

2019

Property Rights, Citizenship, Corruption, and Inequality: Confiscating Loyalist Estates during the American Revolution

Marcus Gallo

John Carroll University, mgallo@jcu.eduFollow this and additional works at: https://collected.jcu.edu/fac_bib_2019 Part of the [History Commons](#)

Recommended Citation

Gallo, Marcus, "Property Rights, Citizenship, Corruption, and Inequality: Confiscating Loyalist Estates during the American Revolution" (2019). *2019 Faculty Bibliography*. 69.
https://collected.jcu.edu/fac_bib_2019/69

This Article is brought to you for free and open access by the Faculty Bibliographies Community Homepage at Carroll Collected. It has been accepted for inclusion in 2019 Faculty Bibliography by an authorized administrator of Carroll Collected. For more information, please contact mchercourt@jcu.edu.

PROPERTY RIGHTS, CITIZENSHIP, CORRUPTION, AND INEQUALITY

CONFISCATING LOYALIST ESTATES DURING THE AMERICAN REVOLUTION

ABSTRACT: In Maryland, fierce debate attended the decision to confiscate loyalist lands, but the state eventually embraced confiscation, seizing significantly more loyalist land than neighbors who had access to lands in the trans-Appalachian west. State senators who initially objected to property confiscations found themselves forced by necessity to adopt a revolutionary view of subjecthood, in which loyalists who abandoned the state voluntarily abrogated their citizenship. While some irregularity surrounded Maryland's confiscations, this paled in comparison to the corruption that attended confiscation in neighboring states like Pennsylvania and New Jersey. However, as in other confiscations, the state's political and military officers came to dominate purchases of loyalist land, demonstrating the influence of the wealthy over Maryland's political process.

KEYWORDS: Confiscation, land speculation, revolution, property rights, loyalists

In 1777, with the American Revolutionary War in the balance, the Continental Congress suggested confiscating loyalist property as a means of raising money. Although it left the final decision for this measure to the discretion of the rebelling states, all thirteen passed confiscation legislation targeting active loyalists who abandoned the state or fought against the patriots. States varied widely in the amount of land they confiscated. Confiscation met little real political opposition in Pennsylvania, where the state sold around 40,000 acres of loyalist land beginning in 1778. The state also assumed control over more than 20 million acres of the Penn family's proprietary lands, for which it granted £130,000 in compensation (perhaps a tenth of its true value).

In Maryland, one of the last states to enact confiscation, the issue became a political flashpoint, exacerbating pre-existing tensions between politicians in the House of Delegates who supported confiscation and those in the Senate who opposed it. Despite starting confiscations as late as 1781, Maryland eventually confiscated more land than Pennsylvania, selling over 200,000 acres and gaining £450,000 from auctions. Maryland also assumed control over its proprietor's inheritance, compensating Henry Harford with £10,000, while selling his quarter-million acres for nearly £200,000. This put the scale of confiscations for the relatively small state of Maryland almost on par with the much larger state of New York, which seized and sold 1 million acres of loyalist lands.¹

The states' auctions of confiscated property took place within the broader context of a continent gripped by land mania. Even before the Revolution, the logic of land investment was plain. In the 1750s Benjamin Franklin expressed this understanding well when he wrote that land was "plenty in America, and so cheap as that a laboring Man, that understands Husbandry, can in a short Time save Money enough to purchase a Piece of new Land sufficient for a Plantation, whereon he may subsist a Family." These conditions allowed for early marriages, allowing Franklin to estimate that the colonial population "must at least be doubled every 20 years." Despite this burgeoning populace, "so vast is the Territory of North-America, that it will require many Ages to settle it fully; and till it is fully settled, Labour will never be cheap here." As a result, Franklin noted that America could never compete with England in the production of manufactured goods. Franklin did not directly spell out the implications for investing wealth in America, but we can do so: compared to Europe, America's population density was low, but the population itself was growing. Therefore, land that was currently cheap due to a lack of demand would become dear at some point in the future. It is no accident that Franklin became an avid land speculator, as did most of his wealthy contemporaries.²

The French and Indian War briefly complicated the logic of America's land market. The end of the war eradicated French opposition on the continent, which could have signaled an open frontier for the British. Instead the government enacted the Proclamation Line in 1763, banning white migration west of the Appalachians to prevent further violence with Indians. Sir William Johnson renegotiated the line further to the west at the Treaty of Fort Stanwix in 1768, but the general limitation on western settlement—and therefore western land speculation—remained. Thus, for the decade leading

up to the revolution, land east of the Appalachians became more densely populated, without the ability to release potential migrants to the west.³

The outbreak of the American Revolution changed this dynamic for the continental land market. The victorious revolutionaries had no qualms about taking Indian lands and opening the west to settlement, causing a boom in land speculation to follow on the heels of the war. While the United States government negotiated with individual states for the rights to the far west, states like Pennsylvania, New York, and North Carolina sold off much of their backcountries to speculators. Some speculators, like William Cooper, amassed great fortunes; others, like Robert Morris and John Nicholson, made and then lost fortunes, dealing in millions of acres to their own detriment. For the United States and the financially stretched American states, selling land in the west held open one of the only real possibilities for avoiding bankruptcy after a lengthy and very costly war of independence.⁴

The vast amount of land that entered the market in the aftermath of the American Revolution offered an opportunity to level social differences, albeit one that the United States did not pursue. Some, like Thomas Jefferson, recognized this opportunity and advocated for widespread landownership as a precondition for a healthy republic, arguing that “dependance begets subservience and venality, suffocates the germ of virtue, and prepares fit tools for the designs of ambition.” Nevertheless, government policies favored speculators for decades following the revolution, in part due to the dire need for ready cash. By 1785 the grand speculator George Washington worried about “Land jobbers” west of the Appalachians “prouling about like Wolves . . . [injuring] the real occupants & useful citizens; & consequently, the public interest.” By 1789 Virginia’s exasperated attorney general James Innes wrote, “If Congress think speculators, and land jobbers, of more de[se]rving favor and reward—than the officers of the late American Army—be it so—our interests must, I suppose, be yielded.” While Franklin’s calculations that American land should be cheap held true in the aggregate, tenancy remained commonplace in many regions. For example, in 1783 half of the white householders living in Maryland’s Chesapeake counties did not own their own land and tenancy was common even in the less developed western portions of the state. Areas that had been devoid of white settlement prior to the revolution, such as Ohio, could theoretically have seen the widespread distribution of small independent farms. Instead, by 1810 a minority of the adult male inhabitants owned land, and speculators controlled the majority of the state’s acres.⁵

It is within this larger context of governmental indebtedness and support for the ambitions of speculators that this article will examine the process of confiscating British property in Maryland and compare it to the confiscations in Pennsylvania and other nearby states. Like their neighbors, Marylanders expressed varying levels of uneasiness with the idea of property confiscation. They debated what confiscation meant for the nature of citizenship and property rights and they worried about the opportunities that confiscations would provide for unscrupulous war profiteers. Maryland was slow to endorse confiscation and quick to ban bills of attainder after the war, but nevertheless acquired a great deal of loyalist land in the final years of the revolution. In the end, after Maryland embraced confiscation as a war-time expedient, the primary beneficiaries were the men with the wealth to purchase lands. This class of men included some merchants but contained a disproportionately large number of the state's political and military officers. The debates over confiscation and the unequal distribution of confiscated lands thus offer a window into revolutionary society, demonstrating how American elites directed the politics of the country in ways that benefited the existing landholding class.⁶

LAYING THE GROUNDWORK FOR CONFISCATION

The American Revolution posed a complicated problem for local elites throughout the new states. Leaders of the insurrection had to negotiate an intricate political balance: on one hand, the revolution had to capture the hearts and minds of the common people, which involved ensuring that they had political and financial incentives to rebel against British rule. On the other, revolutionary elites wanted to avoid anarchy and mob rule. Keeping this balance in mind, Maryland produced a conservative state constitution. As late as January 1776, the Maryland Convention adopted a statement embracing the English constitution and the king. However, following the Declaration of Independence that summer, an electoral struggle ensued between two factions for control of the Maryland conventions that would establish a new constitution. Led by Rezin Hammond, the radicals had been early advocates for independence and had pressed for violent opposition to British taxation as early as 1774. Aiming for the support of the humble he called for all taxpayers to vote, regardless of income, for a ban on debt collection until the end of the military conflict and the restructuring of tax

collection to be more equitable across all classes. Opposing Hammond was the peculiarly elitist “popular party,” a more moderate group led by the wealthy Carroll family and the Annapolis lawyer Samuel Chase. The split between the two factions developed partially out of personal disagreements between the Hammonds and Carrolls, who opposed one another in court battles over the legal title to several hundred acres of land.⁷

Once at the conventions, the popular party leveraged the threat of loyalist insurrections on the Eastern Shore to call for compromise and patriotic unity. A raft of changes loosened colonial restrictions on voting but kept power in the hands of elites. To vote, Maryland’s citizens needed to possess £30 in paper money (equivalent to £20 sterling) or fifty acres of land. They could not directly vote for the state senators of the upper house, but instead only chose a body of electors who decided the composition of the Senate. Similarly, the elected legislators of both the lower and upper houses of the legislature chose the governor. Strict property requirements still prevented common planters from serving in positions of power: the governor required £5,000; members of the Senate needed £1,000; members of the House required £500. To put these numbers in some perspective, Jackson Turner Main suggested that a typical 289-acre farm on the Eastern Shore in the late colonial period could only yield £170 per year. This meant that only substantial planters owning about 1,000 acres could qualify for office under Maryland’s revolutionary constitution.⁸

Far from revolutionizing the social structure, these new property requirements recreated a social basis for the government that resembled that of the colonial period. Charles Barker calculated that in 1755, while the average landholder owned between 255 and 473 acres, the average lower house delegate held 2,222 acres, and the average upper house delegate held 8,422 acres. The numbers for delegates’ holdings did not shift significantly in 1771. Over this same period, David Skaggs surveyed four counties across the colony, finding the percentage of total landholders in these counties dropped from 44 to 37 percent.⁹

As a result, while 63.8 percent of white men in Maryland could vote, access to political office depended on the county. In wealthy Baltimore County, 27.5 percent of white men met the property requirements to become legislators. In westernmost Washington County, only 6.2 percent met those property requirements, and fewer than 2 percent owned enough property to become senators. As had been the case in Maryland’s colonial period, legislators in the lower house tended to possess more than five times the amount of

property of the average voter in their district; legislators in the upper house tended to own between twenty and thirty times as much property as the average voter in their district. This left so few men eligible for the Senate that in the words of Senator Daniel of St. Thomas Jenifer, "there will not be men enough found of sufficient abilities to turn the machine with that velocity which the present exigencies of our affairs require." He feared that such an unrepresentative institution could cause the people to balk whenever the indirectly elected Senate differed in opinion from the House.¹⁰

In 1777, with control of the government vested firmly in the hands of the wealthy, the popular party next dealt with the fiscal crises menacing the state: farmers' debts to merchants and the costly ongoing war effort. The popular party appeased many voters by passing compromise measures that echoed Hammond's proposals. First, the legislature reformed the tax system, abolishing the split colonial system that instituted land and poll taxes in favor of a graduated property tax. Between 1777 and 1781 the government passed ten different laws to regulate taxation. These laws attempted to grade the quality of land, land improvements, and slaves in order to shift a greater tax burden on the wealthy, but also expanded the tax base to include those who had previously been considered propertyless.¹¹

Additionally, in 1777 the legislature passed several controversial bills creating a cheap supply of money. The state printed money to pay its own debts and allowed Marylanders to pay their taxes in paper money. These measures temporarily eased the financial difficulties of both the state and its people. Importantly, the state also mandated that the money printed by Maryland and the United States must be accepted as legal tender by creditors. This money quickly depreciated, easing the lot of debtors across the state, strengthening support for the government, and appeasing the common people. The measure obviously hurt elite creditors. Wealthy men began to feel a sense of foreboding about potential social conflict ignited by the future effects of inflation, and a rift began to open between the Senate and the House over the state's financial profligacy. Ultimately, the debate over confiscation only worsened the split.¹²

In part, this was because Maryland experienced relatively little open dissent from loyalists during the Revolutionary War. Indeed, the Western Shore never saw organized loyalist forces. However, hundreds of loyalists organized on the Eastern Shore in 1777 and 1778, timing their violence to coincide with the British campaign against Philadelphia. These forces could not match the more numerous Maryland patriots, and many loyalists lapsed into neutrality

after the British withdrawal from Philadelphia. In response to this loyalist activity, the Maryland legislature demanded an oath of loyalty in 1777, barring anyone who refused to take the oath from serving in the government and assessing trebled tax rates upon them. Only 18,000 people, or roughly two-thirds of the eligible adult male population, swore an oath of allegiance to the revolution. The government made no effort to single out recalcitrant but inactive Tories for punishments beyond special taxes. Unfortunately for Maryland's loyalists, however, Britain made little effort to support them: their regular soldiers spent virtually no time in Maryland throughout the war and Maryland's loyalists proved no match for the more numerous patriot militia. As a result, even on the Eastern Shore, most Maryland loyalists lapsed into a grudging neutrality, with outbreaks of violence occurring only sporadically throughout the war.¹³

Given the lack of British military support, it remains an open question as to why some Marylanders remained loyal to the crown. Robert Calhoon suggested that personal ties played a large role in determining whether Americans remained loyal during the conflict: of the 136 Maryland colonial officeholders whose allegiance can be determined, two-thirds joined the revolutionaries. Yet officeholders were three times as likely to remain loyalists than to become patriots if they had received their patronage directly from one of the colonial governors or through the influence of one of the major proprietary party families: the Dulanys, the Calverts, or the Claggetts. Officeholders who had not received personal patronage from these proprietary officials became revolutionaries in overwhelming numbers. On the Eastern Shore, the rise of evangelical religion, especially Methodism, among the common people exacerbated a breakdown in social cohesion between classes. This left the door open for loyalist dissenters. However, by mid-war, the popular party's compromise policies had undermined the resentment between classes, preventing this movement from spreading.¹⁴

PASSING CONFISCATION LEGISLATION

In Rhode Island the confiscation of loyalist estates began as early as October 1775. By November 1777 North Carolina, New York, and Massachusetts had followed suit, and Congress formally suggested that all states begin confiscating British property. In Maryland the dominant figures of the popular party, Samuel Chase in the House of Delegates and Charles Carroll of Carrollton in

the Senate, blocked any discussion of confiscation for two years. Only South Carolina would wait longer than Maryland to eventually pass confiscation legislation.¹⁵

By late 1779 the House of Delegates and the Senate had developed opposing views about Maryland's financial situation. Many senators believed that the state had already gone too far to weaken its currency and thereby threatened property holding in general. Members of the House worried that the state could no longer fight the war effort without an influx of cash. For the year 1780, Congress asked Maryland to provide more than \$14 million, with the first installment of more than \$1.5 million due in February. The House believed that taxation alone could not raise the money without impoverishing the populace. As a result, on December 15, 1779, they passed a bill seizing British estates, estimating that their sales would raise more than \$5 million.¹⁶

The Senate rejected the bill five days later, and over the next year the question of confiscation became the most significant debate in Maryland politics. Carroll drafted the Senate's initial explanation for its rejection of the bill, which set the terms of the debate that would follow. Severe weather meant that half of the senators had already left for the winter, so Carroll asked for a postponement of the matter, bolstering this delaying effort with a list of objections to the bill.¹⁷

In terms of practical matters, the House had argued that paying its share of the war effort through taxation alone would result in the people of Maryland being stripped of 27 percent of their property by the end of 1780. Carroll disagreed because of the rapid advance of inflation. Depreciation of the dollar would render the nominal value of all property much higher, so that people would be able to continue to pay so long as they had tangible resources. Therefore, the Senate believed fiscal collapse was not imminent, and that confiscation could therefore be postponed.¹⁸

Carroll had further practical objections to confiscation. If the House wanted to confiscate British property immediately, they would be putting lands up for sale at the worst time of year, when the winter would impede buyers from attending auctions. Instead, he predicted that the purchasers would "consist altogether of engrossers and speculators, men who have acquired great sums for little value, and therefore may afford to run the risk, whatever it may be, of realizing their money on such easy terms." Combined with the ravages of depreciation, "the sum arising from the sales would, we think, for the reasons already suggested, be very inconsiderable, and far short

of the real value of the property sold.” Such sales would become a liability if the United States were to negotiate peace in 1780, because Carroll assumed that part of that negotiation would require a repayment of the value of confiscated British property.¹⁹

Practical matters, however, took secondary importance to the Senate’s main argument: that Maryland’s constitution forbade confiscation. In Carroll’s words, “We doubt, whether, by a fair construction of that law [of nations], the declaration of independence can have such a retrospective operation, as to vest in this state all British property acquired by individuals antecedently to it.” Indeed, if British absentees forfeited not only their property, but also their subjecthood to the state when they left, the state’s treason laws targeting the same people made little sense; how could someone who was not a subject of Maryland commit treason? Even if there were a constitutional defense to be made for confiscation, “intemperate zeal and intemperate resentments have frequently given fatal stabs to governments as free as ours. We need not remind you that the rigour of law is often injustice.” While the Senate’s desire to avoid injustice for British absentees seemed high-minded and generous, it may not have been selfless. Carroll and other elite men in the state had significant capital that remained in Britain, tied up in banks and property. Privately Carroll worried that should the state confiscate British property, the British would retaliate against Marylanders. This made it especially important for the wealthy to protect property rights at all costs.²⁰

Of course, something had to be done to continue the war, and the Senate agreed that Maryland had its back against the wall financially. Carroll wrote that the ultimate financial solution lay outside of Maryland:

When the representatives of the United States perceive the impracticability of supporting the war by taxes, and internal loans, only, necessity will force them to adopt a measure, which justice and true policy dictate, and which had been ere now adopted, if partial interests had not interfered, and prevented its adoption. By making the back lands a common stock, and by selling a part of them, millions might in time be brought into the public treasury, and in the mean while great sums would probably be advanced on that security; monies may be borrowed in Europe, and of this we suppose the congress have assurances, by the late notice of their intention to draw bills of exchange to the amount of £200,000 sterling.

In Carroll's reasoning, if Maryland could avoid being too hasty, the other states would eventually come to their senses and make an agreement on selling the lands west of the Appalachians. This communal revenue source would solve the country's problems without hamstringing Maryland's future or threatening the sanctity of property rights. In the meantime, he wrote, "we are persuaded we shall never receive [the people's] thanks, if, endeavouring by expedients to shun small and temporary inconveniences, we bring upon them much greater future evils."²¹

On December 30, 1779, the House of Delegates responded to the Senate's missive in frustration, engaging in a point-by-point refutation of Carroll's message. They noted the direness of the situation and extensively defended the righteousness of confiscation, according to natural law and the law of nations. They doubted that the British would demand compensation for the confiscated property. With regards to the Senate's fears that speculators would snap up most of the property, the House wrote:

We do not think it probable that this will be the case. The objects of these men are the necessities of life, and the commodities of foreign commerce; but, if they should be the purchasers, we cannot help believing, that it will be desirable; for thereby the money, which is the means of their speculation, will be drawn out of their hands; and if, as your honours seem to suppose, "the title may be doubtful, and the purchase invidious," engrossers and speculators are the best men whose hands it can fall into.

The House took a similar sarcastic tone when addressing the idea that sales of backcountry land could rescue the financial situation. Initially agreeing with the proposal, the author of the House's document went on to opine that:

the back lands cannot be confiscated. If they belong to the native Indians, your honours will say, that though they have made war against us, yet their property cannot be confiscated, for Vattell, a late and celebrated writer on the law of nations, has shewn, "that the rigour of that law is much softened in this very point, by present usage and practice." If they belong to the crown of Great Britain, as trustee for the nation, as we conceive, and will be called British property, the congress, should they adopt the same way of thinking with your

honours, will not be willing to confiscate it, as it may be made a preliminary article of the peace, that it be secured, or at least the full value of it, to the original owners.

Thus, with the battle lines between the two sides drawn by the House's mockery, the Senate adjourned for the winter, allowing the debate between pro- and anti-confiscation ideologues to take place in the weekly *Maryland Gazette*.²²

Again, Charles Carroll of Carrollton set the stage for the initial debate, writing in the *Gazette* as "A Senator" in the editions of February 11 and 18. He picked up where he left off, arguing that the plan for confiscation was murky and unlikely to enrich the state, especially if speculators could lock in a price for purchase at auction but withhold actual payment while the country's money depreciated in value. He also argued against the constitutionality of property confiscation. For example, he appealed to the legal scholars Grotius, Vattel, and others who argued that wars between nations allow for the confiscation of another nation's collective property, but not the individual property of the opponent's subjects, especially when those individuals had committed no crimes. Carroll believed that the question of whether the British were aliens had to be determined by the courts and not the legislature. He inverted the logic of the famous Calvin's Case, which held that Scottish subjects born before the union with England remained aliens in England after the union. In Maryland, therefore, because all were born British subjects before Maryland's independence, the British could not be made retroactive aliens of the state after independence.²³

The February 18 issue of the *Gazette* featured a letter supporting Carroll. In the next week's paper, "A Delegate" quipped, "The Senator having occupied the Press, it will be impossible to answer him, until it shall be vacant for that purpose. The public in the meantime will suspend their judgment." By late February, however, the tide already began to turn. Multipage letters to the editor in support of confiscation began to populate the *Gazette's* pages. From February 11 to May 12, discussion of confiscation dominated the newspaper, ultimately resulting in eighteen letters supporting confiscation, nine opposing confiscation, and another nine addressing confiscation without clearly supporting or supposing it, either by reporting on political proceedings, or worrying about the tenor of debate in the state. The topic's popularity was such that several wags published satirical pieces lampooning the debate itself and one another without making serious points.²⁴

It is hard to reconstruct popular opinion from these pieces in the *Gazette*. We cannot get a grasp on the authors of the debates: they themselves spent a considerable amount of time questioning who was really writing. For example, it seems clear that at least three different authors wrote under the pseudonym of "A Plebeian," and those authors did not agree with one another on all points. It could well be that the authors of the various letters represented marginal opinions that the broad population did not share. However, the large number of pieces supporting confiscation should give some indication that it had a significant base of support among the *Gazette's* educated readership. The tone of the letters in response to Carroll can also give a sense of how common Marylanders felt about his reasoning. An early response to Carroll expressed a sense of revolutionary outrage:

It is justly alarming to see principles like the Senator's spread in a free country, when two years ago, if any man had talked in that manner, he would as soon have dared to put himself in the fire, or be tarred and feathered, especially a member of our assembly; Good God, What is this state come to, to be subjects of Great Britain? And we cannot take the property of our enemies to pay our taxes, when, if it was in their power they would take our lives.

Another author, aiming to recapitulate Carroll's points in plain English, wrote that the senator believed that "war may be carried on without money." A third, with Carroll's discussion of Calvin's Case in mind and referring to the additional taxes that the state forced avowed loyalists to pay, wrote that "the Senator has fully proved, that we are *still British subjects*. How then, consistent with a good conscience, could any one take the oath of allegiance to the state? On this ground the Senator may go on to show the iniquity of the *treble tax law*." A fourth satirist wrote:

Much scoff and scorn has been cast on a position of the Senator, that a man may owe allegiance to *two* countries; and yet we hear of a snake in New-England (according to the account of Cotton Mather, to the royal society) which had two heads, and could run two ways at a time; also of a negro in this state (according to the account of a gentleman, to the same body) which was white and black, by turns; that is (not a pye-bald negro, but) one who was white, one season of the year, and black the other. Is it more extraordinary, that a man should be the subject of two countries and *inherit in both*?

Satire such as this can give us some insight into the common man's resentments: of the British, of attempts to lighten the burden on public enemies while the people suffered, and of the elite Senate's interest in legal niceties and shades of gray during a national emergency.²⁵

In April 1780, with the message to the Senate that "our affairs are brought to an alarming crisis," the House of Delegates renewed its push for a confiscations bill. This bill was relatively straightforward, reiterating an argument based on natural law that justified confiscation. The bill also contained a provision that banned all quitrents to the British proprietor, Henry Harford. The Senate endorsed banning quitrents but rejected the combined bill.²⁶

When the Senate debated, their opposition focused on constitutional matters. In the words of Charles Carroll of Carrollton, Maryland's "declaration of rights secured all property acquired under the old government." His father, Charles Carroll of Annapolis, summed up the issue: "if British subjects are aliens, they can't hold property in this state; if they are not aliens, it would be a breach of the constitution, to take their property from them." Only the courts could decide who was or was not an alien. He pointed out that the state had not previously considered the proprietor Henry Harford an alien, despite his continued residence in Britain, because they passed laws to compensate him for taking his lands. Robert Goldsborough followed up by questioning when British subjects lost their attachment to Maryland. What if the absentees had left the state before the battles of Lexington and Concord, or before the signing of the Declaration of Independence or Maryland's constitution in 1776? He asked, "Did they, by going away, infringe any law? Their property was acquired legally; if they infringed no law, when they went away, it would be an *ex post facto* law, and contrary to the declaration of rights, to take their property away." In part, this question revolved around what made a citizen: in the words of Thomas Stone: "I don't understand the doctrine of election: what gives an election, but the having property in the state?" Maryland as a state existed to protect its property holders, who made up the electorate. The constitution elevated property holding such that only the wealthiest men could fill the highest ranks of state office. As the senators debated the issue, they realized that the act of confiscation amounted to a radical redefinition of the citizenry.²⁷

Basing further objections on practicalities, Goldsborough argued, "If we cannot carry on the war without British property, our enemies will know it and continue the war, and we must soon yield." The younger Carroll also objected on practical grounds, repeating his concern that "the treaty of peace

Great-Britain would stipulate for the restoration of the property confiscated, or a compensation for it," such that holding onto any money received from British subjects would prove illusory. Senator Thomas Stone considered the possibility of confiscation but argued that the process could not be conducted with undue haste: "It is time to interpose, not to steal a march on them, but to give them notice to come and possess their property, or it should be considered as derelict."²⁸

By this point in the spring of 1780, Stone and the other members of the Senate had come to recognize the state's dire financial position and the consequent need for confiscation, but constitutional questions still dominated their thinking on the issue. Focusing on giving due notice to those potentially affected, the Senate's counterproposal mostly mirrored the House's bill, but defined British subjects as those who had left the state after August 14, 1775, when Maryland had put itself on a formal defense footing against the British. The Senate proposed alerting the nation's generals and foreign ministers in Europe so that they could alert anyone affected to return by May 1, 1781, to reclaim Maryland citizenship and retain their property. British minors who inherited Maryland estates could return by March 1786 to reclaim their inheritance. Seeing these overtures to the enemy as a bridge too far, the House did not pass the Senate's bill, leaving confiscation at an impasse.²⁹

Outside events forced the senators' hands. Within a few months, it became apparent that the Maryland legislature could not draw on provincial funds that the colonial legislature had invested for fifteen years, beginning in 1764. This money had gone to purchase stocks controlled by the Bank of England, which refused to release the investment to Maryland's state treasurer. In addition, in Charleston, South Carolina, the British had begun a campaign of arrests and property confiscations targeting local prominent citizens. This amounted to a pattern: British officials had signaled that they did not share the Senate's qualms about confiscation and specifically confiscated Maryland's money. The legislature needed no further debate; the final bill for confiscation passed in November 1780. In the preamble the bill's authors included a justification linked explicitly to Britain's recent actions:

Whereas the subjects of Great-Britain possess considerable landed and other property in this state, which the legislature, from a disinclination to distress individuals, hath suffered to remain in the hands and management of their agents, hoping that a conduct so moderate would induce the enemy to respect the rights of humanity, emulate

the example, and alleviate the calamities of war; but such lenity and forbearance, instead of meeting with a proper return, have been falsely imputed to pusillanimity and a dread of retaliation, and seem rather to have encouraged the enemy to acts of violence and cruelty.

This passage neatly summarizes the Senate's about-face: the British compelled them to no longer entertain constitutional arguments or "alleviate the calamities of war."³⁰

For senators who had long grappled with the constitutionality of depriving anyone of their property, the law amounted to a radical redefinition of subjecthood. For the purposes of the law, any man born within British dominions was British,

unless he hath, by some subsequent act, divested himself of that relation, by adhering to us and our cause, as by entering in to the service or employment of the United States, or any of them, joining in the formation of our government, taking the oath of allegiance to it, withdrawing himself from the British dominions for his attachment to the United States, or by doing some similar open act.

The law took a further step, banning any "payments or remittances whatsoever" to any British person, except for parents educating their children in British dominions. They were to continue these payments only for as long as it took to relocate the children elsewhere. In April, senators had questioned what it meant to be a voter in Maryland, since the main requirement was holding property in the state. Now, the residents of Maryland had to prove their allegiance to the revolution, or else remain British: passive subjecthood would need to give way to active citizenship.³¹

Nevertheless, the Senate had not fully abandoned its previous efforts to protect property holding. British subjects still had a year to return to Maryland to reclaim their property and voting rights, although the state would not make any efforts to notify them of their deadlines. In addition, American creditors of British subjects would receive their debts before the state could make use of the properties. The law was vague on this point, however, noting that "the indemnification of sufferers shall be settled by the general assembly, and if agreed to is not to exceed the value of British property made use of by this state." Despite bowing to the circumstances of the war, and despite the radical reformulation of the state's relationship with

Britain and its own citizens, the Senate remained committed to upholding property rights and the rights of creditors.³²

EXECUTING THE CONFISCATIONS

In 1781 Maryland established a three-man commission to oversee the confiscations, appointing Colonel Uriah Forrest, William Paca, and Clement Hollyday as the first three commissioners. Forrest and Paca quickly resigned and were replaced by Gabriel Duvall and Colonel Nathaniel Ramsey. Except for Hollyday, all the commissioners were well-known figures in Maryland politics. Forrest left military service in 1781 and occupied a seat in Maryland's House that year, eventually serving on both the state Senate and Executive Council. Paca was a legislator in both Maryland's House and Senate and became governor in 1782. In addition to his military service, Ramsey was a delegate to the state's conventions in 1775 and later elected to the legislature in 1789. Duvall served as the clerk for many of the state's conventions, the state Council of Safety, and the House of Delegates. In 1782 he joined the Executive Council, forcing him to temporarily resign from the commission, although he soon returned and continued to conduct commission business until 1785. The less prominent Hollyday relocated to Annapolis to focus on dispatching the commission's business full-time. Meanwhile, over the next few years the legislature began to enact a series of updated laws to further regulate confiscations, including a provision to enable tenants pre-emptive rights to buy the land that they had leased in the colonial period at slightly reduced rates.³³

Beginning in 1782 Maryland appointed its intendant of the revenue, Daniel of St. Thomas Jenifer, to oversee the state's funds. He began working closely with the commissioners of confiscated property and began directing many of the confiscations himself in 1784. By this time, the commission had already auctioned off much of the British property, although numerous headaches remained for Jenifer to address. Foremost among these were many purchasers who had failed to pay in full had also failed to post bond on their remaining balances. By 1785 Maryland had entered a recession, putting enormous pressure on Jenifer, who was left with the unenviable task of handling the budget for a state that had spent profligately for the last decade. This led to considerable tension between Jenifer and the commissioners.³⁴

Despite having a difficult job, the commissioners accomplished the confiscations with relatively little scandal. At a typical confiscation, commissioners had to assess an estate's assets and determine the extent to which creditors should receive the proceeds of sales before the state. They would also oversee surveys of properties and advertise and conduct auctions. A variety of problems could interfere with the speedy execution of confiscations. Rival claimants could protest sales, claiming ownership over confiscated property. In some instances, tenants who occupied confiscated lands refused to vacate them upon sale; in another example, French soldiers commandeered confiscated lands, making them temporarily useless to the purchaser who therefore refused to pay for them. Purchasers tried to return unwanted lands or bargain their way out of making a proportion of their down payments in specie. Soon after the sales began in 1782, the intendant of the revenue requested the postponement of sales until enough specie was available at large for the public to make proper down payments at auction.³⁵

The best insight into the difficulties the commission underwent comes from an extended, ugly exchange that took place from October 1786 to June 1787 between the commissioners and the intendant of the revenue, Daniel of St. Thomas Jenifer. Once again, long after the principal business of confiscation was over, the issue dominated the *Maryland Gazette's* front pages, as the two groups sent accusatory letters to one another through the press. These began with Gabriel Duvall responding angrily to an earlier letter then circulating in Cecil County in which Jenifer claimed that the commissioners had attempted to remove him from his position as intendant and had tried to avoid his examination of their records. Several allegations of improper behavior stood out although criminal charges were never in question. Jenifer accused the commissioners of mishandling various surveys, auctions, and bonds, which resulted in the defrauding of purchasers and the state to the benefit of the commissioners. Duvall and the other commissioners denied this, arguing that their auctions raised particularly high prices for the land in question, especially in comparison to the sales Jenifer oversaw, and that any irregularities were due to the dire need to raise quick funds for the government.³⁶

Particular confusion beset the early sales at Nanticoke Manor on the Eastern Shore. The commissioners had concentrated on the Western Shore, where most confiscations took place, leaving Nanticoke unsurveyed before auctioning off its lands. Numerous purchasers (including the commissioner Clement Hollyday) demanded their money back after the surveys, upon

receiving lands they had not intended to buy. As intendant, Jenifer ordered general resales at Nanticoke. The commissioners claimed that many of those demanding their money back merely had buyer's remorse for paying high prices at the initial auction. As a result, the commissioners expected to be paid their 2.5 percent commission on both the initial sales and the resales. This question of commissions became a key aspect of the conflict between the intendant and the commissioners. Jenifer resented the commissioners' high payments, especially given that he received the lesser commission of 1.5 percent on sales that he conducted. He felt that the state overvalued the commissioners' work. Instead, they should have always received payment in devalued paper money rather than specie, given their high commissions.³⁷

The public letters revealed a variety of other irregular practices, which did not rise to the level of criminal fraud but point to the opportunity for official corruption inherent in confiscations. At public auctions, the commissioners should have demanded bonds of the successful bidders so that the state would be guaranteed payment. Otherwise, commissioners might receive commissions on sales for which the state would not receive full payment. They were often incapable of making buyers post bonds, while Jenifer had much less trouble once he took over the remainder of the sales in 1784. In a variety of cases the intendant ordered private sales, rather than auctions, for confiscated estates. Duvall alleged that some of these private sales raised far less money than an auction would have, meaning that well-placed friends of Jenifer could benefit at the state's expense. Defending the commissioners, Duvall argued that Jenifer was able to enforce bonds because his sales brought in so little money for the state: "When a man can purchase property for an half, a fourth, or a tenth of its real value, he will not hesitate to comply with the terms of sale." Nonetheless, neither Jenifer nor Duvall could present a convincing public case that any buyers received lands at cut rates.³⁸

On at least one occasion, Commissioner Ramsey subverted a regulation that was meant to avoid the auctions being manipulated for the commissioners' benefit. He used an undeclared proxy buyer to purchase lands for himself, to avoid an early injunction (which was later relaxed) against commissioners purchasing lands directly. In another instance, an alleged purchaser of lands, Stephen Steward, denied having ever bid for certain lots, suggesting that the commissioners were trying to receive commissions on lands for which the government would receive no payment. These allegations were troubling but did not rise to the level of involving either the legislature or the criminal justice system. The general pattern of sales and the accusations of the officials

involved suggest that the process of confiscation was inherently messy, especially given the state's dire financial situation, which put pressure on officials to make quick sales.³⁹

While outright corruption was not prevalent, the Maryland government executed confiscation in a way that reflected its elitism. Maryland sold over 200,000 acres owned by loyalists for nearly half a million pounds, breaking up a variety of large estates in the process. Philip Crowl sought to test the widely held proposition that these confiscations tended to democratically redistribute property. This idea rested in part on the assumption that former tenants took advantage of laws allowing them to purchase the lands confiscated from their landlords, the loyalist manor holders. Crowl found that the actual sale of loyalist properties produced mixed results: in places like Baltimore, where property values were high, and the properties sold were often merchants' wharfs and warehouses, only the well-to-do could afford to buy much property. In the countryside the distribution of lands was more equitable, averaging 184 acres per purchase. Crowl argued that these sales did result in a more democratic distribution of the land, even if relatively few purchasers benefitted, because the sales broke up very large estates. However, these average purchases still dwarfed the fifty-acre titles that the government granted in Washington County to veterans (which would guarantee voting rights).⁴⁰

Jackson Turner Main investigated the social effects of property confiscation, generally concurring with Crowl's observations. He pointed out that merchants, lawyers, and several prominent legislators, including Samuel Chase, Luther Martin, Daniel Carroll, and William Paca, purchased much of the valuable property sold in Baltimore. Main further noted that few tenants on proprietary lands could afford to buy the lands where they lived, despite laws allowing them to buy it at a 10 percent price reduction. Main suggested that a real democratization in land holding primarily occurred after the initial speculators defaulted on their payments or sold the land they purchased at auction. However, Gregory Stiverson's examination of tenants' fates contrasted with Main's findings. Looking at a variety of proprietary manorial estates in which tenants held cheap long-term leases, he found that by the time patentees received quiet possession of confiscated lands, they held more acreage on average than the tenants had. In the case of one estate in Queen Anne's County, patentees held average farms of nearly 360 acres in size, whereas tenants had farmed on average holdings of 113 acres. There, Commissioner Gabriel Duvall was particularly active as a speculator,

purchasing eight lots for himself and his business associates. He resold those lots within two years, in some cases to former tenants. Only in some lands of poor quality on the western shore were tenants able to buy their own lands directly after confiscation. For the rest, confiscation amounted to a destabilization of their lives.⁴¹

A detailed analysis of Maryland's sales of confiscated property shows that government officials, especially legislators, on average bought substantially larger amounts of property than other civilians did. In total, 785 separate buyers made valid purchases of confiscated property from 1781 to 1784, the period affected by the original confiscation law of early 1781. Of these, 68 percent were neither military officers nor legislators, while 21 percent were military officers during the revolution, 3 percent were politicians during the colonial or early national era, and a further 7 percent were both officers and politicians.⁴²

Although nonofficials accounted for nearly 70 percent of the purchasers, their purchases were far smaller than those by officials. On average, nonofficials bought £424 of property per purchaser. Military officers bought twice that amount, at £843 of property per purchaser. Legislators bought nearly three times as much per purchaser, at £1,266 each, and men who were both officers and legislators bought roughly five and a half times as much property as nonofficials, at an average of £2,330 per purchaser. A similar pattern held for other types of confiscated property. For example, although nonofficials bought 184 rural acres per purchaser on average, military officers bought nearly twice as many, and politicians bought nearly three times as many acres as nonofficials. Officials also tended to finance other purchasers' payments at much higher rates, paid greater amounts of interest, and bought more expensive urban property.

In general, nonofficials bought less than military officers, who bought less than politicians, while individuals who served as both officers and politicians bought the most confiscated property. Among the officers, militia officers tended to buy slightly less property than those who had served in the Continental Army, suggesting that Continental officers came from a higher stratum of society. These patterns mirror the distribution of officers within Maryland, with high property requirements making service in the legislature an exclusive club. In the Maryland militia soldiers elected their officers and occasionally elected men of lower status, including some who could not meet the property qualifications for voting. This may partially explain the discrepancy in total purchases between militia and army officers.⁴³

The evidence also indicates that men who served in both the military and political fields tended to buy larger amounts of property. This suggests a correlation between office and opportunity, whereby wealthier men filled the positions of power in both the military and politics. It also suggests that men who tapped into multiple social networks cultivated greater opportunities for financial gain.

It is unreasonable to believe that Maryland's legislators decided to confiscate property based strictly out of self-interest. Norman K. Risjord noted that only 25 percent of Maryland's legislators speculated in confiscated property, and less than 20 percent of Maryland's legislators engaged in large-scale speculations during the 1780s. Many who did voted against their personal economic interests, opposing debt relief and easy credit. Legislators also made a token effort to benefit tenants on confiscated lands. However, Maryland's elites controlled its government, so it should not surprise us that confiscations tended to put large properties in the hands of those elites. Corruption in this case was not overt, but it was systemic: the wealthy were the men best positioned to benefit from any opportunity for investment or speculation and most likely to comprise the state's leadership. Having gained control, Maryland's leaders did not conduct the revolution to level social differences: they sought to protect private property whenever possible and had little interest in democratizing wealth beyond the necessity of avoiding popular revolt.⁴⁴

PLACING MARYLAND'S CONFISCATIONS IN CONTEXT

Pennsylvania's and Maryland's confiscations make for a strong comparative case study. While both were proprietary colonies, they had significant differences in their economies, the radicalness of their early politics, and the degree to which the British and loyalists harassed revolutionaries during the war. They also differed in the amount of western land they retained after the revolution: Pennsylvania still had access to millions of acres of the backcountry, while Maryland did not. Despite these differences, both states ultimately endorsed confiscation as a means for raising money and, in both states, prominent men came to dominate those purchases.

As the revolution began, Pennsylvania and Maryland took alternate political trajectories. Pennsylvania produced the most radical constitution of any rebelling state. Colonial Pennsylvania had required voters to possess fifty

acres of land or £50 of cash. Pennsylvania's revolutionary constitution of 1776 did away with this barrier to voting: instead, a white man could vote if he was twenty-one or older, had lived in Pennsylvania for at least a year, and had paid taxes during that time. This meant that perhaps 90 percent of Philadelphians and 75 percent of men in the countryside could vote, an increase over the percentage of the populace that would have met the colonial property requirements, which might have been as low as 50 percent. In addition, the constitution created a single-chamber legislature whose members could not serve consecutive years, a president without veto power, and a Council of Censors to review the government's operation. To encourage public feedback, the government published bills before passing them, pledging not to propose and pass bills in the same session, so that the people could consider them first. To encourage financial equality, the government passed progressive taxes, penalizing land speculators.⁴⁵

Both Pennsylvania's radical government and its military situation differentiated it from Maryland. After the fall of New York in 1776, British general William Howe turned his attention to Philadelphia, eventually capturing the city in September 1777. The Continental Congress evacuated the city, fleeing into the backcountry to Lancaster and eventually York. While a sizeable number of potential loyalist activists stood ready to help the British, the regular army made little effort to arm them and soon evacuated the city in June 1778. While Maryland enjoyed relative safety, Pennsylvania remained in upheaval for years.⁴⁶

Given the tumult that came with this occupation, the Pennsylvania legislature was quick to pass laws to condemn loyalists for treason. These laws soon gave way to acts of confiscation. In 1776 the Pennsylvania state constitutional convention passed an ordinance allowing property confiscations for treason. However, because the convention had no legislative authority, no loyalists forfeited property under this ordinance. In February 1777 the Pennsylvania legislature passed a law allowing confiscation of moveable property as punishment for treason. While Howe campaigned around Philadelphia later in 1777, previously passive loyalists began to demonstrate their support for the British. In response, a branch of the Pennsylvania Assembly, the Council of Safety, began authorizing confiscations and sales of loyalist property (including real estate) without trial in February 1778, almost three years before Maryland. The state sold about a dozen properties in this manner, mostly in the patriot-controlled backcountry. In March 1778, with the British in occupation of Philadelphia, the legislature officially allowed the

confiscation of real estate, specifically targeting thirteen notorious loyalists for treason trials. Legislators primarily aimed this law at loyalists who had left the state. Selling their property would alleviate the state's tax burden. These sales coincided with treason trials, which began after the British abandonment of Philadelphia.⁴⁷

Pennsylvanians who failed to report to treason trials received a mandatory death sentence, although in practice few executions occurred. In all, the state accused about 500 hundred citizens of treason. Of the 113 who reported for their trials, only 17 underwent an actual trial. Of these, only 2 were convicted and executed, forfeiting their property. The state also confiscated the property of 118 other loyalists who refused to report for trial, thus intertwining confiscation with treason. Land sales began in August 1779 and continued slowly for many years. The state used the money to shore up its finances, allotting some of the proceeds from the sale specifically to fund the university in Philadelphia and recompense soldiers whom the state had paid in depreciated currency.⁴⁸

Because the end of the war was economically turbulent, many Pennsylvanians sought to cheat the state through the process of acquiring confiscated lands. Pennsylvanians' dishonest dealings resembled those in Maryland but took place on a grander scale. For example, in 1780 the state reconfiscated lands sold to purchasers in Northampton County. Taking advantage of the rapid depreciation of the currency, purchasers there sought to delay payment for their lands to gain the lands at a lower real price. In Bucks County accusations of intimidation at auctions emerged, indicating that prices could be kept low to benefit buyers at the expense of the state. Throughout the state, officials made little effort to meticulously record property sales, and much of the land appears to have fallen into the hands of a small number of well-connected men. In 1780 the government prosecuted Thomas Hale, the agent overseeing land confiscations in Philadelphia County, for fraud. His books showed a shortfall of £50,000.⁴⁹

Wealthy Pennsylvanians, including prominent merchants, speculated in depreciation certificates, which could be used to purchase confiscated lands. The state government had originally issued these certificates to soldiers who had received depreciated pay as a means to guarantee them a fair form of compensation. Using the certificates, speculators might purchase lands under assumed names. For example, in 1786 in Bucks County, Nicolas Brosius bought property using the depreciation certificates issued to thirty different soldiers. In other examples, state officials overseeing land sales took part in

the bidding. Of 196 buyers, 52 were army officers, 4 were legislators, and 1 was the Chief Justice of Pennsylvania, Thomas McKean. An additional 17 purchasers worked for the state bureaucracy in some capacity, most having something to do with overseeing state funds or the forfeited estates.⁵⁰

Throughout the 1780s Pennsylvania's confiscated estates remained a political football. In October 1780 conservative Republicans won state elections in Pennsylvania, forcing through a bill to settle soldiers' pay. In part, the government would produce the money through sales of confiscated lands. Radicals opposed the bill, including the allocations of sales from confiscated lands, fearing that a well-paid army might come to dominate political affairs. However, radicals certainly did not want to put a stop to the land sales: they also accused conservatives of wanting to return the Penn family to the state and restore confiscated property to returning loyalists. In another example, the state's Council of Censors set aside forty-five confiscated estates for the old College of Philadelphia. Disliking the direction of the college, which had been taken over by the radical state assembly in 1779, and arguing that the college received more income from the confiscated properties than expected, conservative Republicans in the legislature chose to allow only two-thirds of these reserved estates as endowments for the college in 1784. The next year, when radical constitutionalists regained political control, they reassigned these estates to the college. In the late 1780s conservative Republicans campaigned in part on the position that radicals had squandered the state's confiscated property. However, when conservatives ultimately came to power in 1790, the confiscations were no longer a hot-button issue. Pennsylvania's political oscillations stood in contrast to Maryland, where the more stable power of conservatives like Charles Carroll of Carrollton had delayed confiscation for years but also eliminated backtracking after the initiation of the policy.⁵¹

New Jersey's overtly corrupt confiscations resembled those in Pennsylvania. The war raged in that state early, and confiscations began there in August 1777. New Jersey's commissioners took particular advantage of the chaos caused by the war. Because the currency was in a state of freefall, the commissioners held on to the specie they received personally, delaying their payments to the state, effectively paying in dollars worth far less than they received. In Governor Livingston's words, they "plundered us of thousands by trading with the money, or converting it into real estate, and afterwards paying us at a great depreciation." The state's attorney general, William Paterson, estimated the commissioners' dishonesty cost New Jersey \$300,000. In other cases commissioners manipulated auctions to secure sales for their friends,

either by limiting bidding or by holding sales very early in the day. Elsewhere, local loyalists would arrange for friendly transfers of property to their patriot neighbors, thereby avoiding confiscation altogether. In 1781, the year that Maryland's confiscations began, New Jersey's governor halted land sales, arguing that the state's commissioners had defrauded the public. As elsewhere, the process of auctions did not break up big estates to make way for smallholders. Tenants received no pre-emption rights to buy the lands where they lived. Wealthy men purchased much of the confiscated land cheaply.⁵²

This pattern, in which the wealthy benefited and confiscations had little social impact, held in most places throughout the United States. In Massachusetts the proceeds from confiscations in Suffolk County went primarily to private creditors to whom loyalists had owed debts. Because sales had to be paid in cash, which was scarce, many men could not participate in the sales, which caused grumbling among soldiers paid in certificates. The confiscated lands themselves went primarily to men who already owned land. In Virginia most of the 53,000 confiscated acres sold had previously belonged to British merchants; those acres passed primarily into the hands of the gentry. Similarly, in Georgia, confiscation did not significantly redistribute landholdings, and the Georgia government sought to forgive several prominent loyalists in the hopes of improving the postwar economy.⁵³

Regarding redistribution, war-torn New York stood apart from other states. In colonial New York enormous estates were common and tenancy was endemic. Drawing on the social conflicts that predated the revolution, confiscations broke up loyalist manors to the benefit of their pro-revolutionary tenants, causing a democratization of landholding. For example, in Philipse Manor, confiscation broke up a single 50,000-acre estate into 287 landholdings; 194 of the new owners had previously been tenants. John T. Reilly estimated that more than 70 percent of the purchasers of confiscated lands came from the lower classes and "that between one-quarter and one-third of the state's one million improved acres changed hands in the direction of a wider distribution of landownership." Confiscations, along with generous redistributions of moveable property to the needy, cemented revolutionary support in New York as a whole and tended to level society in a way that they did not elsewhere. However, even in New York, land policy still reflected the state's hierarchical power structure. As one might expect, many speculators purchased confiscated estates alongside tenants, and large estates held by patriots were not broken up for similar redistribution.

By 1784 desirous of speculators' money to raise funds, the state removed its 500-acre limit on land purchases, thereby reversing its democratic approach to confiscated land.⁵⁴

A few generalizations unite Maryland's experience of confiscation with that of other states. Despite sporadic political opposition, the need for confiscation became apparent across the United States. Corruption attended all of the confiscations, but its scale varied with time. States under greater duress tended to embrace confiscation more rapidly, and their confiscations coincided with extreme inflation, exacerbating the opportunities for corruption. This was particularly the case in Pennsylvania and New Jersey. Elsewhere, such as in New York, or on a very small scale in Maryland, states sought to directly benefit impoverished patriotic tenants. Usually, politicians subordinated support for the poor to the need to acquire cash quickly and the direct beneficiaries of confiscations were wealthy creditors and speculators. However, the scale of these speculations would soon be dwarfed by the land dealings of the late 1780s and 1790s. Once the barriers to trans-Appalachian settlement opened after the war, a variety of grand speculators and land companies purchased millions of acres at a time, leaving many common farmers landless. In Pennsylvania speculators came to control perhaps 80 percent of the backcountry lands opened after the revolution. Further south, most settlers that moved into southwestern Virginia and Kentucky during the 1790s remained landless. The speculation in confiscated estates presaged how much the post-revolutionary land market would tip in favor of speculators but did so on a far smaller scale.⁵⁵

It is indeed worth noting that small states without western land, like Maryland and New Jersey, turned to confiscation with relative avidity. During the revolution, states like Georgia, which made relatively modest confiscations, still claimed immense lands in the west. Although it did not claim lands in the far west, Pennsylvania could claim millions of trans-Appalachian acres that could be put on sale following the war. Its officials chose not to bother with casting a wider net for loyalist properties that would be unlikely to sell quickly at auction. As a result, most of Pennsylvania's confiscated lands lay in Philadelphia County, where land prices remained highest. In contrast, by the time of the revolution, Maryland had all but exhausted its supply of land. Lacking any obvious means of raising revenue quickly, once the state government decided to authorize confiscations, it needed to press for the sales of as many loyalist properties as possible. This could account for why Maryland sold around 150,000 more acres of confiscated land than its larger neighbors, Pennsylvania and Virginia.⁵⁶

As expected, when the Revolutionary War ended, Britain's peace agreement with the United States stipulated that the Americans should return the loyalists' confiscated property. Nevertheless, only a small minority, including a number of wives and family members who petitioned for relief, ever received any of their property back. In the colonies as a whole, about 60,000 loyalists fled the mainland. Of these, more than 5,000 filed statements with the British government respecting lost property. Of those people, a little over 2,000 received payment from the British government, totaling approximately 30 percent of their estimated property losses.⁵⁷

Once the crisis of the war ended, the nation's political leaders came to regret revolutionary-era confiscations, enshrining a ban on bills of attainder in section 9 of Article I of the Constitution. In the mid-1780s a sea change occurred: whereas every state had seen property confiscation as desirable, the country now considered it unconstitutional, much as Charles Carroll and his fellow Maryland senators once did. This raises the question of what confiscation meant to citizenship during the revolutionary period. In 1788 individual property rights had to be respected: why not before? Whereas Maryland, and the English-speaking world, had always tied subjecthood to property ownership, the chaos of the revolution made that position untenable, at least temporarily. If confiscation were to be constitutional, subjects had to become citizens: voluntary adherents to the revolutionary cause. Maryland's senators came to this position out of financial exigency and practical necessity; British confiscations of American traitors' property gave them no choice. Beyond this, confiscation had offered the possibility of radically redistributing wealth in the country. The Maryland government did not consider this possibility: it was not politically necessary (in contrast with New York) and Maryland's elites had always worried about the threat of mob rule. Indeed, as Carroll had predicted, the confiscated lands ended up in the hands of "engrossers and speculators." In many cases these were the same men who led the state in revolution. This outcome should not surprise us: Maryland's elites had already arranged its state constitution to ensure that control of both houses of the legislature were in the hands of the men who had the wherewithal to speculate during the revolutionary crisis.⁵⁸

NOTES

1. National and state antiloyalist laws: Curtis P. Nettels, *The Emergence of a National Economy: 1775–1815* (New York: Holt, Rinehart and Winston, 1962), 140–42; Claude Halstead van Tyne, *The Loyalists in the American Revolution* (New York: Macmillan, 1902), 318–41; Lorenzo Sabine, *Biographical Sketches of the Loyalists of the American Revolution, with an Historical Essay*, vol. 1 (Boston: Little, Brown, 1864), 78–82; Robert Middlekauff, *The Glorious Cause: The American Revolution, 1763–1789* (Oxford: Oxford University Press, 2005), 564–69. Pennsylvania: Norman B. Wilkinson, *Land Policy and Speculation in Pennsylvania, 1779–1800: A Test of the New Democracy* (New York: Arno Press, 1979), 1–3; Anne M. Ousterhout, *A State Divided: Opposition in Pennsylvania to the American Revolution* (New York: Greenwood Press, 1987), 286–96. Maryland confiscations: Richard Arthur Overfield, “The Loyalists of Maryland During the American Revolution” (Ph.D. diss., University of Maryland, 1968), 324–79; Kimberly M. Nath, “The British Are Coming, Again: Loyalists, Property Confiscation, and Reintegration in the Mid-Atlantic, 1777–1800” (Ph.D. diss., University of Delaware, 2016); Philip A. Crowl, *Maryland During and After the Revolution: A Political and Economic Study* (Baltimore: Johns Hopkins Press, 1943), 41–63; Garrett Power, “Calvert versus Carroll: The Quit-rent Controversy, between Maryland’s Founding Families,” *Francis King Carey School of Law Faculty Scholarship* 44 (2005): 25–26. Harford lost 267,000 acres: Gregory A. Stiverson: *Poverty in a Land of Plenty: Tenancy in Eighteenth-Century Maryland* (Baltimore: Johns Hopkins University Press, 1977), 113–14. New York: John T. Reilly, “The Confiscation and Sale of the Loyalist Estates and Its Effect upon the Democratization of Landholding in New York State, 1799–1800” (Ph.D. diss., Fordham University, 1974); Michael Albert Blaakman, “Speculation Nation: Land and Mania in the Revolutionary American Republic, 1776–1803” (Ph.D. diss., Yale University, 2016), 145–71.
2. Benjamin Franklin, “Observations Concerning the Increase of Mankind,” in [William Clarke], *Observations On the late and present Conduct of the French, with Regard to their Encroachments upon the British Colonies in North America. . . . To which is added, wrote by another Hand; Observations concerning the Increase of Mankind, Peopling of Countries, &c.* (Boston: S. Kneeland, 1755), available online at <https://founders.archives.gov/documents/Franklin/01-04-02-0080> (accessed February 27, 2019). Franklin’s estimate of the population’s growth was not far off. See John J. McCusker and Russell R. Menard, *The Economy of British America: 1607–1789* (Chapel Hill: Omohundro Institute of Early American History and Culture, University of North Carolina Press, 1985), 211–35. Speculations: Alfred P. James, “Benjamin Franklin’s Ohio Valley Lands,” *Proceedings of the American Philosophical Society* 98, no. 4 (August 1954): 255–65.

3. Proclamation Line: Timothy J. Shannon, *Iroquois Diplomacy on the Early American Frontier* (New York: Viking, 2008), 162–69. Woody Holton points out that the Proclamation Line was far more effective at preventing settlement by speculators than individual families of squatters in *Forced Founders: Indians, Debtors, Slaves, and the Making of the American Revolution in Virginia* (Chapel Hill: University of North Carolina Press, 1999), 3–13.
4. Governmental debt: Woody Holton, *Unruly Americans and the Origins of the Constitution* (New York: Hill and Wang, 2007), 136–44. Widespread speculations: Blaakman, “Speculation Nation”; Aaron Sakolski, *The Great American Land Bubble: The Amazing Story of Land-Grabbing, Speculations, and Booms from Colonial Days to the Present Time* (New York: Harper and Brothers, 1932), 29–191. “Far” west: Peter S. Onuf, *The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775–1787* (Philadelphia, University of Pennsylvania Press, 1983), 17–18, 32–33, 148–72; Peter S. Onuf, *Statehood and Union: A History of the Northwest Ordinance* (Bloomington: Indiana University Press, 1987), xiii–43. Cooper: Alan Taylor, *William Cooper’s Town: Power and Persuasion on the Frontier of the Early American Republic* (New York: Vintage Books, 1995). Morris and Nicholson: Bruce H. Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Cambridge: Harvard University Press, 2002), 190–204. As an example of the violence against Indians that predicated this western settlement, see Wiley Sword, *President Washington’s Indian War: The Struggle for the Old Northwest* (Norman: University of Oklahoma Press, 1985).
5. Jefferson’s views: Thomas Jefferson, *Notes on the State of Virginia* (Philadelphia: Prichard and Hall, 1788), 174–75, available online at <https://docsouth.unc.edu/southlit/jefferson/jefferson.html>; Michael Hardt, “Jefferson and Democracy,” *American Quarterly* 59, no. 1 (March 2007): 41–78. Maryland tenancy: Stiverson, *Poverty in a Land of Plenty*, xi. Ohio: R. Douglas Hurt, *The Ohio Frontier: Crucible of the Old Northwest, 1720–1830* (Bloomington: Indiana University Press, 1996), 175. Washington: “From George Washington to Hugh Williamson, 15 March 1785,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Washington/04-02-02-0301> (accessed April 11, 2019); original source: *The Papers of George Washington, Confederation Series*, vol. 2, 18 July 1784–18 May 1785, ed. W. W. Abbot (Charlottesville: University Press of Virginia, 1992), 439–40. Washington’s speculations: Christopher B. Coleman, “George Washington and the West,” *Indiana Magazine of History* 28, no. 3 (September 1932): 151–67. Innes wrote in response to Virginia yielding its western land claims to the United States. See “To James Madison from James Innes, 27 August 1789,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Madison/01-12-02-0241> (accessed April 11, 2019); original source: *The Papers of James Madison*, vol. 12, 2 March 1789–20 January 1790 and Supplement 24 October 1775–24 January 1789, ed. Charles F. Hobson and Robert A. Rutland (Charlottesville: University Press of Virginia, 1979), 359–60.

Squatting emerged as a natural response to governmental policies, both before and after the American Revolution. See, for example, Reeve Huston, "Land Conflict and Land Policy in the United States, 1785–1841," in *The World of the Revolutionary American Republic: Land, Labor, and the Conflict for a Continent*, ed. Andrew Shankman (New York: Routledge, 2014); Paul B. Moyer, *Wild Yankees: The Struggle for Independence along Pennsylvania's Revolutionary Frontier* (Ithaca: Cornell University Press, 2007); Eric Hinderaker, *Elusive Empires: Constructing Colonialism in the Ohio Valley, 1673–1800* (New York: Cambridge University Press, 1997), 185–270; Alan Taylor, *Liberty Men and Great Proprietors: The Revolutionary Settlement on the Maine Frontier, 1760–1820* (Chapel Hill: Omohundro Institute of Early American History and Culture, University of North Carolina Press, 1990).

6. For a discussion of the role of property in the minds of revolutionary elites, see David Schultz, "Political Theory and Legal History: Conflicting Depictions of Property in the American Political Founding," *American Journal of Legal History* 37, no. 4 (October 1993): 464–95. On loyalists and the question of citizenship in the new republic, see Mary Beth Norton, *The British-Americans: The Loyalist Exiles in England, 1774–1789* (Boston: Little, Brown, 1972); Egerton Ryerson, *The Loyalists of America and Their Times from 1620 to 1816*, 2 vols., 2nd ed. (New York: Haskell House Publishers, 1970); Robert McCluer Calhoun, *The Loyalists in Revolutionary America, 1760–1781* (New York: Harcourt Brace Jovanovich, 1965). More recent work has expanded attention to the broader Atlantic world and previously understudied black, Indian, and women loyalists: see Maya Jasanoff, *Liberty's Exiles: American Loyalists in the Revolutionary World* (New York: Alfred A. Knopf, 2011); Jerry Bannister and Liam Riordan, eds., *The Loyal Atlantic: Remaking the British Atlantic in the Revolutionary Era* (Toronto: University of Toronto Press, 2012); Carol Berkin, *Revolutionary Mothers: Women in the Struggle for America's Independence* (New York: Alfred A. Knopf, 2005), 92–134. For recent scholarship that examines the revolutionary struggles between elites and common Americans, see, for example, Terry Bouton, *Taming Democracy: "The People," the Founders, and the Troubled Ending of the American Revolution* (New York: Oxford University Press, 2007); Saul Cornell, *The Other Founders: Anti-Federalism and the Dissenting Tradition in America, 1788–1828* (Chapel Hill: Omohundro Institute of Early American History and Culture, University of North Carolina Press, 1999); Holton, *Unruly Americans and the Origins of the Constitution*.
7. David Curtis Skaggs, *Roots of Maryland Democracy, 1753–1776* (Westport, CT: Greenwood Press, 1973), 134–35; Herbert E. Klingelhofer, "The Cautious Revolution: Maryland and the Movement Toward Independence: 1774–1776," *Maryland Historical Magazine* 60, no. 3 (1965): 263–64, 268; Ronald Hoffman, *A Spirit of Dissension: Economics, Politics, and the Revolution in Maryland* (Baltimore: Johns Hopkins University Press, 1973), 113–28, 135–38, 169–73.
8. Hoffman, *A Spirit of Dissension*, 173–92; Thornton Anderson, "Eighteenth-Century Suffrage: The Case of Maryland," *Maryland Historical Magazine* 76,

- no. 1 (1981): 149; Jackson Turner Main, *The Social Structure of Revolutionary America* (Princeton, NJ: Princeton University Press, 1965), 107. It is worth noting that because the states tied voting rights to holding specific amounts of money, wartime inflation also expanded the electorate. See Michael S. Adelberg, "The Transformation of Local Governance in Monmouth County, New Jersey, During the American Revolution," *Journal of the Early Republic* 31, no. 3 (Fall 2011): 475.
9. Charles Albrow Barker, *The Background of the Revolution in Maryland* (New Haven, CT: Yale University Press, 1940), 379, 384; Skaggs, *Roots of Maryland Democracy*, 40.
10. Thornton Anderson, "Maryland's Property Qualifications for Office: A Reinterpretation of the Constitutional Convention of 1776," *Maryland Historical Magazine* 73, no. 4 (1978): 335; Barker, *Background of the Revolution in Maryland*, 379, 384. Jenifer quoted in Crowl, *Maryland During and After the Revolution*, 39–40.
11. Hoffman, *A Spirit of Dissension*, 207–10.
12. Ibid., 207–10, 269–72. See also Crowl, *Maryland During and After the Revolution*, 59; Kathryn L. Behrens, "Paper Money in Maryland, 1727–1789" (Ph.D. diss., Johns Hopkins University, 1921), 60–65.
13. Calhoon, *Loyalists in Revolutionary America*, 467–71; Overfield, "The Loyalists of Maryland During the American Revolution," 195; Richard A. Overfield, "A Patriot Dilemma: The Treatment of Passive Loyalists and Neutrals in Revolutionary Maryland," *Maryland Historical Magazine* 68, no. 2 (1973). The trebled taxes also applied to religious dissenters such as Quakers. Sporadic activity: Keith Mason, "Localism, Evangelicalism, and Loyalism: The Sources of Discontent in the Revolutionary Chesapeake," *Journal of Southern History* 56, no. 1 (February 1990): 23–54.
14. Calhoon, *Loyalists in Revolutionary America*, 469. Methodism: Mason, "Localism, Evangelicalism, and Loyalism."
15. Congress's suggestion: "Resolved, That it be earnestly recommended to the several states, as soon as may be, to confiscate and make sale of all the real and personal estate therein, of such of their inhabitants and other persons who have forfeited the same, and the right to the protection of their respective states, and to invest the money arising from the sales in continental loan office certificates, to be appropriated in such manner as the respective states shall hereafter direct." See Worthington C. Ford et al., eds., *Journals of the Continental Congress, 1774–1789* (Washington, DC, 1904–1937), 9: 971, available online at <https://memory.loc.gov/>. Chase and Carroll: Hoffman, *A Spirit of Dissension*, 258. State confiscations: van Tyne, *Loyalists in the American Revolution*, 318–41.
16. Maryland General Assembly, "Proceedings of the two Houses of Assembly of the State of Maryland, on the Subject of Confiscation of British Property," Frederick Green, Annapolis, MD, [1780], Early American Imprints, ser. 1, no. 16830 (filmed), available online at <http://www.readex.com>.

17. Ibid., 4–16.
18. Ibid., 6–16. In its statement, the House had noted that prices for military supplies had increased forty-fold since the beginning of the war. The wealthy members of the Senate were not best positioned to judge the war's impact on average Marylanders: Edward C. Papenfuss estimated that "the average annual cost of the war effort to each white Maryland resident between 1779 and 1783 was almost 50 percent of gross per capita income" in his essay, "The Legislative Response to a Costly War: Fiscal Policy and Factional Politics in Maryland, 1777–1789," in *Sovereign States in an Age of Uncertainty*, ed. Ronald Hoffman and Peter J. Albert (Charlottesville: United States Capitol Historical Society by the University Press of Virginia, 1981), 135.
19. Maryland General Assembly, "Proceedings . . . on the Subject of Confiscation," 13, 16.
20. Ibid., 11–12. Carroll's personal finances: Hoffman, *A Spirit of Dissension*, 260–61. It is worth noting that Samuel Adams believed similar fears from wealthy men about assets being confiscated in England slowed confiscations in Massachusetts. See Richard D. Brown, "The Confiscation and Disposition of Loyalists' Estates in Suffolk County, Massachusetts," *William and Mary Quarterly*, 3rd ser., 21, no. 4 (October 1964): 536.
21. Maryland General Assembly, "Proceedings . . . on the Subject of Confiscation," 14–16.
22. Ibid., 17–27.
23. *Maryland Gazette*, February 11 and 18, 1780. Hereafter *MG* (the *Gazette* archives are available online at <https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/html/mdgazette.html>). Ronald Hoffman identified Carroll as the author of these pieces: Hoffman, *A Spirit of Dissension*, 259–60. It is worth noting that Carroll claimed that other states did not confiscate "British property" or that of refugees, except to protect it. While this was the case for a year in Virginia between 1777 and early 1779, it is evident that Carroll was splitting legal hairs, as almost every state had confiscated loyalist property by 1780. In neighboring Virginia, the law specifically referred to British property. See Peter McQuilkin Mitchell, "Loyalist Property and the Revolution in Virginia" (Ph.D. diss., University of Colorado, 1965); Rolfe Lyman Allen, "The Legislation for the Confiscation of British and Loyalist Property During the Revolutionary War" (Ph.D. diss., University of Maryland, 1937), 185–90; Jefferson, *Notes on the State of Virginia*, 165–66.
24. *MG*, February 11–May 12, 1780.
25. Plebean: *MG*, February 18 and 25 and March 3, 1780. Quotes: *MG*, 3 March 3, 17, and 31, 1780.
26. Maryland General Assembly, "Proceedings . . . on the Subject of Confiscation," 28–34.
27. *MG*, April 21, 1780. It is worth noting, though it did not become a point of discussion during these debates, that Maryland had frequently invoked the

- Mill Act during the eighteenth century to condemn and confiscate private property in order to develop gristmills along waterways. See John F. Hart, "The Maryland Mill Act, 1669–1766: Economic Policy and the Confiscatory Redistribution of Private Property," *American Journal of Legal History* 39, no. 1 (1995): 1–22.
28. *MG*, April 21, 1780. At this debate, the younger Carroll noted that absentees were not made aliens during the English Civil War. However, confiscation was common during the English Civil War. See, for example, John A. Shedd, "Legalism over Revolution: The Parliamentary Committee for Indemnity and Property Confiscation Disputes," *Historical Journal* 43, no. 4 (December 2000): 1093–1107. It is evident that little memory from this period made its way to Maryland's educated elite.
 29. Maryland General Assembly, "Proceedings . . . on the Subject of Confiscation," 31–34.
 30. Hoffman, *A Spirit of Dissension*, 261–63. Maryland General Assembly, *Laws of Maryland, Made and Passed at a Session of Assembly, Begun and Held at the City of Annapolis, on Tuesday the Seventeenth of October, in the Year of Our Lord One Thousand Seven Hundred and Eighty*, chap. 45 (Annapolis, MD: Frederick Green, [1781]), Early American Imprints, ser. 1, no. 17205 (filmed), available online at <http://www.readex.com>.
 31. *MD Session Laws, 1780*, chapter 45. The senators did not use the term "citizen"; they used the terms "subject and "alien" instead. For a discussion of the evolution of views on citizenship and subjecthood at this time, see Joan R. Gunderson, "Independence, Citizenship, and the American Revolution," *Signs* 13, no. 1 (Autumn 1987): 59–77; Douglas Bradburn, *The Citizenship Revolution: Politics and the Creation of the American Union, 1774–1804* (Charlottesville: University of Virginia Press, 2009).
 32. Any effort to defraud the state by concealing papers or arranging separate payments would receive harsh punishment, resulting in arrest or the cancellation of the illegal contracts. *MD Session Laws, 1780*, chap. 45. It is worth noting that Carroll successfully tied a repeal of the state's earlier laws that loosened restrictions on money to the confiscation bill. See Ronald Hoffman in collaboration with Sally D. Matson, *Princes of Ireland, Planters of Maryland: A Carroll Saga, 1500–1782* (Chapel Hill: Omohundro Institute of Early American History and Culture, University of North Carolina Press, 2000), 318–69.
 33. Commissioners' biographies: Edward C. Papenfuse, Alan F. Day, David W. Jordan, and Gregory A. Stiverson, *A Biographical Dictionary of the Maryland Legislature, 1635–1789*, 2 vols. (Baltimore: Johns Hopkins University Press, 1979, 1985), 1:290–92, 324–25; 2:632–35, 671–72. Timeline: *MG*, November 2, 1786. Hollyday relocation: *MG*, November 30, 1786. Duvall resigned from the Council in 1786, in protest over Jenifer's role as intendant of the revenue (their conflict is covered below). See Papenfuse, "Legislative Response to a Costly War," 142. For a list of subsequent laws regulating confiscation, see

- Virgil Maxcy, *The Laws of Maryland: With the Charter, the Bill of Rights, the Constitution of the State, and its Alterations, the Declaration of Independence, and the Constitution of the United States, and its Amendments, with a General Index*, 3 vols. (Baltimore: Philip H. Nicklin and Co., 1811), 1:403. For an example of legislation passed to help tenants, see Maryland General Assembly, *Laws of Maryland, Made and Passed at a Session of Assembly, Begun and Held at the City of Annapolis, on Monday the First of November, in the Year of Our Lord One Thousand Seven Hundred and Eighty-Four*, chap. 40:11–12 (Annapolis, MD: Frederick Green, [1784]), Early American Imprints, ser. 1, no. 19071 (filmed).
34. Papenfuse, “The Legislative Response to a Costly War,” 134–56. Jenifer: Papenfuse et. al., *A Biographical Dictionary of the Maryland Legislature*, 1:485–86. Timeline: *MG*, November 2, 1786. On the intendant overseeing bonds: *MD Session Laws*, 1784, chap. 40.
 35. Conflicting claims: Correspondence from Stephen West, September 5, 1782, Maryland State Papers (Series A), 1781–1794, MSA S 1004-45-15743, Maryland State Archives, Annapolis, MD (all Maryland State Papers are stored in the Maryland State Archives). Tenants: Correspondence from Henry Downes to Clement Hollyday, June 10, 1782, Maryland State Papers (Series A), 1781–1794 MSA S 1004-45-14893. French: Correspondence from Alexander W. Davey, August 30, 1782, Maryland State Papers (Series A), 1781–1794 MSA S 1004-45-15696. Return land: Correspondence from Ananias Divers to Nathaniel Ramsey, October 20, 1783, Maryland State Papers (Series A), 1781–1794 MSA S 1004-45-18104. Specie: Correspondence from Mark Alexander to Commissioners of Confiscated Property, 1782, Maryland State Papers (Series A), 1781–1794 MSA S 1004-45-12880; correspondence from Daniel Jenifer to Nathaniel Ramsey, May 11, 1782, Maryland State Papers (Series A), 1781–1794 MSA S 1004-45-14400.
 36. *MG*, October 5, 1786–June 14, 1787.
 37. Nanticoke: *MG*, October 12 and 26, November 30, and December 7, 1786. Duvall noted that the commissioners did not expect double commissions for all cases, only those they found spurious. The Executive Council was deeply divided on the question of double commission but assented to it: *MG*, October 5, 12, and 26, 1786. Commissions, pay: *MG*, October 12 and 26, and November 2, 1786.
 38. Private sales: *MG*, November 2, 1786, and February 8, 1787. Bonds: *MG*, October 12, November 2 and 30, and December 7, 1786; February 8 and April 12, 1787.
 39. Ramsey: *MG*, November 2 and 16, and December 14, 1786. Steward: *MG*, October 12 and 26, and December 14, 1786, and January 4, 1787.
 40. Crowl, *Maryland During and After the Revolution*, 41–63.
 41. Main, *Sovereign States*, 325–26; Stiverson, *Poverty in a Land of Plenty*, 104–36.
 42. My analysis in the following paragraphs is based on the records of Maryland’s Commissioners to Preserve Confiscated British Property at the Maryland State Archives in Annapolis: The Commissioners’ Sales Ledger,

- 1781–1782 (S 133); Sales Book, 1781–1785 (S 134); Sales Journal, 1781–1785 (S 132); and the Proceedings of the Commissioner, 1781–1782 (S 1004-45–S 1004-47). These I cross-referenced with Papenfuss et al., *A Biographical Dictionary of the Maryland Legislature, 1635–1789*, S. Eugene Clements and F. Edward Wright, *The Maryland Militia in the Revolutionary War* (Westminster, MD: Heritage Books, 2006), and Rieman Steuart, *A History of the Maryland Line in the Revolutionary War, 1775–1783* (Society of the Cincinnati of Maryland, 1969).
43. Barry Windsor Fowle, “The Maryland Militia During the Revolutionary War: A Revolutionary Organization” (Ph.D. diss., University of Maryland, 1982), 41–52.
 44. Norman K. Risjord, *Chesapeake Politics, 1781–1800* (New York: Columbia University Press, 1978), 166–67, 306–17, 605. It is worth noting that despite the prominent Federalist Charles Carroll’s opposition to confiscation, in the following decade, most legislators who supported confiscation or took part in buying confiscated property became Federalists. See Jackson T. Main, “Political Parties in Revolutionary Maryland, 1780–1787,” *Maryland Historical Magazine* 62, no. 1 (1967): 1–27.
 45. John Gilbert McCurdy, “The Origins of Universal Suffrage: The Pennsylvania Constitution of 1776,” *Pennsylvania Legacies* 8, no. 2 (November 2008): 6–13; Anthony M. Joseph, *From Liberty to Liberality: The Transformation of the Pennsylvania Legislature, 1776–1820* (Lanham, MD: Lexington Books, 2012), 18–21. Taxes: Bouton, *Taming Democracy*, 35.
 46. Mark V. Kwasny, *Washington’s Partisan War, 1775–1783* (Kent, OH: Kent State University Press, 1996) 139–224; George W. Kyte, “Some Plans for a Loyalist Stronghold in the Middle Colonies,” *Pennsylvania History: A Journal of Mid-Atlantic Studies* 16, no. 3 (July 1949): 177–90.
 47. Anne M. Ousterhout, “Pennsylvania Land Confiscations during the Revolution,” *Pennsylvania Magazine of History and Biography* 102, no. 3 (July 1978): 328–43. Treason: Anne M. Ousterhout, “Controlling the Opposition in Pennsylvania during the American Revolution,” *Pennsylvania Magazine of History and Biography* 105, no. 1 (January 1981): 3–34.
 48. Ousterhout, “Pennsylvania Land Confiscations,” 333–36.
 49. *Ibid.*, 336–39.
 50. *Ibid.*, 337–43. Depreciation certificates: Nettels, *Emergence of a National Economy*, 23–34; Joseph, *From Liberty to Liberality*, 80–85; Donna Bingham Munger, *Pennsylvania Land Records: A History and Guide for Research* (Wilmington, DE: Scholarly Resources, 1991), 159–65.
 51. Robert L. Brunhouse, *The Counter-Revolution in Pennsylvania: 1776–1790* (Harrisburg, PA: Pennsylvania Historical Commission, 1942), 92, 122, 140, 153, 169, 217–21. Ousterhout points out that the college received more income from its confiscated lands than expected. Ousterhout, “Pennsylvania Land Confiscations,” 335, 340.

52. Michael P. Riccards, "Patriots and Plunderers: Confiscation of Loyalist Lands in New Jersey, 1776–1786," *New Jersey History* 86, no. 1 (1968): 14–28, quote on 22. New Jersey's sales of confiscated lands resumed in 1783, only to be suspended again for fraud in 1784 before resuming in 1786. Jenifer accused Duvall and the other commissioners of similarly delaying the settlement of their affairs with the state of Maryland, although Duvall's defense was that the state owed the commissioners money, rather than the other way around. See *MG*, October 5, 1786.
53. Brown, "Confiscation and Disposition of Loyalists' Estates," 534–50; Mitchell, "Loyalist Property and the Revolution in Virginia"; Robert S. Lambert, "The Confiscation of Loyalist Property in Georgia, 1782–1786," *William and Mary Quarterly*, 3rd ser., 20, no. 1 (January 1963): 80–94. Relief for loyalists was also relatively common in South Carolina. See Kathy Roe Coker, "The Case of James Nassau Colleton Before the Commissioners of Forfeited Estates," *South Carolina Historical Magazine* 87, no. 2 (April 1986): 106–16.
54. Reilly, "Confiscation and Sale of the Loyalist Estates," 262–75. Philipse: Beatrice G. Reubens, "Pre-Emptive Rights in the Disposition of a Confiscated Estate, Philipsburgh Manor, New York," *William and Mary Quarterly*, 3rd ser., 22, no. 3 (July 1965): 435–56. Cementing revolutionary support: Howard Pashman "The People's Property Law: A Step Towards Building a New Legal Order in Revolutionary New York," *Law and History Review* 31, no. 3 (August 2013): 587–626; Staughton Lynd, "Who Should Rule at Home? Dutchess County, New York, in the American Revolution," *William and Mary Quarterly*, 3rd ser., 18, no. 3 (July 1961): 330–59. Patriots' estates: Catherine Snell Crary, "Forfeited Loyalist Lands in the Western District of New York—Albany and Tryon Counties," *New York History* 35, no. 3 (July 1954): 239–58. Speculator-friendly laws: Blaakman, "Speculation Nation," 145–71.
55. 1780s and 1790s: see, for example, Blaakman, "Speculation Nation," 109, 210, 275, 392; Andrew Shankman, *Crucible of American Democracy: The Struggle to Fuse Egalitarianism and Capitalism in Jeffersonian Pennsylvania* (Lawrence: University Press of Kansas, 2004), 16–73; Michael A. McDonnell, *The Politics of War: Race, Class, and Conflict in Revolutionary Virginia* (Chapel Hill: Omohundro Institute of Early American History and Culture, University of North Carolina Press, 2007), 480–83. For an example of Pennsylvania speculation in action, see Marcus Gallo, "Improving Independence: The Struggle Over Land Surveys in Northwestern Pennsylvania in 1794," *Pennsylvania Magazine of History and Biography* 142, no. 2 (April 2018): 131–61.
56. Georgia's Yazoo lands: C. Peter Magrath, *Yazoo: Law and Politics in the New Republic, The Case of Fletcher v. Peck* (New York: W. W. Norton, 1966). Pennsylvania: Ousterhout, "Pennsylvania Land Confiscations," 339–43. On Pennsylvania's post-revolutionary land sales, see Wilkinson, *Land Policy and Speculation in Pennsylvania*. For the individual tracts sold, see Thomas Lynch Montgomery, ed., *Pennsylvania Archives*, 6th ser., volumes 12 and 13

(Harrisburg, PA: Harrisburg Publishing Company, 1907). On revolutionary Pennsylvania's ability to effectively assert control over its backcountry, see Patrick Spero, *Frontier Country: The Politics of War in Early Pennsylvania* (Philadelphia: University of Pennsylvania Press, 2016), 223–46.

57. Jasanoff, *Liberty's Exiles*, 9, 130–38; Norton, *The British-Americans*, 185–222.
58. Attainder: Brett Palfreyman, "The Loyalists and the Federal Constitution: The Origins of the Bill of Attainder Clause," *Journal of the Early Republic* 35, no. 3 (Fall 2015): 451–73. For the political situation in early national Maryland, see Risjord, *Chesapeake Politics, 1781–1800*; L. Steven Demaree, "Maryland During the First Party System: A Roll-Call Analysis of the House of Delegates, 1789–1824" (Ph.D. diss., University of Missouri, Columbia, 1984).