

ABSTRACT

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LOYALISTS AND NONJURORS IN
MARYLAND, 1777-1784

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This thesis examines the difficulties the Maryland legislature encountered with Loyalists and nonjurors after independence. It follows how the legislation passed by the Patriot controlled legislature was implemented from 1777 to 1784. The Maryland legislature first passed legislation to identify those not supporting the American Revolution, mainly the Loyalists and nonjurors. This thesis explores the identification process and then the punitive measures, such as British property confiscation and treble taxes, taken by the legislature. This thesis argues that Patriots succeeded in identifying Loyalists, but struggled to seize all British property and failed to generate vast amounts of revenue.

DIFFICULTIES IN LOYALISM AFTER INDEPENDENCE: THE TREATMENT
OF LOYALISTS AND NONJURORS IN MARYLAND, 1777-1784

By

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Chapter 1 – Understanding Loyalism During the American Revolution

Over the past 200 years the historical treatment of Loyalists, those who rejected the Revolution and maintained their allegiance to the King, has evolved from antipathy to their incorporation into understanding the Revolutionary experience. Interest in Loyalist studies has piqued in several periods of American history: during the Civil War, the turn of the twentieth century to the 1940s, the Bicentennial of the Revolution, and finally in the late twentieth century's reexamination of the American Revolution. Throughout these periods historians have adopted different methods and approaches for understanding the role of Loyalists in the American Revolution. Therefore the body of Loyalist literature reveals diverse approaches that vary accordingly with the major periods of American history.

During the Civil War period historians vilified Loyalists and George Bancroft, for instance, wrote Loyalists were guided by vile motives and thus infringed the rightness and greatness of the Patriots position. He identified Loyalists as domestic insurgents in the American Revolution.¹ Loyalists during the Civil War period did not receive a great deal of direct attention from historians. Rather, Loyalists were mentioned in large monographs on the American Revolution and were otherwise ignored. Historians showed little interest in understanding Loyalists and consequently presented a dark picture of them in the body of literature.

¹ George Bancroft, *History of the United States of America from the Discovery of the Continent, IV*, (New York: D. Appleton and Company, 1884). Quoted in Richard Overfield, "The Loyalists of Maryland during the American Revolution," (PhD diss., University of Maryland, 1968), 2. Overfield provides a review of loyalist literature through the early portion of the 20th century in his first chapter.

By the beginning of the twentieth centuries, the historical profession began to recognize the flaws in historical analysis of Loyalists. Accordingly, Loyalists began to gain a more substantial focus in a larger body of literature ranging from inclusion in American Revolution monographs to more specialized approaches, such as studying Loyalists by analyzing colonial law. By the Bicentennial historians again established new approaches to the study of Loyalists. New portrayals of Loyalists appeared including colony specific studies, new biographies, large monographs dedicated to Loyalists, and greater inclusion of Loyalists in legal histories relating to the American Revolution. A final wave of Loyalist literature appeared in the late twentieth century. This interest accompanied the reexamination of the American Revolution. Once historians began examining race, class, gender, and politics through different lenses, a reexamination of Loyalists followed.

Historians initially explored Loyalism in terms of personal motivation. Beginning in 1864, Lorenz Sabino collected biographies of nearly 6000 Loyalists and produced an unprecedented amount of material on Loyalists during the American Revolution. Sabino's *Biographical Sketches of Loyalists of the American Revolution with an Historical Essay* (1864) ended with a historical essay that explored the personal motives driving Loyalists. He does this by analyzing the state of the colonial political parties and the reason some colonists chose to adhere to the crown. Sabino admitted he was of Whig descent but nonetheless declared, "Intelligent Loyalists... strove to preserve order and an observance of the rights of persons and

property.”² His bias is clear throughout the historical essay, but Sabino does provide the first biographical study on Loyalists. His work marks the beginning of exploring the loyalist as individual forces in the Revolutionary War, however he provides no analysis or citations to support his claims. This body of literature is the story of remarkable, outstanding men in society and this is the typical story of the elite Loyalists of the American Revolution.³

A remarkable shift in the study of Loyalists occurred at the end of the nineteenth century when historians recognized a gaping hole in the body of Loyalist literature. In 1895 Moses Coit Tyler, while writing a literary history of the American Revolution, reflected on the state of Loyalist history. Tyler noticed historians lacked objectivity when writing about the Loyalists, and previous research on Loyalists had been tainted because of patriotism. Tyler’s approach to history was far more scientific than Sabino and he saw Sabino as flawed because of bias. The article “The Party of the Loyalists in the American Revolution” appeared in the *American Historical Review* and radically challenged previous loyalist histories. Tyler’s article surveyed the literature and provided a brief historiographical review of the field. According to Tyler, the true character of Loyalists had to be explored in order to fully understand their role during the American Revolution. Tyler, after reviewing the literature available on Loyalists, concluded that historians needed to contextualize the

² Lorenz Sabino, *Biographical Sketches of the American Revolution with an Historical Essay*, (Boston: Little, Brown, & Co., 1864), 67.

³ Historians did produce many biographies throughout the years on Loyalists. For examples of biography in the Bicentennial era see Bernard Bailyn, *The Ordeal of Thomas Hutchinson*, (Cambridge, Mass.: Harvard University Press, 1974) and William H. Nelson, *The American Tory*, (Newport, Conn.: Greenwood Press, 1961).

Loyalists during the American Revolution. Tyler identified Loyalists as intelligent and responsible men and decided the body of literature was problematic for the current analysis was incomplete. He believed Loyalists, given their positions in colonial society prior to the Revolution, had been men of worth and deserved the same consideration by historians. He called for objectivity in the study of Loyalists and wanted historians to stop vilifying the past.⁴ Tyler's noteworthy article highlighted the flaws in Loyalist literature and he called for other historians to recognize the incomplete historical analysis of Loyalists though he did not fix the problem himself.

Following Tyler's article, twentieth century historians began to fill in the incomplete history of Loyalism. One approach utilized by historians was large monographs that cited a variety of sources that had previously been neglected including colonial law and other colonial legal records. Claude Halstead Van Tyne objectively studied Loyalists and law during the American Revolution in *Loyalists in the American Revolution*. Published in 1902, Van Tyne provided the first interpretative monograph on Loyalists and identified how the Loyalists and the law interacted during the American Revolution. He utilized the traditional history of American Revolution, but integrated the loyalist experience. A major component of Van Tyne's argument rested on his belief that most Americans were indifferent to the American Revolution. He held that loyalty to Great Britain was the norm and that Americans had to be converted to Patriotism. He explored social class and occupation of Loyalists, and also included how the law impacted the different types of Loyalists.

⁴ Moses Coit Tyler, "The Party of the Loyalists and their Literature," *The American Historical Review*, 1 (1895), 24-49.

Van Tyne published the first monograph on Loyalists and, consequently, his work serves as a foundation for the history of Loyalism. Van Tyne cited his evidence on the Loyalists, did not intend to vilify the men, and concluded an understanding of Loyalists was crucial to understanding the American Revolution.

Historians also used state focused studies as a mode of analysis. State specific studies allowed for historians to understand the Loyalist experience more completely. Alexander Clarence Flick researched colonial New York history in *Loyalism in New York* (1901). Flick analyzed the social classes of Loyalists and their dispersal throughout New York, emphasizing the concentrations of large manors along the Hudson River Valley. A significant portion of Flick's *Loyalism in New York* lay in his investigation of the Patriot's treatment of Loyalists. Flick explored how the large Loyalist manors along the Hudson Valley were crucial pieces of property for the new state authority. Flick studied the economic importance of Loyalists estates in New York and how the New York legislature attempted to control the land by seizing the property from the Loyalists.⁵ Other historians focused on less active Loyalist areas in the early twentieth century. For example, Robert DeMond wrote *The Loyalists in North Carolina during the American Revolution* (1940) because he felt North Carolina Loyalists had been neglected. Harold Hancock's *The Delaware Loyalists* (1940) also explored an overlooked group. State specific studies were a useful to for many historians and

⁵ Claude H. Van Tyne, *The Loyalists in the American Revolution*, (New York: Macmillan Co., 1902); Alexander Clarence Flick, *Loyalism in New York*, (New York: Columbia University Press, 1901).

these works mark the beginning of more expansive Loyalist studies at the turn of the century.⁶

Another group of historians researched the Loyalist expatriate experience. In 1911 Wilbur Siebert wrote *The Flight of American Loyalists to the British Isles* and explored the fates of Loyalist refugees. He investigated their flight from America and their impact on the communities where they settled.⁷ Siebert's work is particularly noteworthy for he expanded the study of Loyalists beyond the colonies. His analysis of Loyalists after the war revealed a great body of work had yet to be researched and understood. Isaac Harrell also explored these exile communities in *Loyalism in Virginia: Chapters in the Economic History of the Revolution* (1926). His work is economically based, but Harrell explored how the flight of Loyalists impacted the economic structure of Virginia.⁸

Another smaller field of exploration emerged at the beginning of the twentieth century, the study of elite Loyalist property confiscation. Alexander Clarence Flick devoted a chapter in *Loyalism in New York during the American Revolution* to the confiscation of property. He identified the legal history of confiscation in New York, how Loyalists became attainted by the New York legislature, and the legal claims

⁶ Robert DeMond, *The Loyalists in North Carolina during the Revolution*, (Durham, NC: Duke University Press, 1940); Harold Hancock, *The Delaware Loyalists*, ("Papers of the Historical Society of Delaware," New Series, Vol. III; Wilmington: Historical Society of Delaware, 1940). Quoted in Richard Overfield, "The Loyalists of Maryland during the American Revolution," (PhD diss., University of Maryland, 1968).

⁷ Wilbur Siebert, *The Flight of American Loyalists to the British Isles*, (Columbus, OH: F. J. Printing Company, 1911).

⁸ Isaac Harrell, *Loyalism in Virginia: Chapters in the Economic History of the Revolution*, (Durham, NC: Duke University Press, 1926).

against alleged loyalist property. Likewise, Harry Beller Yoshpe wrote on the confiscation of New York Loyalist estates in an economic approach in his 1939 PhD dissertation “The dispositions of loyalist estates in the southern district of the State of New York.” Yoshpe studied the confiscation of wealthy New York Loyalists, building upon Flick’s earlier work, and concentrated on the densely concentrated wealth in Hudson Valley areas.⁹

The works of Van Tyne, Flick Yoshpe, and others, at the beginning of the twentieth century, mark a shift in Loyalists studies. This group of historians began objectively studying Loyalists, and this is seen in their breadth of sources. Their analysis of colonial governments, politics, and economic conditions began to fill in the incomplete loyalist history. State specific studies added to the growing body of literature. These authors began to address the problems in the field as raised by Tyler, and they began to create a body of literature devoted exclusively to Loyalists.

The Bicentennial of American Independence marks another resurgence of the study of Loyalism. By the mid twentieth century, studies on Loyalism expanded greatly beyond the initial efforts of historians at the turn of the century. New facets were explored, new sources were consulted, and new approaches diversified the field. The works that appeared during the Bicentennial ranged from more expansive monographs to legal histories to colony specific studies. The historians who studied Loyalists during this period continued to build upon the works of Flick, Van Tyne, and others at the turn of the twentieth century. The Bicentennial served as a

⁹ Harry Beller Yoshpe, “The Dispositions of Loyalist Estates in the Southern District of the State of New York”, (PhD diss., Columbia University, 1939).

fulfillment of what historians began following the call to action raised by Moses Coit Tyler.

In the 1960s the generalized loyalist monograph reappeared, but in greater detail with fresh interpretations. Building upon older historians, Robert McCluer Calhoun published *The Loyalists in Revolutionary America, 1760-1781* (1965). Calhoun's work attempts to fit Loyalists squarely within the American Revolution as main characters not secondary to the Patriots, and he is comprehensive in the vast number of sources and groups he identifies. In *The Loyalists in Revolutionary America* Calhoun explores the motives of elite Loyalists in order to determine motivation. He does not arrive at a solitary motivation, but does identify political and financial ties as two significant driving factors. Furthermore, in a later portion, Calhoun reflects upon why the Loyalists did not succeed in the American Revolution. He ultimately decides Loyalists lost the war because of circumstance. Circumstance included location, failed military action, and a general lack of unity amongst the Loyalists. Calhoun notes Loyalism that did flourish, such as the Loyalism in New York, occurred because of their proximity to the British Army. Overall, Calhoun builds upon military history and ideology by giving Loyalists a new significance. Instead of vilifying and dismissing Loyalists, they are the force driving Calhoun's understanding of the American Revolution.¹⁰

This more positive portrayal of Loyalists continued in the works of Wallace Brown. His work and research is unique in that he utilizes data quantitatively to make his arguments. In *The King's Friends: The Compositions and Motives of the*

¹⁰ Robert McCluer Calhoun, *The Loyalists in Revolutionary America, 1760-1788* (New York: Harcourt Brace, 1965).

American Loyalist Claimant (1965) Brown looks at the claims filed by Loyalist exiles in Canada and England. The question guiding Brown's work is who were the Loyalists and why were they loyal. Like Calhoun, Brown does not vilify the Loyalists and he seeks to understand the Loyalists on an individual level. His research is quantitative, and Brown look at occupation, location, and property loss to provide a colony-by-colony analysis of the Loyalists. His work relies on the claims of 2900 Loyalists, and therefore his conclusions are limited. He does, however, offer a new approach to exploring the overall impact of the American Revolution on the Loyalists. Brown also wrote a more general interpretation *The Good Americans: The Loyalists in the American Revolution* (1969). This work provides biographical data on the Loyalists and attempts to synthesize the loyalist experience while placing them within the context of the American Revolution. Brown expanded his timeline for he interested in uncovering what happened to the Loyalists after the war in this work. He examined their resettlement in Canada and the West Indies. Overall, both Brown's *The King's Friends* and *The Good Americans* provide thorough analysis on the Loyalists. He attempts to fill in the holes left by larger works, such as Van Tyne's monograph, through the use of quantitative data.¹¹

Like Brown and Calhoun, William H. Nelson's *The American Tory* (1971) structural approach to Loyalist history greatly altered the historical field in the Bicentennial era. Nelson devoted two thirds of his book to the nature and

¹¹ Wallace Brown, *The King's Men: The Composition and Motives of the American Revolution Claimants* (Providence, RI: Brown University Press, 1965); Wallace Brown, *The Good Americans: The Loyalists in the American Revolution* (NY: William Morrow and Co. Inc., 1969).

development of Loyalism before independence. The primary focus of Nelson's work, in comparison to other monographs such as Van Tyne's, lies in discovering the relationships between Loyalists and Patriots. His work is noteworthy for he expands the study of Loyalists to the roots of the conflict in the 1760s. At times his approach seems biographical, but he also tries to determine why the Loyalists were defeated. Nelson believed the Loyalists were defeated because of several weaknesses: the Loyalists lacked organization, a sense of an organized community, and a common sense of purpose that could unite all Loyalists. His study is a new portrayal for he does not rely on social class or occupation to tell the story of Loyalists. Furthermore, Nelson looks at the political divisions and how Loyalists were created. He is not interested in discovering who the Loyalists were, but he provides a larger synthesis of explaining how and why the Loyalists failed.¹²

Legal history offered new insight into Loyalists. During the Bicentennial period, legal studies flourished and Loyalism was utilized as a valuable tool for analysis. Authors writing on treason during the American Revolution aid the study of Loyalists. Bradley Chapin's *The American Law of Treason: Revolutionary and Early National Origins* (1967) examines the development of treason law during the fight for independence. His work investigates the laws in practice and the struggle involved in defining treason while forming a nation. James Willard Hurst also examines this topic in *The Law of Treason in the United States: Collected Essays* (1971). Hurst utilizes the British tradition of treason in his work, and discusses how the founding fathers understood treason. His work is expansive and much of it is well outside the

¹² William H. Nelson, *The American Tory*, (Newport, Conn.: Greenwood Press, 1971).

time frame of the American Revolution, however it does provide a foundational understanding of the British origins of treason. Harold Hyman *To Try Men's Souls: Loyalty Tests in American History* (1959) is another useful legal supplement. Part of his research gives accounts of the utility of loyalty tests during the American Revolution. He mentions men who championed loyalty tests during the Revolution, and their desire to have a loyal people. Overall, the works of Chapin, Hurst, and Hyman are useful in the study of Loyalist history. They all provide supplementary legal accounts on treason and loyalty tests that aid in understanding the treatment of Loyalists during the American Revolution.¹³

The Bicentennial historians also expanded the study of expatriates begun by Wilbur Seibert and Isaac Harrell. Mary Beth Norton in *The British Americans: Loyalist Exiles in England 1774-1789* (1974) fills in a historical gap by exploring what happened to prominent Loyalists. Notably, Norton establishes that refugee movements were directly linked to war conditions and the presence of British troops in the colonies. She uses the personal sources of the exiles to tell the history of those who left the colonies and supplements this with government papers.¹⁴ This body of work on Loyalists after the war reworks the traditional timeline of study for the American Revolution. Bernard Bailyn in *The Ordeal of Thomas Hutchinson* also

¹³ Bradley Chapin, *The American Law of Treason: Revolutionary and Early National Origins*, (Seattle: University of Washington Press, 1967); James Willard Hurst, *The Law of Treason in the United States: Collected Essays*, (Westport, Conn.: Greenwood Press, 1971); Harold Hyman, *To Try Men's Souls: Loyalty Tests in American History*, (Berkeley: University of California Berkeley Press, 1959).

¹⁴ Mary Beth Norton, *The British-Americans: The Loyalist Exiles in England, 1774-1789* (London: Constable, 1974).

provides a rich insight in this period, using biography as a mechanism for understanding political and social upheavals beyond a superficial analysis.¹⁵

Another body of noteworthy literature appeared in this period, the literature that focuses on the American Revolution as a Civil War. This body of work reexamines the American Revolution and suggests that the South is another area of study. This reexamination alters tradition approaches and expands the study of the American Beyond traditional notions. For example, Alfred Young *Beyond the American Revolution: Explorations in the History of American Radicalism* (1976) is a collection of essays that explores the American Revolution as Civil War in the southern backcountry. Likewise, Hoffman continues the trend of the American Revolution as a Civil War in *The Uncivil War: The Southern Backcountry during the American Revolution* (1985.) Ronald Hoffman's essay explores the disaffected countryside and the general discontent in the South. This work repositions the American Revolution within the political culture of the South, exploring social and economic ties. Sylvia Frey also identifies the American Revolution as a Civil War in *Water from the Rock: Black Resistance in a Revolutionary Age*. Frey argues that slavery is a central component to understanding the American Revolution, and that the readiness of the slaves to rebel created the dynamics for a Revolution. The British invasion allowed African Americans to challenge the existing social order. The works of Young, Hoffman, and Frey all expanded traditional American Revolution

¹⁵ Bernard Bailyn, *The Ordeal of Thomas Hutchinson*, (Cambridge, Mass.: Harvard University Press, 1974

literature.¹⁶ Overall, the historians of the Bicentennial period succeeded in radically broadening the study of Loyalism through these new approaches to the study of the American Revolution.

A survey of 150 years of loyalist historical scholarship reveals a body of literature that has focused on the both the individual Loyalist and the contextualization of Loyalists during the American Revolution. Much of this historical work has focused on the individual motives of the Loyalists and the experience of the truly elite. Often these historians produced substantial monographs on the Loyalist experience, and in return generalized on the treatment of the Loyalists during the American Revolution. Historians, however, have neglected to fully realize the intersection between colonial law, Loyalists, and property. Few historians have devoted much, if any, of their research on the confiscation of Loyalist property in America. Flick and Yoshpe mentioned Loyalist property confiscation in their works in the early twentieth century.

Colonial specific studies are valuable tool for exploring Loyalism. A study of Maryland property confiscation is useful on several accords. For one, not many works on Maryland have been written. Richard Overfield's PhD dissertation on Loyalists in Maryland in 1969 and likewise Ronald Hoffman's *A Spirit of Dissension: Economics, Politics, and the Revolution in Maryland* (1974) are the two most substantial Bicentennial era works related to Maryland Loyalists and the Revolutionary

¹⁶ Alfred Young, et. Al. *Beyond the American Revolution: Explorations in the History of American Radicalism*, (Dekalb, Ill.: Northern Illinois University Press, 1993); Ronald Hoffman, *The Uncivil War: The Southern Backcountry during the American Revolution*, (Charlottesville, VA: University of Virginia Press, 1985); Sylvia Frey, *Water from the Rock: Black Resistance in a Revolutionary Age*, (Princeton: Princeton University Press, 1991).

experience in Maryland. Richard Overfield in his PhD dissertation “The Loyalists of Maryland during the American Revolution” is an example of how Maryland Patriots used the law to control Loyalists. Overfield integrated the use of law in his comprehensive history of Maryland Loyalists. His focus is primarily on the elite Loyalists and, in particular, those serving in the Maryland Loyalist regiment.¹⁷ Ronald Hoffman’s *A Spirit of Dissension* analyzes the political, legal, and economic atmosphere plaguing Maryland during the Revolution. Hoffman’s focus expands beyond Loyalists, as he is concerned with the social, political, and economic impact of the American Revolution. Both author’s neglect to fully realize how the law impacted Loyalists in Maryland on a daily basis. Maryland is also a useful tool for the analysis of the treatment of Loyalists and their intersection with the law for the colony was moderate in its treatment. Maryland was not particularly radical nor did it have an obscenely large Loyalist population. Historians such as Wallace Brown and Robert McCluer Calhoun have also previously dismissed Maryland because of its moderate temperament. However, the moderate nature of the Maryland Loyalists is useful for understanding the Loyalist experience during the revolution. Therefore, examining Maryland Loyalists allows for a better understanding of the general treatment of Loyalists during the American Revolution.¹⁸

This study is part of the historical trend beginning in the late twentieth century – the reexamination of the American Revolution. Historians have sought to build

¹⁷ Richard A. Overfield, “The Loyalists of Maryland during the American Revolution,” (PhD diss., University of Maryland, 1968).

¹⁸ Ronald Hoffman, *A Spirit of Dissension: Economics, Politics, and the Revolution in Maryland*, (Baltimore: Johns Hopkins University Press, 1973).

upon their predecessors by analyzing the roles of gender, class, slaves, and politics in the American Revolution. A study of Loyalists in Maryland is another reexamination of the Revolution on several counts. This project improves upon the works of the early twentieth century and the Bicentennial era for it relies on colonial sources. Furthermore, this study hopes to build upon a great understanding of all Loyalists and does not limit its analysis to the wealthy, elite Loyalists.

Historians had previously consulted British property claim records, and therefore their evidence is limited to primarily the elite. However, historians have failed to comprehensively analyze the colonial records pertaining to all confiscated Loyalist property. Most historians have relied heavily and exclusively on British sources, which contain the property claims of expatriated Loyalists who fled to Great Britain. The British sources, though valuable, are limited for they primarily reflect elite Loyalists and they do not explore the process of confiscation. Maryland's records, however, provide a greater breadth of evidence, exploring the plight of all classes of Loyalists. Ultimately, Maryland property confiscation provides a method for understanding the treatment of Loyalists in the colonies. The Maryland legislators had to determine what rights the Loyalists had, if any, in the newly free state. By particularly focusing on Loyalist property confiscation, this study is able to unveil the struggles of the Maryland Patriots in controlling the Loyalists.

This work is most closely associated with the work of Wallace Brown. During the Bicentennial Wallace Brown provided the most comprehensive exploration of Loyalist property confiscation and the motives of Loyalist claimants in Great Britain in *The King's Friends: The Composition and Motives of the American Loyalist*

Claimants. His study aims to discover who were the Loyalists and why were they Loyal; however, he only uses the Loyalist claimants in Great Britain. Brown does not claim that the British Claimants are synonymous with all Loyalists. His analysis devotes a chapter to each colony and uses the Audit Papers of the Public Record Office in London to substantiate his claims. His work is limited for his definition of Loyalists is those who appealed to the record office. Brown fails to fully explore the entire Loyalist experience because of his limited sources, especially because he relies solely on British sources.

Thus, by utilizing a greater variety of sources the Loyalist definition is expanded greatly and the Loyalist experience can be more fully understood. This project offers greater insight into the dynamics of the Patriot elite and their control over the Loyalists through property confiscation. An investigation of how the Patriot controlled Maryland legislature manipulated the laws to punish the Loyalists reveals that often the Patriots had greater intentions for the law when compared to the actual enforcement. Thus another facet of this project explores the implementation of the law and the complications in enforcing the law. The Patriots succeeded in identifying Loyalists and nonjurors, those neutral during the Revolution, and emphasized the importance of allegiance in the new colony. The actual implementation of the laws was not as successful, and often the Patriots only concentrated on punishing the elite Loyalists. This study reveals more than the enforcement of law and the economic factors which drove property confiscation, it also explores the concepts of treason, allegiance, and citizenship during the American Revolution. Maryland Loyalists

provide a mechanism for exploring the inherently complicated nature of citizenship in a period of uncertainty.

Chapter 2 - The Treatment of Loyalists in Maryland

The Maryland Legislature grappled with the treatment of Loyalists in Maryland throughout the course of the American Revolution. Loyalists were not easily addressed; in fact, many factors contributed to the treatment of Loyalists including the economic, political, and social atmospheres. The Patriots of Maryland had to first establish a new government before they could consider how Loyalists should be treated. At the beginning of the American Revolution, Maryland, like the rest of the colonies, faced great unrest and instability. For one, Maryland's economic structure was weak at the time of the American Revolution. The Stamp Act and European depression in 1772 had severe repercussions in the Chesapeake. Debts and down markets plagued the people of Maryland and therefore created an uneven marketplace.

Furthermore, in 1776 the Royal Governor of Maryland Robert Eden departed and in July 1776 Revolutionary politics came to the forefront in the Maryland Assembly. Amidst this political unrest, there was also a struggle for power amongst the Maryland elite. Propertied elite men such as Charles Carroll of Carrollton, William Paca, Samuel Chase, William Tilghman, Robert Goldsborough, and George Plater all sought to shape Maryland Constitutional Convention. Not surprisingly, the new revolutionary government greatly favored the elite men. The Revolutionary era

governors included Thomas Johnson serving from 1777 to 1779, Thomas Sim Lee serving from 1779 to 1782, and William Paca serving from 1782 to 1785.¹⁹

Social unrest emerged amidst the reorganization of Maryland's government. In 1776 and 1777 Maryland experienced a series of riots and insurrections aided by the British on the Eastern and Western Shores. On the Eastern Shore Loyalists teamed up with free African Americans and Lord Dunmore to establish resistance movements against the Patriots. The Maryland legislature wrote Dunmore's followers were "very smart fellows" and were fearful of the unrest on the Maryland Eastern Shore. The Council of Safety grew increasingly apprehensive of the insurgents and learned, in 1776, the British were landing supplies in Somerset County. Charles Carroll, an elite Patriot legislator, warned of disorder in Caroline and Dorchester Counties on the Eastern Shore. In the fall of 1776 officials from the Council of Safety in Dorchester reported nearly one hundred armed men resided in the county and behaved "riotously and disorderly." The Western Shore also experienced similar difficulties. In St. Mary's County John Dent, a Patriot military commander, reported 150 Loyalists and 100 free African American's were preparing to rebel against the Patriots. Along the Eastern Shore in Dorchester County organized bands of Loyalists seized the personal property of Patriots.²⁰ Therefore in the Eastern and Western shores, locations far from the central authority, insurrections unfolded in areas were

¹⁹ Robert J. Brugger, *Maryland: A Middle Temperament, 1834-1980*, (Baltimore, MD: Johns Hopkins University Press, 1988) 84-122.

²⁰ Ronald Hoffman, *A Spirit of Dissension: Economics, Politics, and the Revolution in Maryland*, (Baltimore: John Hopkins University Press, 1973) 184-191. For more information on the insurrections on the Eastern and Western Shores see the chapter titled "The Search for a Vanishing Authority."

political authority was weaker. Unrest and insurrections plagued the Delaware border in Cecil County, Maryland as well.

An intriguing dimension to the riots involved the role of Methodist clergymen. William Paca, a member of the Maryland legislature, reported the Methodists led the insurrections in 1777. He declared “an insurrection of Tories on the borders of Queen Anne’s and Caroline Counties [were] headed by some scoundrel Methodist preachers.” In 1777 the position of Methodists in Maryland was tenuous best. Furthermore, Maryland Patriots disliked Methodists because of their strong opposition to slavery and they previously preached to slaves. For example, Thomas Rankin, an active Methodist minister in Maryland, began delivering abolitionist speeches in 1775. Nelson Reed, an itinerant Methodist preacher on the Western shore, wrote about the necessity of freeing slaves before the revolution began. Methodist minister Freeborn Garretson preached on the Eastern Shore to slaves. He actively preached a “doctrine of freedom” in Maryland and this upset the Maryland legislature. Garretson, along with other Methodist ministers, encouraged and established mixed churches. Church membership on the Eastern Shore reveals a high degree of free black participation. As a result of the Methodist led insurrections and their abolitionist views, the Patriot legislature identified Methodists as a problematic religious sect.²¹

The economic instability, Loyalists insurrections, and the shift from British subject to independent citizen all had a great affect on the newly independent state.

²¹ Hoffman, *A Spirit of Dissension*, 227; William Paca to Gov. Thomas Johnson, Executive Miscellaneous, Maryland State Archives. Paca later served as Governor of Maryland in the Early Republic period.

Due to the increasing insurrections and fears of great Loyalist upheavals, the elite members of Maryland society sought to establish stability and did this by granting basic rights to citizens. The Patriot controlled legislature, however, found it difficult to define the rights of citizenship. Rather, they began excluding groups whose loyalty they questioned. In 1776 the Maryland Declaration of Rights and the Constitution gave basic rights associated with citizenship and consequently began to establish the idea of what rights should be given to citizens. Citizens were identified vaguely as people, men, inhabitants, and persons of the newly independent state. The Patriots gave basic rights to its loosely defined group of citizens including the ability to participate in the legislature in order to secure liberty. Rights of the freedom of speech, debate, redress of grievances, the duty to worship god, and petition were also guaranteed. The Declaration of Rights also addressed the rights of men to bring due process in criminal prosecution, protection from self-incrimination, and furthermore no freeman shall be deprived of life, liberty, or property without the judgment of his peers. The Maryland Constitution mentions the rights of freemen in the second article, citing freeman were granted suffrage when electing delegates to the House.²² By outlining these basic rights, the Patriot controlled legislature began the process of slowly excluding Loyalists from the body politic. Furthermore, by not explicitly stating the rights of citizens and instead using other terms, the legislature established elasticity that could be manipulated as the American Revolution continued.

Because of the underlying political instability in Maryland, political allegiance became the central criteria for citizenship. The legislature identified three categories

²² Maryland Declaration of Rights and Constitution, August 18, 1776, Maryland State Archives.

of people in the state: Patriots, Loyalists, and nonjurors. Patriots and Loyalists were easily categorized and their allegiances and stances were clearly known. Patriots actively supported the Revolution and eagerly fought for independence. These men and women controlled the legislature and, consequently, defined the status of citizens during the American Revolution. Loyalists, on the other hand maintained their allegiance to the King, opposed independence from Great Britain and refused to take any oath to the new government. During the American Revolution, the Patriots used the legal system to curtail the legal rights of Loyalists. Nonjurors, a loosely defined category of those who refused to claim allegiance to either side in favor of neutrality, also puzzled the legislature. Nonjurors were not as blatantly threatening to the Patriots, but problematic for their lack of allegiance complicated their rights to citizenship.²³

Loyalists bore the wrath of the elite propertied Patriots. Those disloyal were not welcome in Maryland and the Patriots began to immediately utilize the legal system as a mechanism for punishing the Loyalists. In 1777, following the adoption of the 1777 “Act to Prevent the Growth of Toryism and an Act for the Better Security of the Government,” counties began to create lists of men who were Patriots and identify those who were not and were suspected of being Loyalists. The Act stated the oaths were to be taken and recorded in front of the magistrate of the county in which the person resided. The magistrate for each county in Maryland was required to keep books and have all men sign their name.²⁴ Records were collected for those who did

²³ For additional information on the treatment of Loyalists in Maryland see Richard Overfield’s PhD Dissertation “The Loyalists of Maryland during the American Revolution.”

²⁴ Hanson’s Laws of Maryland, Vol. 203, page 187, Maryland State Archives.

not sign, and men were brought to task for suspected treasonous activity if they did not abide by the law and were suspected by their neighbors.²⁵ Across the state of Maryland counties faced a daunting task; they had to account for the allegiance of all free male citizens over the age of eighteen.²⁶

An immediate impact of the Patriots implementation of loyalty oaths lies in the community response. Men testified to local and county officials about the allegiances of their neighbors. In 1778 Ignatius Harding declared he heard James Morris state that before the war broke out if he was ever obligated to take up arms, it would be against the United States. Nicholas Harding likewise heard James Morris declare he would take up arms against the United States. However, Alexander Melliell stated he never heard James Morris “say anything disrespectful of America, only that he... made an oath to his father, never to serve as a soldier for or against any country.” These two accusations were enough to detain James Morris who was then sent to appear before the Council of Safety to be questioned about his allegiance. The Council of Safety, though their records are unclear, continually addressed the issue of allegiance to the newly independent Maryland. Maryland’s success and independence rested in determining who was friend and foe to the Patriot cause.²⁷ The law and its enforcement helped define Maryland citizens during the transition period of subject to citizen during the formative years of the American Revolution.

²⁵ Colonial officials used tax lists to compare who had signed and who had not.

²⁶ As according to the outline of the law in the 1777 Act for the Better Security of the Government.

²⁷ Maryland State Papers, Revolutionary Papers 1778, Maryland State Archives. The folder does not contain any further information on the date or location.

Patriots across the new state began to organize, and communities actively identified suspected Loyalists. The Patriot legislature succeeded in instilling loyalty to the newly independent states. Neighbors identified neighbors. Those identified as being subversive or those accused of treasonous activity were sent to county courts and the Maryland General Assembly. Treason was being used by the Maryland Patriot Legislature to punish those who took arms against the state or engaged subversive behavior. However, the Maryland Legislature did allow those accused of treason to petition for clemency, an age-old legal tradition. This process included appealing to the Maryland General Assembly, and pleading innocence when charged with treason or other subversive behavior.²⁸

Andrew Francis Cheney of Somerset County for example petitioned the Maryland General Assembly in Annapolis for his freedom. Cheney was charged in his county for partaking in “obnoxious transactions” against the state of Maryland on February 7, 1777. The extent of his “obnoxious transactions” is unclear, however he declared he had proved himself “a zealous friend of liberty and that any information to the contrary is false, vexatious, and malicious.” Cheney further claimed he was a freeman being deprived of his life, liberty, and property, all of which were outlined in the Declaration of Rights, for he was being imprisoned without bail and without knowledge of a trial date. Cheney begged the Maryland General Assembly to grant him trial, admit him bail, or relieve him of the charges. In cases involving alleged treason, the Maryland General Assembly first heard the allegations and decided the next course of action. In the case of Cheney he was charged but not brought to trial by

²⁸ Calhoun, *The Loyalists in Revolutionary America*, 467-471.

the Patriots. Cheney's admission of allegiance to Maryland testifies to the importance of adhering to the wishes of the Patriot controlled government. He was able to appease the General Assembly and admonish any suspicions²⁹ In the case of Cheney; he had to defend himself and declared he was friend of liberty in Maryland. The General Assembly did not feel Cheney was a great threat and Cheney was never brought to trial.

There are numerous examples of the accused petitioning the General Assembly or the Governor for clemency. Property owner Overton Carr of Prince George's County was accused of being "prejudiced to the state" on March 3, 1781. He was arrested, his property and papers immediately seized, and he was sent before the General Assembly in Annapolis. The General Assembly declared his "personal conduct and conversations" were dissatisfactory and he was fined two thousand pounds to be paid in gold or silver.³⁰ Overton Carr's prejudice against the state was costly; loyalty had a price in Maryland and personal rights belonged to those who aligned with the state. During this period of the American Revolution the Patriots sought to establish some type of stability. Identification of Loyalists allowed the Patriots to create an identity and establish unity during a period of great change.

Sometimes the Governor of Maryland, Thomas Sim Lee, heard the petitions of suspected treasonous, disloyal individuals. Appealing to the Governor was a final resort; the Maryland General Assembly typically had condemned these men. However the Maryland government allowed for exceptions and this weakness often

²⁹ Brown Book IX, page 20, Maryland State Archives. There is no record of the response of the Maryland legislature to Andrew Francis Cheney.

³⁰ Brown Book IX, p. 30-34.

allowed for many of those convicted to be freed. For example, R. Potts, listed as a friend to Maryland, wrote the Governor asking how he thought it best to deal with the “unhappy mess” associated with the treason in Frederick County. Potts noted he was a stranger to the disloyal men and the evidence brought against the men, but asked the governor to consider how to treat these men and grant them clemency. He begged the governor to look at the evidence against the men and asked the governor to consider some type of treatment towards the men other than the “undue sentence of death.”³¹ There was a frequent desire of those accused of treason to petition the Governor. John Still wrote to the governor in February 1782 on behalf of Mrs. Newcomer who was concerned about her husband. She asked that her husband, suspected of treason, be released from confinement for the sake of her distressed family.³² Not all Maryland Patriots suspected everyone. Accusations of treason were not taken lightly and often petitions were sent in on behalf of the accused. The Patriots did permit exceptions in the accusations and lacked a cohesive sense of authority during the war.

Furthermore, the accused British sympathizers utilized the Patriot’s legal system to petition for their freedom. The men were able to petition for they had not been formerly deemed British subjects or alien enemies; they had been accused but had yet to be found guilty. Petition served as a means of forgiving some enemies of the state, and in some cases too served as a method of derailing execution. For example, George E., Paul Hammond, Nicholas Night, Philip Tarr, Philip Ground, Philip R., and others petitioned the governor to be released from the Washington

³¹ Frederick County Treason Papers, no page number, Maryland Historical Society.

³² Frederick County Treason Papers, no page number. This document was written from Washington County.

County jail. The men were now fully convinced of the “impropriety of their past conduct” and wanted to accept the according penalty. They now found their “hearts filled with contrition” and wanted to convince the friends of America of their attachment to the “American cause.” The men claimed they could now “conform to the laws of the County and [would] support and defend the present government to the utmost of their power.”³³ Other men in Frederick County and the Western Shore petitioned the Governor to demonstrate their allegiance and loyalty to the state of Maryland. They said the Governor, by addressing and punishing those suspected of treason, was “striking terror into the Breasts of those whose inclinations were wavering” and this was correcting, “erroneous opinions... believed by out enemies.” These men also noted the imprisonment of sundry persons John George Grace, Adam Grace, and Nicholas Andrews, but declared the men reformed. They requested the governor of Maryland forgive these men and not punish them with death. Twenty-three men signed this petition on behalf of the imprisoned men in Frederick Town on August 21, 1781.³⁴ John Andrew King, a Lutheran Minister, also petitioned the Governor on behalf of John George Grace, Adam Grace, Nicholas Andrews, and Henry Snell. He believed the men had engaged in treasonous activities, but now possessed “unfeigned detestation and sorrow for their past offences.” John Andrew King petitioned the governor for clemency for these four men.³⁵

³³ Frederick County Treason Papers. It should be noted that other men signed the petition signed the petition but their names were illegible.

³⁴ Frederick County Treason Papers.

³⁵ Frederick County Treason Papers.

On September 9, 1781 Nicholas Andrews, John George Grace, and Adam Grace were indicated, arraigned and found guilty of high treason. However, the Governor pardoned all men, but conditioned it by arranging that all men enter themselves aboard “one of his most Christians Majesty’s ship of war during the continuance of the present war between America and Great Britain.”³⁶ Henry Shell was not convicted of high treason for several men came to his defense. John Stull, H. Shyrock and Alexander Clasett all testified they never heard Shell confess of partaking in any crime that would be considered treasonous and would therefore bear any consequence of death. They further stated a report that said Shell had “taken an active part against America” should be given very little credit for the men felt the report was “entirely without foundation.” Likewise Henry Shell’s wife Anna petitioned the court and wrote Shell never assented the state in any form. Henry Shell was not convicted of high treason and was therefore freed.³⁷

The cases of these four men indicate the severity of the law in identifying suspected treasonous individuals although the law was not without exception. Henry Shell, Nicholas Andrews, John George Grace, and Adam Grace were able to escape the fate death for being treasonous enemies to the state. Their example, located in Maryland’s Western Shore far from the central authority, emphasizes the tenuous control of the Patriots. The Patriots understood it was in their interest to be compassionate, but they also had to assert their authority. Therefore in these regions plagued by insurrection and unrest the Patriots walked a fine line. Those accused of treason had to tried under the law, although the Patriots did grant accused individuals

³⁶ Frederick County Treason Papers.

³⁷ Frederick County Treason Papers.

political rights. Petition served as a powerful tool for accused enemies of the state and it was, for the most part, the only recourse the accused had to plea their case. The Declaration of Rights did grant the right to petition and the accused, caught between the status of loyal and alien, used this as a mechanism to be forgiven.

Absentees and established British subjects, however, could not use petition to redress their grievances in Maryland. The process of identifying British sympathizers continued to be formalized in the Maryland legal system. Appointed by the Governors, the county courts began to identify known alien enemies, Loyalists, and absentees in the legal records. In this way the counties produced formal records of disloyal residents that could be presented to the Committee of Safety. Across Maryland Patriots identified Loyalists and absentees who threatened the newly independent state. For example, in Prince George's County on August 14, 1778 a panel of grand jurors led by Thomas Dent declared five absentee men enemies of the state because of their treasonous activities. The grand jury stated Reverend Henry Addison, Reverend Jonathan Boucher, John Campbell, Daniel Stephen, and Robert Findley were guilty of partaking in "crimes, offense, contempt, and misdemeanors whatsoever committed and perpetuated against the county aforesaid against this United States and the acts of assembly of the state of Maryland." The grand jury declared all of these men had left the state "to avoid taking an active part in defense of the state." The court deemed these men known Loyalists for two served as Anglican ministers who fled the state and the others served in the British military regiments.³⁸

³⁸ Brown Book IX, p. 23.

The easiest group of treasonous individuals identified was those in various British militia organizations, especially Loyalist units, such as the Maryland Loyalist Regiment. The Courts had no difficulty in identifying Loyalists who actively fought against Maryland in the British militia. For example, in 1781 the General Court of the Eastern Shore found all those serving in the Loyalist Regiments guilty of treason.³⁹ These men were known Loyalists who were either royal officials or were currently serving in the Maryland Loyalist regiment. These men were clearly identified as not part of the Maryland citizenry, and as alien enemies they lost any rights outlined in the Declaration of Rights. The Patriots initially used the 1777 Act to identified propertied elite Loyalists. Thus, the elite sought out the elite Loyalists and absentees in the early years of the American Revolution.

Nonjurors, those who refused to take the oath of allegiance but proclaimed neutrality, proved to be a continuing problem for the Maryland Patriots. The Maryland legislature was not sure how the nonjurors were categorized under law for they were neither loyal nor disloyal. Neutrality did not sit well with the legislature for allegiance to the state was the primary mechanism for determining one's access to privileges of citizenship. Meanwhile, the Patriots in Maryland grew fearful of the

³⁹ Brown Book IX, p. 24 – 26. The following men enemies the state and indicted these men for treason on March 1, 1781: Robert Alexander, Robert Christie, John Christie, Henry Stevenson, Richard William Parkin, Patrick Kennedy, John Lynch, William Smith, Edward Carnes and James Hall. In May 1781 Daniel Dulany of Daniel, Daniel Dulany of Walter, Lloyd Dulany, Jonathan Boucher, Henry Addison, William Edmiston, John Montgomery, Bennett Allen, Anthony Steward, Walter Dulany, Philip Key, Daniel Addison, Henry Riddle, Thomas French, George Chalmers, Charles Gordon, Leigh Master, Nathaniel Richardson, David Carcaud, and Daniel Stevenson

events conspiring on the Eastern and Western Shores. The Legislators recognized that disloyal persons inhabited Maryland and enacted a series of laws that utilized allegiance as a mechanism for vesting rights of citizenship. Furthermore, the laws began to actively identify treasonous behavior. In 1777 “An Act for the Better Security of the Government” required every free male person within the state over the age of 18 to take an oath of fidelity and support the state. The Patriots used the law to prevent the state from becoming “an asylum for the disaffected fugitives from other states.” Therefore, the legislators required all men to confess allegiance or affirmation to Maryland. The Legislature allowed Quakers and Methodists claim affirmation to not “yield any allegiance or obedience to the king of Great-Britain, his heirs or successors, and that I will be true and faithful to the United States of America, and will...defend the freedom and independence thereof.”⁴⁰ The intention was the same as the oath of fidelity, but the legislature hoped the use of the word affirmation would be more agreeable to these groups. The Quakers and Methodists, however, refused this option in 1777, for an oath in any form violated their religious principles.

The Patriot legislators wrote the law so that those who refused to take oaths of allegiance or affirmation suffered an immediate consequence. As a consequence of neutrality, the legislators restricted nonjurors from basic legal rights outlined in the Declaration of Rights. The law also barred nonjurors from partaking in certain legal and merchant professions. The Patriot legislators, by barring individuals from holding office, maintained greater control in newly independent Maryland. Nonjuror William Cooke lost the ability to practice law because of the Patriot legislature. The

⁴⁰ Hanson’s Laws of Maryland, Vol 203, p. 190.

law forced Cooke to seek another profession, and he became a farmer. A fellow nonjuror, merchant William Cooke, lost his right to follow his profession. He had to seek other means to support his family during the American Revolution, and never regained his professional reputation in Maryland.⁴¹ The restriction on the right to certain professions stripped nonjurors of their right to life as dictated in the Maryland Declaration of Right. The implications of the laws passed by the Maryland legislature constrained the abilities for professional success for nonjurors in the state. Likewise, an additional provision in the Better Security Act of 1777 required any man desiring to preach to take an oath of allegiance to the state. The Patriots passed this measure because of their unhappiness with the Methodists in Maryland and in response to suspected treasonous activity. If a Methodist minister violated this portion of the Better Security Act he was fined and subject to possible imprisonment.⁴² The Patriots succeeded in identifying and punishing nonjurors in the early years of the American Revolution.

The Patriots, however, recognized they needed to move beyond the laws passed in 1777. Identification of treasonous individuals was not sufficient and the Patriots struggled to determine how to properly punish Loyalists. Those convicted of treason were not privilege to legal rights in the state, including the right to own property. Consequently, by 1780 the Patriots recognized identification of Loyalists was no longer sufficient and the Patriots recognized they needed to act quickly. The

⁴¹ Maryland State Audit Office Transcripts, Vol. VI, VIII, Maryland State Archives. This was done in other states during the American Revolution. Practicing law was a privilege.

⁴² Hanson's Laws of Maryland, Vol 203, p. 187-188; Hoffman, *A Spirit of Dissension*, 229-230.

Patriots had the ability to confiscate property from individuals guilty of treason.

Loyalists understood that during times of war and accusations of treason would make them susceptible to the seizure of personal property and land. The Maryland legislature sought to identify wealthy Loyalists as alien enemies in order to seize the property.

The ability of the Maryland legislature to confiscate weighed heavily on the minds of the Patriots. This desire to seize the valuable and well-placed land of the elite Loyalists was not coincidental and the elite class in Maryland sought to pass this economically advantageous law in 1780. Samuel Chase, a wealthy landowner and member of the General Assembly, sought to confiscate property for private profits. Chase along with other members of the General Assembly and land speculators viewed land confiscation as a quick method for personal gain. Charles Carroll, an elite property owner and assemblyman, initially opposed land confiscation but agreed by 1780. British property confiscation was profitable for speculators such as Samuel Chase, Daniel Jenifer, and William Paca.⁴³ The laws that identified and refined the boundaries of citizenship were indeed economically founded.

In order to confiscate British Property the Maryland legislature passed “An Act to appoint Commissioners to preserve Confiscated British Property” in 1780. William Paca, Uriah Forrest, and Clement Hollyday were appointed Commissioners for seizing, confiscating, and appropriating all British property in the state. The Commissioners were told to produce at the next meeting of the general assembly a list or account of all such British property they discovered, give a valuation of the

⁴³ Hoffman, *Spirit of Dissension*, 251-268. For more information on the relationship among the elites in Maryland see Hoffman’s Chapter 10: The End of the Popular Party.

property, and return an inventory of the property.⁴⁴ The Commissioners created a system for identifying British property and methods for collecting the property. The Commissioners also sought to rent out property until it was to be auctioned. Personal property was inventoried and sold as quickly as possible. This included perishable items, personal belongings, animals, grain, and most importantly slaves.

The Commission to preserve confiscated British property faced a daunting task. The Commissioners served as agents for the Maryland legislature; the newly formed government needed a designated group of individuals to identify all British Property. The Maryland legislature also recognized confiscation would be extraordinarily difficult. British property owners were not going to willingly give up property and the Patriots recognized efforts would be made to circumvent confiscation. Thus the Commissioners recognized they would be faced with a difficult task in the years to come for property would be hidden, transferred, sold, and ownership would be questioned. Despite these inherent complications, the Patriot Maryland legislature began to aggressively confiscate British property by the 1780s.

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Furthermore, the Maryland legislature in 1780 passed an Act that placed higher taxes on nonjurors and absentees. Nonjurors were not deemed alien enemies

⁴⁴ Hanson's Laws, Vol. 203, p. 273-274. They were in charge of confiscating property until 1782 when they were placed under the Intendant of Revenue, and formally freed of all duties in 1784.

⁴⁵ Rolfe L. Allen, "The Legislation for the Confiscation of British and Loyalist Property During the Revolutionary War," (PhD Diss., University of Maryland, 1937), 239; Overfield, "Loyalists of Maryland," 341-342; and the Commissioners Ledger and Journal of Confiscated British Property, Maryland State Archives.

by the state, however they were still taxed inhabitants punished for their lack of loyalty. Beginning in 1780, Nonjurors were taxed at higher rate on both real and personal property for “the neglect of such nonjurors to take the oath or affirmation required by the act for the better security of the government.” Property owners out to pay taxes on property and the Patriots saw that Nonjurors and Loyalists were evading payment. Non-payment of property taxes also, in the eyes of the Patriots, could also lead to the forfeiture of property. Likewise, absentees were liable to eventually pay a tax for they also did not proclaim allegiance and sign the oath as outlined by the Act for the better security of the government.⁴⁶.

Immediately following independence, the Patriots identified the problems plaguing the newly freed state. Insurrections, an uneasy political atmosphere, and economic unrest all contributed to the responses of the legislature immediately following the Declaration of Independence. Fears of treason and alien enemies residing within the Maryland borders also created tension within the new state. The Patriots called for identification of those who were not loyal. However, the Maryland government, still in its formative years, lacked the ability to truly indentify and punish the disloyal. By 1780 the Maryland Legislature moved beyond identification of Loyalists and nonjurors. The Patriots continued to struggle with the treatment of

⁴⁶ Hanson’s Laws, Vol. 203, p. 273. Also in 1780 an Act concerning nonjurors was passed by the Maryland legislature, there was an addition An additional supplement was “to the act for raising funds for the year seventeen hundred and seventy-nine, and an act, entitled, An act for the Assessment of property within this state, and also by an act passed at the last session of assembly, entitled, A Supplement to the act for the assessment of property within this state, shall be and is hereby suspended until the end of the next session of assembly, any thing to the contrary notwithstanding.” This is found in Hanson’s Law, Vol. 203, p. 243.

Loyalists, despite the passing of laws, and responded by treating Loyalists and Nonjurors more harshly. The legislature, also economically motivated, turn to the active seizure of British Property and taxation of Nonjurors in the years following.

Chapter 3 - The Implementation of Law for Loyalists and Nonjurors

By 1780 the Maryland legislators shifted their focus from the identification of Loyalists to the confiscation of Loyalist property. This shift was motivated by economic necessity, increasing pressure to distinguish between the rights of citizens and non-citizens, and the rules of war. In terms of financing the American Revolution, the Patriots were struggling. Debt quickly accumulated in the newly independent state and the Patriots sought new ways to finance the war effort. The Maryland House of Delegates began debating the confiscation of British property as a source of revenue in December 1779. Some questioned the necessity of confiscation, but the delegates argued that that state needed to do so in order to pay the state debt and help finance the war effort. In order to justify the confiscation, they argued this property belonged to Americans and was no longer the land of British subjects. Since British subjects who owned property in Maryland were found guilty of treason, they no longer were eligible to hold property under the Declaration of Rights. Writing on behalf of the Senate, Charles Carrollton initially opposed confiscation. The Senators rejected confiscation and argued it was not a feasible task, feeling it would not generate substantial revenue for the state.⁴⁷ The two houses continued to argue over the necessity of British property confiscation, but eventually both sides agreed it would generate some badly needed revenue for the state. Furthermore, both sides agreed the state had the power to confiscate property because British subjects had

⁴⁷ Votes and Proceedings November 1779, 17-27, Maryland State Archives.

forfeited the right to own property in the state.⁴⁸

The confiscation debate rekindled the debate over citizenship in the Maryland legislature. Loyalists did not enjoy the rights of citizenship as outlined in both the Maryland Declaration of Rights and Constitution. The right to own property within the boundaries of the state was a right given exclusively to the loosely defined group of Maryland citizens at this time. Therefore the Maryland legislature determined they had the ability to seize the property of Loyalists and absentees since both of these groups had forfeited their rights when they refused to associate with the Patriot cause. As an additional justification for the confiscation of property, the law formally stated since the “British army and navy, and other armed vessels, acting under the authority of the British king, have seized in this and other of the United States the negroes and other property of the citizens of these states, and the property so seized have carried off and disposed of at their will and pleasure” Maryland could do the same with British property.⁴⁹ Framed as a method of retaliation, the law was, undoubtedly, financially motivated.

The Maryland Legislature began formally confiscating British property in 1781 following the passage of the British Property Confiscation Act. British property was defined as any property that belonged to anyone who had not joined the Revolutionary cause or anyone had not assented to the Revolution. One clause dealt with absentees who had returned to Great Britain and left Maryland after April 30, 1775. Absentees became British subjects under the law. Some absentee landowners were known British subjects while others were not known British subjects. Those

⁴⁸ Kilty, Laws I, June session, 1780, Chapter 24, Maryland State Archives.

⁴⁹ Hanson’s Laws, Vol 203, p. 269.

who had left Maryland and were not declared or known British subjects were still given the ability to reclaim property in the state if they took the oath of allegiance by March 1, 1782. If these people took the oath of allegiance, they would not be declared alien enemies and would still be privy to their property in Maryland.⁵⁰ Loyal citizens could therefore be the only group capable of owning property in Maryland as dictated by the Declaration of Rights. Alien enemies, on the other hand, were immediately deprived of their property and absentees whose allegiance was undetermined would lose their property by March 1, 1782.

The law created division within Maryland. The law did not threaten Maryland citizens who signed the oaths, while absentees and British subjects were now clearly defined as not enjoying the privilege of owning property. Maryland citizens clearly saw the rights they were privilege to under the Patriots controlled legislature. On the other hand, treasonous individuals, the Loyalists and British subject, had their rights taken away by the Patriot controlled legislature. The British Property Confiscation Act began to define the British subjects through an exclusionary process, and created a category of Maryland citizens and non-Maryland citizens.

Furthermore, there were additional punishments for nonjurors, although the law was amended. In 1780 the Maryland legislature passed an additional law enforcing the treble tax, but the legislation permitted some relief. The nonjurors continued to be taxed for their neglect “to take the oath or affirmation required by the act for the better security of the government.”⁵¹ This new law varied from the others

⁵⁰ Hanson’s Laws, Vol 203, p. 269-273.

⁵¹ Also in 1780 the Maryland legislature approved an Act for the Confiscation of British Property. It was estimated that revenue generated from British property confiscated and treble

in that the Patriots specified the revenue generated from nonjurors would be used entirely to raise supplies for the Maryland militia. The Patriots in the legislature fined the nonjurors for their lack of allegiance and ironically used the money from these neutrals to finance the war.

Also, the law passed in 1780 represents a shift in the mentality of the Patriots in the Maryland legislature. The law stated the tax did not have to be collected from all nonjurors. It granted leniency, stating those in charge of collecting the tax could “suspend the collection of the said treble tax from nonjuror and shall report the name of such person and his case to the next general assembly” if the nonjuror was believed to have good conscience. This exception, vaguely described and completely given at the liberty of the tax collector, is not clearly stated in the laws and does not clearly state who was exempt.⁵² The Patriots still recognized nonjurors as an independent category, but they no longer feared all nonjurors. By 1780 the Maryland government began to actively seize the property of both Nonjurors and Loyalists.

taxes would generate as much as 9 million dollars. However, these estimates were grossly overstated, and the treble taxes and property confiscation did not even generate a third of the expected revenue. The information for the anticipated amounts of revenue can be found in “Letters Between the Two Houses Concerning British Property Confiscation” at the Maryland State Archives.

⁵² Hanson’s Laws of Maryland, Vol. 203, p. 273. Also in 1780 an Act concerning Nonjurors was passed by the Maryland legislature, there was an additional supplement was “to the act for raising the supplies for the year seventeen hundred and seventy-nine, and an act, entitled, An act for the Assessment of property within this state, and also by an act passed at the last session of assembly, entitled, A Supplement to the act for the assessment of property within this state, shall be and is hereby suspended until the end of the next session of assembly, any thing to the contrary notwithstanding.” This is found in Hanson’s Laws of Maryland, Vol. 203, p. 243.

The Patriots authorized the process of confiscation. By passing local authorities, state commissioners, William Paca, Uriah Forrest, and Clement Hollyday, were appointed to seize and confiscate all British property within the state. The Commissioners were expected to inventory all the property and return to the General Assembly of Maryland with lists of all British property. In order to preserve the British property in the state the Commissioners could appoint people to take care of confiscated British property.⁵³ The Commissioners utilized the records of tax Commissioners and county clerks for lists of persons who had not signed the oaths of allegiance. They also wrote letters to the county tax Commissioners requesting information on property belonging to British subjects or absentees who were known British subjects. The law granted the absentees the exception to take an Oath of Allegiance by 1782; however, the previously created lists of those who signed oaths of allegiance, coupled with the county records declaring absentees as known British subjects, allowed the Commissioners to quickly determine who was not a citizen of the state.

Absentees were the most easily identified group of non-citizens identified by the Maryland legislature and this was the first property confiscated. Their property was the first seized because they were not there to contest it and often it was the most coveted property because it was the most valuable and contained the largest estates.

The Commissioners to Preserve Confiscated British Property first identified property then sold the estates belonging to Loyalists and absentees from 1781 to 1785 although most confiscation occurred between 1781 and 1782. The estates ranged

⁵³ Hanson's Laws, Vol 203, p. 273-274.

from large, valuable property owned by prominent Loyalists and a few smaller holdings of property belonging to Loyalists. Loyalists in Maryland were primarily British immigrants, and the majority of large, valuable estates confiscated belonged to affluent, professional or office holding men. Loyalist property was concentrated in several areas in the state of Maryland. Officeholders and Anglican clergy possessed land in the commercial and professional centers of Maryland, located in Annapolis and Baltimore. Active Loyalists, those engaging in insurrections, lay in centers of Loyalist resistance in the Eastern Shore, Western Maryland, and in Southern Maryland. There was also a concentration of Loyalists in Frederick County.⁵⁴

A large portion of Absentee property in the 1780s belonged to British companies. Company property was valuable for several reasons. For one, it was typically large in size and can be sold in several tracts. Secondly, company property often contained other assets such as gristmills, tools, and slaves. Moreover, the companies owned furnaces and ore deposits that were coveted by the Patriots. Company property was also typically classified as Absentee property and, since it belonged to the company, was also considered a shared holding. Property belonging to companies such as Cunningham, Findley, and Company, Spiers, Mackie, and Company, and the Nottingham Company owned by James Russell were confiscated.⁵⁵ The property seized from these British companies indicates a great shift in the identity and perception of the economic structure in Maryland. In seizing the property

⁵⁴ Brown, *The King's Friends*, 165-175.

⁵⁵ Overfield, "Loyalists of Maryland," 359. Also specifically the law identified these men and there companies, they were significant estates in Maryland and held profitable companies that could help pay back the debt in Maryland.

of large British companies in Maryland, the Commissioners identified the importance of creating an economy built and run by Maryland citizens. The property was extraordinarily valuable and profitable. In selling the property belonging to British companies, Maryland began to create an economic structure independent of the British identity, thus transitioning from British economic outpost to a separate state with businesses controlled by the Maryland citizens. British Company property was indeed coveted by the elite in Maryland. Speculators and elites such as Samuel Chase, General Mordecai Gist, David Poe, and John McClure eagerly bought the holdings of these companies when they became available.⁵⁶

Absentee company held property was the first property identified and its sale was designed to generate immediate revenue for Maryland. On March 10, 1781 the Commissioners issued the first advertisement for the sale of British property in the Baltimore and Annapolis newspapers. The ad was for the property that belonged to James Brown and Company; Mackie, Spiers, and Company; Mackie, Spiers, French and Company; and James Christie, John Buchanan, John Glasford and Company. The Companies, typically ironworks, were all owned by absentees and thus their valuable property was among the first sold. The Commissioners sale book recorded the property sold at auction on April 4, 1781 for a total of 19,000 pounds.⁵⁷

The auction of all confiscated property commenced on April 4, 1781 and the final sale of property under the Commissioners continued until November 26, 1785. British property confiscation in 1781 was designed to generate quick revenue for the state. The Commissioners took and auctioned perishable property first, and sold it for

⁵⁶ Sale Book and Ledger of the Commissioners, pages 7-8, Maryland State Archives.

⁵⁷ Ledger and Journal, 6; Sale book p 1.

immediate revenue. On March 17, 1781 the Commissioners took possession and inventoried the property that belonged to Principio Company lying in Anne Arundel, Baltimore, and Harford Counties. The Principio Company was of particular interest because of the amount of land, and the company was privy to great iron forges. The Principio Company also owned Kingsbury Furnace Company with nearly 15,000 acres of land and 45 African American slaves. The Commissioners also recorded the furnaces on the property, gristmills, and tools owned by the Principio Company at the Kingsbury Furnace Company.⁵⁸

In buying this coveted British property the elite not only gained financial advantages in the state, but also allowed for Maryland's economic structure to become independent of British controlled companies. Property was still confiscated in 1783, 1784, and 1785 but the greatest amount of surveying and auctioning occurred in 1781 and 1782.⁵⁹ Furthermore, British Company owned property was an easily identifiable type of property. There was no question as to the ownership of the property and it was easily seized by the Commissioners. Absentee Company property was confiscated until 1785 in Maryland although the lots and amounts confiscated greatly decreased.⁶⁰

⁵⁸ Ledger and Journal, 9-11.

⁵⁹ The record supports this for the commissioners' ledger on exists for 1781 and 1782. After that, the commissioners records lie in the sale book and in the commissioners were subordinated to the Intendant of Revenue. The records for British property confiscation are best in the early years, and by 1784 the Intendant of the revenue assumed the commissioners duties, and the sale of confiscated British property tapered off significantly.

⁶⁰ Another group easily targeted as known British subjects was the personal property, both land and belongings, which belonged to the owners of the British Companies. The Commissioners recorded these men held property separate from the Nottingham Company,

The Commissioners next seized the property belonging to elite Loyalists. Between 1781 and 1785 the Commissioners sale book has 100 entries of property being sold; 24 of the entries belonged to company owned property and 76 of the entries belonged to individuals. Among the 76 individual entries, it was divided among approximately 25 people. The property sold from these individual British subjects typically consisted of large holdings of personal property or large estates often identified by their estate or manor name. Typically this valuable and easily identifiable property was located in desirable areas, such as forges, and contained valuable assets such as gristmills.⁶¹ Furthermore, elaborate dwelling houses, chattel, slaves, personal belongings, and large pieces of property were confiscated and sold for revenue. The men identified in the sale book of the Commissioners were the most elite of Maryland's Loyalist and absentee population and this is reflected in the quantity, quality, and revenue in the historical record. British property confiscation, then, followed a pattern.

separate from the company property. Together their personal estates totaled over 12,000 acres and combined the men possessed 161 slaves. This is found in the Commissioners Ledgers and Sale Books.

⁶¹ Sale book, 1-69. The record isn't entirely clear if some of the property was personal property or company property listed under the names of men. Men identified clearly by the record as having their personal property sold are James Christie, Ebenezer Mackie, Robert Christie, James Buchanan, Daniel Dulany son of Daniel, Daniel Dulany son of Walter, William Smith, Henry Harford, Henry Addison, Henry Stevenson, Lloyd Dulany, Alexander Hamilton, Alexander Richardson, Matthias Gale, Jonathan Boucher, Sherbourne Steward, John Frost, Joseph Richardson, James Nussel, Nathaniel Richardson, Robert Alexander, and John Lynch.

Absentee property, like the absentee British companies, proved to be easily identifiable and highly lucrative for Maryland legislature. The first plots personal property sold were manors belonging to James Christie Jr., Ebenezer Mackie, James Christie, and Robert Christie sold on April 4, 1781 for 6780 pounds total.⁶² Lord Baltimore, Henry Harford, who remained a loyal British subject, possessed the largest land holdings in the Ledger and Sale Book of the Commissioners with eighteen entries. Harford's land sold for approximately 74,000 pounds.⁶³ His property included valuable manors lying throughout Maryland. His manors, known as Beaverdam Manor and Chaptico Manor, in St. Mary's County were sold in September of 1781.⁶⁴ Additional property lying in Charles County and St Mary's County was auctioned by the state in 1781 and 1782. Henry Harford's total British Property was a great source of revenue for the Commissioners and was valued at more than 43,000 pounds. Lord Baltimore provided a fine source of revenue for the state and his property amounted to the greatest total sold for an individual.⁶⁵

⁶² Sale book, 1.

⁶³ Some of Henry Harford's land holdings in the record are unclear; as to what of Harford's holdings were purely his or company holdings. The Commissioners ledger never mentions a Henry Harford, and only lists his property by descriptive names such as Beaverdam or Chaptico Manors. The sale book identified Henry Harford as the owner, and in one instance Chaptico Manor as an "iron works." It is unclear if Harford owned the land and leased it to companies. Therefore, Henry Harford is being placed under the category of individual British property holdings though he had some type of connection with the British companies.

⁶⁴ Ledger and Journal 67,92, Sale book 10-13. The two sold together for 13, 894 pounds.

⁶⁵ Ledger and Journal, 60; Sale book, 21, 27-28, 32, 68. Commissioners Clement Holding seized Harford's land known as Calverton Manor in Charles County of about 200 acres on July 14th. That land was sold on October 13, 1781 for 7301 pounds. Harford's Queen Anne Manor sold for 12,357 pounds in January 1782, Nanticoke Manor sold for 9,110 pounds in

The Commissioners also targeted the Dulany family for they owned a great deal of land in Maryland. The Dulany's also provided a unique challenge for they were a divided family comprised of both Loyalists and Patriots with long history of political influence in Maryland.⁶⁶ Therefore, the Commissioners carefully sought out land from primarily two members of the Dulany family who were known British subjects, Daniel Dulany son of Daniel and Daniel Dulany son of Walter. Daniel Dulany son of Daniel had both his real and personal property seized and auctioned by the Commissioners in 1781 and 1782.⁶⁷ His personal property was inventoried by the Commissioners in addition to his many land holdings in June of 1781. His personal property consisted of over 100 items included tables, trunks, chest of drawers, kitchen utensils, and books. On an auction in Annapolis on July 19, 1781 these items were purchased and sold for 115 pounds. It was sold in an itemized accounted to whoever came to the auction. His items, such as pewter plates, dishes, and bureaus were sold and paid for that day. The property of Daniel Dulany produced great revenue for the Commissioners.

January 1782, and Kent Manor in February 1782 sold for 5, 927 pounds. Harford had additional property sold in August and September of 1785, his Monocacy Manor and My Lady's Manor together sold for 133 pounds

⁶⁶ For additional information on the Dulany family and their political influence in Maryland see Robert McCluer Calhoun's *The Loyalists in Revolutionary America* in Chapter 11 in pages 135-146.

⁶⁷ In the Dulany family there are two Daniel Dulany's who were both loyalists in Maryland. Historical record indentifies the two by whom their father was. Therefore there is Daniel Dulany son of Daniel and a Daniel Dulany son of Walter. Cite the books written on the Dulany family. Also mention Dulany family divided, mentioned in Wallace Brown the Kings Friends.

The possessions of the elite, such as Daniel Dulany, provide a means for understanding the type revenue generated by the Commissioners and a means for understanding the severity of having property confiscated. Cornelius Mills purchased the 2 maps Daniel Dulany possessed and William Bigger purchased 32 books from his personal collection. Every belonging of Daniel Dulany was accounted for by the Commissioners and sold at the public auction. John Shaw, for example, bought a stove hearth, coffee roaster, and inkstand for a less than a pound. Elite British subjects in Maryland forfeited all rights to personal possessions because of their allegiance to the King, and Maryland profited from this.⁶⁸

Daniel Dulany of Daniel also held substantial amounts of land in the state of Maryland. The sale of his personal belongings and acreage called Tasker's Chance amounted to 55,215 pounds on October 10, 1781. The sale of Tasker's Chance on October 25th resulted in 7,505 pounds of revenue.⁶⁹ Daniel Dulany son of Daniel also held property in western Maryland, amounting to nearly 7,152 acres of land in Frederick County that included two brick houses with "substantial improvements." That property sold and included the homes in August of 1782 for a total of 515 pounds.⁷⁰ In total the confiscated British Property of Daniel Dulany son of Daniel generated a revenue over 67,000 pounds. His personal holdings were secondary only to Henry Harford, Lord Baltimore, for the greatest revenue generated from the sale of property.

⁶⁸ Ledger and Journal, 93-96.

⁶⁹ Sale book, 17-19, 22.

⁷⁰ Ledger and Journal 111; Sale book, 47-48.

Furthermore, the property belonging to Daniel Dulany son of Walter was also confiscated. He held property lying in Baltimore County, Annapolis, and 2500 acres of land in Montgomery County of the “best quality.”⁷¹ His property sold in three separate auctions for 345 pounds, 9,044 pounds, 4,272 pounds, and his combined revenue for the Commissioners was 13, 810 pounds in 1781 and 1785.⁷² A final member of the Dulany family had property confiscated by the Commissioners; absentee but confirmed Loyalist Lloyd Dulany. Lloyd Dulany had personal property confiscated in 1782 consisting of slaves, chattel, books, furniture, and tea. His personal property generated 3,977 pounds of revenue at the auction. Lloyd Dulany also had some property confiscated in Kent County, including two brick homes, amounted to an additional 6,000 pounds at the auctions held by the Commissioners.⁷³ The combined total of confiscated British property coming from the Dulany family was nearly 91,000 pounds at auction. The property belonging to the absentee Loyalist members of the Dulany family accounted for nearly one fifth of the revenue recorded in the sale book for confiscated British property.

British supporters including Anglican clergymen, members of the British military, and royal officeholders were another group of absentees easily identified by the Commissioners. Under the law, these men forfeited the right to own property in the state for they supported the King, actively resisted by serving in the British

⁷¹ Ledger and Journal, 108, 111.

⁷² Sale book, 7, 22, 67.

⁷³ Sale book, 35-36, 39-44, 53, 59. Lloyd Dulany is not in the Commissioners Ledger and Journal, and the only descriptions of his property are in the sale book. Additional information on Jonathan Boucher and his Loyalist ties can be found in Robert Calhoon’s *The Loyalists in Revolutionary America*.

military regiments, or had fled to serve the King and his church in England. In first exploring Anglican clergymen who fled the state, the two examples are Reverend Jonathan Boucher and Reverend Henry Addison. Reverend Jonathan Boucher was also among the first group of men who had property confiscated. In July 1781 Boucher's, a leading Anglican minister who fled Maryland in 1775, land and slaves were confiscated and appropriated by the Commissioners in Prince George's County. His land and personal property was sold at auction in May 1782 for 6,393 pounds.⁷⁴ Reverend Henry Addison's property was confiscated and sold for approximately 2,000 pounds in 1781 and 1782. Addison held 285 acres of land in Frederick County, and this land was known in two holdings by the titles Friendship and Addison's Choice.⁷⁵ The Commissioners felt they had clear authority to confiscate and sell the property of Anglican clergymen who fled the state.

Next the members of the Maryland Loyalist Regiment faced property confiscation. These men actively engaged in the Royal military forces and their undeniable support subjected them to great property confiscation. The Maryland Loyalist Regiment, had property confiscated by the Commissioners in 1781 through 1784. Composed primarily of colonists from the Eastern Shore of Maryland, it was commissioned in 1777 as "The First Battalion of Maryland Loyalists," clearly treasonous group. The Regiment never fought in Maryland, serving in Florida,

⁷⁴ Ledger and Journal, 82; Sale book, 38; Hoffman, *A Spirit of Dissension*, 118-120, 123.

⁷⁵ Ledger and Journal, 111-112; Sale book 22, 45.

fighting the Spanish in the fall of 1778. The Maryland Loyalists then fought in New York, the command center for British forces in the war.⁷⁶

In the meantime, the Maryland legislature identified those serving in the Regiment and outlawed these men for treason. Consequently the property of these men was seized. Regiment Commander Alexander Hamilton held property in both Dorchester and Caroline Counties. The property amounted to 470 acres of land in Caroline County, 37 acres of land in Dorchester County, an additional 232 acres in tracts known as Hayward and 1 slave. All of this property was valued at 691 pounds and was left in the possession of Charles Blair. There is an additional record of Alexander Hamilton possessing 516 acres of land in Caroline County. Maryland Loyalist James Russell had personal property as well. Russell and Hamilton's property was inventoried and seized by the Commissioners on May 12, 1781 for they did not make any efforts to conceal it.⁷⁷ The General Court of the Western Shore outlawed General Robert Alexander for treason in 1780. Alexander actively resisted the state and served in the Maryland Loyalist Regiment, but his property was not easily seized. Alexander's property in Cecil County was left in the possession of his wife Isabella Alexander for a bond of 5,000 pounds. The estate amounted to 900 acres and 22 slaves.⁷⁸ Additional larger personal holdings of Robert Alexander were

⁷⁶ M. Christopher New, *Maryland Loyalists of the American Revolution*, (Tidewater Publishers: Centreville, MD, 1996).

⁷⁷ Ledger and Journal, 47-52.

⁷⁸ Ledger and Journal, 3,33-35.

reported on April 27, 1781. His personal library was recorded and taken into possession by the Commissioners and sold on June 6, 1783 for 108 pounds.⁷⁹

Henry Stevenson, also serving in the Maryland Loyalist Regiment, owned property in Baltimore and Harford Counties that was confiscated on April 20, 1781. His goods and chattel were valued at 105 pounds, he held nine slaves, and he owned almost 400 acres of property. The Commissioners left the property, not inventoried, in the possession of William Smith until the Commissioners decided to sell the property.⁸⁰ The records of the Commissioners indicate that the larger landholdings of the wealthiest Loyalists received the most interest in the record. Henry Stevenson's real and personal property sold for nearly 3,500 pounds in two separate auctions.⁸¹

The Patriot authorities were confronted with efforts of Loyalist property holders to protect their property from confiscation and sale. In actuality, the Patriots and the Commissioners identified far more Loyalist property than they actually confiscated. The protection of property was an elaborate process for the Loyalists recognized that the Patriots would attempt to seize property during the American Revolution. Furthermore, the Commissioners recognized that a wife has an interest in her husband's property. This "paradox of women's citizenship," as phrased and

⁷⁹ Ledger and Journal, 45-46; Sale book, 59.

⁸⁰ Ledger and Journal, 41-43. Additional property of Dr. Henry Stevenson was found in Baltimore County and revealed Stevenson left in the possession of John Porter, containing 203 acres of land in Bleachinhurst, 83 acres in Collick Moor, 28 acres in Cades, 83 acres in Edward's Garden sport, and 99 acres in Timber Grove. Also left in possession to John Porter were Henry Stevenson's 12 slaves, 360 bushels of Indian corn, and miscellaneous plows and farming utensils.

⁸¹ Sale book, 60.

elaborated by Linda Kerber, recognized the legal right of women to claim ownership of husband's property if it had been confiscated because he was a British officer.⁸² Richard Button's and Anthony Bacon's wives successfully claimed right to their husband's confiscated property. The Commissioners took British subject Richard Button's property into possession on March 20, 1781. He owned an estate at the Point of Baltimore comprised of a two-story brick house, two-story wooden house, a brick tenement, a wharf and brick warehouse, and brick storeroom. The record also detailed Button had five slaves and his personal possessions such as furniture and china. Button's property was inventoried and left with his wife Margaret Button after a security sum of 10,000 pound was paid.⁸³ Commissioner Hollyday recorded the property of British subject Anthony Bacon in Worcester County. Bacon held 1000 acres of land valued at 500 pounds. His property was left in the care of his wife, and was never confiscated or sold.⁸⁴ Button and Bacon's wives appear to have been able to hold onto the property of their British subject husbands. Both women maintained possession of the property and this suggests the Commissioners recognized a wife's interest in marital property subject to confiscation.

In addition to wives, other family members claimed an interest in Loyalist property. For example, the Robert family held onto the property of her Loyalist brother. Robert Campbell, a known British subject, owned a house and lot in Charlestown. His sister, Mary Crudington, gave a description of his property to the Commissioners in June of

⁸² Linda Kerber, "The Paradox of Women's Citizenship in the Early Republic: The Case of *Martin vs. Massachusetts, 1805*" *American Historical Review* 97 (April, 1992): 349-372.

⁸³ Ledger and Journal, 14-16. ; Executive Misc, February 18, 1782, Maryland State Archives; Hanson's Laws, Vol 203, p. 270.

⁸⁴ Ledger and Journal, 48.

1781. Crudington lived on the property and was allowed to remain on the property as long she kept it from “damage or destruction.”⁸⁵ The property of Robert Campbell is absent from the sale book, indicating that neither holdings of Robert Campbell were auctioned publicly or sold.

Estates were confiscated and left in the care of loyal Maryland citizens assigned by the Commissioners, but the Commissioners never publicly auctioned the property. It is unclear what, if any, revenue was ever collected from identified but unsold lands. The Commissioners took in smaller estates. They recorded the confiscation of a house belonging to John Lynch, but do not mention if it was sold. The property of William Smith, outlawed for treason, was inventoried and left in the possession of Thomas Worthington for the sum of 10 pounds per month.⁸⁶ John Robert’s property was also inventoried. Roberts was actually a subject of Pennsylvania with property in Maryland who was executed for treason. He owned property in Cecil County amounting to 1364 acres and included 16 slaves. The property was left in the care of Thomas May who agreed to maintain the condition of the property for the Commissioners until a later date.⁸⁷ The property belonging to British subject Thomas Blade was also seized and left in the possession of Dr. James Craik.⁸⁸

In Somerset County in February 1782 the Commissioners inventoried the property belonging to British subject John Henry Carey. Carey was in possession of 8

⁸⁵ Ledger and Journal, 72.

⁸⁶ Ledger and Journal, 30-31.

⁸⁷ Ledger and Journal, 33-35.

⁸⁸ Ledger and Journal, 56.

slaves, 9 head of cattle, 8 head of sheep, and an extensive listing of household furnishings. A tract of land of 2,372 acres also belonged to the Carey. Carey's property, real and personal, was inventoried and left in the care of Robert Banks for a security bond with the understanding that Banks was to keep to property in the same condition and could produce the property to the Commissioners.⁸⁹ Carey's property was identified, seized, and accounted for by the Commissioners and left in the possession of a loyal citizen.

A substantial amount of Loyalist property was identified and seized by the Commissioners, but never sold. The records of the Commissioners identify land, personal property, and slaves belonging to Loyalists but there is no record of collection of payment. The Commissioner noted Loyalist John Bale had property. The property, in Queen Anne's County, was never sold, but taken from his heirs. The Commissioners left no other record or deed for the land.⁹⁰ Likewise the Commissioners took into possession 7 slaves belonging to Darby and John Morton Jordan of Annapolis. The slaves, described as a man Samson, women Mary and Nanny, and 4 children, belonged to these "known British subjects" were seized, but were never sold publicly in an auction nor were they recorded in sale book.⁹¹

The Commissioners, then, controlled far more property than they actually sold. By allowing wives and family members to maintain possession of Loyalist property and by also leaving property in care of Patriots, the Commissioners did not succeed in generating great revenue for the state. In reality the Commissioners were

⁸⁹ Ledger and Journal, 172. It is unclear if Robert Banks ever paid the bond.

⁹⁰ Ledger and Journal, 70.

⁹¹ Ledger and Journal, 81.

more successful in identifying Loyalist holdings and, in return, did not generate revenue for the state. The loyalty of these men was not an issue for the Commissioners, and there was no question they were not given any rights under the Declaration of Right. The Commissioners, despite the absolute certainty of the status of these men, did not sell their property. The property was left in the possession of loyal Maryland citizens, and some paid bonds. Furthermore, the Commissioners had limited power in the task of confiscation and the task often overwhelmed the three men.

The Commissioners, facing complications in selling confiscated property, appealed to the legislature for additional legislation. In addition to claims from wives and family members, creditors claimed an interest in confiscated property and successfully challenged sales. In 1781 and 1782 the Commissioners approached the Maryland legislature about the problems plaguing the confiscation of British property. In May 1781 the Commissioners wrote to the General Assembly of Maryland of their progress and difficulty in confiscating British property. The Commissioners report obtaining information of “estates both real and personal” and, at this time, were unable to “furnish the legislature with a perfect account.” The Commissioners reported they met difficulties in determining the nature of the claims that had been brought forward concerning British property. Many of the claims brought forward on British property were “founded on fraud and collusion.” Allegations arose, declaring Loyalist land was indebted, that the land had been sold, and overall ownership was contested. The Commissioners declared they would

continue to confiscate and inventory property to the best of their ability.⁹² The Commissioners were met with claims over property and encountered problems in determining the location and ownership of property. However, the Commissioners lacked the authority to successfully confiscate and sell all Loyalist property.

The Commissioners again addressed the General Assembly the following year about the continuing difficulties in confiscating British property. The Commissioners cited three major impediments in the confiscation process. One, they had no authority or power to have people “discover or deliver” British property they may possess. The Commissioners believed a “considerable amount of property in the state was under concealment.” Secondly, the Commissioners determined that even after selling property they did not have the authority to enforce payment. Auctioned property was therefore unsettled and the proceeds of sold property had not been paid in full. Finally, the Commissioners were still unclear as to what property belonged to British subjects or to Maryland citizens. Maryland citizens wrote the Commissioners claiming they possessed an interest in property that had been seized, and the Commissioners were not able to determine who owned what property or if debts were owed on the property.⁹³

A second problem plaguing the Commissioners was fraudulent property transfer by Loyalists. The Confiscation Act of 1780, section XIII, anticipated this problem by declaring that any gift, grant, sale, devise, or conveyance of property made by any British subject since December 1, 1779 “shall be taken to be fraudulent and void in law and equity” unless it upheld a previous contract or debt. At the same

⁹² Ledger and Journal, 66-67.

⁹³ Ledger and Journal, 197-198.

time, the legislature sought to protect legitimate debt owed by Loyalists to Maryland citizens.⁹⁴ The law recognized attempts would be made to thwart the confiscation process. Despite the law, individuals succeeded in preventing land from be confiscated and sold through transference of property.

Perhaps the most egregious examples of the difficulties facing the Commissioners concerned two captains of the Maryland Loyalist Regiments. Despite the unambiguous terms of the Confiscation Act of 1780, they were able to protect their property against confiscation through inter-family transfer.⁹⁵ Patrick Kennedy, who fled to Canada after having fought in the Maryland Loyalist Regiment, had a niece who claimed Kennedy's property had been given to her and husband before Kennedy left Maryland in September 1777, but the "deed was lost." This claim was rejected. Next, Kennedy's wife successfully petitioned the General Assembly and said the property belonged to her and not her husband. Furthermore, the property

⁹⁴ Hanson's Laws of Maryland, Vol. 203, p. 272.

⁹⁵ It appears from record that no other Captain was able to keep family land. The property of Captain Grafton Dulany was transferred because he died during the War; therefore, I am not considering his property as one of the two instance of where land remained in family. For additional on the Dulany land claims see Peter Wilson Coldham, *American Loyalist Claims Vol I Abstracted from the Public Record Office Audit Series 13 Bundles 1-35, 37*, (Washington DC: National Genealogical Society, 1980), 133. For general information of the Dulany family during the American Revolution see Aubrey C. Land, *The Dulany's of Maryland: A biographical study of Daniel Dulany, the elder (1685-1743) and Daniel Dulany, the younger (1772-1797)*, (Baltimore: Maryland Historical Society, 1955).

would only be transferred to her husband upon her death. The court agreed with Kennedy's wife and she was able to keep the property.⁹⁶

Philip Barton Key, the uncle of the future author of the Star Spangled Banner, successfully challenged the Confiscation Act of 1780. Key served as a British military officer in Florida until he was captured by the Spanish, he resided in Great Britain briefly, and then returned to Maryland. Although Key returned in 1785 as a dismissed officer receiving a half-pay pension from the British government his property was not seized. Rather, he sold his property and collected a profit. A land deed dated March 3, 1785 reveals that Philip Barton Key sold land to his brother John Ross Key. The deed, which lays out the tract or parcel of land of four hundred and twenty acres, states that Philip Barton Key sold the land to his brother for two thousand pounds. Both men signed the document, purely to sell the land to keep it within the "heirs" of the family "for no other intent of use whatsoever." Key did not reside on the property upon his return in 1785, and the property was transferred to his brother.⁹⁷ The wording of the document suggests that Key avoided the law by not

⁹⁶ Maryland House of Delegations, Votes and Proceedings, May Session 1781, p. 130-131; Maryland House of Delegations, Votes and Proceedings, April Session, 1782, p. 136-139. Kennedy is also mentioned on Overfield's work on p. 347 although he does not follow through and examine the claims of Kennedy's wife. Overfield does however provide an extensive analysis of his confiscated British property as used to pay debts. In Chapter VII: Confiscation provides useful information on how the state paid debts with the confiscated property during and after the American Revolution.

⁹⁷ Sale of Land Document, Vertical File (VF) March 3, 1785 – Key, Philip Barton and John Ross Key, Maryland Historical Society. Upon his return Philip Barton Key resided in a dwelling in Annapolis and later in Georgetown. He never returned to his property, but his

giving up his land and selling it to his brother but requested his brother keep it within the family. This suggests that Key, like Kennedy, sought to avoid confiscation of his property by having another family keep the property.

The legislature also built exceptions into the laws. The Confiscation Act in 1780 exempted former Governor Horatio Sharpe from confiscation if he returned in March 1782 or he forfeited the right to own property. The law essentially gave Sharpe the choice to claim allegiance or forfeit his property. John Ridout, an acquaintance of Sharpe, lived on Sharpe's land in Annapolis during the American Revolution to watch over his property until Sharpe's return. Sharpe did not return and instead of turning the property over the Commissioners, Ridout sold the property to Benjamin Ogle. Ogle took all the property, both real and personal, and created deeds declaring the property belonged to Ridout. According to the deeds Ridout was to pay Sharpe for the property after the conclusion of the American Revolution. Ridout then held the estate for Sharpe on a 15,000 pounds sterling bond that could be transferred to Sharpe.⁹⁸ John Ridout, a Maryland citizen, aided his British friend Sharpe and therefore deprived the Commissioners and the state of Sharpe's valuable property. The examples of Sharpe, Key, and Kennedy all illustrate fraudulent acts that violated British property confiscation. The concerns of the Commissioners were indeed valid,

property was never confiscated as being British despite Key's service in the Maryland Loyalist Regiment.

⁹⁸ Overfield, "The Loyalists of Maryland," 346; Bond of John Ridout to Horatio Sharpe June 22, 1782 in the Ridout papers, Maryland State Archives. There is no clear record of when Ridout began living on Horatio Sharpe's property. This historical record states his residency began during the American Revolution.

and fraudulent claims and transferences did hinder the success of the sale of confiscated property.

Other property British property was transferred and sold, but the transference did not necessarily violate the law for it was done by the Commissioners. The Commissioners also seized and inventoried the property belonging to former Royal Governor Robert Eden on May 17, 1781. The Commissioners transferred the property to the new Governor Thomas Sim Lee. Eden's "commodious dwelling house" had valuable improvements. The items formerly belonging to Eden, now in possession of Sim Lee, were listed and numbered by each room in the house. For example, Sir Robert Eden's Bed room held a 4 post bedstead, divinity window curtains, feather bed with bolster and pillows, large mattress, mahogany night table, large chair, French commode table, bookcase and drawers, tin finder, a pair of tin dogs, shovels and tongs, 2 chairs, and looking glass.⁹⁹ Instead of selling the British property of the former Royal Governor, the commissioners chose to transfer the land and personal property to the new Maryland Governor. The property was government property held in trust and was utilized for the governor of the state. This transference indicates the desire of the Commissioners to take care of government property. This was not necessarily a violation of the law, the British property was confiscated; rather, this indicates the Commissioners also had a vested interest in protecting the elite in Maryland. The property was eventually restored to Eden.

The confiscation of British property was not a perfect process, and the historical record highlights the flaws. For one, the Commissioners did have some

⁹⁹ Ledger and Journal, 57-63.

problems in identification of British subjects. The Declaration of Right employed vague terms of man, person, and inhabitant when referring to the right to own property. If the Commissioners could not firmly establish property was owned by a British subject, they could not confiscate and sell the property of a man, person, or inhabitant. A second problem facing the Commissioners was fraudulent claims. The Commissioners were cognizant that people would attempt to circumvent law and attempt to hide or illegally claim British property. While the Commissioners and the Maryland legislature attempted to foresee fraudulent claims, the Commissioners still encountered them and some British property was not confiscated and sold. A third challenge was associated with a wife's legitimate interest in marital property. Several estates of known British subjects were left in the care of wives and never sold. Other estates were confiscated and left in the care of loyal Maryland citizens, but the Commissioners never publicly auctioned the property. It is unclear if revenue was ever collected from identified but unsold lands. These three problems plagued the overall success of the Commissioners.

II. Treatment of Nonjurors

The Maryland Patriots had to deal with another group of people who refused to actively support the Revolution, the nonjurors. The nonjurors claimed neutrality during Revolution, but they refused to swear allegiance to the Patriot cause. Some justified this refusal on religious grounds, such as the other Quakers and other evangelical Christians, and others refused for personal reasons. As a punishment for refusal of allegiance, the Maryland legislature imposed a treble tax on nonjurors and fined them if they refused to serve in the militia. The impact of this policy is evident

from the complaints articulated in the Quaker meetings during the American Revolution.¹⁰⁰

The treatment of Nonjurors was also an imperfect process. The Patriots actively identified and punished Nonjurors. Beginning in 1777, individual members of the Quaker community reported on the burden of the treble tax. Bringing their evidence to the yearly meetings, men from all parts of Maryland reported on the impact of the punitive laws. The additional tax burden fell heavily on the working farmers. William Hayward paid his tax by forfeiting a mare and calf worth 18 pounds. The Patriots took Joseph Scott's livestock, 3 cows, and a trained servant, a blacksmith, in order to pay the 35 pounds owed. Fourteen other Quaker men reported personal property and livestock was taken in order to pay the treble tax. As a result of neutrality, mares, cows, sheep, and colts were ruthlessly seized in order to pay the fines. Those who did not have livestock, such as William Brown, paid the fines with their personal possessions. A blanket, table, dough trough, and 4 chairs were taken to pay his fine. In April 1777 the Patriots fined and collected 155 pounds worth of personal property and livestock.¹⁰¹ The purpose of the treble tax was to punish the neutrality of the Quaker population rather than generate significant amounts of revenue.

¹⁰⁰ The laws mentioned are found in Hanson's Laws of Maryland Volume 203 in the 1777 "Better Security Act" and the 1780 "An Act Concerning Nonjurors."

¹⁰¹ Quakers Yearly Meeting for Sufferings, page 8, Quaker Records, Maryland State Archives. Hereafter cited as the Quakers Yearly Meeting for Sufferings. Some of the citations include the page number when available. When the page number for the Quakers Yearly Meeting Records is not available, the date of the record is cited.

Throughout the course of the American Revolution the Quakers continued to record how the treble tax affected their lives. In 1779 an account of the sufferings of friends of the Western Quarter of Maryland cited 96 pounds of property seized from several members.¹⁰² Over the years payment of the treble tax did not let up and enforcement remained. In 1778 the Patriots took John Wilson's 15 sheep, John Maulsby's 2 young cattle, and William Matthew's cows as payment of the treble tax. In October 1779 5 men gave up property in order to pay the treble tax. Benjamin Powell's 2 horses paid his tax and were valued at 26 pounds. Richard Belt paid his tax with one mare valued at 9 pounds. A. Thompson's steer worth 5 pounds paid his treble tax and John Smith's 3 hogs paid his 15 pounds treble tax. In November 1779 John Hopkins, Thomas Pearson, Joseph Hopkins, and Elisha Hopkins again paid the treble tax. The record does not indicate how they paid the treble tax in November 1779; however this time the total paid was 103 pounds.¹⁰³ In 1779 the Quaker men in the Western Quarter of Maryland paid over 200 pounds to the Patriot legislature.

The Quaker men in the Eastern Quarter of Maryland also experienced similar confiscation of livestock and personal property. In 1779 the Patriot legislature collected 361 pounds of property in payment for the treble tax. James Edmiston paid his fine differently, giving away spools of "valued" thread. John Cowe paid 50 pounds for the treble tax and forfeited 2 young mares. The Patriots also fined Cowe for his refusal to serve in the militia, and he paid his fine along with the treble tax. In Kent County, Quaker James Maslin also paid the treble tax and was fined for refusing

¹⁰² Quakers Yearly Meeting for Sufferings, 10. The combined revenue collected from Quaker taxes paled in comparison to the revenue generated from the sale of the large British estates.

¹⁰³ Quakers Yearly Meeting for Sufferings, 10-11.

to serve in the militia. The Patriots seized 2 young mares and a heifer from Maslin.¹⁰⁴ Property was taken from James Parr, John Mason, William Amos, Benjamin Howard, and Job Spencer for refusal to join the militia. Their combined seized property was valued at 86 pounds. The fines for refusal to join the militia were another method of identifying how the Quaker population differentiated from the loyal Maryland citizens. Their refusal to join, despite being religiously founded, was seen as a punishable offense by the Patriots. The treble tax was not necessarily about generating vast amounts of revenue. In fact, the tax was a combination of financing the war effort and also reflected a longstanding resentment towards religious groups such as the Quakers.¹⁰⁵

Despite the overwhelming efforts of the Patriots to enforce the treble tax and fine men for not serving in the militia, the Quaker population did not willingly pay the tax they viewed as burdensome and they actively fought its enforcement. In the year following the passing of the Act for Better Security the Quakers actively petitioned for relief. The Quakers utilization of this right to petition, even as nonjurors, suggests they still had access to some of the rights associated with citizenship. Petition became the primary political right utilized by the Quakers in Maryland during the American Revolution and their only means for addressing the Maryland legislature.¹⁰⁶ Beginning in September 1778 the Quakers petitioned the Patriot controlled Maryland General Assembly. Following the Quakers yearly

¹⁰⁴ Quakers Yearly Meeting for Sufferings, 12-14.

¹⁰⁵ Quaker Yearly Meeting for Sufferings, 10-11. Information on religious quarrels in Maryland is found in Ronald Hoffman's *A Spirit of Dissension*.

¹⁰⁶ Quaker Yearly Meeting for Sufferings, November 9, 1778

meeting, they sent a petition to the Patriots controlling the house. The Quakers wrote to the Maryland General Assembly about their “suffering situation.” The treble tax burdened their community and the Quakers wrote of their fear of the fines.

Furthermore, they asked the legislature to reconsider requiring Quaker men to sign the oath of affirmation. The refusal to sign the oaths of affirmation resulted in some Quakers being imprisoned, and this petition pleaded for the Patriots to release their “friends.” Finally, the Quakers begged the General Assembly to consider the petition and redress all of their grievances. Over twenty Quaker men signed the petition, but the Maryland General Assembly ignored their pleas.¹⁰⁷

In November 1778 the Quakers again petitioned the Maryland General Assembly; however, the Maryland legislature again ignored their grievances. In November 1779 the Quakers again presented the Maryland General Assembly with a similar petition. Their quest for relief from the “suffering situation” continued to be ignored.¹⁰⁸ The Patriots did respond, however, to individual requests from Quaker nonjurors. Between 1779 and 1780 some individuals who brought grievances to the Patriots in the legislature succeeded in being relieved of their fines.¹⁰⁹ Although the stance of the Maryland legislature against neutrality began to slowly crumble in regards to individual petition, the Patriots controlling the legislature were not willingly to completely forgive the Quakers for their neutrality. Throughout the

¹⁰⁷ Quaker Yearly Meeting for Sufferings, 1778.

¹⁰⁸ Quaker Yearly Meeting for Sufferings, November 1779, May 1780.

¹⁰⁹ The Maryland legislature granted exceptions to the treble tax on a case-by-case basis. Individuals brought forth their particular issues the Houses while in session. For examples of the exemptions from the treble taxes see Hanson’s *Laws of Maryland*, Vol. 203 in the years 1781 and 1782.

American Revolution the Patriots struggled with the problem of the Quakers and debated what was the proper course of action for this neutral faction.

Over time the House Delegates believed the Quakers were not as dangerous as the Loyalists, but their lack of allegiance needed to be punished. During a period of crisis and Revolution, Maryland legislatures felt a need to only have loyal inhabitants in the state. Moreover, the Patriots in the legislature feared the potential ramifications if they relaxed the laws for nonjurors. If the Maryland legislature decided to tolerate the nonjurors, they feared they would appear lenient on the issue of loyalty.

Therefore, the Maryland General Assembly continued to deny the requests and the petitions presented on behalf of the Quaker Yearly Meetings.¹¹⁰ In spite of this, the Quakers decided that they would approach the General Assembly again in 1779 for their sufferings, and included a copy of the livestock and personal belongings seized to pay the tax. The petition asked the Maryland legislature to consider their criteria for passing this judgment on those who did not wish to associate with the war.¹¹¹

Despite this additional plea, the Patriots in the Maryland legislature remained firm. The treble tax continued to be enforced and the Quakers continued to suffer.

In 1780 the Maryland legislature passed an additional law enforcing the treble tax and used the tax to fund the war effort. If anything, the Maryland legislature mocked the religious beliefs of the nonjurors by using their money to fund a war they refused to support. The nonjurors continued to be taxed for their neglect “to take the

¹¹⁰ Maryland State Votes and proceedings, November 1781, Maryland State Archives, 54-56. The specific laws can be found in Hanson’s Laws of Maryland for 1781 in Volume 203.

¹¹¹ Quakers Yearly Meeting for Sufferings, 15.

oath or affirmation required by the act for the better security of the government.”¹¹²

This new law varied from the others for the Patriots determined the revenue generated from nonjurors would be used entirely to raise supplies for the Maryland militia. The Patriots in the legislature fined the nonjurors for their lack of allegiance and ironically used the money from these neutrals to finance the war.

Also, the law passed in 1780 represents a shift in the mentality of the Patriots in the Maryland legislature. The law stated the tax did not have to be collected from all Nonjurors. It granted leniency, stating those in charge of collecting the tax had the ability to abide by the “scruples of conscience” and could “suspend the collection of the said treble tax from such nonjuror and shall report the name of such person and his case to the next general assembly.” The tax collector was allowed to selectively enforce the collection of the tax, although generally the tax was still collected.¹¹³

Despite the reworking of the law, the Patriots in the Maryland legislature continued to enforce the treble tax as means for generating revenue. In the 1780

¹¹² Also in 1780 the Maryland legislature approved an Act for the Confiscation of British Property. It was estimated that revenue generated from British property confiscated and treble taxes would generate as much as 9 million dollars. However, these estimates were grossly overstated, and the treble taxes and property confiscation did not even generate a third of the expected revenue.

¹¹³ Hanson’s Laws of Maryland, Vol. 203, 273. Also in 1780 an Act concerning Nonjurors was passed by the Maryland legislature, there was an addition An additional supplement was “to the act for raising the supplies for the year seventeen hundred and seventy-nine, and an act, entitled, An act for the Assessment of property within this state, and also by an act passed at the last session of assembly, entitled, A Supplement to the act for the assessment of property within this state, shall be and is hereby suspended until the end of the next session of assembly, any thing to the contrary notwithstanding.” This is found in Hanson’s Laws of Maryland, Vol. 203, 243.

records of the Western Shore Quarterly Meeting reveal the continued enforcement of the treble tax. The Patriots collected livestock and personal property from 27 men worth a total of 180 pounds. The men paid with cattle, bushels of wheat, and bushels of corn, pine cupboards, tobacco, and horses.¹¹⁴ Later in 1780 the Western Shore reported an additional 28 men had 160 pounds of property confiscated for payment. The property taken was similar to the others, being primarily livestock and grains.¹¹⁵ The Eastern Shore Quarterly Meeting reports from 1780 report similar seizure of property for payment. Ten men had property taken for payment valued at a total of 81 pounds. Their property included cows, steers, bushels of hay, cupboards, and sheep.¹¹⁶ The next Quarterly meeting in the Eastern Shore also produced substantial amounts of property being seized to pay the treble tax. In 1780 the combined total of fines levied in the Eastern Shore resulted in more than 200 pounds of revenue for the Patriot legislature.¹¹⁷

In 1781 the Maryland legislature passed another law to reaffirm the importance of loyalty. An “Act to explain and amend the act for the better security of government” passed, clarifying the parameters of what constituted a loyal citizen in Maryland. The Act stated that all men 18 years and older, including those who were out of the state at the time the original security act passed, must sign an oath of allegiance within a month of their return to the state. The Patriots used to the law to define the role of nonjurors and formally recognized Quakers and Methodists could

¹¹⁴ Quakers Yearly Meeting for Sufferings, 16-17.

¹¹⁵ Quakers Yearly Meeting for Sufferings, 20.

¹¹⁶ Quakers Yearly Meeting for Sufferings, 17.

¹¹⁷ Quakers Yearly Meetings for Sufferings, 20-21.

not sign oaths of fidelity. The Act stated that if Quakers and Methodists did not sign oaths of affirmation, which was allowed under the law to accommodate their religious principles, they would be subject to additional taxes and all the “other disabilities” imposed on nonjurors by previous acts.¹¹⁸ The Quakers again opposed the signing of any oath of allegiance and were subject to the punitive tax. The Western Shore Quarterly Meeting records revealed that in 1781 674 pounds of property was taken from 37 men to pay the treble taxes.¹¹⁹ Quakers became a category of inhabitants who could be extorted for revenue by the state. The Maryland legislature continued to view nonjurors as a separate entity in the state; however the fear of the Nonjurors as a subversive group subsided. Between 1780 and 1781 the Maryland legislature was unable to decide how to treat nonjurors. In 1780 the legislature allowed for some leniency, but in 1781 loyalty was still important to the legislature. The legislature still sought to identify Patriots and Loyalists, but recognized some parties refused to sign because of religious scruples. They were not Loyalists and were not as threatening as Loyalists; nonetheless, they would be punished for not signing oaths of allegiance.

It is evident that in 1781 the Quaker population was no longer a threatening faction in the eyes of the Maryland legislature. By this time, major insurrections in the state of Maryland had been quelled, and the previous tumult had subsided. The legislature recorded this group of inhabitants as not detrimental to the well being of the state. The Maryland Legislature did attempt to persuade the Quakers to sign an agreement in May of 1781 that would alleviate them of payment of the treble tax. The Patriots wanted the Quakers to declare they were “friends to the now established

¹¹⁸ Hanson’s Laws of Maryland, Vol 203, p. 284.

¹¹⁹ Quaker Yearly Meetings for Sufferings, 22-25.

government.” This statement also would confirm that the Quakers refused to take oaths of allegiance because of their religious beliefs. The Maryland legislature believed this would subside all fear of the Quakers and, additionally, the government would remain strong and not appear lenient. However, the Quakers refused to sign this oath, and therefore the Maryland legislature could not use this method to gain the allegiance of the Quakers.¹²⁰ Clearly, then the nonjurors were not threatening alien enemies, however they were not excluded from the category of citizens.

The collection of treble taxes continued and though great revenue was not collected, the Maryland legislature effectively asserted their right as a legislative body. The taxing of nonjurors was not a great economic measure, but it allowed the Patriot legislature to legitimize their government. For example, in 1782, the Baltimore Quaker Meeting records reveals the payment of the treble taxes amounted to only 487 pounds from 42 men.¹²¹ The Baltimore Quakers used their meeting records to appeal to the Maryland legislature when they petitioned their grievances. The Maryland legislature continued to hear the pleas of the Quaker community, gradually relaxed the laws, and granted exceptions. By 1782 the vast majority of Quakers successfully petitioned the Maryland legislature and were alleviated from paying the treble taxes. Eventually, the petitioning process resulted in the Maryland legislature in granting so many exceptions to the collection of the treble tax that by 1783 the revenue collected was insignificant.¹²² Essentially the demise of the treble tax happened in two parts, the laws changed over time and the legislature exercised discretion and granted many

¹²⁰ Quaker Yearly Meetings for Sufferings, May 7, 1781.

¹²¹ Quaker Yearly Meetings for Sufferings, 34-36.

¹²² Hanson's Laws of Maryland, Vol 203, p. 187-188.

exceptions. The experience of Quakers in the years immediately following the American illustrates the process of identification, punishment, and eventual gaining of rights of citizenship. By 1783 the Maryland legislature did not fear the Quaker population as a subversive group. As the American Revolution continued and Maryland's independence was cemented, the legislature relaxed their fines and treatment of the Quakers.

Like the Quakers, the Methodists faced severe fines and imprisonment for not claiming allegiance to the state. The records for the Methodists do not reveal information on payment of the treble tax; however they paid fines for preaching. Methodists, the other recognized group of Nonjurors, also concerned the Patriot legislature. The Methodists received special attention and concern due to their alleged involvement in the insurrections in Maryland before American Revolution. In 1777 the Maryland legislature feared the involvement of Methodist preachers in the insurrections. Furthermore, the Methodists population typically sympathized with Great Britain. The Maryland legislature was concerned with this potentially subversive group. In the 1777 "Act for the Better Security of the Government" the legislature sought to prevent the Methodist from preaching. They included a provision that required any man desiring to preach to give an oath of allegiance to the state.¹²³ The hostility towards the Methodists was not as great as that towards the Quakers. The Patriots in Maryland did not have a long-standing tradition of disliking the Methodists.

¹²³ Hoffman, *A Spirit of Dissension*, 227-230.

Consequently, between the General Court indicted 34 Nonjurors for preaching, primarily Methodists on the Western Shore. The fines ranged from 30 pounds to 200 pounds. The fines and punishments were not extraordinarily severe for the Methodists did not greatly threaten the Patriot cause. The Methodists were targeted because of their involvement in insurrections in the early years of the American Revolution, however as time progressed the legislature did not fear this group as much as it had before.¹²⁴ Beginning in 1779 the Maryland legislature began to relax the fines and imprisonments being placed upon the Methodist population. Furthermore, the Methodist ministers made concessions to the Maryland legislature and abided by the laws. Unlike the Quakers, the Methodists in Maryland were willing to take oaths of fidelity to gain back the right to preach. Reverends Francis Lauder, Thomas Brown and Joseph Messenger took the oaths of fidelity and, more importantly, were able to preach. These concessions coupled with fewer insurrections and a lack of substantial evidence supporting the theory of Methodists being involved in subversive action weighed on the mind of the Maryland legislature.¹²⁵ After 1780 the Methodist population, both preachers and congregational members, faced less severe treatment during the American Revolution for the Patriots could not find many reasons to target this group.

Therefore by 1782 the Maryland legislature eased up the laws the Methodist sect of Nonjurors, granting them rights to preach their Gospel without fear of being fined. The original fear of subversive activity associated with Nonjurors began to

¹²⁴ Court sessions of the western shore – 1778, 1779 and 1780, Executive Miscellaneous, Maryland State Archives; Hoffman, *A Spirit of Dissension*, 230.

¹²⁵ Maryland State Votes and Proceedings, November 1779, 16.

subside by 1782. The Methodists, like the Quakers, faced less scrutiny as the American Revolution wore on. The Maryland legislature also realized in 1782 that Methodists were being increasingly considered as part of the Maryland citizenry. The Patriots no longer sought to exclude Methodists from the right to preach in Maryland and now Methodists were free to preach and practice freely regardless of having taken any type of oath to state without fear being fined unless “his actions and conduct hath manifested a disposition inimical to the present government.”¹²⁶

The treatment of Methodists reveals commonalities and differences to the treatment of Quakers in Maryland. The people of Maryland initially feared these Nonjurors at the outset of the American Revolution. Both religious groups were problematic during the American Revolution, and the Maryland legislature did not understand how to grapple with a neutral stance of the Quakers and the alleged involvement of Methodists in subversive activity. In 1776 and 1777 the Maryland legislature did fear the unrest. They responded by categorizing those who inhabited Maryland and used citizenship to define these groups. Quakers were punished and fined on the basis of their religious scruples. They struggled throughout the Revolution and had to actively petition the government for relief. Methodists, on the other hand, were initially targeted because of the alleged involvement of Methodist preachers in the insurrections. However, they eventually conformed, signed the oaths, and were relieved by the Maryland legislature. Nonjurors, unlike Loyalists, were not viewed as a continuous threat throughout the course of the American Revolution. The Patriots were initially wary of Nonjurors, but Loyalists continued to

¹²⁶ Hanson's Laws of Maryland, Vol. 203, p. 331.

be a threatening menace as the war progressed. An analysis of property confiscation and the payment of treble taxes yielded some results, but the overall results did not meet the initial expectations of the Patriots.

The Patriots succeeded in primarily identifying and seizing property from well known Loyalists and absentees. Actual implementation of property confiscation fell short of the expectations of the Patriots for the Commissioners faced an inherently complicated task. While estates belonging British Companies, Royal officials, and known Loyalists sold, the property of lesser-known Loyalists failed to glean substantial results. Consequently, the Commissioners failed to sell the property of non-Elite Loyalists. Confiscation of Loyalist property, as with the taxation of Nonjurors, generated the best results in the earliest years of implementation. The actual laws were best enforced in the early 1780s, yet by the mid 1780s confiscation and selling of Loyalist property failed to generate the anticipated revenue. Overall, the British property confiscation fell short of expectations. British property confiscation was not a great success for the Patriots. The process was inherently flawed, property was hidden, and the task proved to be too great for the young legislature. The theory of British property confiscation was much more successful than the actual practice.

Conclusion

During the American Revolution in Maryland officials were faced with many challenges and had to address how to treat those who did not align with the Patriot movement, the Loyalists and Nonjurors. Loyalists bore the harshest treatment during the Revolution and they were denied the basic legal, civic, and property rights. In terms of property confiscation, the Maryland legislature succeeded in seizing a fair amount of British property. Between 1781 and 1785 British Company property sold for over 154,000 pounds, and between 1781 and 1782 98,000 pounds of revenue was collected. Personal property between 1781 and 1785 sold for approximately 190,000 pounds. British Property continued to be sold after 1785, but in far less significant valuable quantities. In 1786 the state sold 6 pieces of property and in 1787 the state sold 1 new estate. Between 1788-1791 the Maryland Intendant of Revenue, who took over once the Commissioners appointments expired, sold property only in 1788.¹²⁷

The exclusion of Loyalists in Maryland from citizenship continued beyond 1785 in that the Loyalist population generally fled Maryland during the American Revolution. Those who served in the Maryland Loyalist Regiment exemplify the consequences of allegiance, although there are exceptions. The Maryland Loyalists Regiment, first stationed in Philadelphia in 1777, remained in Florida for 1780 and 1781; however, many men were taken prisoner by the Spanish, deserted from the ranks, or died in service.¹²⁸ Philip Barton Key was taken prisoner, sent to Havana,

¹²⁷Collective date from the Commissioners Sale book from 1786-1788.

¹²⁸ Loyalist Muster Rolls, 1777-1783, Box #3, MS 548 Maryland Loyalist Muster Roll, Maryland Historical Society; Overfield, "The Loyalists of Maryland during the American

Cuba, and returned to England on parole although the exact conditions of his release are unknown.¹²⁹ The Maryland Loyalist Regiment withdrew from Florida in 1781 and the approximately one hundred remaining men were sent New York City. Once in New York, the Maryland Loyalist Regiment rejoined the remaining Loyalists. The Maryland Regiment as a military unit disbanded and the remaining men experienced different fates.¹³⁰

The approximately one hundred remaining Maryland Loyalists in New York at the time of British occupation set sail for Nova Scotia on the *Martha*, which wrecked on the coast of Nova Scotia on September 23, 1783. Nearly sixty Maryland Loyalists drowned, forty survived, and the survivors remained in Nova Scotia. Captains John Sterling, Patrick Kennedy, and Caleb Jones took residence in Nova Scotia. John Sterling settled in St. John, New Brunswick and received half pay from the British government for his service as in the Maryland regiment

Prominent Loyalists who had their land confiscated fled to Great Britain during the American Revolution and did not return to Maryland. These men filed claims for their confiscated property with the British government. Lloyd Dulany, Daniel Dulany son of Daniel, Daniel Dulany son of Walter, Reverend Henry

Revolution”, 397-398; Paul Leicester Ford (ed.) *Orderly Books of the Maryland Loyalist Regiments* (Brooklyn: Historical Printing Club, 1891), 10-11. The record is somewhat unclear about the fate of all the Loyalists. The muster rolls track some men who deserted, died, or were taken prisoner; however, some men are entirely absent and we do not know what happened to them while in Florida in 1780 and 1781.

¹²⁹ United States Congress, House, Committee on Elections, Amendatory report of the Committee of Elections, 18 February 1808.

¹³⁰ Loyalist Muster Rolls, Box #2, MS 548.

Addison, and Reverend Jonathan Boucher all fled and never returned.¹³¹ The Dulany family, a large predominately Loyalist family, dispersed the land among the members in order to undermine the Confiscation Act. Daniel Dulany of the Walter Dulany's lost a substantial estate that sold for nearly thirty-seven thousand pounds. The Dulany family lost half of their combined wealth between 1781 and 1784 because of the Confiscation Acts. The Loyalist Dulany's suffered because of British property confiscation; the Patriot members of the Dulany family prospered.¹³² Daniel Dulany of the Addison Dulany's who entered the Maryland Loyalist in 1776 and became Captain in 1782 fled Maryland. He gave up his Maryland property that had been confiscated by the Commissioners and did not return, remaining in England until his death in 1808.¹³³

Loyalist George Chalmers returned to England because of his loyalty He had been a practicing lawyer in Maryland prior to the Revolution but left, returning to England and became a chief clerk of the Committee of the Privy Council. He also forfeited his property upon leaving.¹³⁴ James Chalmers experienced yet another fate, serving as Lieutenant Colonel of the Maryland Loyalists. He was in service until 1782 when he returned to England.¹³⁵ Colonel James Christie, who was a member of the Royal army, also had his estate confiscated under the 1780 act. He returned to

¹³¹ Brown, Kings men, 170.

¹³² Aubrey C. Land, *The Dulany's of Maryland: A biographical study of Daniel Dulany, the elder (1685-1743) and Daniel Dulany, the younger (1772-1797)* (Baltimore: Maryland Historical Society, 1955), 327.

¹³³ Sabino Lorenz, *Biographical Sketches Vol. I*, 154.

¹³⁴ Sabino Lorenz, *Biographical Sketches Vol. I*, 299.

¹³⁵ Sabino Lorenz, *Biographical Sketches Vol. I*, 301.

Maryland following the Revolution and was never able to successfully claim his land.¹³⁶

Philip Barton Key was able to reestablish himself in Maryland after the Revolution despite the fact that he had been a Captain in the Maryland Loyalist Regiment and received a half-pay pension. Upon his return, Key passed the bar, served as mayor of Annapolis, became a member of the state legislature, and in 1808 was elected to the tenth Congress. His loyalty to the United States was questioned in and upon his confirmation in Congress but despite a contested election, Key took office until 1805. Twenty-two years after he wrote his poem of loyalty to King George that expressed his discontent with the rebellious colonists, and Key took office in the U.S. House of Representatives. He delivered a speech regarding the questions surrounding his loyalty:

My constituents knew the very circumstances of the follies of my early life, and my enemies had represented to them, that having been once, twenty years ago, in the British Army, I was not a proper person to represent them. The people scouted the idea; ...they knew me from my infancy; ...but I had returned to my country, like the prodigal son to his father; had felt as an American should feel; was received, forgiven...of which the most convincing proof is...my election”¹³⁷

¹³⁶ Sabino Lorenz, *Biographical Sketches Vol. I* 312-313.

¹³⁷ Sabino Lorenz, *Biographical Sketches Vol. I*, 601-602. It should be noted Sabino Lorenz does not cite this quotation and there is no bibliography to find the source of this quote.

Key went to lead a successful life, serving as a Maryland Representative in Congress and served in local governing bodies until his death on July 28, 1815 at fifty-eight years old.¹³⁸

Nonjurors too suffered under the Patriot legislature, although their punishments were far less severe. The Methodist population became excluded because of the religious differences, and a fear of their rising population. The laws targeted Methodists as an exclusionary category of peoples because of their religious beliefs. Quakers were also a significant religious minority excluded from citizenship in Maryland through the treble tax. The Quakers did not idly pay the taxes; instead, they felt unduly punished because they were not loyal to either side during the American Revolution. The Maryland General assembly did seek to address the sufferings of the Quakers throughout the 1780s, but the Maryland General assembly sought to punish a group who would not profess allegiance or fight in the Maryland militia. Exclusion of Quakers through the treble tax signifies again that loyalty was paramount to one's identity as a Maryland citizen.

The study of Maryland reveals a far different picture from previous histories. The Loyalists in Wallace Brown's works were all elite and he relied solely on the claims of the elites. A comprehensive study of Maryland based on Patriot sources reveals quite the opposite. Loyalists were not just elite and, in fact, the Patriots identified Loyalists of all classes. The process of identification in Maryland also reveals the

¹³⁸ Obituary, Box 1 in File marked 1786 September 3, Aldine Collection, Maryland Historical Society. It should be noted this obituary does not have a source. No other record of this obituary appears in any other sources.

importance of allegiance to the cause. Maryland Patriots valued loyalty and sought to identify all of those who opposed the Revolution.

This study reveals the struggle of the Maryland legislature, the difficulty in determining loyalty, and the inherently complicated and unsatisfying process of property confiscation during the American Revolution. The newly established Maryland legislature struggled during the American Revolution. The laws they passed were difficult to enforce. The Maryland legislature did succeed in identifying the rights of citizens, but struggled in always determining who was a citizen. Nonjurors, for example, were part of this struggle. Furthermore, identification alone was not sufficient for the Patriots. They did create lists of those who were loyal and not, but did not always succeed in punishing those suspected of being disloyal.

The process of property confiscation proved to be immensely dissatisfying for the Patriots. They strove to generate great revenue and finance the American Revolution, but confiscation was inherently flawed. The government appointed Commissioners faced harsh odds and struggled to sell the much of the confiscated property. While British company property and the property sold from 25 individuals did generate some revenue, it was by no means all the property that could have been sold. The Commissioners dismissed the smaller property holdings belonging to the non-elite. Though the Commissioners recognized there was a substantial number of Loyalists residing in Maryland, they failed to effectively confiscate and therefore punish those Loyalists.

The consequences of loyalty in Maryland in conjunction with the creation of citizenship cannot be simply understood. The laws clearly classified people according

to their allegiances and how individuals chose to identify themselves. Identity as a Quaker, Methodist, British subject, or absentee was significant according to the law. However, as the enforcement of the laws indicates there was significant difference in the actual practice. The laws requiring loyalty oaths produce an incomplete record, with significant difference of those who signed and those who did not. The records of nonjurors too then are flawed, and immediately the identification of nonjurors was difficult. Citizenship in Maryland was fundamentally shaped by the design of the laws concerning allegiance, taxation of nonjurors, and the confiscation of British property in that they identified groups separated from the population.

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