, and anticipating those defects of evidence which would have been fatal, even before a tribunal of liberal equity not barred by technical rules from giving effect in favour of either party, to the fair impression of general circumstances, I think we should have rejected to the amount of one-half the sums claimed. I venture therefore to say, that we might probably have given awards to the amount of something

No. 29.

more than *two millions* sterling. The American Government countenanced and inflamed the opinion among the people, that we were ready to give awards to a much greater amount.

The last question I answer without hesitation. In the "Brief Statement" of the opinions of the Commissioners, which I drew up and caused to be published on the eve of my departure from America, and which I understand has in a considerable degree answered the purpose intended, I stated the principles which the Judges of the American Supreme Court had laid down in the year 1796, *when the Commission was impending*, and it was convenient, if possible, to preclude its jurisdiction by some evidence of a recent change of judicial opinion favourable to British creditors. But I stated them only as a bar to all complaints on the part of America, against the *very same* principles; which (without at that time knowing the coincidence) the majority of the Commission had declared; by no means inferring that those principles then so lately for the first time announced by that American Court of Law, would be substantially available, in any considerable degree, to British creditors. On the contrary, the knowledge I found it absolutely necessary to acquire of the complicated judicial machinery of that country, through all its different gradations of *Federal* and of *State* jurisdictions, with the habits of the great majority of their *Judges* (by no means excepting the Judges of the Supreme Court) as well as of their *Juries*, who are too free to listen to the directions which are given by their Judges, even on matters of pure law, if contrary to the popular wish or interest, compels me to state it as my clear opinion, that even supposing British creditors could *now* be induced to try such tedious and costly experiments, through Courts of Chancery as well as Law, or that it were at this day legally competent, or in the power of many of them to do so, they would in general, with but few exceptions, be foiled: while the fresh agitation of old questions for a long course of time to come, would necessarily produce a continued irritation and never-ceasing series of petty negotiations between the two countries.

These are my opinions on the points proposed. I give them with deference; but on firm conviction.

I remain, &amp;c.

George Hammond, Esq.  
&c. &c. &c.

(Signed) *Thos Macdonald.*

## Appendix, No. 30.

Copy of a LETTER from Messrs. John Nutt and W<sup>m</sup> Molleson to Lord Hawkesbury; dated the 12th of May 1801.

No. 30.

My Lord,  
THE general Committee of American Claimants having this day met, in expectation of being informed by us of the state of their business, we are instructed to express their surprise and concern that we were not enabled to give them any satisfaction on the subject; and to request that your Lordship will have the goodness to appoint as early a day as possible to receive us and one or two other members of the Committee, in order to be informed of the present state of this interesting business.

Broad-street,  
12th May 1801.

We have the honour to be, &c.  
(Signed) *John Nutt.*  
*W<sup>m</sup> Molleson.*

To the Right honourable Lord Hawkesbury,  
&c. &c. &c.

## Appendix, No. 31.

NOTE from Lord Hawkesbury to Messrs. Nutt and Molleson; dated Downing-street, 12th May 1801.

No. 31.

Lord Hawkesbury presents his compliments to Messrs. Nutt and Molleson, and, in answer to their note of this date, has the honour to inform them, that the subject to which it relates is now under the consideration of the Lord Chancellor and His Majesty's other confidential Servants.

## Appendix, No. 32.

NOTE from Lord Hawkesbury to Messrs. Nutt and Molleson; dated Downing-street, 23d Oct. 1801.

Lord Hawkesbury presents his compliments to Mr. Nutt and Mr. Molleson, and is sorry to inform them, that notwithstanding the anxious endeavours of His Majesty's Government to arrange finally the questions arising out of the 6th Article of the Treaty of Commerce with America, they have not yet been able to effect that desirable object; but as soon as a settlement of them shall be made, Lord Hawkesbury will not fail to give Mr. Nutt and Mr. Molleson the earliest information of the terms of it.

No. 32.

## Appendix, No. 33.

LETTER from Henry Glassford, Esquire, on behalf of the Glasgow Claimants, to Lord Hawkesbury.

My Lord,

Glasgow, 22d November 1801.

I TRUST to your Lordship's indulgence for my excuse in using the freedom of addressing you by letter, though I have not the honour of being at all known to your Lordship. I do so, however, in consequence of your Lordship having been appointed by His Majesty to occupy the high and important situation lately filled by Lord Grenville; to whom several memorials upon the subject, which I now take the liberty of submitting to your Lordship's consideration as his successor, were formerly presented.—The memorials to which I allude, related to the claims of the British Merchants trading to America before the war, which terminated in 1783, whose situation, with respect to the debts then due to them in that country, appeared to the Ministers who at that period directed His Majesty's Councils, to be of such importance as to render it necessary to insist upon an express Article, for the purpose of securing to them their rights, forming part of the Treaty of Peace then concluded. And the late Administration, by introducing the 6th Article into the Treaty of Amity concluded with Mr. Jay in 1794, also manifested their opinion with regard to the justice and equity of attending to the interests of these Merchants in any arrangement made with America. These gentlemen have as yet, however, reaped no benefit from either of these Treaties—the execution of both having been most shamefully evaded by the American Government. Twice has the British Government acknowledged, in the most public manner, the justice of the claims urged by the British merchants; and yet eighteen years have elapsed without any thing effectual being done by that Government for their relief. They have seen the Loyalists fully compensated—they have seen early measures taken for remunerating, in an ample manner, those who in the late Irish rebellion suffered from their attachment to the established constitution; and they have seen themselves, who will yield to no class of inhabitants whatever for steady adherence to and active exertions in defence of His Majesty's Person and Government, entirely neglected, excepting to the extent of a solemn though fruitless admission of the hardship of their situation; which, being followed by no solid redress, serves but to aggravate their sufferings. If high reasons of State render it prudent not to insist, with urgency and vigour, that America shall fulfil her part of the Treaty of Amity, it is surely a cruel policy that would, for the public benefit, sacrifice without remuneration the just claims of individuals.

Being personally very deeply interested in this matter, in consequence of the extensive Establishments which my late father had in America previous to 1776, I took the liberty in Spring 1800 of sending a memorial on the subject to Mr. Dundas, who was intimately acquainted with my father, and to whom I have the honour of being in some degree known. Mr. Dundas delivered it to Lord Grenville, and though it may be among the other papers in your Lordship's office, yet as it has probably never attracted your Lordship's notice, I use the freedom of enclosing a copy of it for your perusal. Having been in London for some weeks during the Summer of 1800, I had the honour, along with some other Gentlemen also interested in this business, of waiting several times upon Lord Grenville, who had the goodness to enter with us at large into the discussion of our claims. From what passed at these interviews, we were in constant expectation that his Lordship would have brought about a settlement of one kind or other with the American Minister; but nothing decisive seems to have taken place during his continuation in office. We had reason to expect, that after suffering such intolerable hardships as we have done since September 1783, some more regard than mere expressions of regret would have been paid to our representations by that Administration of which Lord Grenville formed a part; that he would either have closed the business with the American Minister, by accepting of a certain sum of money, to be guaranteed by Great Britain, to be divided among the British creditors, as some compensation for the grievous losses we had sustained; or, though almost a hopeless remedy, that he would have restored to activity the Board of Commissioners under certain fixed principles, to have been previously settled between Administration and the American Minister.

A change

No. 33.

No. 33.

A change of Administration has hitherto brought about no change in our favour, nor can we, from any information we have yet received, flatter ourselves with the hope of any immediate effectual interference of His Majesty's present ministers, unless the delay has been solely occasioned by the great importance of the negotiations with France, which are now, under your Lordship's auspices, upon the eve of being brought to a happy conclusion. When that is accomplished, we trust, my Lord, that His Majesty's Ministers will, without delay, adopt decisive measures to procure for us our just demands; should we be disappointed in this reasonable expectation, we shall have no other resource but to throw ourselves, by an application to Parliament, on the justice of the nation: nor can we think that our application will be ineffectual, when we ask nothing more than a fulfilment of the 4th Article of the provisional Treaty with America, and of the 6th Article of the Treaty of Amity with the same country; or if, for political reasons, the execution of these Articles on the part of America should not be rigorously exacted, that compensation should be made to us by Great Britain.

Should we come forward in this public manner, it cannot be said, my Lord, that we do so prematurely, after having waited with unexampled patience for 18 years from the period of the first Treaty, and for seven years from the period of the latter; after having heard Ministers repeatedly express in the strongest terms their sense of the hardship of our case, without using any effectual means for our indemnification; and lastly, after having seen two instances of ample compensation being given to certain sufferers, whose claims were by no means more urgent, more just, or more entitled to national consideration, than those which we, as British Merchants trading to America before the war under the faith of British honour, have preferred.

I have the honour to be, &amp;c.

(Signed) *Henry Glassford.*To the Right honourable  
Lord Hawkesbury, &c. &c. &c.

## Appendix, No. 34.

LETTER from Lord Hawkesbury to Messrs. Molleson and Nutt; dated  
Downing-street, January 14th 1802:—enclosing Copy of the Convention.

No. 34.

I HEREWITH transmit to you the copy of a Conversation signed by myself and Mr. King on the 8th instant, and which I trust will satisfactorily arrange the differences which have so long subsisted between His Majesty's Government and that of the United States of America, on the subject of the sixth Article of the Treaty of Amity, Commerce and Navigation, concluded in the year 1794.

## Appendix, No 35.

CONVENTION between His Majesty and the United States of America.

No. 35.

DIFFICULTIES having arisen in the execution of the sixth Article of the Treaty of Amity, Commerce and Navigation, concluded at London on the 4th day of November 1794, between His Britannick Majesty and the United States of America, and in consequence thereof, the proceedings of the Commissioners under the seventh Article of the same Treaty having been suspended, the Parties to the said Treaty being equally desirous, as far as may be, to obviate such difficulties, have respectively named Plenipotentiaries to treat and agree respecting the same; that is to say, His Britannick Majesty has named for His Plenipotentiary, the Right honourable Robert Banks Jenkinson, commonly called Lord Hawkesbury, one of his Majesty's most Honourable Privy Council, and His principal Secretary of State for Foreign Affairs; and the President of the United States, by and with the advice and consent of the Senate thereof, has named for their Plenipotentiary, Rufus King, Esq. Minister Plenipotentiary of the said United States to His Britannick Majesty, who have agreed to and concluded the following Articles:

Article First.—In satisfaction and discharge of the money which the United States might have been liable to pay, in pursuance of the provisions of the said sixth Article, which is hereby declared to be cancelled and annulled, except so far as the same may relate to the execution of the said seventh Article, the United States of America hereby engage to pay, and His Britannick Majesty consents to accept for the use of the persons described in the said sixth Article, the sum of £.600,000 sterling, payable at the times and place, and in the manner following, that is to say; the said sum of £.600,000 sterling shall be paid at the city of Washington in three annual instalments of £.200,000 sterling each, and to such person or persons as shall be authorized by His Britannick Majesty to receive the

same:

same: the first of the said instalments to be paid at the expiration of one year, the second instalment at the expiration of two years, and the third and last instalment at the expiration of three years next following the exchange of the ratifications of this Convention. And, to prevent any disagreement concerning the rate of exchanges, the said payments shall be made in the money of the said United States, reckoning 4 dollars and 44 cents to be equal to one pound sterling.

Article Second.—Whereas it is agreed by the Fourth Article of the Definitive Treaty of Peace, concluded at Paris on the 3d day of September 1783, between His Britannick Majesty and the United States, that creditors on either side should meet with no lawful impediments to the recovery of the full value in sterling money of all *bonâ fide* debts theretofore contracted: It is hereby declared, that the said Fourth Article, so far as respects its future operation, is hereby recognized, confirmed, and declared to be binding and obligatory on His Britannick Majesty and the said United States, and the same shall be accordingly observed with punctuality and good faith, and so as that the said creditors shall hereafter meet with no lawful impediment to the recovery of the full value in sterling money of their *bonâ fide* debts.

Article Third.—It is furthermore agreed and concluded, that the Commissioners appointed in pursuance of the Seventh Article of the said Treaty of Amity, Commerce and Navigation, and whose proceedings have been suspended as aforesaid, shall, immediately after the signature of this Convention, re-assemble and proceed in the execution of their duties according to the provisions of the said Seventh Article, except only, that instead of the sums awarded by the said Commissioners being made payable at the time or times by them appointed, all sums of money by them awarded to be paid to American or British Claimants, according to the provisions of the said Seventh Article, shall be payable in three equal instalments, the first whereof to be paid at the expiration of one year, the second at the expiration of two years, and the third and last at the expiration of three years next after the exchange of the ratifications of this Convention.

Article Fourth.—This Convention, when the same shall have been ratified by His Majesty, and the President of the United States, by and with the consent of the Senate thereof, and the respective ratifications duly exchanged, shall be binding and obligatory upon His Majesty, and the said United States.

In faith whereof, we the undersigned Plenipotentiaries of His Britannick Majesty, and of the United States of America, by virtue of our respective full powers, have signed the present Convention, and have caused the Seals of our Arms to be affixed thereto.

Done at London, the eighth day of January 1802.

Hawkesbury. (L. S.)

Rufus King. (L. S.)

#### Appendix, No. 36.

LETTER from Messrs. Wm. Molleson and John Nutt, to Lord Hawkesbury; dated London, 19th January 1802.

My Lord,

WE have received the honour of your Lordship's letter of the 14th instant, transmitting to us a copy of the Convention, signed by your Lordship and Mr. King the 8th instant, relative to the differences which have so long subsisted between His Majesty's Government and the United States of America, on the subject of the Sixth Article of the Treaty of Amity, Commerce and Navigation, concluded in 1794.

We are extremely sorry, my Lord, to be under the necessity of representing to your Lordship, that the terms of the said Convention are not by any means satisfactory to us, neither can they be so to our constituents; the sum stipulated to be paid by America not being in any degree adequate to the sum claimed as due to His Majesty's subjects, and the engagements to open the Courts *now* being perfectly illusory, which we have no doubt Mr. King himself must be fully sensible of; we are therefore justified in applying the expression.

We cannot avoid observing to your Lordship, the Americans are allowed the full benefits of the Seventh Article of the Treaty of Amity, while His Majesty's subjects are deprived of those stipulated for them by the Sixth Article of the said Treaty, by which they had reasonable expectations of impartial and substantial justice.

Your Lordship must have found in the office a memorial to Lord Grenville, dated the 22th July 1800, signed by us and by the Gentlemen of the Glasgow Committee, a copy of which we had the honour of transmitting to your Lordship some months ago, by the contents of which we desire to abide, and therefore claim the due execution of the Sixth Article of the Treaty of Amity concluded in 1794.

If His Majesty's Government think fit, for reasons of State, to cancel and annul the said Article, our property ought not to be sacrificed for the benefit of the State without due compensation being made to us by the public for such sacrifice.

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We

No. 36.

We shall call a Meeting of the general Committee, and lay the Convention before them; we shall consult with the Gentlemen of Glasgow, who are largely concerned, after which we shall have the honour of again addressing your Lordship.

We have the honour to be, with the greatest respect,  
My Lord, &c.

(Signed)

*William Molleson,  
John Nutt.*

## Appendix, No. 37.

LETTER from Mr. Gilbert Hamilton, on behalf of the Glasgow Claimants, to the Right honourable Lord Hawkesbury; dated

My Lord,

24th January 1802.

No. 37.

A Letter from Messrs. Molleson and Nutt, with a Copy of the Convention signed by your Lordship and Mr. King on the 8th instant, for arranging the differences which have so long subsisted between His Majesty's Government, and that of the United States of America, on the subject of the sixth Article of the Treaty of Amity, Commerce and Navigation concluded in the year 1794, has been laid before the Committee appointed by the Merchants in this City trading to North America before the War, who have directed me to write to your Lordship in their name, That, after having waited so long without obtaining that justice which was due to us from the fourth Article of the Treaty of Peace, we trusted to have obtained redress from the sixth Article of the Treaty of Amity; but that we are now sorry to find, that, after having been deprived of the benefit of that Treaty by the most shameful evasions on the part of the American Commissioners, it is at last cancelled and annulled without a compensation in any degree adequate to the losses sustained by the British subjects from legal impediments since the Treaty of Peace in 1783. And that we are again thrown back upon the fourth Article of that Treaty, which, for so many years, we have found so ineffectual.

In the different conferences and communications which we and the Gentlemen of the London Committee have had the honour to have with His Majesty's Ministers on this subject, the claims and sufferings of the British Merchants have been fully explained, and we trust that the ideas of those concerned in this unhappy business have been found not to be illiberal; but we are sorry to find the compensation held out to us by the present Convention so far under our expectations.

We have no doubt that His Majesty's Government may have had political reasons for cancelling this Article, whereby one class of His Majesty's subjects are deprived of the benefits which are allowed to the Americans, and another class of British subjects, by the seventh Article. But we trust that the justice of this country will not allow the property of a class of men, who have already suffered so much, to be sacrificed for the interest of the whole, without a proper compensation; and we hope to have the countenance of His Majesty's Ministers in any application for the same.

It will be very gratifying to the Gentlemen of the Committee to hear from your Lordship on this subject.

I have the honour to be, my Lord,

Your Lordship's most obedient servant,

(Signed)

*Gilb' Hamilton,  
Secy.*

## Appendix, No. 38.

EXTRACT from Act 43 Geo. III. chap. 39.

AN ACT for appointing Commissioners for distributing the Money stipulated to be paid by the United States of America, under the Convention made between His Majesty and the said United States, among the Persons having Claims to Compensation out of such Money. (22 April 1802.)

No. 38.

WHEREAS by a Convention made at London on the 8th day of January 1802, between His Majesty and the United States of America, the said United States engaged to pay, and His Majesty consented to accept, for the use of the persons described in the Sixth Article of the Treaty of Commerce, Amity and Navigation, concluded at London on the 4th day of November 1794, between His Majesty and the said United States, in satisfaction and discharge of the money which the United States might have been liable to pay in pursuance of the provisions of the said Sixth Article, the sum of £.600,000. sterling, payable at the city of Washington in America, in three annual instalments of £. 200,000. sterling each, and such person or persons as should be authorized by His Majesty to receive the



the same, the first of the said instalments to be paid at the expiration of one year, and the second instalment at the expiration of two years, and the third and last instalment at the expiration of three years next following the exchange of the ratification of the said Convention, and to be paid in money of the said United States, reckoning four dollars and forty-four cents to be equal to one pound sterling: And whereas it is expedient that Commissioners should be appointed for the apportioning, dividing and distributing such sum of money, amongst the several persons who shall by such Commissioners be found entitled to receive compensation out of the same, in proportion to their several and respective claims, so far as the same shall by such Commissioners be approved or adjudged to be good; May it therefore please Your Majesty; that it may be enacted; and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That Thomas Macdonald, Esquire, Henry Pye Rich, Esquire, and John Guillemard, Esquire, shall be and they are hereby constituted and appointed Commissioners for the purposes aforesaid; and that the adjudication of such Commissioners, or any two of them, as to all claims made for compensation out of such money, and also as to the apportionment and distribution thereof as aforesaid, shall be final and conclusive.

Commissioners appointed.

Sect. 7. And be it further Enacted, That no claim or request of any person or persons under this Act shall be received after the 1st day of June 1804.

No Claim to be received after June 1, 1804.

Sect. 8. And be it further Enacted, That the said Commissioners shall from time to time, at their discretion, or as often as they shall be thereunto required, and as soon as possible for the determination of their examinations and proceedings by virtue of this Act, without any further requisition, give an account of their proceedings in writing to the Lords Commissioners of His Majesty's Treasury, and to His Majesty's principal Secretaries of State for the time being.

Commissioners shall give an account of their Proceedings to the Treasury, &c.

Sect. 12. And be it further Enacted, That when and so soon as the said Commissioners, or any two of them, shall have approved and adjudged the claim of any person or persons to any such compensation as aforesaid to be good and valid, in the whole or in part, and ascertained the amount of any dividend or proportion of money to which any such person is, or persons respectively are then entitled, the said Commissioners, or any two of them, shall make out or cause to be made out, in such form as they shall think fit, an Order or Orders for the payment of such sum or sums respectively as shall have been so ascertained as aforesaid, or of such part thereof as shall be in proportion to the amount of the money which shall then have been remitted from America, and paid into the Bank of England in manner hereinbefore directed, and shall annex their hands and seals, or the hands and seals of any two of them, to such Order or Orders, and shall cause the same to be delivered to the person or persons respectively entitled thereto, or to the agent or agents of such person or persons duly authorized, on such receipts acquittances or assignments being delivered duly executed by such person or persons, to the extent of the money to be by such person or persons respectively received, as the said Commissioners, or any two of them, shall have directed or required."

When Claims are ascertained, orders shall be made out for Payment.

Appendix, No. 39.

LIST of ADJUDICATIONS by the Commissioners appointed under the Act 43d Geo. III. cap. 39.

GLASGOW CLAIMS.

	£.	s.	d.
John Alston, for Alston, Young, and Co.	6,000	—	—
D <sup>o</sup> - - - John Alston and Co.	4,800	—	—
Buchanan, Hastie, and Co	61,500	—	—
James Baird, for John Hay and Co.	7,000	—	—
John Buchanan and G. Lawson	15,000	—	—
Bonar, for Allan, Love, and Co.	6,000	—	—
John Ballantine and Co.	3,000	—	—
G. Brown and J. Lawrie	7,000	—	—
Buchanan and Milliken	200	—	—
Andrew Buchanan, for G. and A. Buchanan	7,000	—	—
J. Buchanan, for C. Ried and Co.	4,800	—	—
Cochrane, Donald, and Co.	6,200	—	—
Margaret Coates	5,000	—	—
W <sup>m</sup> Calderhead, for Jamieson, Campbell, and Co.	3,500	—	—
Duncan Campbell's Executors	4,000	—	—
W <sup>m</sup> Cuninghame and Co.	88,000	—	—
Cuninghame, Findlay, and Co.	5,600	—	—
Alexander Donald and Co	7,200	—	—
Dinwiddie, Crawford, and Co.	18,000	—	—

No. 39.

	£.	s.	d.	£.	s.	d.
Dreghorn, Murdoch, and Co.	5,820	—	—			
Colin Dunlop and Son, and Co.	13,300	—	—			
Thomas and Alexander Donald and Co.	5,500	—	—			
James and Robert Donald and Co.	50,500	—	—			
Dunlops and Crosse	4,000	—	—			
Donald Scott and Co.	20,500	—	—			
Dunmore, Blackburne, and Co.	8,000	—	—			
Alexander Donald	800	—	—			
Glassford, Gordon, Monteath, and Co.	15,500	—	—			
Glassford and Henderson	13,500	—	—			
John Glassford and Co.	26,500	—	—			
James Gammet	5,000	—	—			
Henderson, M <sup>c</sup> Call, and Co.	32,500	—	—			
Archibald and John Hamilton	48,150	—	—			
James Hunter and Co.	1,000	—	—			
George Keppen and Co.	28,150	—	—			
George Lothian, for N. Menzies Trustees, &c.	5,700	—	—			
Isabella Logan	2,110	—	—			
Murdoch, Donald, and Co.	10,000	—	—			
James Murdoch, for James Murdoch and Co.	2,500	—	—			
D <sup>o</sup> - - - for Thomas Yuille, James Murdoch and Co.	3,500	—	—			
Rob <sup>t</sup> Muirhead, for Aitchison Hay and Co.	1,500	—	—			
M <sup>c</sup> Call, Dennistown, and Co.	5,440	—	—			
M <sup>c</sup> Call, Smellie, and Co.	10,000	—	—			
George M <sup>c</sup> Call and Co.	3,500	—	—			
M <sup>c</sup> Dowall, Stirling, and Co.	13,500	—	—			
John M <sup>c</sup> Dowall and Co.	16,000	—	—			
Helen, M <sup>c</sup> Call, and others	7,000	—	—			
William Ogilvy	1,380	—	—			
Oswald Dennistown and Co.	16,800	—	—			
James Ritchie and Co.	26,500	—	—			
James and Henry Ritchie	2,000	—	—			
Ramsay Monteath and Co.	3,000	—	—			
John Robertson, for P. Telfer's Trustees	1,000	—	—			
William Robertson, for Cuming, M <sup>c</sup> Kenzie and Co.	12,500	—	—			
Andrew Sym and Co.	4,500	—	—			
Archibald Speirs, John Bowman, and Co.	87,000	—	—			
Archibald Speirs	500	—	—			
Thomson, Snodgrass and Co.	7,000	—	—			
George Thomson, for Andrew Thomson and Co.	400	—	—			
James Wilson and Sons	1,800	—	—			

Amount of the Glasgow Claims - - £.783,650 - -

## ENGLISH CLAIMS.

The Rev <sup>d</sup> Bennett Allan	2,524	—	—
Andrew Allen	6,977	15	9
Gerard G. Beckman	505	16	3
Garstang Bradstock	110	—	—
Thomas Bell and Joseph Stanfield	1,400	—	—
John and Jane Backhouse	12,000	—	—
Thomas Bibby	2,000	—	—
Daniel Coxe	1,800	—	—
The Rev <sup>d</sup> Rob <sup>t</sup> Cooper	3,000	—	—
Mary Cowper	4,958	4	8
Abraham Cuyler	4,152	8	9
Sir W <sup>m</sup> Douglas and others	13,000	—	—
Oliver De Lancey	4,500	—	—
Daniel Dulany	14,193	—	—
Crawford Davison, Executor of J. Simpson D <sup>o</sup> - - - of Storr	10,072	1	1
	3,355	18	5
Samuel Donaldson	17,500	—	—
Samuel Douglas's Executors	7,000	—	—
Matthew Dobson	5,000	—	—
George Folliott	26,099	8	10
General Edmund Fanning	1,800	—	—
Judith Foxcroft	274	14	6
Samuel Gist	5,200	—	—
Adam Gordon	8,818	4	8
Edmund Granger	1,669	10	2
Henry Harford	43,401	—	—

ON AMERICAN CLAIMANTS PETITION.

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	£.	s.	d.	£.	s.	d.	No. 39.
William Hannay	16,187	3	10				
James Holmes	834	5	—				
James Hume	1,518	—	—				
John Harford	1,353	2	7				
Mary Hatch, Executrix of Elizabeth Hatch	550	—	—				
William Higginson	86,500	—	—				
Richard Hanson	3,000	—	—				
Capel Hanbury and others	934	5	—				
Thomas Hutchinson	300	—	—				
Sir Hugh Inglis and Edward Antrobus	12,833	13	10				
The Right Rev <sup>d</sup> C. Inglis	1,711	12	3				
Ann Jones	1,500	—	—				
John Jameson's Executors	2,800	—	—				
William Jauncey	37,000	—	—				
The Rev. Cavalier Jouet	5,000	10	7				
John Kane	2,000	—	—				
J. H. Littler	9,000	—	—				
Richard Lechmere	600	—	—				
John Lane, for Massachusetts's Bay Notes, } Tho' Palmer - - - - £.475 8 — } Tho' Hutchinson - - - - 260 17 — }	2,784	5	6				
Robert Livie	2,525	19	9				
Isaac Low	6,000	—	—				
William Robertson Lidderdale	4,000	—	—				
Samuel Lyde	1,000	—	—				
J. Lloyd, surviving Partner of Hanbury & Co.	3,000	—	—				
D <sup>o</sup> - - Executor of Osgood Hanbury	5,000	—	—				
John Lane, for Jon. W <sup>m</sup> Simpson	2,000	—	—				
D <sup>o</sup> - - for Anthony Lechmere	5,000	—	—				
Jon. Mallet, Executor of Kemp	2,300	—	—				
P. Martin, for the creditors of J. Bland	9,000	—	—				
William Molleson's Executors	15,000	—	—				
Joseph Martyr	250	—	—				
James Moss	3,500	—	—				
Catherine Flood M <sup>c</sup> Call	10,000	—	—				
Thomas Main, Executor of Hyndman	1,200	—	—				
D <sup>o</sup> - - and Robert Buun	1,700	—	—				
William Masterman and Richard Chester	4,000	—	—				
John Miller's Executors	700	—	—				
C. M <sup>c</sup> Ivers, Executor of M <sup>c</sup> Ivers	4,000	—	—				
Richard Miles and others, Executors of Shoobred	4,000	—	—				
John Nutt	23,639	4	8				
Nicholas Ogden	7,439	—	—				
Rebecca Ogilvie	4,872	13	—				
R. W. Powell	19,000	—	—				
John Page and Elias Vanderhost	3,000	—	—				
Robert Palmer	204	10	—				
Peake and others, Executors of Waterman	800	—	—				
John Rogers and others	15,000	—	—				
Morris Robinson's Executors	8,500	—	—				
Joseph Rutherford	685	—	—				
Colin Ross, Administrator of Jardine	1,500	—	—				
Stephen Skinner	9,000	—	—				
D <sup>o</sup> - - - for Kearney	945	7	2				
Joseph Stanfield, Assignee of Syme	1,200	—	—				
Anna Jane Simpson	800	—	—				
Strahan and M <sup>c</sup> Kenzie	2,500	—	—				
Charles Shaw	650	—	—				
Rob' Shedden & Co.	2,500	—	—				
Jon. Simpson's Executors	1,821	9	6				
John Savage's Executors	1,171	12	9				
W <sup>m</sup> Taylor's Executors	500	—	—				
Abraham Walton, Administrator of Phillips	6,000	—	—				
Wakelin Welsh	8,500	—	—				
John Weatherhead	1,136	1	6				
John Tyndale Warre	35,000	—	—				
Ann White and others, Executors of Thomas White	6,000	—	—				
W <sup>m</sup> Walton, Administrator of Walton	2,000	—	—				

Amount of English Claims - - - - £.636,350 - - -

Total amount of ADJUDICATIONS - - - £.1,420,000 - - -

## Appendix, No. 40.

OFFICE of the Commissioners appointed by Act of Parliament under the Convention with the United States of America.

## GENERAL ORDER.

No. 40.

Ordered,  
 THAT as the Board have now finally adjudged and decided on all the claims which, to the amount of £. 5,408,766. 6. s. were preferred to them, under the Act passed in the 43d year of His Majesty's reign, orders on the Bank for payment of the Dividends due on their adjudications, be delivered at this Office every lawful day, between the hours of 10 and 4, the said dividends being calculated in the proportion of £. 1,420,000. the total amount of the sums which they have adjudged on the said claims to be good, to £. 650,403. the amount with increase by interests received on Exchequer Bills of the divisible fund; deducting from the several proportions respectively, all payments already made on those adjudications which, in order to lessen as much as possible the loss and inconvenience sustained by just Claimants from the necessary delay, the Board, in every instance where the state and circumstances of the case permitted, from time to time have given; and that notices be immediately transmitted to the several Claimants on whose claims adjudications have been made, or to their agents, accordingly, with this declaration on the part of the Board, that in deciding with that anxiety which they could not but feel in the exercise of a jurisdiction without appeal, on a subject so large in amount, and various in circumstances, at a distance in point of time, which was equally a bar to good evidence, as an encouragement to false pretensions, the result of those investigations which have taken place, either here before themselves, or under their direction in America, has fully satisfied them that the greater part of that immense debt which was justly due by citizens and inhabitants of the United States to His Majesty's subjects at the date of the Treaty of Peace in 1783, had then or before any ordinary course of justice could have effectually operated, become bad and irrecoverable, from the natural and necessary consequences of civil war or internal dissension during the ten preceding years, with that inordinate spirit of speculation which took place on the return of peace; warranting the belief, that with a due regard to those practices of dilatory litigation or fraudulent contrivance, which the Board have ascertained were notoriously prevalent in that country, among unprincipled and extravagant debtors, without capital even before the war (a cause of risk on which the British merchant too little calculated) and also to those special and substantial objections by which the merits of many of the claims before the Board were effected, more than the amount of what they have now adjudged to be good, could not have been ultimately ascribed to the operation of those laws and legal practices after the Peace, in breach of the 4th Article of the Treaty, for which, under the provisions of the 6th Article of the Treaty of 1794, and the constructions thereof declared by a majority of the Board at Philadelphia, the United States were liable.

Ordered further, That intimation be given, that as all collections or recoveries since the claims were preferred, so far as the same have come to the knowledge of the Board, are included in the sums struck off or disallowed by them; so the right to recover in America, whatever may yet be recoverable against debtors there, under the special reservation contained in the Second Article of the Convention of 1802, of the benefit of the said Fourth Article of the Treaty of 1783 (however inconsiderable, comparatively, the expectation of such recoveries may now be) remains entire and unaffected by the adjudications of the Board.

And that this General Order be published in the London Gazette, and such Newspapers as the Board shall direct, for the information of all concerned.

No. 8, Cleveland-street, Fitzroy-square,  
 20th May 1811.

*Tho. Macdonald.*  
*J. Guillemard.*  
*Henry Rich.*