

# The Refusal of Black Loyalists' Claims: A Rhetoric of Disempowerment

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## Abstract

Despite broad interest in Black Loyalists who fought for the British during the American Revolution, little has been done to understand the British court decisions that undermined their claims for compensation for their service to Great Britain. This article takes up these court decisions to understand the rhetorics of disempowerment promoted by the British court by analyzing the rhetorical strategies used to deny Black Loyalists compensation. In so doing, this article expands our understanding of Black life in the 18th Century, as well as the strategies used in official rhetorics by courts. Through strategies of depersonalization and distancing, the British court committed additional violence to Black people yearning for freedom in the Revolutionary Era.

**Keywords:** *Official Rhetorics, American Revolution, Legal Rhetoric, Black Loyalists*

## Introduction

There were an estimated 100,000 Black Loyalists, Black people who fought for the British or took asylum behind British lines (Black Loyalists in British North America, n.d.), although numbers vary significantly. While it is obvious that Black people were subjected to countless acts of violence under the abject conditions of slavery in the British colonies, Black Loyalists' stories are a unique window onto these horrors and the complexities of Black life in the Revolutionary Era (the American Revolution lasted from 1775-1783), an example of which is Boston King's narrative of his life:

To escape his cruelty, I determined to go to Charles-Town and throw myself into the hands of the English. They received me readily, and I began to feel the happiness of liberty, of which I knew nothing before, altho' I was much grieved at first, to be obliged to leave my friends, and reside among strangers. (King 1798 [2005], p. 107)

While Boston King's story has been well-told by Lockhard and Sciallo, among others, there are still more Black Loyalists whose stories remain obscured if not forgotten in the historical

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record (Lockhard, 2023; Sciullo, 2019). Their stories reveal the difficulties they faced before, during, and after the American Revolution as well as the rhetorics that bore on their lived experience.

While there is clearly interest in Black Loyalists, there seems to be comparatively less interest in the language used by British officials to disempower these loyalists. Although there are many definitions for rhetoric, Lloyd Bitzer's definition is workable, "In short, rhetoric is a mode of altering reality [...] by the creation of discourse which changes reality through the mediation of thought and action." (Bitzer, 1968, p. 4). Here, rhetoric is understood as a communicative intervention; a human intervention in a given situation. This definition is necessarily broad and includes political speeches, policy papers, advertisements, a range of written material, courtroom arguments, and more. Furthermore, Thomas B. Farrell has argued, "Rhetoric is an acquired competency, a manner of thinking that invents possibilities for persuasion, conviction, action, and judgments." (Farrell, 1993, p. 16) Understood this way, rhetoric is a way to express conviction and make a variety of judgements, which of course extends beyond court judgements, but would also certainly include the evaluative process of court decisions. Despite the debates rhetoricians have over rhetoric's definition, most definitions include human communication that changes the environment in which it is done. This definition includes legal rhetoric like attorneys' closing arguments, judicial decisions, jury instructions, legislative debates, and the teaching of law. The discipline of rhetoric is founded upon an interest in what language does in the world, and is interested in better understanding how language changes people and situations. Language is also important for understanding resistance and one's sense of self in the face of dehumanization (Minh-Ha, 1989, p. 80). Thus, how Black Loyalists struggled to be compensated for their loyalty and military service, often being denied compensation using disempowering and depersonalizing official rhetorics, is an important object of study for understanding rhetoric in the Revolutionary Era and what Black life was like during this time (Black Loyalists, n.d.).

This essay addresses the rhetorical choices utilized by British officials to deny Black Loyalists compensation for their participation in the American Revolution by answering the question, "What rhetorical choices were used by British officials to deny Black Loyalists compensation and what was the result of the accompanying disempowering official rhetorics?" which follows up on Alan Gilbert's study of the historical complexity of understanding Black Loyalists in their time (Gilbert, 2012). This focus on language will help rhetoricians and historians better understand how Black Loyalists were constructed by means of official language, and what impact that construction had on their treatment by the British government. There were many Black Loyalists in North America who participated in the American Revolution to varying degrees. Some fled to the British for freedom and nothing more, while others fled and took up arms to respond to their enslavers.

One cannot fault Black individuals for wanting freedom and actively seeking it out, even though residents of the American colonies often considered them "traitors" at the time (Brown, 2012, pp. 180–182). One way to seek freedom was to join the British military, and it is these Black individuals who are the focus of this essay. Of course, freedom was fleeting, not guaranteed, and rife with struggle (Braisted, 2021). Some Black individuals felt as though British support was as strong for them as for any other loyal individuals, but this essay takes the position that this loyalty was not strong enough to treat them as fully human and thus

compensate these individuals for their military service to Great Britain (Walker, 1993, p. 12). That is, the perception by some Black individuals that Great Britain was loyal to them was refuted by Great Britain's refusal of their legal claims for compensation.

There are several reasons why this question of how the British courts addressed Black Loyalists is significant for our understanding of the American Revolution. First, understanding what happened to Black Loyalists extends our understanding of these individuals beyond the duration of the American Revolution, thus giving us a fuller understanding of their lives. Black Loyalists were important for Great Britain's war-fighting, thus understanding their lives should be a concern for scholars of the American Revolution and Black life (Lawler, 2025). Second, by focusing on the official rhetorics of Great Britain, scholars can better understand how Black Loyalists were treated after their service to Great Britain through government actors. Third, and finally, by focusing on the language used by British officials, scholars can better understand how Black Loyalists were rhetorically constructed and disempowered. Of course, this all helps to better understand the rhetorical lives of Black people in the 18<sup>th</sup> Century.

Official rhetorics include state-sponsored rhetorics by state actors. The decisions of the British officials about Loyalists' claims are an example of official rhetorics. Lisa Weeden remarks that official rhetorics are characterized by "official vocabulary [that] works as a mechanism of political control while representing relationships of state domination and national membership" (Weeden, 2015, p. 32). This is perhaps intuitive because official rhetorics are issued by state actors, but it nonetheless bears repeating that official rhetorics seek to mold national identity and emphasize or demonstrate the power of the state.

The decisions about compensation this article analyzes are located in the British Archives and serve as its textual basis (Black Loyalists, n.d.). Archival work has the potential to reposition Black people in histories from which they have been excluded (Gabriel, 2022). Archives often ignore Black people or contain incomplete stories of Black life (Gabriel, 2022), which is why it is important to return to the archive in order to better represent Black life. Furthermore, archives are themselves polysemic, always incomplete, and imbued with power (Biesecker, 2006, pp. 126–127), which necessitates the examination of archival material to challenge the multitude of meanings, absences, and power structures inherent in them. While there are no doubt other court cases to attend to, this article focuses on those that the British Archives published on its website because these records are public-facing, must represent the discourses of other courses in some meaningful way or they would not have been selected for publication online, and are those most likely to be accessed by scholars and the public alike given the ubiquity of online access. Of course, online versions of archives are also important scholarly corpuses and worthy of study just as their print or material counterparts are (Clary-Lemon, 2014, p. 388).

A preliminary rhetorical matter is the appropriateness of the term "Black Loyalist" given controversy about its usage and whether it accurately reflects what Black individuals supporting Great Britain thought at that time or if the term has become a modern revision designed to promote disparate social justice and inclusionary ideas (Walker, 1999; White, 2019). This is not an issue that must be resolved in order to assess whether or not those Black persons who fought for and supported Great Britain deserve compensation for their works. Loyal to Great Britain or not, these Black individuals still aided the British in the execution of war. The imprecise nature of language is one of the central problems in identifying what a Black Loyalist was (Cahill, 1999, p. 79). Barry Cahill persuasively argues that while there may

have been some Black Loyalists this idea was mostly the creation of the 1980s (Cahill, 1999). While this argument about language and indeed the changing tastes of historians is important, it is still necessary to explore how the British government treated Black Loyalists during the American Revolution. Cahill argues that simply because the Black individuals in Canada were free from their enslavement that would not make them Tories (Cahill, 1999, p. 83). This very well could be true, but it is likely that these escaped enslaved peoples were more loyal to Great Britain than to their colonial enslavers. They did after all leave for a different government and for a chance at freedom. Comparatively, these Black individuals were loyal to Great Britain even if the term “Black Loyalists” may oversimplify the relationship between Black people and colonial Great Britain. While naming is important, it seems understanding how these individuals experienced the British government after seeking assistance for their service in the military is still important.

If there was little reward for loyalty or at least not openly supporting the American revolutionaries, then at least these Black individuals achieved freedom, however momentary or tenuous that freedom was (Holton, 1996, p. 831). It appears that even though Great Britain freed enslaved people earlier than the American colonies, that many of these individuals did not enjoy anything like freedom and may have continued to live impoverished if not practically enslaved lives. Great Britain was no stranger to racism and is not today either (Lewsey, 2023). Understanding the language used to disempower these Black individuals improves scholars’ appreciation for the complexity of Black Loyalists’ lives.

### **1. The British Rhetoric of Disempowerment**

There are several reasons for the British use of a rhetoric of disempowerment to deny compensation claims for Black Loyalists. One was surely financial after a war that had wide ranging negative economic effects (Conway, 1995, pp. 130–132). The British government might have to pay a substantial amount of money to a group of Black Loyalists that might have been large, and larger if news of successful claims spread. After a costly war, these claims would have further harmed the British economy (Wilde, 2019). A second reason was no doubt racism. The British were involved in the slave trade and through colonial expansion had and continued to dominate many Black and Brown people around the globe. Paying these Black Loyalists who were otherized by way of their racial difference would have been an acknowledgement that Black people were equal in some ways to white people, or at least white soldiers. The British could have considered Black people’s lack of freedom in the United States a reason to not compensate Black Loyalists because some notion of freedom was better than enslavement.

One example of the rejection of Black Loyalists’ claims is the case of John Jackson. His claim was refused on September 3, 1783. The transcribed claim and decision read:

Jackson. J[oh]n a Black New York

3 [r]d Septem[be]r 1783

He is a Native of New York & was freeborn, he was in Trade for himself (Heell & Last maker) when the Rebellion broke out his property consisted of Stock in Trade & Household Goods worth altogether about 150 £. The Rebels when they were in Possession of New York took all his property from him because he would not serve under them & they took him prisoner into Jersey

but he escaped to New York when the British Troops were in Possession of it, he then went on Board of a Ship & he remained so till he came to England when he was pressed & was on Board the Shrewsbury with Admiral Keppel on the 27th of July in which Engagem[en]t he lost his Leg, He married since he came to England

There is no Certificate annexed to his Memorial but he says he can procure one, he is desired to do it from some person of Character who knew him at New York (Black Loyalists' Claims Refused, n.d.)

Ent[ere]d

#### Decision

This Man proves no part of his Case & from the Circumstance of his being desired to send in some Certificates a Month ago & not having done it. We conclude that it is not in his power to do it. He like all the other Blacks pretends to be freeborn in which Circumstance likewise we Conclude that we are deceived for probably in fact (instead of being Sufferers by the War) most of them have gained their Liberty & therefore come with every ill grace to ask for the bounty of Government We have no Scruple in saying that Mr. Jackson is entitled to nothing from Government.

The case is decided seemingly because Jackson did not submit a certificate to the court acknowledging his freedom. This rhetoric gives the decision an air of responsibility and unbiasedness by deciding the case on procedural grounds (Jackson did not file the correct form) as opposed to the facts Jackson provided in his submission to the British court. The facts of the case presented in the decision suggest that Jackson would have been unlikely to possess such a form given his long and arduous journey. His property, real and personal, was confiscated by the American revolutionaries. He was imprisoned in a different state from that in which he lived. He was then sent to England, was pressed on a British ship, and lost a limb. The first act mentioned in the decision indicates that he lost all his property, which would seemingly include any paperwork proving his freedom.

Undaunted by the factual basis of Jackson's hardship, the court also accepts that he served on a British ship. To find oneself to be pressed on a ship was to be taken against one's will into military service (UK Parliament, n.d.). Yet, this forced service to the British is also denied as sufficient reason to compensate Jackson. Only 5 percent of Royal Navy crews were Black during the American Revolution, and dissertation rates increased during the war because of the horrible conditions (Foy, 2017), which the Court also seemed to ignore. Jackson's significant injury is of no importance to the court either and goes unmentioned in the decision.

Furthermore, Jackson is deindividuated by comparing him to all other Black individuals,

“He like all other Blacks...,” in the court's lengthy argument that Jackson and other Black individuals are liars (Black Loyalists' Claims Refused, n.d.). Instead of considering him as a unique individual, the court reduces him to just like all other Black individuals. To add further insult, the court articulates the belief that Black individuals lie specifically about their freedom. This lying is not just an argument against Jackson's claim, but rather a claim against all Black individuals: “He like all the other Blacks pretends to be freeborn...” (Black Loyalists' Claims Refused, n.d.)

It is also an ad hominem attack, not responding to his claim, but rather impugning him and the group the court has placed him as untruthful. Here the court moves away from the argument that the claim is denied because Jackson does not have the appropriate paperwork to editorialize that he, like all other Black individuals, is a liar. The court offers additional evidence for this belief that Jackson is a liar when the court writes “we Conclude that we are deceived” (Black Loyalists' Claims Refused, n.d.). The court does not explain the basis for this conclusion.

The court further denies Jackson's experience and diminishes the harm he suffered. The court casts doubt on his suffering during the war, apparently also disregarding the harm being pressed into the British navy may have caused. The court argues that "most of them [Black people] have gained their Liberty..." (Black Loyalists' Claims Refused, n.d.). This language opens the possibility that some Black individuals were not free and did not become free, but in the denial of this claim the court decides that Jackson must have been free. The court argues that he must have gained his liberty, which contradicts the court's conclusion that he is lying about his freedom. Essentially, Jackson is already free so need not be compensated, but also is lying to the court about his freedom so he should not be compensated. There is no discussion of the characteristics of freedom, nor is impressment regarded as an impediment to freedom.

The court manages to deny seemingly every part of John Jackson's story, while accepting that he did serve in the British navy. Jackson is deindividualized, denoting him as just another Black individual who is a liar. Where the court concludes that some Black individuals were not free, it inexplicably ignores that this could be the case for Jackson. The official rhetorics of the court reduce Jackson to a liar who only wants "the bounty of Government," while ignoring the work he did, seemingly against his will once impressed in the navy, for that government.

Another example of the British court's relying on disempowering rhetoric is the case of Prince Prince:

Prince, Prince, a Black Connecticut

3 [r]d Septem[be]r 1783.

He was born in America & was freeborn. He lived at Stoney Town in Connecticut at the Commencement of the troubles & followed the Business of Farming - He had 70 or 80 Acres in that Town which he got from his Father & he says they were at least worth 50 £. He has a Wife & one Child who are left behind in America about 7 years ago he was obliged to serve in a Rebel Privateer or come away. He came away & went on Board a Man of War & has served at Sea ever since in the English Navy.

There is no Certificate Annex'd to his Memorial But he thinks he can produce some proof of the truth of his Case He is desired to do it. At present he is in no way of getting his Bread but he will endeavour to do it, he is 32 years of Age.

Ent[ere]d

Decision

This Man does not pretend to have had property of much value but he gives no proof of that little which he pretends to, its therefore impossible for us to make any other report in this Case, than that he is not entitled to any thing from Government.

The court acknowledges and seems to accept that Prince was born free in America. He also owned a farm that while apparently not worth much was much larger than the court seems to suggest. The average farm in Colonial America was not large, however. Some sources suggest New England farms were usually smaller than 250 acres, which would mean Prince's farm was small, but certainly not the smallest (Daniel Reed (1666–1741) and Colonial New England Farms, n.d.). One hundred years after Prince's claim, the average United States farm was 134 acres (Alosso, 2018). While determining how big the Prince farm was relative to other farms is not necessary to prove he ought to be compensated, these numbers provide a frame of reference for Prince's farm, and suggest that while smaller than average it was not miniscule

in size. By diminishing the value of Prince's farm, the court can diminish the value of Prince himself given how important land was to personal worth. The court writes, "This Man does not pretend to have had property of much value...." (Black Loyalists' Claims Refused, n.d.). Indeed, property ownership was bound up with white identity in colonial America so acknowledging Prince's property interests would have been a threat to white identity (Bhandar, 2018, p. 7). This connection of identity and property was affirmed legally (Bhandar, 2018, pp. 13–14, 26). In pre-Revolutionary North America, property ownership was bound up with white identity, and the lack of property ownership was bound up with Black identity (Bhandar, 2018), which then explains why the court would want to diminish Prince's property ownership because it encroached on white identity. If one accepts this connection, then the resistance to appreciating Prince's property interest and compensating him for his loss is consistent with British notions of white racial superiority.

Threatened with serving the American revolutionaries, Prince chose instead to fight for the British. The court acknowledges both that he refused to fight for the American revolutionaries and that he chose and did indeed serve the British. Loss of property interests were not enough for the British courts, so Prince also argued for compensation based on his work for the British. This too was not enough for the British courts. Again, Prince is demeaned, but this time for the value of his work. His property was worth little, and not enough for which to be compensated, and his work aboard a British man-of-war was not sufficient to warrant compensation. Furthermore, Prince appears to promise to work, potentially alleviating the concern a court might have for compensating him only to have him seek compensation later for lack of employment. Yet, because his past labor is worth nothing, a promise of future labor is likely also worth nothing.

The use of "pretend to" instead of "claim to" also signals a rhetorical distancing from Prince's claims because "pretend to" is a much less frequently occurring catenative verb (Bowie & Wallis, 2016, pp. 62, 88). This creates a distancing between Prince's narrative by distancing the description of that narrative with less common verbal constructions. When read, the court's decision seems to suggest further distance between Prince and the compensation he seeks. Jeanne Fahnestock has emphasized how attending to diction as a matter of rhetorical style can help scholars understand the role diction plays in arguments of all types, including legal arguments (Fahnesock, 2011, pp. 61–75). The counterfactual may make the point clearer. If the court had used "claim to," then because claim to is more commonly used there would not have been as negative a connotation which might position Prince in a better light. The analysis of rhetorical choices like diction, commonly referred to as relating to rhetorical style, can reveal even subtle rhetorical maneuvers of disempowerment.

Again, as in Jackson's case, the British decision rests on procedural grounds. Even though Prince lost his land, has not seen his family, and was currently unemployed, he still does not have cause to be compensated by the British because he lacks the appropriate paperwork.

A last example of the disempowering rhetoric of the British courts is the case of Anthony Smithers ("Black Loyalists' Claims Refused," n.d.). The Smithers case introduces further depersonalizing rhetoric:

Smithers Anth[on]y, a Black. Jersey

1st Sept[embe]r 1783.

Was born free he lived in Gloucester County when the Rebellion broke out. He had an House & Furniture 14 Acres of Land, 4 Horses, 1 Dozen Sheep, & 3 Dozen of Poultry of which he produces a Schedule but there is no Certificate annexed to it but her says he can get it Certified by a person of Character & he mentions his name Mr Light a Carpenter who lives in London & he lived within two Miles of him in America. He joined the British Army when the City of Philadelphia was taken & has been with them ever since He Values his property at 720 £ Sterl[in]g he got the Property from his Father who obtained it from his Master, his father died free, He is 23 Years of Age, he was only 16 when he joined the Army at Philadelphia, He is desired to give some proof of this, & to send in a Certificate.

Ent[ere]d

Decision on the Case of Anthony Smithers.

No Part of this Case being established by Proof & a reasonable time having been given to the memorialist to produce some proof of it We think ourselves at Liberty after waiting a Month for Certificates to decide upon it as a Case which cannot be proved & therefore we are of Opinion that this Man is not entitled to receive any thing from Government.

It is proper for us to explain our Reasons for so deciding after a Certificate has been produced But it is a Certificate signed by two Persons to whom we pay no Credit, manifestly made for another Person & carrying evident marks of fraud upon the face of it - it is singular that the Certificate speaks of Houses & Lands - whereas the Memorialist pretends only to have had one House.

The Smithers case contains many similar issues to the Prince case. Smithers owned a house and some land as well as some livestock. He has produced more documentation of his interest in this property, but does not have the seemingly difficult to obtain certificate. The court indicates that it gave Smithers one month to procure the needed certificate, but to do so Smithers would have had to send a letter across the Atlantic requesting the approved paperwork, wait for that letter to be processed and arrive with the correct government official, wait for that government official to act, and wait further for the government official to mail the letter back across the Atlantic (“Black Loyalists’ Claims Refused,” n.d.). Sailing time from the United Kingdom, which varied by port of departure, took approximately two weeks (Royal Museums Greenwich, 2018). It would be impossible, in the 1780s, for Smithers’s certificate to come to England given the slowness of travel. He served in the British military and declared that his property is worth a considerable amount more than Prince’s. Smithers presents a compelling case for compensation based on lost property and military service. Beyond this time-place impossibility of the court’s request though, the language the court uses is also problematic.

Smithers provides a certificate, but that certificate is “signed by two Persons to whom we pay no Credit.” (“Black Loyalists’ Claims Refused,” n.d.). It is not clear why the court paid them no credit. Perhaps the court was simply reticent to support a Black man’s claim or had trouble believing in the authenticity of the signatures on his certificate. Perhaps there was some other characteristic that signaled to the court that he should not be compensated, although that it difficult to determine given that the court does not indicate a character flaw in Smithers nor in the signers of his certificate. The court makes an interesting argument that the certificate carries indicia of fraud: “it is singular that the Certificate speaks of Houses & Lands - whereas the Memorialist pretends only to have had one House.” (“Black Loyalists’ Claims Refused,” n.d.). The disagreement is about the plural. Smithers claims to have had a house, but the signers of the certificate signed to affirm the language of a plurality of houses. Clearly, this either was a mere typographical error or a case of the legalese plural. The use of the plural in legalese,

however, is widely accepted to include the singular according to Quirk, Greenbaum, Leech, and Svartvik's classic study of English grammar as well as Canada's Department of Justice (Quirk, Greenbaum, Leech, & Svartvik, 1985, p. 265; Department of Justice, 2022). But, to the court it was much more, a sign of treachery, or lying. Again, "pretend" appears instead of "claim" to distance Smithers from his claim. He is less credible because of the court's diction, which casts doubt and distance on his claim.

The force of legal rhetoric is substantive, pertaining to everything from citizenship to participation in the public sphere. It creates subjects and the conditions of social life (Harrington, Series, & Ruck-Keene, 2019, pp. 326–327). It establishes racial order and value, creating categories of value and delineating the worth of subjects. Such official rhetorics come with the imprimatur of the government and its bureaucracy that carry with them their own value. While it may be easy to dismiss seemingly simple matters like diction, such matters are all that much more important when related to law because of the centrality of rhetoric to legal thought (Balkin, 1996, pp. 211–212; Nyakundi, 2024, pp. 9–12). The court's use of different rhetorical strategies like depersonalization and distancing as well as deciding matters on procedural grounds to dismiss Black Loyalists' claims demonstrates a contempt for and depersonalization of Black people who severed in the British military.

## **Conclusion**

By analyzing the rhetoric of the British court in its resolution of Black Loyalists' claims, scholars can better understand how the British government regarded Black Loyalists specifically and Black people generally. Official rhetorics like published court decisions give insight into what governments think about the people they represent and with whom they come into contact. Rhetorics of disempowerment demonstrate disregard for others and are especially important in understanding the often-subtle ways that governments address marginalized populations. The difficult experiences of Black Loyalists in the British legal system were unfortunately typical of the Black experience in Great Britain. It was also typical in the British military where it was uncommon for Black soldiers or mariners to advance in rank and who were often among the country's poor, as was Prince who could not find work, when their military service ended ("Black People in Late 18th Century Britain," n.d.). For these reasons such treatment is worth analyzing rhetorically to understand how the British government regarded Black Loyalists, and what rhetorical strategies enabled the courts to treat Black Loyalists in this problematic way.

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