STATEMENT *of the grounds of Difference between the American and British commiſſioners, under the 6th article of the British Treaty.*

The fourth article of the definitive treaty of peace is in theſe words; "It is agreed, that creditors on either ſide ſhall meet with no lawful impediment to the recovery of the full value in ſterling money of all bona fide debts heretofore contracted." As complaints were made on the part of Great Britain, that this article was infringed, a remedy was provided in the ſixth article of the treaty of amity, negociated by Mr. Jay, as follows; "Whereas it is alledged by divers Britiſh merchants, and others of His Majeſty's ſubjects, that debts, to a conſiderable amount, which were bona fide contracted before the peace, ſtill remain owing to them, by the citizens or inhabitants of the United States; and that by the operations of various lawful impediments, ſince the peace, not only the full recovery of 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 hereby ſuſtained; It is agreed, that in all ſuch caſ s 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 the 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 nor damages as have been occaſioned by the manifeſt delay or negligence, or wilful omiſſion of the claimant.

"For the purpoſe of aſcertaining the amount of any ſuch loſſes and damages, five commiſſioners ſhall be appointed, and authoriſed, 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 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, take the following oath or affirmation in 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, 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 a 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 authoriſed, in any particular caſe, 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 conſideration all claims, whether of principal or 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 extracts thereof; every ſuch depoſition, book, or paper, or copy, or extract, being duly authenticated, either according to the legal forms now reſpectively exiſting in the two countries or in ſuch other manner as the Commiſſioners ſhall ſee cauſe to require or allow.

"The award of the ſaid Commiſſioners, or 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 ſame 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 ratification of this treaty."

Under this article, his Britannic Majeſty appointed Thomas M'Donald and Henry Pye Rich, Eſq'rs. and the Preſident of the United States appointed Thomas Fitzimons and James Innes Eſq'rs. Commiſſioners. The ſaid Britiſh Commiſſioners propoſed John Guillemard, Eſq. and the American Commiſſioners propoſed Fiſher Ames, Eſq. for the fifth Commiſſioner; and Mr. Guillemard was drawn by lot. Afterwards, upon the death of Col. Innes, the Preſident appointed Samuel Sitgreaves, Eſq. in his room. Among the claims which were exhibited to the commiſſioners were thoſe of Britiſh creditors, whoſe debts were confiſcated, during the revolutionary war. Theſe, which were to an immenſe amount, were contended to be revived by the fourth article of the treaty of peace, and recoverable againſt the United States, under the ſixth article of the treaty of amity. The caſe of Andrew Allen was one of the claſs. It was before the board July 9th, 1799; and is thus ſtated.

"Claim for loſſes, ariſing from the non-recovery of debts due to the claimant being *a ſubject of his Britanic Majeſty* through the operation of an act of attainder and confiſcation paſſed againſt him *as a ſubject of Pennſylvania*, by the repreſentatives of the freemen of the Commonwealth of Pennſylvania, on the ſixth day of March, 1778; for the crime of high treaſon, in having contrary to the allegiance which he owed to the ſaid ſtate, joined and adhered to the army of the King of Great Britain, the ſaid act of attainder and confiſcation being a lawful impediment, which operated againſt the fourth article of the treaty of peace, and within the meaning of the ſixth article of the treaty of amity.

"Objection ſtated on the part of the United States as the firſt ground of defence, before the board; that as the claimant was an inhabitant of the ſtate of Pennſylvania, at the date of the declaration of independence, he was a ſubject of that ſtate, for that in fact, the U. States were independent ſo early as 1776; and on the ever glorious memorable 4th of July 1776, they ſolemnly and formally declared to the world, that they were independent, that the formal acknowledgment of his Britannic Majeſty added nothing to their real independence: and if the treaty of peace had never been made, the United States would have actually continued an independent nation, though at war with Great Britain to this moment. And that though Andrew Allen, after being a ſubject of Pennſylvania, joined the Britiſh forces in December, 1776, and returned to his natural allegiance, this did not diſſolve the right of Pennſylvania to hold him as a ſubject, and as its ſubject to puniſh him, concluding that he was not entitled to the benefit of the fourth article of the treaty of peace, or 6th article of the treaty of amity.

"The board finding that the objection, *in limine*, thus taken and argued before them, precluded all farther inveſtigation—took up the queſtion, ſo far only as it was neceſſary to the determination of the national character, and right to claim. And after a full argument and diſcuſſion, and with reference to opinions, which had been ſolemnly delivered by the judges of the United States, a majority of the board propoſed a reſolution ſtating, among other things, that the only difference between the queſtion in this caſe, and that which is ſtated in the preceding reſolution,* conſiſted in the different words of deſcription, contained in the two ſeveral acts, but as the act of Pennſylvania could not have any greater effect or operation againſt the fourth article of the treaty of peace, than that of New-York; and as the fact charged to be a crime, viz. adhereing to the cauſe of his Britnnic Majeſty, was the ſame in both caſes, the mere words of deſcription, aſſumed in the act of Pennſylvania, could not prove againſt the character of the party as a Britiſh ſubject; or give efficacy to itſelf, ſo as to take the caſe out of the meaning and operation of the ſaid article—that at the peace, there was no unconditional ſubmiſſion on the part of Great-Britain, to all that had been done—— under the Independence of the U. States, and the authority they had exerciſed; but a negociation by ſolemn treaty containing reciprocal ſtipulations, as the price of peace, and for the mutual benefit of both countries; by the fourth article whereof, in favor of creditors on either ſide it was expreſsly, or in effect ſtipulated that no act which had been, or ſhould thereafter be done, or paſſed by or under the authority of the ſaid U. States, or any of them, whatever might be its form or import; whatever the terms therein employed; whatever the extent of power thereby aſſumed or declared; whatever the character thereby aſcribed to the individual againſt whom it was directed; ſhould be ſuffered to operate as a lawful impediment to the recovery of debts heretofore contracted, to a creditor on the ſide of his Britannic Majeſty, at the date of the ſaid treaty—concluding alſo in their words, that if the claimant could be ſaid to have any time made his election in favour of the United States, under the declaration of Independence;—and ſo departed for a time from his native allegiance, (the contrary of which appears to have been the caſe) his return to, and having been on the ſide of his ſaid native allegiance at the peace would have ſecured to him the benefit of the ſaid fourth article of the treaty—that accordingly, having been on the ſide of his Britannic Majeſty, at the date of the treaty of peace and being a natural born ſubject of his ſaid Majeſty, not barred by the acceptance of citizenſhip, from the right of complaining againſt the United States, the claimant is entitled under the treaty of amity to complain to this board of the ſaid act of attainder and confiſcation before recited, as being a lawful impediment within the deſcription of the fourth article of the treaty of peace, and the ſixth article of amity, to the recovery of ſuch debts as he ſhall prove to the ſatiſfaction of the board, within the m aning of the ſaid treaties.

"And as the ground which had been taken on the part of the United States involved a ſubject of delicacy, on which they were deſirous not to give offence, or be miſunderſtood, they added that the ſaid principles and concluſions, contained 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."

"To prevent a vote upon this reſolution, Mr. Fitzſimons and Mr. Sitgreaves withdrew. They alſo withdrew in other ſimilar caſes.

Yet the Britiſh commiſſioners entered on the records of the board, that "they held that thoſe acts of ſeceſſion, which had been practiſed in particular caſes, could not affect the validity or operations of the opinions which they were meant to defeat: for the very act of ſeceſſion implied what had indeed been formerly minuted, that thoſ opinions were the opinions of the majority which had been declared in a board, completely conſtituted; and all that the ſubſequent ſeceſſion of ſome of the members could effect, was but to prevent what the treaty did not require, namely, the declaration of the opinions by the formality of a vote:—That formality being the accuſtomed, but not the excluſive mode of aſcertaining the fact; which, if prevented by an evaſiv proceeding, might be ſupplied by the admiſſion, of other evidence, that ſuch had been the fact. They therefore held that the opinions which had been declared, by a majority of the board, were as much the opinions of the board, under the expreſs proviſions of the article as if the form of a vote had not been ſo prevented."

The reader will ſee that the main queſtion was on the true meaning of the words, "*bona fide* debts heretofore contracted" in the fourth article of the treaty of peace whether it is limited to debts heretofore contracted, but then exiſting and not extinguiſhed or diſcharged, according to the laws of the land, as by releaſe, limitation, confiſcation, attainder, or any other lawful mode of diſcharge, or whether it was intended to have a retroſpective operation, ſo as to annul any extinguiſhment or diſcharge acquired according to the pre-exiſting laws of the ſtate, and revive a debt already lawfully dead and buried. The latter was the deciſion of the majority of the commiſſioneas: and they refer to "opinions, which had been ſolemnly delivered by the judges of the United States." It would be unfortunate, if in the ſpirit inſpired by a liberal policy, in favor of Great-Britain, at a time when mutual liberality was cultivated and expected on her part, any of our judges may have given ſuch opinions on this point, as can be improved to eſtabliſh claims to the amount of perhaps twenty millions againſt the United States, or to embarraſs the executive in further attempts to negociate a compromiſe of a diſpute. For this difficulty has entirely ſuſpended the board of Commiſſioners. Thoſe of Great-Britain have returned home. And the board of Commiſſioners, on our claims of damages for commercial ſpoliations, which was the counterpart of this commiſſion, is in conſequence of it ſuſpended in England. Mr. Sitgreaves has been diſpatched to London, ſuppoſed to be charged with a negociation on this perplexing ſubject.

* *A reſolution relative to Dr. Ingles under an act of confiſcation of the State of New-York.*

TERRITORY of COLUMBIA,
November 14th, 1800.

The Committees of arrangement, for celebrating the approaching Sessions of Congress in the City of Washington, have adopted a plan of procession, which they recommend being formed in front of the Little Hotel, for the purpose of accompanying the President of the United States to the Capitol, on the day he meets Congress to deliver his speech. The plan is calculated to embrace all classes and deſcriptions of perſons who may attend.—It is requested of those who chuse to join the procession in their Corporate, Official, Military, Professional, or Mechanical capacity, to meet at ten o'clock, A. M. when they will receive from the Marshals of the day, the necessary information as to the rank or station severally assigned by the order of arrangement adopted—After the procession a respectful, and appropriate address, or communication from the INHABITANTS OF THE TERRITORY, to Congress, is contemplated.

A MEETING

Of the 14th Regiment of the Militia of Maryland, is requeſted at Mr. Stille's tavern, in the City of Waſhington, on Friday the 21ſt inſt. at eleven o'clock, in order to appoint an officer to wait on the General Aſſembly, to obtain amendments to the Militia law.

It is expected that the Commanding Officers in this ſtate will requeſt a meeting of their reſpective Regiments, to appoint Deputies to meet at Annapolis on Monday the 24th inſt. in order to carry the bove laudable undertaking into perfect effect.

CITY OF WASHINGTON.

FOR SALE,

Lot No.9, in Square 122.

THE above is inferior to few lots in this city, being but two ſquares weſt of the Preſident's Square, commanding an extenſive view of the Potomac, it is a corner lot, and fronts 155 feet 10 inches on F. Street, and 59 feet and an half inch on 20th Street.—An indiſputable title will be given on receiving the amount of the purchaſe money. For terms apply to the ſubſcriber a few doors eaſt of the Little Hotel.

JOHN KEARNEY.

N. B. I will alſo ſell Lot No 4, in Square No. 491, fronting 55 feet 3 inches on the Pennſylvania Avenue, and extending back 150 feet to an alley of 30 feet wide, with the advantage of a 15 feet alley along ſide of it; and Lot No 24, in Square No. 378, fronting 51 feet 5 inches on Ninth ſtreet, and running back 107 feet 2 inches to a 30 feet alley. Weſt India goods will be taken in payment for a conſiderable part of the above property.

I. K.

November 17, 1800.

STRAYED or STOLEN A BLACK MARE with a white Streak down her face, with a bunchy Mane and tail. No other particular marks that I know. About thirteen hands high, about twelve years old, very heavy made and in good order, FOUR DOLLARS reward and all reaſonable charges paid if left either with the Subſcriber, or at JAMES TIMMONS Liberty ſtreet Baltimore,

By JAMES USHER,
Greenleaf's Point.

Waſhington City, Nov. 10, 1800.

3t.

Notice is hereby given that I have applied to the general Aſſembly of Maryland for an Act of Inſolvency.

PATRICK SIM.

Nov. 7, 1800.