

**PAPERS RELATING TO
SAMUEL
CORNELL, NORTH
CAROLINA LOYALIST**

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The letters printed below are selected from a collection of manuscripts relating to the efforts of the heirs of Samuel Cornell to recover debts due his estate, recently given to the Library through Howard Townsend, Esq., by the next of kin of Maria L. Campbell deceased.

Samuel Cornell was born in Flushing, New York in 1731*, of Quaker stock, the son of Samuel Cornell and Hannah Doughty. He moved from New York to Newbern, North Carolina, about 1754, where he married Susannah Mabson, and soon became one of the leading men of the province, being referred to by Governor Martin in 1775 as "the most opulent Merchant" in the colony. He was appointed a member of the Council in 1770, and was, generally speaking, a consistent supporter of the royal authority during the troublous times preceding the outbreak of the Revolution, although Governor Martin speaks of him as having been unfavorably disposed for a time, due to the influence of his son-in-law Isaac Edwards, the deputy auditor of the province.

In 1775 feeling in the province became so strong that Cornell felt it prudent to leave, going first to England and afterwards to New York, where he died in 1781. In November, 1777, he obtained permission from Sir Henry Clinton to return to Newbern to settle his affairs and bring his family and household effects to New York. This he succeeded in doing, although Governor Caswell did not allow him to land when he reached Newbern. While in Newbern harbor he transferred his property to his five daughters, and had the deeds recorded, hoping thus to save his property from confiscation. In this, however, he was not successful, as the property was subsequently confiscated by the general act, chapter two, laws of 1779, passed by the Legislature at the October session of that year.

At the close of the war his daughter, Mary Edwards, brought suit in the courts of North Carolina to recover the property deeded her by her father, on the ground that the confiscation acts did not rightfully apply, the property having been transferred before their passage. The suit, however, was decided adversely in November, 1787. Meanwhile Henry Chads in 1784 filed a

* According to the Records of the Society of Friends of New York and vicinity, New York genealogical and biographical record, v. 4, p. 191.

claim with the "Commissioners of inquiry into the losses and services of the American loyalists" in behalf of his wife, formerly Susannah Cornell, and her sisters Sarah, wife of Matthew Clarkson, Elizabeth, wife of William Bayard, jr., Hannah, wife of Herman Le Roy, and Mary Edwards; a supplementary petition was filed in 1788. Compensation to the amount of £50,000 was asked for; the commissioners in December, 1788 granted them £8,300.

The heirs did not succeed at this time in recovering any of the bonds, notes and book accounts due to Cornell, amounting to £22,500. In 1797 they began efforts for compensation from the United States government under article six of the Jay treaty of 1794. They were aided in their efforts by David A. Ogden, afterwards the founder of Ogdensburg, who in May, 1797 had married Rebecca Edwards, granddaughter of Samuel Cornell. Robert Ogden, jr., a distant relative of David A. Ogden, was made executor of the estate and sent to North Carolina to take personal charge of affairs. The letters printed below narrate his success. As a side issue it is not without interest to note that some four years after his arrival, in 1803, Robert Ogden married a daughter of Abner Nash of Newbern, one of the revolutionary governors of the state. He spent the rest of his life in the South, first at Charleston, S. C., and afterwards in Louisiana.

The principal authorities for this account are the Colonial and State printed records of North Carolina, the transcripts of American Loyalist Papers in The New York Public Library, J. S. Jones' "Defence of the revolutionary history of North Carolina," Sabine's "American loyalists," the Rev. John Cornell's "Genealogy of the Cornell family," and W. O. Wheeler's "The Ogden family." Portraits of Samuel Cornell and David A. Ogden together with additional information concerning their families will be found in the works of Cornell and Wheeler.

STATEMENT OF THE CASE OF THE HEIRS OF SAMUEL CORNELL

The Subscribers the Legal Representatives of the late Samuel Cornet deceased at the time of his Death a Subject of the King of Great Britain, beg leave to suggest, for themselves, and in Behalf of the Heirs and Legatees of the said Estate, for the Information of the Commissioners appointed in pursuance of the Sixth Article of the treaty of Amity Commerce and Navigation Concluded Between his Majesty and the United States of America —

That the said Samuel Cornet was born in the year Seventeen Hundred and Thirty three at Flushing on Long ISland his Majesty's then Province now State of New York —

That about the Year seventeen Hundred and fifty four he Removed from New York to New Bern in the then Province, now State of North Carolina, where he Entered into Mercantile Business

That on the Tenth day of May Seventeen Hundred & Seventy he was appointed one of his Majesty's Council for the said Province of North Carolina — that on the Twenty fourth of August Seventeen Hundred and Seventy, he took the Necessary oaths before his Excellency William Tryon Esquire and subscribed the Test in the presence of the Honorable John Rutherford & Robert Palmer Esq^r.

That in the Year Seventeen Hundred and seventy five, The Commercial Concerns of the Said Samuel required his presence in the Kingdom of England, that previous to his going to wit, on the Seventeenth of August seventeen Hundred and Seventy five, he obtained leave and permission from his Excellency Josiah Martin Esquire his Majesty's then Governor and Commander in Chief of the said Province of North Carolina, to be absent from his duty as one of his Majesty's Council for the space of Twelve Months. from the Date thereof

That the said Samuel was in England at the time of the Declaration of Independence by the United States of America Viz. on the fourth of July Seventeen Hundred and seventy six

That in the Spring of the Year Seventeen Hundred and Seventy seven he Returned with his Majesty's Fleet from England to the City of New York, then in possession of his Majesty's forces — that on the 22^d. day of November Seventeen Hundred and Seventy Seven he obtained permission from his Excellency Sir Henry Clinton to pass and repass with a Flag of Truce to New Bern in North Carolina, to settle his affairs in that Place — That on his arrival at New Bern the fifteenth of December one Thousand seven Hundred and seventy seven he Informed his Excellency Governor Caswell thereof and at the same time Solicited him, for permission to Land — that on the sixteenth of December Seventeen Hundred and seventy seven, his Excellency Granted such permission —

That the Legislature of the State of North Carolina were then in session, at New Bern, that the said Samuel petitioned them that he might be permitted to Return to New York, with his family, furniture, and Household Negroes. as he could not Consistently with a due Regard to his own Feelings, take the Oaths of allegiance and Abjuration required by the Laws of that State —

That on the 25th day of December one Thousand Seven Hundred and Seventy seven his Excellency the said Richard Caswell granted to the said Samuel a Permit to Return in the said Flag of Truce, to the City of New York — Then, in Possession of his Majesty's Troops, and to Take with him his Family. Certain Servants, and Household Goods as particularly Specified therein — on Condition Nevertheless that he should sail from that Port in five Days from the Date thereof, Wind — and Weather allowing —

That the said Samuel arrived in the City of New York in the Begin-

ing of the Month of January in the Year Seventeen Hundred and Seventy Eight that he Resided there till the time of his Death, in the Month of May Seventeen Hundred and Eighty One.

That in the Year one Thousand seven Hundred and Seventy Nine, the Estate of the said Samuel, Both real and personal, in the said State of North Carolina was Confiscated and a Part thereof sold by the Commissioners of Confiscated Estates that the Legal Representatives of the said Samuel, have — Since his Death by the Existing Laws of the said State of North Carolina, been prevented from Recovering the several Debts Particularly Stated, in the Schedule hereto annexed, which were due & owing the said Samuel in the said State during his Lifetime, in Violation of the Treaty of Peace Concluded Between the United States, and his Britanic Majesty at Paris 3^d Day of September 1783 —

Wherefore the Subscribers pray that a day may be assigned, at which time they will be prepared to Prove the several Facts Contained herein, and to produce such Testimony as May be deemed requisite to entitle them under the said Treaty to full and Compleat Indemnification —

{Endorsed:} Copy State of Case
Submitted 13th Sept^r 1797
to
Phineas Bond

W. M. SMITH TO LE ROY & BAYARD

Philad^a Oct^r 2^d 1797

Gentlemen —

M^r Bond has placed in my hands your Statement of a Claim against the United States as Representatives of the late S. Cornel Esq^r dec^d — I have the Acts of the different States in the Union from which the different impediments complained of by British Creditors, originated; the particular Law affecting M^r Cornel is now before me, and I entertain no doubt but that in all Cases where the Debtors are yet solvent, a recovery may be had, unless the Debts were barred by the Act of Limitations previous to the existence of legal impediments in the ordinary Course of judicial proceedings — I forward for your perusal a decision in the Case of a Gentleman named in the same Confiscation Act with M^r Cornel. Your Claim, however, should be filed to the full extent in order to prevent a bar by the lapse of 18 months, the time for receiving Claims; any Suits which it may be thought necessary to commence, may in the meantime be prosecuted, and a complete decision on every item of your Demands may be postponed until those Suits shall be determined. I expect by the earliest Conveyance from N Carolina an authenticated List of all the Debts paid into the Treasury under the confiscating Law, in which I expect many due to M^r Cornel will appear.

It will be necessary to forward a certified Copy of M^r Cornels

Will, together with the several Evidences of the Debts due to him, and wherever the present insolvency of the debtor is the Ground of the Claim there must be produced some reasonable proof that he was *reputed* solvent during the existence of the legal impediments, together with full proof of insolvency at present. Compensation is not to be made for such Losses as would have happened even if no legal impediments had existed — It will, more than probably, be necessary to collect much of the testimony in your Case from N. Carolina; if so, a personal interview with one of you will be necessary. I spend part of almost every day at a Country Seat 5 Miles from this City, at the falls of Schuylkill, at which place, or at Frankford, or at Bristol, I will cheerfully meet you, to make the necessary Arrangements for filing & supporting your Claim, if you wish to proceed in this Business, before the present alarm which prevents visits to this City, ceases. —

I have the honor to be
With great Respect
Y^r obed^t Serv^t
W^m Moore Smith.

Mess^{rs} Le Roy & Bayard
New York

[Endorsed:] W^m Moore Smith
dated 2 October
rec^d 5 D^o.
ans^d 6 D^o.

We propose meeting him
the 15 Inst at M^r Elroy
in the morning

DIRECTIONS TO BE OBSERVED BY ROBERT OGDEN JUN^r ESQR.
AS ADM^r OF SAMUEL CORNELL DEC^o.

1. M^r Ogden after his Arrival in North Carolina will proceed first to the house of Gen^l. Jones. he resides About 30 Miles this Side of Halifax — Application must be Made to Gen^l. Jones by M^r. Ogden to become Security for him on taking out letters of Administration if security cannot otherwise be obtained in Halifax —
2. M^r. Ogden will proceed from Gen^l. Jones to Col. Davie's near Halifax. on his Arrival there he will deliver his Letter to Col. Davie. State to him the Object of his Business. Give him a retainer. And procure his Interest in obtaining letters of Administration —
3. Should the Probate office be kept at Newbern — M^r. Smith will then be the proper person to Apply to As Security —
4. Should Col. Davie owing to his Extensive Business be unable to Prosecute the several Actions to be commenced as the Attorney on record M^r. Ogden will pursue his directions as to the Attorney he is to Employ —

5. As the Most of the debtors reside in the vicinity of Newbern it May be necessary and useful for M^r. Ogden to employ Council in Newbern. In such Case he will advise with Col. Davie and retain such as he May Approve of and elect. —

6. Having procured letters of Administration, his next object must be to obtain information with respect to the Several Debtors, their residence, solvency, and if insolvent now, their reputed Solvency on the 3^d. of September 1793 —

7. Where proof can be obtained of their reputed Solvency at the Peace viz on the 3^d. September 1783. when Legal Impediments existed and of their reputed Insolvency at Present, it Appears from the Opinion of M^r. Smith the Gen^l. Agent, that suits will not be necessary, because the Commissioners on proof of the Debts the former solvency of the Debtors and Present Insolvency. will Award that restitution be Made by the United States —

8. The form of the Affidavit respecting the proof to be adduced of the Solvency and Insolvency of the Debtors, M^r. Ogden will have herewith the last Testimony, that the Nature of the Case will admit of. Must be obtained to prove the execution of the Several Notes bonds & —

9. As soon as information is received of the Solvency of the debtors, Suits are to be commenced in the Circuit Court of the United States provided the Sum due amounts to a sum Cognizable in the said Court viz. Dolls. 500. where the sum is under that Amount it is supposed by M^r. Smith that the Commissioners on proving the Debt and the Ability of the Debtors to pay since the Treaty of Peace in 1783 — will award Compensation by the United States without putting the Claimants to the Trouble and Expense of a suit —

10. It is expected that M^r. Ogden will as often as once every week or fortnight by letter Communicate his success in this Business, his letters to be directed to David A Ogden Esquire, to the Care of Mess. Le Roy Bayard and M^r Evers stating Particularly the Receipts of all Monies & c —

11. Should M^r. Ogden receive Monies in Halifax due the Estate he will Consult with Gen^l. Jones in whose hands to deposit the same till an Opportunity offers to remit it. If in Newbern it is to be Placed in the Hands of M^r. Nathan Smith and to be shipped to New York Taking a Bill of Lading or receipt from the Captain and Informing us by Post Previous thereto that Insurance may be obtained —

12. M^r. Ogden will Inquire of M^r. Johnson at Edenton for Bunkum's Bond and Mortgage and proceed in the Recovery of the same as Circumstances may Require and also send us the date and Amount thereof —

13. It will be most advisable for M^r. Ogden to bestow his care and attention on the large Debts first, and to write us as soon as possible — particularly respecting every Claim where the Amount exceeds D^s 500, stating the Present and former Solvency & c & c together with every other Matter and thing which may enable us to Complete the Memorial for the Commissioners —

14. It will be necessary for M^r. Ogden to Call on the Representatives of David Barron and first to procure a statement of their acco^s, obtain a View

of their books, Get what Acknowledgement he can, after which it will be most advisable to file a bill in Chancery on the Equity side of the Circuit Court —

15. No Bonds on notes are to be Renewed because thereby the United States will be discharged from their liability —

16. Mr. Ogden is authorized to deviate from these Instructions in such manner as M^r. Smith may point out —

Copy signed
Le Roy & Bayard

New York }
2d. Nov^r. 1797 }

LE ROY & BAYARD TO COL. DAVIE

New York 27th of November 1797

Dear sir

The bearer hereof is our friend M^r. R Ogden Jun^r. who we beg leave to introduce to your kind attention and civilities M^r. Ogden has undertaken the management of our affairs in your State and to that end goes down to arrange them, as he will have the honor of explaining to you more fully. Your aid will in all probability be necessary to insure him Success, in which case we hope you will grant it to him, particularly so as we understand you are prosecuting M^r Hamiltons Claims: whose Situation is exactly that of M^r Cornells Estate. It will perhaps be necessary for M^r Ogden to take out letters of administration, as he has already done here, in which case you will most particularly oblige the family in advising and aiding him therein. As M^r Ogden is a Stranger at Newbern, & where we presume he will have to procure much information, we shall esteem it a particular favor, if you will be so good as to furnish him, with such introductions, as may enable him to have a friend to call upon, for aid or advice in case of Necessity. From the decision given by Judge Elsworth in the case of Hamilton, dont you conceive the family might with hopes of Success attempt a Suit for the Recovery of their Landed Estate. We will be glad if you will confer with M^r Ogden on this business, & communicate your opinion to him. We shall be ever gratefull for the attentions you may be pleased to shew M^r Ogden, who you will upon acquaintance find well deserving of them. and in Return, you will ever find us at your Service. With much esteem & Respect we Remain

Your Humble Servants

Dear sir

P. S. Should you become security for M^r. Ogden for the faithful administration of the Estate of M^r. Cornell we do hereby agree to save you harmless from any liability you may be eventually under on that account. As the family who are alone interested, there being no debts, have given him a power of attorney to take out letters of administration on the Estate, of course your becoming a security will be a mere matter of form —

Col^l. W. Davie, at Halifax, North Carolina