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Attachment Clause [1]

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Attachment Clause

by Donald R. Lennon, 2006

The Attachment Clause in North Carolina colonial [2] law allowed for the garnishment of the property of nonresidents in certain cases of debt. The controversy surrounding British attempts to delete this clause from the court laws-often referred to as the "Court Quarrel"-provoked severe anti-British sentiment in the colony immediately preceding the outbreak of the American Revolution [3].

As early as 1746, the colonial Assembly had included in the court laws a clause that allowed creditors to attach property owned in North Carolina by nonresidents of the province in order to satisfy their debts. The British Board of Trade [4] ignored the clause until 1770, when a newly appointed legal adviser raised objections to certain aspects of the attachment provision. The board thereupon took the position that attachment as specified in the North Carolina legislation violated acceptable legal practice. The British ministry in 1770 urged the governor to "induce" the Assembly to amend the foreign Attachment Clause or to omit it entirely from the court law. Governor Josiah Martin [5], newly arrived in North Carolina, was convinced that the provincial government favored colonists at the expense of the British and that the Attachment Clause was proof of the impropriety of their views.

North Carolina lawmakers were determined that the Attachment Clause would be retained regardless of thegovernor' [6]s opposition, and the issue became a crucial factor around which anti-British sentiment developed in the colony. Without the clause, North Carolina creditors would be forced to sue in English courts to gain satisfaction for debts owed by non-North Carolinians; the impracticality of such a procedure was more than they were willing to accept. The Attachment controversy, in the minds of North Carolinians, had become a symbol of the British government's conscious effort to destroy the colony's constitution.

The North Carolina House both appealed to King George III [7] and asked former governor William Tryon [8] (now governor of New York) to intercede with the king on the colony's behalf. Governor Martin, the Board of Trade, and the North Carolina Assembly tried repeatedly to craft compromise legislation, without success. By the spring of 1775, the British Board of Trade was responsive to memorials presented by North Carolina agents in London. The fact that all other colonies utilized foreign attachments without being challenged was a major consideration, as were promises that North Carolina lawmakers would modify the language in their Attachment legislation. By this juncture, however, royal government in North Carolina had collapsed, the governor was no longer in control of the province, and the issue was lost in the rush toward revolution [3].

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Additional Resources:

"Josiah Martin." NC Highway Historical Marker D-89, NC Office of Archives & History: https://www.ncdcr.gov/about/history/division-historical-resources/nc-highway-historical-marker-program/Markers.aspx?sp=Markers&k=Markers&sv=D-89 [10]

Governor Alexander Martin: Biography of a North Carolina Revolutionary War. By Charles D. Rodenbough, Lindley S. Butler. Available online via GoogleBooks. [11]

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[4] https://www.ncpedia.org/board-trade
[5] https://www.ncpedia.org/martin-josiah
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