

Forging consensus

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It may be that to some my History will not make agreeable reading because of the absence in it of fanciful stories. I shall be satisfied if what I have written is useful to those who wish to know what happened in the past and, human nature being what it is, may well happen again.

— Thucydides, *History of the Peloponnesian War*, circa -430

Having gathered these facts, Watson, I smoked several pipes over them, trying to separate those which were crucial from others which were merely incidental.

—Arthur Conan Doyle, *The Adventure of the Crooked Man*, 1893

If several explanations remain, one tries test after test until one or other of them has a convincing amount of support.

—Arthur Conan Doyle, *The Adventure of the Blanched Soldier*, 1927

A force de juger, on finit presque fatalement par perdre jusqu'au goût d'expliquer. Longtemps l'historien a passé pour une manière de juge. Il faut croire que cette attitude répond à un instinct puissamment enraciné. Aux creux réquisitoires succèdent autant de vaines réhabilitations.

— Marc Bloch, *Apologie pour l'Histoire*, 1949 (p.157)

Chapter **XX**

Overview of diverse accounts

An unlikely yet highly successful revolution

Most accounts of the American Revolution, and subsequent War of Independence, do not help us to realize what made it really extraordinary and unique. Around 1760 in almost all colonies a class of wealthy landowners was in power. This was obviously true in the proprietary colonies such as Pennsylvania or Maryland where a single family had been awarded a whole colony by the king of Great Britain, but it was also true in colonies like North Carolina where the highly productive lowlands located in the flat part toward the coast had been secured by early immigrants. This, in a sense, was a situation similar to the one prevailing in a country like France where some 20% of all arable land was in the hands of the Catholic Church and a good part of the remaining land was held by the high nobility. It is only through much turmoil and substantial bloodshed that the French Revolution was able to take over and sell to the public the property of the Church as well as a fraction of the property of the nobility.

In America the same feat was done much more smoothly.

- First, the political power of the patricians was swiftly transferred to the Patriots in the name of fighting British taxes. By 1775 this transfer was accomplished almost everywhere and materialized into Patriot-dominated Assemblies and militia largely under the control of the Patriots. Nowhere was this last step easier than in Pennsylvania where the militia had in fact been created at the initiative of Benjamin Franklin.
- However, it was not enough to dominate the deliberative assemblies for their decisions were subject to approval of the governors. Even when approved the resolution had to be implemented by Royal officers. This led to the creation of a new executive branch through the county and provincial committees of Correspondance according to the guidelines issued by the Continental Congress in Philadelphia.

- Simultaneously, the judiciary power which had been largely in the hands of the Patricians, was neutralized in the sense that the former courts were closed and the former judges were “convinced” to give up their positions by the threat of mob violence. The courts remained shut for over a year and after 1776 were eventually replaced by new institutions set up in the wake of the Declaration of Independence.

- At this point, of the four assets the Patricians had in their hands, namely land ownership, political power, command of the militia, control of the judiciary, they retained only the first. In November 1777 the Continental Congress issued to all states the recommendation to take over the land of those who had “forfeited the protection of the state”. The standard way to achieve that was first to target the owners by publishing their names as under suspicion of high treason and liable to be arrested. This led most of them to flee to places held by the British, e.g. Boston, New York, Philadelphia, Charleston. Then their estates were inventoried and sold.

- Naturally, this whole construction remained fragile for, seen from the perspective of Britain, it was all illegal. This led to the war of independence, a war that was in no way as extraordinary as the Revolution. In fact, it was a standard liberation war fought by a colony against the colonizer. In such wars, it is essential to get the support of a foreign power. In South Africa the Boers were supported by Germany, in Ireland the Sinn Fein was supported by the Irish Americans and Congress. Similarly, French and Spanish aid was instrumental for the Americans. According to a reliable American source (Clodfelter 2002), the losses of the French, particularly in naval battles against the British fleet, were higher than all battle losses of Washington’s troops. Yorktown’s surrender was brought about by the inability of the Royal Navy to support the British troops of general Cornwallis. qpar

After the victory of Yorktown the situation was two American victories (Saratoga and Yorktown) against two British victories (New York and Charleston). Actually, what ended the war was the coming to power of the Whigs in Britain. Peace discussions were opened immediately after the power change even though it took several months before the Peace Treaty was signed.

Why social cohesion matters

Although a large part of this book is devoted to the American Revolution, its real topic is the study of social cohesion, more specifically how to improve social cohesion in a polity which is transitioning from a state *A* to a state *B*. The American Revolution was a fairly unique example of a successful transition conducted in a very smart way.

The transition

In this case state *A* was, in many states if not in all, a society dominated by a group of wealthy patricians, often closely connected with the initial proprietors, and expecting support and guidance from the British Crown. They would send their sons to Oxford or Cambridge to study law and during religious service Anglican ministers would say the prayers for the King and royal family. State *B* was very different especially in New England and in the Middle Colonies (Delaware, New Jersey, New York and Pennsylvania). The wealthy patricians had lost their estates as well as their dominant position and instead of being a corner of the vast British Empire the thirteen colonies, despite their differences, had become a united republic.

This huge transformation was accomplished with a minimum of bloodshed. However, it would be a mistake to think that this could be achieved without coercion. It was compulsion in a velvet glove but not without duress. When Patriots claimed that they were fighting for liberty they did not mean individual freedom but freedom for the thirteen colonies with respect to Britain. Letters were opened, especially those exchanged with England; one had to be careful in discussions with neighbors for critical assertions could land people before the Committee of safety; moreover, mob rule was a permanent threat; any dealing with the British had to be handled very carefully unless it may appear as treason which could have dire consequences.

Social cohesion as key of victory

Mao Zedong's directive according to which "The guerrilla must move amongst the people as a fish swims in the sea" explains very well why the British could not be successful as long as the Patriots were able to maintain unity. British forces were never as fish in the sea. If they had been able to buy horses, cattle, carriages, grain, wood, powder and many other items from American traders their situation would have been very different. Whether in Boston, New York, Philadelphia, Charleston Savannah or Atlanta they were submitted to an embargo which compelled them to import almost all equipment and food from Britain.

It is true that a land embargo is never completely tight. There were loopholes especially around New York. Despite strict rules some American traders were attracted by the perspective of high profit. It was not necessary to drive New York to starvation but it was essential not to allow British troops to move inside the country.

As a comparison consider the war waged by Britain in South Africa around 1900. This was also a situation in which British forces were not as fish in the sea. In the contrary, in the second phase of the war, the South African guerrilla fighters were like the fish in the sea in the sense that they were supported by the population. In order to win, British forces were compelled to "remove the water" by transferring the population into prison camps. However, the Boer population numbered only

500,000 (Roehner and al. 2002, p.155), five times less than the population of the thirteen colonies. What was possible in South Africa would not have been possible in America. Success would have become possible only if a substantial part of the country (e.g. Pennsylvania) had sided with the enemy, hence the crucial importance of maintaining cohesion and a shared fighting spirit.

A key-question: why did so many Loyalists leave?

First of all, history seems to show that family heads do not willingly leave their home and family unless they are compelled to do so by some strong motive. Among such motives two come to mind immediately.

(1) Immigrants are attracted by economic opportunities. For instance, landless Irish people who migrated from Ireland to England or to the US.

(2) People belonging to religious minorities (e.g. Puritans or Quakers in England) may feel under threat to the extent of departing for another, more tolerant country.

Can one explain the behavior of the Loyalists through similar reasons? Two facts show that for the Loyalists it was a fairly different story.

- As early as 1775 some Massachusetts family heads had taken refuge in Boston, then occupied by British forces. Why?

- It is estimated that between 60,000 and 100,000 Loyalists emigrated during and after the War of Independence.

These emigrants were not in search of better economic opportunities. On the contrary, they were refugees who left behind them properties often of considerable value. In one word, they were leaving because they were under threat.

Our goal is to identify the factors and threats which compelled them to leave.

Clearly it was not only a matter of opinion. Even if my neighbors do not share my opinions as long as they do not threaten me I have no reason to leave the state or the country.

We know of course that the “Sons of Liberty” set up mobs against opponents which resulted in so-called tar-and-feathers incidents. Such incidents were already described in 1864 by Sabine in his “Biographical sketches”.

What we need to know is the frequency of such incidents. If they targeted only a few royal officers they would not lead to a massive flight. Although Sabine’s list of incidents is quite impressive, he does not give any frequency data, nor could we find any such data in subsequent publications, even up to present time.

A second wave of flights occurred in 1776-1777 when committees of safety targeted those who did not take the oath of fidelity to the Revolution. This wave is also described in Sabine but again without any quantitative information. We ignore how many

Loyalists were put under house arrest, how many were confined in prison. The only reliable information available concerns the Loyalists kept in iron on prison ships (some 140 in number which is of course a minute fraction of all those who departed).

The third wave, also fairly well described in Sabine, came in 1778 when Loyalists were attainted and proscribed.

In this case some quantitative information is available; for instance, one knows the number of acts of attainders but we do not know the exact situation of all those who were targeted. It is clear that in mid-1778, as a result of the two previous waves, there were already a number of Loyalists behind British lines.

Were the people attainted after having moved to the British side or on the contrary did they depart because of the attainder threat? There is also ample evidence that some loyalists were attainted or banished while still at their homes. We need to know how many Loyalists left after being attainted, proscribed or banished. Numbers matter. History cannot be written without them. Accounts based on individual anecdotes may make agreeable reading (in Thucydides' words) but would fail to provide a reliable picture.

What method can one use to get the quantitative information we are seeking? We will take advantage of the fact that a large amount of the archives is available online and searchable by key-word. For instance, in Pennsylvania there are 138 printed archive volumes, each of which has almost one thousand pages. Thus, by collecting many individual cases one can get a global picture.

The ordeal of Loyalists

A great many laws were taken against the Loyalists. Some were simply a consequence of the state of civil war that existed between Patriots and Loyalists but other went well beyond, in particular those about banishments and confiscations of property. Van Tyne (1902, ch.9) provided a synthetic view of such laws of which a summary is given below.

However, there is an important distinction that he does not make, namely between the laws which served to define treason crimes and their punishment in *general terms* and those which included *lists* of names of persons who were outlawed or attainted (see more details later on). Such persons were declared guilty without the benefit of a trial.

(1) **Loyalists were deprived of the right to vote** on the ground that only citizens should be allowed to vote and that those who had not taken an oath of allegiance were not citizens.

Election inspectors were made liable to a heavy fine if they did not make certain by

some official voucher that every voter was of Patriot sympathies. The Loyalist who ventured to vote in spite of this prohibition could be prosecuted and heavily fined or imprisoned.

(2) **Loyalists were denied the right to hold any office.** Only those who had taken the fidelity oath to the state could hold office.

Half of the fines levied on hidden Loyalists went to the prosecutor. Moreover, most of the states forbade Loyalists to serve as jurymen

(3) **Debt owed to Loyalists was not repaid** If his neighbors owed him money, he had no legal redress until he took the fidelity oath. Loyalists might be assaulted, insulted, blackmailed or slandered, yet they had no recourse in law. They could neither buy land nor transfer it to someone else.

(4) **Censorship.** In public or in private discourse no one was allowed to discourage people from supporting the Declaration of Independence. The raising of the Continental army must not be discountenanced. In March of 1781 New York went so far as to threaten with death any Loyalist acknowledging the King of Great Britain as his sovereign.

(5) **Loyalists were obliged to accept paper money at par** and then purchase their necessities with hard money.

Eventually, the wretched Tories fled, penniless, to the British lines. Numerous such stories were heard from claimants by the British Commissioners who were to determine the amount of compensation to be granted.

(6) **Day of fasting.** The proclamation by the Continental Congress of a day of fasting and prayer was the signal for the persecution of those who refused to obey. The parishes were earnestly requested to suspend offenders from their ministerial function and stop the payment of their salaries. Of the hundreds of Loyalist clergymen the majority dated the commencement of their troubles from the first fast day.

(7) **Loyalists socially ostracized** Loyalists were sent to coventry (informal British-English expression meaning to refuse to speak to someone) by their townsmen. Old friends did not speak as they met; neighbors ignored neighbors. the victim was practically expelled from the community. None dared give him lodging or food or comfort. He was a pariah.

(8) **Punishment of Loyalist counties.** Ostracism was not limited to individuals. There are several instances where a whole county was cut off. In January 1776, Congress resolved that since the inhabitants of Queen's County, New York had refused to send deputies to the New York convention, they were put out of the protection of the United Colonies. All trade and intercourse with them was to cease. The inhabitants were confined and not permitted to travel to any other place.

Removal to “reconcentration” camps

The approach of the enemy or any suspect activity among the Tories usually resulted in an effort to secure all of them by moving them away to what Van Tyne (1902, Ch.10) calls reconcentration camps. On a smaller scale, they prefigured the reconcentration camps of persons of Japanese descent during the Second World War. The following instances can be mentioned (Van Tyne 1902).

Philadelphia

When the British army was expected in **Philadelphia** the Pennsylvania Council became so alarmed that they ordered the seizure of all suspected persons. James Allen (1778, 1885) wrote that “houses were broken open, people imprisoned without any color of authority by private persons, and a list of 200 disaffected persons was made out who were to be seized, imprisoned and sent off to North Carolina¹. Allen said that his house, which was some distance from Philadelphia, was surrounded by a guard of soldiers with fixed bayonets. The officer produced a warrant from a council of safety, and Mr. Allen went with them to Philadelphia. Later, he commented bitterly upon these measures. “The most respectable characters were dragged forth though no charge could be made. Patriots regarded the measure as a means of preventing cooperation with the British.”

North Carolina

After the battle of Moore’s Creek (27 Feb. 1776) in **North Carolina**, it became necessary to dispose of the captured Loyalists, so that they could not spread disaffection to the Patriot cause.

Many accounts (e.g. Wikipedia) simply say that the prisoners were pardoned. A short reflection makes such a statement unlikely for it left these opponents free to do further mischief. In fact, the Provincial Congress published a resolve stating the treatment of the prisoners would depend largely upon the good behavior of those, families and friends, who still remained in the North Carolina.

The “Committee of Secrecy, War and Intelligence” wrote to John Hancock, President of Congress, saying that they thought it expedient to send off the prisoners, “some to Maryland, some to Virginia and some to Philadelphia. These last are such as appear to us from their rank and influence to be capable of doing us the most mischief”.

These North Carolina Loyalists were exiled and imprisoned because they had actually made war upon the Patriots but this was by no means the usual reason for such measures. In the majority of the cases, thanks to its smart eyes the legislature saw the danger while still in the seed. An example is the so-called Maryland plot (see below).

¹Although it was recorded that some 34 suspects (mostly Quakers) were arrested and sent to Virginia, the story of these 200 Loyalist suspects is hardly ever reported.

Massachusetts

In 1777 when anticipating an invasion of the State, Massachusetts gave the Council power to issue a warrant to apprehend and commit suspicious persons. The persons so seized were to remain in prison without bail until discharged by an order of the Council.

New York State

In New York State some persons were living near the military posts and there was reason to believe that they might communicate intelligence to the enemy. In April 1778 the Governor was given powers to remove them to such places in the state as he would chose. In their place of exile farms were to be rented to them by the commissioners of sequestered estates in that district.

Connecticut

In **Connecticut** it had been represented to the Assembly that there were a number of persons in the western towns of the state who were inimical, that they instigated dangerous insurrections and tried in various ways to aid the enemy. A committee of 5 persons were chosen to visit these western towns, convene all dangerous persons and send them under guard to safe places. General Wooster was directed to assist the committee with his troops .

Maryland and Delaware

In April 1777, when the Tories of the counties of Somerset and Worcester in Maryland on the one hand and of Sussex in Delaware on the other hand became turbulent the Congress asked the two states to remove all “persons of influence or of desperate characters” to some remote and secure place within the states. No person was to have access to them unless allowed by the authorities.

In the next section we examine a key point of the standard narrative.

“Taxation without representation”

In most accounts ‘taxation without representation’ is given as the main reason of the start of the rebellion. It may indeed have played that role in the minds of people. Nevertheless, the argument is not without raising some questions.

The strange argument of “No taxation without representation”

There are two ways to understand “No taxation without representation” depending on what is meant by “representation”.

Representation in London

Representation in the London parliament would have little significance because with

its population of 2.5 millions around 1765 the few representatives of the thirteen colonies would be overwhelmed and unable to make their voice heard.

Even nowadays (2020) in several parts of the US there is taxation without representation in the sense that the inhabitants of the District of Columbia (see Solly 2020), of Puerto Rico, of the Virgin Islands and of several other US Territories and Indian reservations do not have any representation in Congress (except as observers). However, none of these territories has ever invoked this lack of representation as a reason for asking independence. It is true that there have been some pro-independence movements in Puerto Rico but the lack of representation was not invoked as a major reason.

Representation at state level

A more convincing interpretation of “representation” is that the taxes should be voted in the colony’s assembly. Although the rights of these assemblies (also called “General Courts”) were limited by those of the British Governor, they gave the colonies a substantial degree of autonomy.

A confirmation of this interpretation comes from the “Whiskey Rebellion” (1793). This was basically a movement directed against a new tax on whiskey. Many of the rebels were Pennsylvania war veterans who believed that they were fighting for the principles of the American Revolution of “no taxation without local representation”. Federal tax collectors were threatened just as British tax collectors had been threatened some 20 or 30 years earlier.

As a matter of fact, this federal tax was raised against the wishes of Pennsylvania. It is easy to understand that in this interpretation the principle of no taxation without local representation is incompatible with the very existence of a federal state. Actually it may lead to even further fragmentation. Indeed, the whiskey tax was strongly opposed only in western Pennsylvania; the reason was that the transformation of grain into whiskey was a way to reduce the transportation costs of grains to the urban centers in the east of the state.

Although federal troops had to be sent against the rebels, the rebellion collapsed very quickly. However, it remains true that a means had to be found to allow the expression of local interests. Nowadays, instead of trying an armed rebellion, the whiskey producers of west Pennsylvania would hire a lobbying company to represent their interests in Philadelphia and in Washington.

Whether “No taxation without representation” was a sound argument does not really matter. What is important is that it became a catching slogan which created a consensus among people; in other words it allowed a very successful public relations campaign. That is really the important point.

The aftermath of the Revolution is another aspect which made the American case fairly unique.

A smooth post-Revolution aftermath

According to a citation by Friedrich Nietzsche, “Whoever fights monsters should see to it that in the process he does not become a monster”. How does it apply here?

The basic mechanism is that usually revolutions lead to civil wars, and the later give rise to foreign intervention. Let us briefly illustrate this mechanism by a few examples.

The French Revolution of 1789

Take the French Revolution of 1789. It seems obvious that all European monarchies felt threatened by the establishment of a republic in the middle of them. Thus, in the east of France there was an invasion by Prussian and Austrian troops and at the same time Britain supported domestic insurrections in the west. To fight these wars successfully, drastic but effective methods were introduced. By 1795 foreign intervention had been fought off successfully but then the very same warlike methods were used to extend French influence by invading a large part of Europe. General Bonaparte became the “monster” raised by the Revolution.

The Russian and Chinese Revolutions

One can see a similar mechanism at work in the Russian and Chinese Revolutions. In both cases, foreign armed interventions prolonged the civil war. Moreover, as in the case of France, the new regime was seen as a threat by the United States and therefore submitted to a severe trade embargo which lasted some 25 years. Needless to say, a climate of foreign ostracism will encourage hardliners at the expense of moderate leaders.

The case of the United States

Completely different was the situation of the United States in the aftermath of the War of Independence. Not only, did Great Britain not take any economic sanctions against the US but on the contrary trade resumed between the two nations as soon as the war ended. Even better, the Jay Treaty of 1795 resolved old issues and created favorable conditions for further trade development. This peaceful period of almost 30 years until 1812 also allowed the US to move away from the harsh war time regime.

It is true that in 1812 a war broke out against Great Britain. It was started by the US when it tried to invade Lower Canada. However it was by no means a resolute conquest war of the Napoleonic kind. Probably because it was hotly contested within

the United States only insufficient troops and logistic means were devoted to this invasion. As a result the invasion made little progress. Incidentally, it can be observed that American accounts tell us about official buildings in Washington set afire by the British but most omit accounts forget to say that this action was in reprisal of Toronto being set on fire in the wake of the US invasion.

In the following section it will be argued that independence was already a fact in 1765. Although, thanks to their fleet, the British forces were able to take Boston, New York, Philadelphia, and Charlestown, they were never really able to endanger the new republic. Fortunately, it was not a bloody war but through a more lucid view it could have been avoided altogether.

Independence already a fact in 1765

It is legitimate to say that by 1765 independence was already achieved not only in the minds of American people but also in a very practical way in their ability to rule the country by themselves. It is true that in the minds of all those who later on became Loyalists that independence did not imply to break all links with the British Crown. In other words, these people would have been satisfied with a status in which the king was still formally the head of state just as is still the case nowadays in Canada and Australia.

This may appear as a bold statement but one which appears immediately when one reads the messages sent by the Governor of New Jersey to Crown officials in London [NJ Vol.9, p.490 and following].

At that time the governor of New Jersey was William Franklin, the son of Benjamin Franklin, and in all his messages his single crucial concern was the refusal of the stamp tax by the American colonies. The main message conveyed by Franklin was that he had lost control; of course, he emphasized that the protests were even more violent in neighboring states and that he was able to keep peace in New Jersey at least to some extent. However he could not hide the fact that the authority of the king was openly “trampled”.

In what respects? Here are two examples.

Control of the Post Office

Inflammatory publications were sent from Boston to all colonies but the important point was that they were sent and distributed through the official Post Roads, by the official Post Riders and with the approval of the American Post Master.

An unanimous meeting of the lawyers of New Jersey

On 17 September 1765 at a meeting of leading layers of New Jersey it was *unani-*

mously resolved that they would not make use of the stamps, and, should the stamps arrive and made available, they would not buy any. Besides, Franklin had to signal that “the distributor of the stamps thought proper to resign his office”.

In his messages Franklin was asking for instructions but got none except “delay making more particular inquiry least it should be the occasion of raising the Mob which it is thought proper by all means to avoid”.

It is true that Conway the official in London to whom Franklin’s messages were sent), also alluded to making application to General Gage and Lord Colwill, Commanders of his Majesty’s Land and Naval Forces, but he knew very well that there were only few British forces present in America at that moment.

An unrealistic hope

Conway’s only hope was that open resistance to the authority of the Mother Country has found place “only among the lower and more ignorant fraction of the people”. With lawyers spearheading the protest, such a hope was clearly an illusion.

Chapter **XX**

Quakers as Loyalists and their collapse

From ultraviolet to infrared, sunlight comprises many wavelengths. Somehow in same way, from military to economic, from social to religious, historical accounts are made up of many layers of events. The great difference with light is that no historical account can pretend to include *all* layers for the simple reason that many facets are (and will remain) unknown for lack of appropriate sources. In other words, each historical account reflects a specific perspective. Usually historians include in their accounts the events that they think most significant for their topic or most convincing for the point they try to make. For instance, whereas religious factors are thought important for describing the establishment of English colonies in America, such factors are usually left out in accounts of the Civil War.

Although as a matter of principle most historians would certainly agree with the previous remarks, do we fully realize that depending on sources and perspective very diverse representations will result. As an illustration we consider in this chapter the history of the Quakers during the Revolution and War of Independence.

In a first part, we set the landscape by explaining the influence of religious factors in Britain and its colonies. We will see that they affected not only the establishment and development of the colonies but also the relations with the mother country. In a general way, while tending to impose religious uniformity at home, at the same time British authorities promoted religious toleration in the colonies. The reason is clear. From the religious wars in France to the Thirty Years War in Germany all recent historical developments had shown to rulers that the strength and stability of a country was determined by its religious uniformity. By allowing religious dissenters to emigrate to other parts of the British Empire, Great Britain improved its own religious uniformity. By encouraging toleration in the colonies, the King and Parliament expected to keep easier control over the colonies; this was a standard “divide-and-rule” policy.

In the second part we give an account of how the War of Independence affected the Quakers. Finally we examine to what extent this account allows a better understanding.

Events involving Quakers in the march to independence

First of all, we need to define the context. Who are the Quakers, when did they arrive in the American colonies?

Emigration of Puritans and Quakers

Puritans and Quakers are two protestant denominations that appeared in Britain in the 17th century. The Puritans appeared around 1600, some 50 years before the Quakers. It is estimated that from 1620 to 1640, some 80,000² Puritans emigrated to America, mainly to Massachusetts. About half a century later notable numbers of Quakers began to occupy Pennsylvania, especially after William Penn was made proprietor of this colony by Charles II in 1681.

These are the facts but in order to make sense of them we need to answer two questions.

- What led these two groups of people to emigrate to America in such large numbers?
- Why did William Penn receive such a large tract of land from Charles II?

What favored the emergence of dissenting denominations?

In answer to the first question one may be tempted to say that Puritans and Quakers (but also Catholics) were trying to find a place where they would not be persecuted. However this explanation cannot account for the Great Migration of the 1620s and 1630s for in this period there was only low-key intolerance. There is another factor. Both the Puritans and the Quakers emerged in opposition to the official Anglican Church because they disliked its institutionalized form with the King at its head. For them this was too similar to the Catholic Church and conflicted with their insistence on a personal connection between worshippers and God. On the other hand, in a time in which religion ruled almost all aspects of life, the King did not wish to see his subjects split into a multitude of separate denominations. Thus there was a permanent, but usually low-key, repression against such non-conformist denominations and also against remaining Catholics.

Except in some special circumstances, (like the Gunpowder plot of 1605) which triggered waves of anti-Catholic persecutions, what was at risk was not so much the lives of people but rather their positions. For instance, in 1629 John Winthrop lost his position in the Court of Wards and Liveries in the crackdown on Puritans that followed the dissolution of Parliament by Charles I; this decided him to move to Massachusetts where he assumed an important role. Others like him may have lost their positions as officials. Somewhat like MacCarthysm during the Cold War, this

²This may seem a large number; what does it mean in terms of shipping? Ships like the Mayflower had a capacity of about 100 passengers. If one assumes that because of wind and sea conditions only the summer months (from April to September) were used one arrives at a schedule of two ships every week which is a high frequency but not completely unreasonable.

repression was aimed at people of influence. Incidentally, this may explain why this wave of settlers was of higher social status than earlier ones. For instance, the people who came on the Mayflower in November 1620 were mostly farmers and working people.

The same reason can explain why the Charter of Massachusetts was revoked in 1689 and replaced by direct royal rule. Over the decades of the 17th century Massachusetts had become a kind of Puritan theocracy that could hardly have good relations with a mother country dominated by the Anglican Church, especially after Parliament passed several laws (in 1661, 1662, 1664, 1665) whose purpose was to strengthen the domination of the Anglican Church.

In contrast with earlier colonies (particularly Virginia) which were ruled by stock owners remaining in Britain, several of the investors who started the colony of Massachusetts moved into the colony. Thus, it was ruled locally rather than by absentee owners. Another difference was that the settlers were mostly puritan *families* rather than adventurous males of fairly low status. These two features made the colony particularly attractive and brought a steady flow of settlers.

Charles II and the Quakers

The question of why William Penn became proprietor of Pennsylvania is more tricky. At first sight one is faced with a paradox. Why?

In 1660 when Charles II was called back by Parliament³ his first acts were (i) to send a letter to the Governor of Massachusetts Bay ordering the persecutions of Quakers to stop. (ii) to free the Quakers imprisoned under Cromwell. Moreover, as for his father whose wife was French and Catholic, Charles II's wife, Catherine of Braganza, whom he married in 1661, was also Catholic but from Portugal. Therefore, with such a king one would expect a period of religious tolerance in England. One is quite surprised, therefore, to see exactly the opposite.

Upsurge of religious penal laws in Britain after 1660

Such an upsurge is attested by the following facts.

- Through the "Corporation Act", passed by Parliament in 1661, access to the universities, public and military positions was barred to all persons (Catholics, Presbyterians, Puritans, Quakers) who did not belong to the Anglican Church.

In 1664 the Parliament passed the "Conventicle Act" which forbade conventicles, defined as religious assemblies of more than 5 people (other than family), held outside of the Anglican Church.

³Charles came to England with a Dutch fleet in a way similar to what would happen 30 years later in the "Glorious Revolution" when William and Mary came to England with another Dutch fleet and this time also under the protection of a Dutch army.

These laws, and two others that we did not mention, are referred to as the Clarendon Code, after the name of the Earl Of Clarendon who was the Chancellor of Charles II.

- George Fox, the founding father of the Quaker denomination, was jailed many times, twice before 1660 and four times after 1660. More generally, it has been estimated that between 1660 and 1680 some 15,000 Quakers were jailed.

How can one explain that such a policy was conducted under a seemingly tolerant King? There is one simple reason, namely that Charles II was a weak king. This was not due to a lack of capacity. In the Second Civil War after the execution of his father he had shown much determination. It was because Parliament kept him on a very tight budget. He was always short on money⁴. That is why in 1661 he sold Dunkirk to France and why in 1670 he entered into the Treaty of Dover with Louis XIV through which he was promised financial aid in the Third Anglo-Dutch War.

An objection may be raised: Why then are the penal laws that we mentioned called the “Clarendon Code”? Our understanding is that Charles’s chancellor tried his best to limit the severity of these laws. In support of this explanation is the fact that in 1672 when Charles tried to introduce a “Royal Declaration of Indulgence” it was rejected by Parliament.

The reason we have just mentioned can be labelled as circumstantial but there was also a deeper motivation. We have already mentioned that for British authorities (whether King or Parliament) a sensible policy was to fight dissent at home but at the same time to allow diverse denominations in the colonies.

The allocation of Pennsylvania to the Quaker William Penn can be seen in the same light. It would create in the vicinity of Massachusetts a proprietor colony with a royal charter and a population which had little sympathy for the Puritans. Note that even before this allocation New Jersey had also come under the control of Quakers.

It was the result of several factors.

- It continued the policy of his father Charles I who had given the colony of Maryland to Cecil Calvert in 1632. As Calvert was a Catholic, this colony became a magnet for Catholic settlers.

- As the Quakers were active preachers and were gaining new converts it became important to send them overseas. We have mentioned that one of the first actions of Charles II was to free the Quakers jailed under Cromwell but in fact a few years later there were again thousands of Quakers in prison which means that the Quakers were still considered with hostility by the rulers of the time.

⁴There was a saying: “We have a pretty, witty king whose word no man relies on”. Nevertheless, he was called the “Merry Monarch” and was one of the most beloved kings of England.

- Finally, Charles II owed a debt of 16,000 pounds to the father of William Penn which was erased by the land grant. What was the origin of this debt? It seems that several wealthy personages had provided loans to Charles II which allowed him to regain its position. It is probably the aid of the Dutch fleet which made this operation fairly costly.

Massachusetts in conflict with the Crown

By the mid-17th century Massachusetts was already seen as a rebel colony. A proof was that it had staunchly refused to allow the establishment of the Anglican Church. Several decisions taken by the British authorities in the second half of the 17th can be understood in the light of their attempt to reign in this colony.

These attempts took two forms.

(1) To break the exclusive Puritan rule, in 1660 Charles II ordered the end of the persecution of Quakers. In 1686 the creation of the (short-lived) Dominion of New England led to the introduction of the Anglican Church into Massachusetts, something that had always been opposed so far and was only made possible because the New England Dominion was under direct royal control. Refusal of this Dominion was the main factor in the successful uprising of 1689.

(2) A second set of decisions (in the same spirit as the policy against the Soviet Union during the Cold War) was to isolate Massachusetts by surrounding it with colonies populated by Quakers like New Jersey and Pennsylvania or by colonies under direct royal control like New York and Connecticut.

Summary

In this section we have learned several things which we wish to summarize for further reference.

(1) The policy of Britain was to encourage the migration to the colonies of the elements of the population which were not well integrated: Catholics to Maryland, Puritans to Massachusetts, Quakers to New Jersey and Pennsylvania. This flow could be controlled by enforcing with more or less severity the kind of penal laws described above. Later on in the 19th century the same policy led to sending convicts to Australia.

(2) This was a clever policy but at the same time a dangerous policy because it created homogenous clusters of people who did not necessarily have a strong connection with the mother country.

(3) The British authorities were well aware of the danger represented by the rebel colony that Massachusetts had become and they tried to neutralize its influence as described above. Note that in 1774 a similar attempt was made with the “Boundary of Quebec Act” (one of the so-called “Coercitive Acts”) which considerably extended the territory of loyal Canada at the expense of the rebel thirteen colonies. It was not

more successful than the attempts to isolate Massachusetts.

Short of war, the “Divide-and-rule” policy is the main means used by countries in conflict with each other. It was also used by Britain in India and with fairly good success. Why did it completely fail in America? Why were the thirteen colonies, with their diverse religions, diverse commercial interests and with a territorial extension of some 2,000 km from Maine to Georgia able to keep its cohesion during the eight years of the War of Independence? Any explanation must also be able to explain why there were no independence movements in Canada (except Quebec), Australia and New Zealand which are still dominions with royal governors whose authority is not always purely formal.

In the light of what was said above one can, at least, point out one factor. The British authorities were certainly in the belief that the northern colonies with their diverse religions would not be able to join forces and fight together.

In this they were wrong because toward the end of the 18th century, under the influence of the “Enlightenment movement” (also known as the “Age of Reason”) the influence of religion on national cohesion almost disappeared. This allowed different religions to co-exist in the same country (e.g. Catholics and Protestants in Prussia and then in Germany). At the same time it made countries based on a common religion (e.g. the Austrian or Ottoman empires) but which had different languages very fragile.

Chronology of events involving Quakers

Quaker versus Patriot conception of society

The interaction of American Quakers with a society confronted to the challenge of waging a difficult war is an interesting topic. It is known that, for religious reasons, Quakers did not wish to make oaths and did not wish to serve in the military. In fact, arrangements were found fairly easily. Instead of oaths, the Quakers were allowed to make “affirmations”. Instead of serving in the Militia, Quakers could hire substitutes.

Yet, the executions of Quakers as well as other incidents described below are testimony of a difficult confrontation. It suggests that the disagreement between Quaker and Patriot ideas was deeper than just the military aspect. What was its root? We come back to this question after the chronology.

Locations of Quaker communities

It is customary to associate Quakers with Pennsylvania, a colony where they held a dominant position. However, a map showing their locations (see Crothers 2009, p.107) reveals that in Pennsylvania their highest concentration was near the border

of the state, in fact near the place where the borders of Delaware, Maryland, New Jersey, Pennsylvania and Virginia intersect each other. This explains that, whereas Pennsylvania had a large proportion of the Quakers, the other four colonies had also substantial numbers.

Apart from this cluster, there were also notable numbers of Quakers in Rhode Island and Long Island.

Chronology

In the following chronology each note has 4 parts: (i) the date (ii) the description of the event (iii) the indication of the source (iv) a comment.

Sep 12, 1659: Three Quakers, two men and a women, Mary Dyer, who came to Boston to preach, were banished from Massachusetts under pain of death. (website “executedtoday”)

Oct 8, 1659: The three Quakers came back to Boston where they were immediately jailed and sentenced to death ten days later. (website “executedtoday”)

Oct 27, 1659: The two men were hanged but Mary Dyer was granted a temporary reprieve and was hanged only on 1 June 1660. (website “executedtoday”)

Oct 20, 1661: A letter written by Charles II on 9 September 1661 was handed to the Governor Endicott (himself a fierce Puritan) around 20 October. In this letter the King ordered executions of Quakers to cease. Futhermore, if a Quaker had in some way broken the law of the colony the King asked that he be sent to England where he would be tried according to British laws. After reading the letter the Governor promised that the order would be obeyed. (Minehan 1934, p.62)

[Indeed in the following weeks the imprisoned Quakers were gradually liberated. This episode is interesting in so far that it shows that even in a rebellious colony like Massachusetts the King’s orders were still respected. One century later the situation would be different.]

Dec 7, 1747: On this day, a militia of volunteers comprising 600 armed men marched and paraded for the first time in Philadelphia. It was established by Benjamin Franklin despite the opposition of the Pennsylvania Assembly dominated by the Quakers (opposed to the military as a matter of faith). (Seymour 2012)

[As the only substantial armed force in Pennsylvania, this militia played an important role.]

Oct 1774: There was a confrontation between John Adams and the prominent Quaker Israel Pemberton who vigorously protested the treatment of the Quakers in New England. Adams was irritated by rich Quaker merchants who, he said, love money and land better than liberty and religion. (Anderson 1981)

Jan 1776: In 1776 the “Yearly Philadelphia Meeting”, the most authoritative Quaker assembly, defined the political position of the Quakers in the following terms. “Quakers should unite in the abhorrence of all measures designed to break off the happy connexion we have heretofore enjoyed with Great Britain and our just and necessary subordination to the King”. (Crothers 2009,p.111)

[Whereas it is often said that the Quakers maintained a neutral position, such a belief is clearly contradicted by the previous statement. How could it be otherwise? A key Quaker position was acceptance of the established government. Therefore, it is obvious that they could not accept the violent overthrow of the established authority of the King.]

Jun 19, 1777: Excerpt of the minutes of the Council of Safety (p.972).

A letter of 18 June 1777 from commissioners of the “Committee for Detecting Conspiracies” at Poughkeepsie (Dutchess County in New York State) informing the Council of Safety that some 20 Quakers have been to Long Island [occupied by the British] without permission, to attend their annual meeting. The said commissioners request advice.

Resolved. All those who had been to Long Island and are returned to be apprehended and sent under guard to the Fleet prison at Esopus Creek [a ship prison], there to remain at their own expenses until further order.

The same decision is taken with respect of Reverend Beardsley who has also been with the enemy.

Jul 10, 1777: Excerpt of the minutes of the Council of Safety (p.995).

William Pemberton [a well-known Quaker] was confined at the jail at Kingston.

[Apparently this person was not one of the 20 persons mentioned above; the source does not say why he was taken into custody.]

Jul 29, 1777: Excerpt of the minutes of the Council of Safety (p.1020).

A petition of 5 Quakers in the Fleet prison praying liberty. The question being put, the prayer was rejected.

[This excerpt shows that at this date the 20 Quakers were still confined on the ship prison. Note that a Quaker source (namely Bradley 1966 which is based on a report of 1787 says that of the 20 Quakers arrested only about one half were transferred to the Esopus prison ships.]

Aug 24, 1777: Letter from Major General John Sullivan to General George Washington.

I found a number of intelligence papers among the bagages of the British officers which I will forward to your excellency. Among them is a paper of information from the Quakers at their yearly meeting at Spanktown held the 19th instant [i.e. August] giving an account of our army where it lays and the force in the several departments.

[It is commonly assumed that the so-called “Spanktown papers” are a forgery but after examination of the case this seems not at all obvious. One of the reasons given, namely that the Yearly Quaker Meeting was not in Spanktown (in Union County in the north east of New Jersey, now it is called Rahway) is not convincing for at the time the real place was well known (everybody knew that the most important Yearly Meeting took place in Philadelphia; in fact the Quakers went to the British line because they wanted to visit the Commanders on each side) and any sensible forger would have known that.

Anyway, the question of whether it was a forgery or not is irrelevant here for what matters is the reaction of the Patriots after Sullivan had sent a copy of the papers to General Washington and to the Continental Congress.]

August 1777: John Penn, the Lieutenant Governor of Pennsylvania and Proprietor of 25% of the colony, was arrested by Patriot soldiers at his estate near Philadelphia. Later on, as British troops were approaching, he was exiled to New Jersey.

Aug 31, 1777: Acting on a resolution of the Continental Congress, the Supreme Executive Council of Pennsylvania ordered the arrest of 41 persons among whom were many prominent Quakers (e.g. Israel, James and John Pemberton), but the group of prisoners comprised also non-Quakers. In the list some names were followed by a star; these persons could subsequently be held under house arrest. The order recommended not to commit the prisoners to the common gaol nor to the state prison. John Pemberton refused to be arrested and had to be removed forcibly. Because British troops would arrive soon it was important to remove these Loyalists out of reach of the British. So, on 11 September the group started on the journey to the exile place of Winchester in Virginia. They would stay there for 8 months, basically until the departure of the British from Philadelphia. (Anderson 1981)

[It is remarkable that in historical accounts this episode receives much more attention than the imprisonment of Quakers on the Esopus prison-ship or the arrest of the governor of Pennsylvania. Their exile some 300km from Philadelphia was called an ordeal. It is true that two of the exiles died from disease in Virginia but this was probably more due to their age and to the winter season. It should also be noted that, as all prisoners in that time, they had to pay all expenses including the wage of their guards. They came back to Philadelphia on 30 April.]

Sep 23, 1777: In northern Virginia 14 Quakers were forcefully drafted into service in the state militia. With drawn swords the officers threatened with death all those who did not comply. When the enlisted Quakers refused to handle their muskets, the officers ordered the weapons to be tied to their body. (Crothers 2009, p.105)

Oct 2, 1777: The 20 prisoners on the prison ship were allowed to return home once they had made the affirmation of allegiance to the state of New York. By Oct 2 almost

all had been paroled and discharged. (Bradley 1966)

Oct 6, 1777: Ephraim Mallery (one of the people called Quakers) having affirmed his allegiance to the state, is ordered to be discharged. (archive document labelled [Detecting])

[This person was not one of the 20; the source does not say why he was taken in custody.]

Oct, 1777: The legislature of Virginia allowed conscientious objectors to hire substitutes or to pay fines for nonservice. For Quakers, however, both ways were equally objectionable. Local authorities responded by seizing Quaker property in amounts comparable to the fines. By 1783 for the Quakers in northern Virginia the total of such seizures was about 2,400 pounds. This was not a big amount but confiscations of property targeted Quakers as well as other Loyalists. Among north Virginia Quakers, 126 had their property seized between November 1779 and October 1782. (Crothers 2009,p.106,118).

[What proportion of the households does this represent? There were about 2,000 Quakers in north Virginia which represents $2000/5.7 = 351$ households (where 5.7 is the average size of a household according to the census of 1790). Thus, the confiscations represented $126/351 = 36\%$ of the households. This proportion is about 10 times higher than what is observed elsewhere for the general population. This calculation is confirmed by the numbers given by Samuel Kercheval (1902) cited in Crothers (2009): 30% of 450 adult men (i.e. heads of families) had their property seized. *Economically, the Quakers were by far the greatest sufferers of the war.*]

Oct, 1777: The legislature of Virginia imposed double taxation to so-called non-jurors, that is to say persons who did not take the oath of allegiance (not even an affirmation of allegiance). One year later it was raised to treble taxation. In addition those who did not take the oath were excluded from public employment. Naturally, this rule impacted the Quakers. (Crothers 2009,p.121)

Nov, 1777: The “Virginia Gazette” reported that Philadelphia Quakers had given British General Howe a gift of 6,000 pounds on his entrance into the city. (Crothers 2009, p.113)

[Based on Quaker sources, Crothers says that the information was not true. Even if true, it seems obvious that the Quakers could only disclaim it. If false, the publication nevertheless reveals a climate of hostility toward the Quakers.]

Date unknown: In Pennsylvania 14 Quakers who were drafted under the militia law, had been forcibly taken from their homes to the militia encampment. They refused to partake of the provisions allotted to themselves or to handle any of the muskets. They were forced to move in military order, several with muskets tied to

their bodies. They were obliged to stand sentinel for many hours evidently kept there by the actual sentinel.

[Source: Van Tyne p.208]

March 6, 1778: Acting upon the resolution of the Continental Congress of 27 November 1777, the Supreme Executive Council of Pennsylvania issued a first list of 13 Loyalists whose property would be confiscated. Several other lists were issued in the following months and years totalling several hundreds persons. As these persons were mostly wealthy citizens there were certainly among them many Quakers but we do not yet know how many. Note that the confiscations started even before the British troops had left Philadelphia in June 1778.

Oct 3, 1778: Inventory of the movable effects belonging to John Roberts from Lower Merion township in the county of Philada. (Corbly 2013, p.224)

[Together with Abraham Carlisle, John Roberts is one of the two Quakers sentenced to death and executed after the departure of the British troops from Philadelphia.

Room after room the inventory lists all objects from the most valuable (e.g. a clock worth 30 pounds to the less costly (e.g. a small walnut box worth 7 shillings and 6 pence).]

Oct 18, 1778: Memorial of jurors and judges in favor of Abraham Carlisle.

To the Honorable the judges of the Supreme Court of Pennsylvania. [Follows the request and 12 names of petitioners] (Corbly 2013, p.234)

[It is not common to see the jurors and judges *who were on the trial* write such a petition.]

Nov 4, 1778: Despite memorials for mercy signed by many people, Abraham Carlisle and John Roberts were hanged in Philadelphia. (Corbly 2013, p.244)

[Another person, George Spangler, 33 year-old, had been executed as a spy in Philadelphia on 14 August 1778 (Corbly 2013, p.354).]

Jan 29, 1779: It would be a mistake to think that Carlisle and Roberts were the only persons executed for treason in the wake of the departure of the British from Philadelphia. In fact, 17 persons were tried and sentenced to death at the end of November 1778 by a Court of Oyer and Terminer⁵ of Gloucester county in New Jersey. According to newspaper articles they were executed on 29 January 1779 ([Newspapers Vol.2 p.583]). It is possible that some of them were reprieved, we do not know exactly.

April 12, 1779: Sale of the forfeited estates of Abraham Carlisle and John Roberts. (Corbly 2013, p.276-277).

Jun 19, 1780: In mid-June 1780 five spies were discovered near Morristown in New

⁵Courts of Oyer and Terminer were special courts in use in Britain particularly for high treason cases.

Jersey. One was shot and killed after having surrendered, another was able to escape and the three others were tried by a court martial and eventually executed on 19 June 1780. The reason which makes this incident relevant here is that, while in hiding, the spies were harboured by a Quaker. The newspaper article which gives this account says that the Quaker has been taken into custody and “it is expected that he will in a few days receive the reward his conduct deserves”. At this point we ignore what was his fate.

Nov 25, 1780: The Quaker David Dawson was executed in Philadelphia for treason conviction against the state of Pennsylvania (Young 1966 and website www.executedtoday.com)

[Dawson was executed together with counterfeiter Richard Chamberlain. Note that in those years many counterfeiters were arrested, yet not executed. What made Chamberlain’s case more serious than the others? It is true that several other counterfeiters were executed, especially in 1779 and 1780.]

Nov 25, 1780: The Quaker Ralph Morden was executed in Easton, Pennsylvania. Morden guided a Tory, Robert Land, past Continental sentries into British lines and was caught. (Young 1966 and website www.executedtoday.com)

[The fact that Dawson and Morden were executed the same day in different places is pure coincidence for the two cases were not related. Execution for crossing the line seems very severe for it seems that dozens of persons crossed it illegally every day particularly for the purpose of trade.

On the website “[executedtoday](http://www.executedtoday.com)” there is the following comment. “There were around 700 indictments and attainders for treason in Pennsylvania throughout the American Revolution, and these resulted in only 4 hangings and all four were Quakers”. However, this statement is misleading for (at least) two reasons.

- Acts of attainder were not trials but political decisions for the purpose of banishment and property confiscation.]
- Cases of treason were often tried in “Oyer and Terminer courts” (explained elsewhere) and such trials resulted in far more than 4 hangings.

1783-: Several hundred Quakers moved from the United States to Pennfield at the end The American Revolution. In 1824, the population of Pennfield Parish numbered 558 persons. Other Quaker settlements were established in Prince Edward Island. (Fuller 2009)

[With respect to the lives of Quakers in those days this is certainly the most significant step. The reference gives a vivid description of the first winter months experienced by the emigrants in freezing weather and conditions of semi-starvation.]

Aug 28, 1783: The Quaker Moses Doan was killed while resisting arrest.

The Doans were Loyalists from a Quaker family of good standing. They robbed Patriot tax collectors and stole over 200 horses in Bucks County that they sold to the British Red Coats in Philadelphia and Baltimore. (Wikipedia article entitled “Doan outlaws” and the references cited therein, particularly Pennsylvania Colonial Records: series 4, vol.3 and series 6, vol.13.)

Sep 24,1788: The Quakers Levi and Abraham Doan were hanged in Philadelphia. Based on the attainder act they were executed without being tried in spite of the protest of their family. (Same sources as for the previous case, plus Rowe 1994) [The Wikipedia article says that “they confessed aiding the British” but that would be a strange indictment five years after the Peace Treaty. The explanation given by Rowe that they were not tried seems more plausible.]

Comparison with common scholarly accounts

In total, the previous chronology mentions 6 Quakers executed by hanging and one shot and killed. Moreover, the property confiscation was really a disaster for the prosperous Quaker community of Pennsylvania, a disaster from which it never recovered.

For the purpose of comparison, let us consider the account given in the Wikipedia article entitled “Quakers in the American Revolution”. Being an American source, Wikipedia has fairly detailed articles about milestone events of American history. In other words, it can be considered as commonly accepted account.

In this article there is no mention of the imprisonment on the Esopus prison ship, no mention of the executions, not even of the well known hangings of Carlisle and Roberts. The only arrests mentioned are for refusing to pay taxes. Most importantly, there is no mention of the property confiscations. The article does not mention that independence led many Quakers to immigrate.

In short, this article is a benign version of the real story. As such, it does not explain why the War of Independence marked the end of Quaker influence and dominance in Pennsylvania and New Jersey.

Collapse of the political power of the Quakers

In 1755 Pennsylvania had a population of 300,000 of whom 50,000 (16%) were Quakers; in 2010 the percentage of Quakers in Pennsylvania was of the order of 1%. As a matter of comparison, in 2013 the Mormons represented 62% of the population of Utah. In other words, starting from similar initial situations in which Quakers and Mormons represented a major segment of the population, the proportion of the Quakers collapsed. The War of Independence was the first, and probably the most

serious shock. We do not know exactly what was the proportion of the Quakers who left the United States during and after the war but we do know of a colony that they created in southern Canada (see below).

Fundamental conflict between Quaker and Patriot visions

In the introduction of his book Gael Stuart Rowe (1994) describes very well the Quaker conceptions.

In his writings William Penn states that a government is in no way endangered or weakened by permitting a diversity of religious sentiments to exist.

For the same reason of respecting diversity Penn wanted to make Pennsylvania a “nation of nations” in which not only British subjects would be welcome, but also people from other nations. This is probably why many German people established themselves in Pennsylvania. They were allowed to keep their language (by opening German schools) and their culture (e.g. by creating German sport societies).

Does respecting diversity make nations and states stronger or on the contrary does it endanger their stability? This is the key question.

Historical evidence shows that at the end of the 18th century almost all major countries were trying to reduce diversity.

- In Germany the terrible “Thirty Years War” had been a confrontation between Catholic and Protestant countries and provinces.
- In Britain in the wake of the restoration of Charles II, Parliament passed so-called penal laws under which only members of the Anglican Church had access to universities, public offices and so on. This was an attempt to reduce the influence of non-Anglican denominations.
- In France the toleration edict which ruled the relations between Catholics and Protestants since after of the religious wars was discontinued.

Perhaps this point will appear even more clearly if we consider the rather extreme case of a country during a revolution.

At one point during the French Revolution the country was about to desintegrate into bits and pieces somewhat in the same way as the Soviet Union in 1990. The port of Toulon in the south was occupied by a British squadron; the city of Lyons was in open rebellion; the province of Vendée was (thanks to British support, see the Quiberon invasion) fighting in a civil war against the troops of the central government. In the north of France, General Charles Dumouriez, like Benedict Arnold in New York state, defected to the Austrian side. In addition to these domestic insurgencies, Prussian and Austrian armies were ready to invade the country at the first opportunity. To keep the country together dissent had to be suppressed at all cost.

In contrast with America where fairly soft methods worked well, in France much harsher methods were used. In a sense the War of Independence was also a civil war but in fact the Loyalists were never a real threat. The real civil war came later and was also fought with harsh military means.

Nowadays, in time of war (including cold wars) a plurality of opinions is allowed only to the extent that it does not include the enemy. The obvious implication is that greater diversity would weaken the country.

Legal status of colonies and implications

In the British colonial Empire, all new colonies belonged to the ruler who for the purpose of practical management and development would then give them a royal charter defining their status. There were mainly three ways.

(1) One possibility was direct management by the Crown. As an example, in 1624, King James I revoked the previous charter and made Virginia into a crown colony. Direct management was often resorted to when the previous status had resulted in a failure; for that reason it was often a temporary solution.

(2) A second way was to transfer the management of the colony to the stock holders of a private company created under a specific charter. This was then called a joint-stock colony. Actually this was the first status of Virginia. It came about through the creation in 1606 of the “Virginia Company of London”. As any corporation, the company had the right to manage the colony in the best interest of its stock holders. Naturally, being the colony’s “overlord”, the Crown had the right to revoke the charter whenever the management of the colony was not found appropriate.

The factors described in this section created the divide between Patriots and Loyalists. Naturally this divide was strengthened by successive British military interventions. Each occupied port, i.e. Boston, New York, New Port in Rhode Island, Savannah in Georgia, Charleston in South Carolina, became a cluster of Loyalists and a source of division. It is in 1778 and in following years that most “Confiscation and Banishment Acts” were passed.

Within the colonies there was a divide between the first settlers and those who came later. The reason is simply that the first settlers often received very large land grants. Naturally, this was particularly true in the Proprietary Colonies.

The Proprietary colony of Pennsylvania

In 1681 thanks to a generous gift of the King Charles II William Penn became the sole proprietor of a huge tract of land of 120,000 kilometer square. Prior to this gift in 1677 together with a group of prominent Quakers Penn had purchased the colonial province of West Jersey which represented one half of the current state of New Jersey.

When William Penn came to Pennsylvania in 1682 the group of Quakers around him became big landowners. Political dominance was a natural consequence of such a prominent economic position. In the century following the arrival of Penn many non-Quaker settlers came to Pennsylvania with the result that around 1750 the Quakers represented only one sixth of the total population of 300,000. It would be interesting to know what was the concentration of landownership before the revolution but one can infer that it was very high.

The Proprietary colonies of Carolina and Georgia

A high concentration of landownership was also to be found in North Carolina, South Carolina and Georgia.

In North and South Carolina the land problem had the same roots as in Pennsylvania because the two provinces originated from a single colony named Carolina (meaning Charles in Latin) which, as in Pennsylvania, started as a proprietary colony awarded by Charles II to eight Lords in return for their financial assistance in restoring him to the throne.

Interestingly, when Georgia was founded in 1732, some 10 years after Carolina, there was a deliberate attempt to develop an egalitarian society. The charter planned by and granted to founder James Oglethorpe limited the size of land grants to only 2 hectares (50 acres) plus 2 hectares for each of the indentured workers that the settler would bring with him. Slavery was prohibited as well as the consumption of alcohol. The purpose was to establish a moral society but the project did not last for very long.

The land grants were too small to attract many settlers; they preferred to establish themselves in North or South Carolina. Then, in 1743, after Oglethorpe had left the colony, the ban on slavery was lifted. The limitation on the size of land grants was also lifted in 1750. Thanks to the new rules Georgia was able to attract more settlers and to move in the same direction as North and South Carolina.

Upland versus lowland in the Carolinas and Georgia

The three states share a social differentiation pattern based on a common geographical feature, namely the range of the Appalachian Mountains which runs from Georgia to the Canadian border. This created a sharp contrast between the small family farms of the upland foothills (also called piedmont) and the plantation economy of the coastal tidewater region where wealthy planters had established a slave society.

It will be interesting to see how the two societies reacted to the events of the revolution. For reasons to be explained later on, one expects upland people to be on the Patriot side whereas low country people are rather expected on the Loyalist side.

The analysis of the rebellions mentioned above can help us to understand the revolu-

tion in two different ways. Some common features of early uprisings will be shared by the revolution. However a big difference is that pre-revolutionary movements will be synchronized in a way never seen before.

Crucial role of the militia in uprisings

The most obvious common feature of various uprisings was the key-role played by the militia. Below this will be illustrated by three cases: (i) Boston (April 1689) (ii) New York City (late May 1689) (iii) North Carolina (1670-1671). These episodes exhibit a gradation. Although distant in time, the first prefigures the revolutionary episodes. On the contrary, the third is quite the opposite, whereas the second is an intermediate case.

Uprising against governor Edmund Andros in Boston in Boston, 1689

The uprising of April 1689 was by no means a spontaneous movement; it was a well planned and well organized military coup (Webb 1998). This appears very clearly in the way the uprising started. In the early morning of 18 April 1789 the militia gathered outside Boston on the other side of the Charles river and around 8:00 the militiamen and officers boarded boats and crossed the river into Boston. Simultaneously, a militia unit neutralized the regimental drummers in the city, thus preventing them to sound alarm. By mid-morning most of the British military officers had been arrested or had taken refuge in Fort William located on Castle Island. Naturally these events brought many people into the streets but that crowd had no direct influence on the course of events except perhaps by taking into custody a number of Anglican priests (remember that the Boston people were mostly Puritans).

Around noon some 1,500 militia men took position in the market place and a proclamation was read explaining the reasons of the uprising. Shortly later Governor Andros surrendered. As far as Massachusetts was concerned, the rebellion was victorious.

One may wonder who were the leaders behind this well designed power change. The sources are not very explicit. At that time the paramount leader of Massachusetts was a Puritan clergyman named Increase Mather (1639-1723) but in April 1689 he was in London for the purpose of advocating a new charter for Massachusetts. He was instrumental in the appointment of Sir William Phips as governor.

The previous description raises a question. We are told (Lustig 2002) that Governor Andros “arrived in Boston on 20 December 1686 and immediately assumed the reins of power”. This was two years before the uprising of early 1789. Is it not the first responsibility of a governor to ensure the loyalty of the militia by replacing officers who may be a security risk. His commission allowed him to rule through his Coun-

cil without having to take into account the wishes of the Assembly (which was of course a source of irritation for the Massachusetts people). In military coups usually some units remain on the side of the government and subsequently have to be neutralized. In Boston the account does not mention a single militia unit which wanted to side with the governor. Yet, Governor Andros is said to be a tough, effective, even dictatorial ruler. If the accounts can be trusted, why did he act so carelessly?

This important issue warrants a detailed investigation. It can be added that his council proved rather cooperative and there is no indication that it had resisted a reorganization of the militia.

Uprising in New York City, late May 1689

The course of events during the uprising in New York was very similar (Webb 1998). The militia was able to occupy Fort James and got control of the powder magazine (often a critical step). Sir Francis Nicholson, the deputy of Governor Andros in New York State surrendered and fled to Britain soon later. A council of militia officers selected a militia captain, Jacob Leisler, to take command of the city militia. Gradually, Leisler was able to extend his control to the rest of the province.

However, in the next section it will be seen that the aftermath of the uprising was not the same as in Massachusetts.

Uprising in North Carolina, 1771

Although it occurred only a short time before the Revolution started, the so-called “Regulator Uprising” was its exact opposite. The movement lacked a clear objective⁶, its protest actions were badly organized and consequently one is not surprised that it was easily crushed by a combination of big lowland farmers and royal interests led by governor Tryon (who, shortly later, would become governor of New York State). Actually, it is this contrast which make the movement interesting. Thanks to clearly defined objectives and to smartly organized protests action (e.g. the Boston tea party) the Patriots were successful so easily that one might forget that the standard outcome of rebellions led by middle class people was to be suppressed. In other words the failure of the Regulators raises useful questions and will allow us to identify the features which were unique to the American Revolution.

Who were the Regulators?

We have already explained the difference between upland and lowland, but in fact it affected the uprising only indirectly. The main factor was probably a considerable inflow of immigrants coming from the neighboring colony of Virginia in search of free or at least cheap land. As soon as counties were organized on the frontier sheriffs, clerks, registers, and lawyers swooped down upon the defenseless inhabitants

⁶The Hillsboro riots showed that the direct targets of the regulators were not so much the big landowners than the lawyers who were at their service. A big inflow of population had created a land scarcity in the upcountry.

like wolves (Basset 1895). Surveys were carried out periodically by officials with the goal of ejecting the farmers without satisfactory deeds. This created a real hatred for lawyers and sheriffs. The uprising was also directed against the fees due to surveying agents and to tax collectors when they could not be paid in time. Such issues aggravated the split between upland and lowland because contrary to their neighbors the big landowners had secure deeds and were not in want of cash to pay their taxes. was

It is useful to describe the incidents which occurred at Hillsboro⁷ in September 1770 because they reveal in full light the antagonisms mentioned above. Here is a short account (Basset 1895).

On September 22 James Hunter, one of the leaders of the movement, presented a petition at a meeting of the Superior Court. Although he was in his right to do that, he was just ignored. Seeing that, the demonstrators fell on one of the judges and administered him a severe thrashing until he took refuge in a neighboring house. Next the crowd seized a well known lawyer, Edmund Fanning, who was one of their main opponents. He was dragged him into the street and roughly treated but allowed to go back to his home on his promise to surrender himself the following morning. The following day the demonstrators went to Fanning's home. He was not mishandled but his papers were burned and the furniture was damaged.

We said above that, compared to Patriot threats, these protests were not smartly designed. In what sense can one say that? At first sight, the actions such as thrashings or breaking the furniture do not seem very different from those of the Patriots but in fact there are crucial differences which can be summarized as follows.

(1) Usually the Patriots did not attack officials at their working place but at their home.

(2) In Patriot actions an important element is to humiliate the person who is targeted in view of the rest of the population by transporting him through the town in a carriage with a shield around his neck giving the reason. In the previous account which is based on the testimony of a witness the demands of the demonstrators is not even formulated. One can suspect that they have to do with deeds and legal matters which is why Fanning's papers were burned but for other inhabitants the requests of the demonstrators certainly did not appear clearly.

(3) Most Patriot demonstrations involved a deal with the victim. For instance with respect to a tax collector: "Unless you stop your work" (or may be unless "you leave the county") we will visit you again. Here, there is no deal of any kind. As a matter of fact, Fanning continued his activities, not only as a lawyer, but also as a colonel

⁷Nowadays spelled as Hillsborough, it was at that time the main town of the piedmond country

in the militia.

It would be interesting to know whether some of the Regulators who took part in this riot were arrested and tried. Given the general weakness of this movement it would hardly be surprising.

After the fiasco of the Hillboro incidents the leadership of the Regulators made a capital mistake which consisted in confronting its opponents on the battle field. In spite of a broad membership the Regulators had neither military equipment nor training. It is true that a few militia officers went on their side but that could not remedy their unpreparedness. As explained in the next subsection, the forces of governor Tryon consisted mostly of former militiamen who accepted to march thanks to being offered an enrolment bounty. Fought on 16 may 1771 the battle of Alamance resulted in a crushing defeat for the Regulators. Seven of their leaders, including three militia captains were captured, sentenced and executed.

Role of the militia during the Regulator uprising

What was exactly the role of the militia in this uprising? In some accounts one reads that “At the Battle of Alamance (1771), the militia quelled the Regulator protest”⁸.

That this is not really true can be seen in two ways:

(i) In Basset’s (1894) detailed account one reads that the troops under Governor Tryon were not militiamen but freshly recruited mercenaries:

“On 19 March 1771, Governor Tryon called on the colonels of the counties to secure volunteers. He gave orders to raise 2,550 men. To get these was not an easy thing. In Bute county not a man could be enlisted and other counties were reluctant too. Eventually a bounty of 40shillings. was offered to each volunteer and this had its effect.”

(ii) Among the seven rebels who were executed after the uprising was crushed there were three militia captains. Their participation suggests that there was some sympathy for the movement among the militia units of the upland counties.

After the Alamance defeat the movement suffered from further repression when Tryon’s troops carried out a punishment campaign in Regulator territory. As is commonly done in such cases, they destroyed and burned houses and farm equipment and requested the farmers to sign loyalty oaths.

It should be recalled that repression has been the common outcome of almost all historical peasant uprisings. This calls for appropriate explanations of why the early Patriot uprising was so remarkably successful.

⁸See: <https://northcarolinahistory.org/encyclopedia/hillsborough-riot-1770>.

Aftermath of the uprisings

We have already mentioned that none of the leaders of the various uprisings considered above was tempted to break with the Crown. On the contrary, often (e.g. Carey in 1711, Increase Mather in 1688 or the emissaries sent by Jacob Leisler in 1689) they sent envoys to London in an attempt to lobby Crown officials. Yet, there is not a single case where the rebel leader was accepted by London and given an official commission.

Usually, the new governor sent to the rebel colony brought little troops with him which means that with the backing of the militia the rebel colony could have sent him back in the same way as later on ships loaded with tea were sent back to London. Strangely, this never happened.

After his arrival, usually the royal governor would start a power struggle against the leaders of the rebellion. Thanks to the support of the Royalist fraction of the population he was able to win it. The fate and punishment of the rebels depended very much upon the strength of the support provided by his allies. A few examples will serve to illustrate this point.

Mild repression in Boston

Edmund Andros was governor of the recently created Dominion of New England. In that position he did not really have a successor because the Dominion was dissolved after the uprising, a notable success for the rebellion. Andros' successor in Boston, Sir William Phips, was governor of the Province of Massachusetts Bay which was only slightly different from the former colony of Massachusetts (the main change was the inclusion of the Plymouth colony). Most royal governors had an uneasy relation with the Massachusetts Assembly. From the prerogatives and salary of the governor to the implementation of the Navigation Acts and export taxes, there were many causes of friction. This tense relation laid the ground for the conflicts which led to the struggle for independence.

The fate of Jacob Leisler in New York

In August 1689 Jacob Leisler dispatched two emissaries to England to bolster his position with the government in London. It seems they were not very successful for Colonel Henry Sloughter, the new governor appointed by the King was not prepared to any compromise. He arrived in New York on 19 March 1690 (Lovejoy 1987). Jacob Leisler tried to negotiate with him by sending him emissaries but he refused any discussion and arrested the emissaries. This should have made Leisler suspicious. It is said that he had several hundred armed supporters but nevertheless, for reasons one would be glad to better understand, he decided to surrender.

On 1 April 1690 he was charged with high treason by a special court set up by Sloughter and that he did not recognize. On 17 April 1690 Leisler and his son-in-law Jacob Milborne were sentenced to be hanged and they were executed on 16 May 1690⁹.

Heavy repression of the Regulators in North Carolina

Next we move to the uprising of the Regulators in North Carolina. Its outcome was very different from those we have just seen. Six of the leaders of the uprising, including three captains of the militia were executed for high treason¹⁰.

Moreover, on 9 June 1771 Governor Tryon issued a proclamation through which four other leaders were outlawed and a reward of 100 pounds and 400 hectares (i.e. 1,000 acres) offered to anyone who would deliver them dead or alive to the British forces¹¹.

Situation in Pennsylvania before Franklin's "Plain truth" in 1747

In the yearly decades of the 18th century despite several attempts the Quakers opposed successfully the enactment of any militia law. Before Franklin took things in his hands the most serious attempt occurred at the end of 1743. On 14 November 1743 Governor George Thomas issued a proclamation requiring "the best qualified men to appear for muster well armed for their instruction". The volunteers formed a militia of 700 men but, dominated by the Quakers, the Provincial Assembly refused to pay or arm them¹². We are told that in the 700 enrolled, some 270 were indentured servants, a condition just a little above that of slaves except that they were bound by a temporary contract whose duration could extend over several years. By breaking their contract the servants abridged their time of service which meant a loss for their masters. As most of these masters were Quakers, the Assembly not surprisingly allowed them an indemnity of 2,600 pounds. Thus, the attempt was costly for the province and without appropriate funding this militia served only a few months.

In 1747 Franklin's "Plain truth" promoted the creation of a militia

On 15 March 1744 France joined Spain's war against England, a war which ended only four years later with the signing of the Treaty of Aix-la-Chapelle on 18 October

⁹For the crime of high treason the sentence was "to be hanged, drawn and quartered, and estates confiscated"; in the present case he was hung until half dead and then beheaded; the other steps were omitted. However his property was confiscated. (Voorhees 1994, p.447).

¹⁰Incidentally, the NorthCarolinaPedia website gives the following account: "Tryon hanged one Regulator leader, James Few, but most of the others escaped to northern provinces". It is difficult to understand how such an information can be given in a state where the execution of the 6 or 7 Regulators is still present in the collective memory. It is true that "most" is a very elastic word, but as it stands the sentence appears to be a misrepresentation.

¹¹Source: <http://www.sonsofdewittcolony.org/mckstmerreg.htm#procjun9>

¹²The main source used here is a detailed study entitled "Militia" published by the "Constitution Society" (a libertarian organization) and likely authored by its president Jon Roland.

1748. Pennsylvania was little affected by this war except that in October 1747 there was a raid by Spanish and French privateers on the coast of New Jersey. Although not a serious attempt it provided a strong argument to Franklin in his attempt to convince the Philadelphia people to set up a militia. How did he become involved in this debate?

Benjamin Franklin was not born in Pennsylvania but in Massachusetts. After working for several years in the printing industry, he became involved in Pennsylvania affairs after buying the “Pennsylvania Gazette” in 1730. In 1747 he was deputy postmaster general of Pennsylvania. As a person who climbed the social ladder through his own efforts, he was perfectly qualified to speak in the name of the middle class. His pamphlet “Plain truth” is signed “A tradesman of Philadelphia” and to make completely clear to whom his message is addressed he writes: “We, I mean, the middling people, the farmers, shopkeepers and tradesmen of this city and country”.

Trying so see the attitude of the Quakers through the eyes of potential enemies, namely the Spanish and French¹³, he writes:

“The enemy, no doubt, have been told, that the people of Pennsylvania are Quakers, and against all defence, from a principle of conscience. In fact, nothing is done by any part of the people [including non-Quakers] towards their defence.”

Although he knows that he will not be able to convince them, he devotes several pages of his pamphlet to quotes from the Bible to the effect that self-defense is not only permitted but even necessary.

Beyond the question of the militia his main message is an appeal to union:

“At present we are like the separate filaments of flax before the thread is formed, without strength because without connection; but union would make us strong and even formidable.”

This message is well illustrated by the cartoon shown in Fig.1. Note that to include a cartoon into pamphlets or newspaper was quite uncommon at that time.

Fig. 1 To promote the cause of Union Franklin included a striking cartoon into the “Plain truth” pamphlet. Nowadays the value of images and cartoons in advertizing and public relations is well recognized but in his use of cartoons Franklin was a pioneer well ahead of his time. *Source: Text of “Plain truth” (available on line)*

At the end of the letter he shortly presents his immediate goal.

If the hints contained in this paper are so happy as to meet with a suitable disposition of mind in his countrymen and fellow citizens, the writer of it will, in

¹³Incidentally, he calls the French, “our most inveterate enemy”. This did not prevent him some 30 years later to play a crucial role in securing the French alliance with the United States. After independence he became the ambassador of the new republic in Paris.

a few days, lay before them a form of an association for the purposes herein mentioned, together with a practicable scheme for raising the money necessary for the defence of our trade, city, and country, without laying a burden on any man.

One month after the publication of this letter a group of citizens formed a “League for the defense of the city and province”. Not being an official organization, this league did not need the formal approval of the Assembly, thereby breaking the deadlock of Quaker opposition.

The funding scheme was a lottery. This is a very simple way to raise money. For instance, tickets totalling 20,000 pounds in value would be sold and winning awards to a value of 17,000 pounds would be distributed. Naturally, for such a scheme to work well all tickets must be sold which means that the purpose of the lottery must have a strong support in the population. That is where Franklin’s public relation genius helped a lot as will be seen in the next subsection.

As testimony of the success of the operation, on 7 December 1747 some 600 armed men paraded before the governor. On the one hand the governor must have been satisfied that at long last a kind of militia was set up but on the other hand he may not have been happy to see that this body of armed men was under the control of Franklin and his associates. In April 1748 two batteries, one of 13 cannons and the other of 27 were established. As a testimony of the support of the population it can be mentioned that the craftsmen who set them up have been working for free. Although Franklin was offered to take the command of the regiment he declined and suggested one of his close associates. In London, English officials probably were not happy and they would have been even more worried if they had known that this was one of the very first steps in a process which would lead to American independence 36 years later.

The creation of Franklin’s militia was a setback for the King

The creation of the militia was a setback not only for the Quakers but also for the king.

As said above, the governor favored the creation of a militia provided it was under his control. However, in a subtle way Franklin’s militia was *not* under royal control because there was a clause of the Association by which the subscribers bound themselves to obey the laws and regulations of the military council. As governor and Proprietor, Penn had very strong words against this arrangement¹⁴. He termed the military council “the most dangerous part of the Association, for it usurped the

¹⁴Letters from Penn to his secretary Richard Peters, 30 March 30, 1748 and 9 June 1748, quoted in Cummings (1944, p. 225 and 234).

Kings power of ordering the Militia, which you know our Kings are very jealous of”. A similar objection was the fact that before being commissioned by the governor, the officers were elected by the soldiers. Fortunately, Penn’s secretary, Richard Peters, was able to reassure him by observing that “the conduct of the Associators had been remarkably moderate” and that it was a good way to prevent a possible interference of the London Parliament.

The future proved that by accepting this arrangement the Proprietor made a great mistake for some 30 years later, on order of the Continental Congress, the Proprietor and all his staff would be arrested by this very same militia. It is true that in 1778 even a loyal Pennsylvania militia would probably not have changed anything for the same shift of power had occurred also in the other colonies.

Consequences of the creation of a militia for the Quakers

Clearly the success of Franklin’s campaign eroded the influence of the Quakers. Although they were still enjoying a dominant position in the Provincial Assembly, in terms of population, around 1755, they had become a minority of only 50,000 in a total population of about 250,000. In terms of landownership they were still a dominant minority but by confiscating the estates of the Penn family and of other large landowners the Revolution would bring an end to Quaker influence in Pennsylvania.

Arms provided by the counties

The key-question of whether the arms were provided by the province or by the militiamen themselves deserves a careful investigation. If the funds collected through the lotteries were sufficient to create an artillery consisting in 40 cannons it seems reasonable to admit that they allowed also to buy military equipment for the newly created units. This is clearly stated on a later date. On 30 June 1775 the Pennsylvania Committee of Safety, in an action destined to revitalize the militia, assigned to each county a quota of arms that it was to produce to arm the militia.

Public relation campaign in support of a militia

Nowadays it is well known that the main precept for a successful public relation campaign is the so-called third party rule. In present day language this means that if an oil company wants to undermine the belief in global warming it should arrange for its message to be delivered by a third party, for instance a fake ecological organization. Although this rule would be formalized only much later Franklin had already organized his campaign in accordance with it; this is clearly shown through the following facts.

- Franklin expressed his arguments in two publications: (i) the “Plain truth” pamphlet was published anonymously and distributed for free to reach a vast audience. In addition the pamphlet contained a striking cartoon which was quite unusual at the

time (ii) the “Pennsylvania Gazette”, a newspaper of which he was the sole owner and for which he wrote many articles but always under pseudonyms.

- In a memorable sermon which was subsequently printed as a pamphlet entitled “The Lord is a man of war”, a Presbyterian leader, Reverend Gilbert Tennent, gave full support to Franklin’s plan.

In order to create a feeling of unity Franklin suggested to the Council to proclaim a general fast to be held throughout the province on 7 January 1748.

Long term loyalty of the Pennsylvania militia to the Patriot cause

We have seen that Benjamin Franklin was offered to take the command of the militia. He declined but took care that the officers who would be commissioned would be on the Patriot side (although by 1747 that word was perhaps not yet in use). On the other hand it would be natural for the leadership of the province (i.e. the Penn family, the governor and the Quaker patricians) to try to regain the control of the militia. How can one judge whether they succeeded or failed? It is only by observing how the militia responded to test event that one can get an univocal indication.

Arrest of the Pennsylvania leadership in August 1777

The situation of the Patriots in August 1777 provided a major test and challenge. Why?

This month was a dark moment for the Patriots. After New York City taken one year before, it was well known that a British force was about to invade Pennsylvania¹⁵.

Confronted to this threat the Patriot leadership took the measures required by such a situation. The first concern was to prevent a junction between foreign and domestic enemies. Among the domestic enemies were all those who had a close connection with King George III, the Penns, the governor, the leaders of the Quakers, the Royal officers. Thus, on July 31, 1777 the Continental Congress took a resolution which was then seconded by a proclamation and warrant in the Council of Safety of Pennsylvania.

Aug. 1, 1777. [excerpt] Whereas great inconvenience may happen by the going at large of divers persons who were officers of the King and Proprietors of Pennsylvania, it is highly expedient in the present situation when the enemy threatens an invasion with a powerful army and fleet to imprison and remove the persons whose names are contained in the list subjoined.

The “list subjoined” contained 35 names. It started with John Penn, proprietor and formerly governor and comprised most prominent persons of Pennsylvania. The arrests would be done by the militia but there were clearly two requirements.

¹⁵In October 1777 the victory of Saratoga would bring substantial relief, particularly because it brought about the French intervention.

- The officers and the militiamen must be willing to act. If, under the assumption made above, the leadership of the province had regained the control of the militia, it would shun the order of the Council.
- If, possibly with British support, the proprietors had set up a personal protection guard composed of well armed professional troops¹⁶ they would have been able to resist the arrest and negotiate better reddition conditions.

Since historians do not mention any difficulty in the arrests, one must assume that they were carried out smoothly which proves that the Patriot control of the militia was very effective. Benjamin Franklin's job had lasting effects!

Impressments by press gangs in 1747

Impressment was the practice of forcing men, usually merchant seamen, into service of the Royal Navy. A captain would send a "press-gang" into a sea town to capture sailors for his crew often with the cooperation of local authorities. Those who were impressed remained in the service for three years or until they escaped.

In the continental American colonies, British law restricted impressment in several ways. In November 1745, a press-gang killed two sailors during a struggle in Boston. Two of the killers were caught and sentenced to death. When the verdict was overturned by the Crown popular protest erupted. The incident destroyed whatever goodwill the British Navy may have had in Boston and opened the way for a much more serious incident two years later¹⁷.

In November 1747, as his fleet was anchored in Boston Harbor, Admiral Charles Knowles sent press-gangs to round up Boston people without first obtaining a warrant from Governor William Shirley.

- [November 16, 1747](#). In the evening Knowles's press-gangs captured some 46 men, treating them roughly and ignoring their protests.
- [November 17, 1747](#). In the morning a mob of about 300 Boston people captured a British lieutenant in retaliation. The mob also threatened the sheriff of Suffolk County (to which Boston belongs) who often assisted the press-gangs.

In the evening, upon hearing what had happened, Governor Shirley called for the militia to "suppress the mob by force, and, if needed, to fire upon them with ball". Despite the governor's call for two regiments of militia, only the officers reported for duty that night. The rest had probably joined the protestors. Without the militia the governor was powerless and Boston was without government. Shortly later a large angry crowd surrounded the Town House, breaking all the first-floor windows with

¹⁶The French King's personal guard was composed of Swiss soldiers to make them immune to the political climate. On August 10, 1792 when armed revolutionaries stormed the King's Tuileries Palace they put up a fiery fight.

¹⁷The source is Brunsman (2007) and the Wikipedia article entitled "Knowles Riot".

stones.

- **November 18, 1747.** The governor visited Admiral Knowles, informed him of the riots and asked him to release the impressed Bostonians.
- **November 19, 1747.** The General Court (which is the name of the Assembly in Massachusetts) adopted a series of resolutions condemning the riots (whatever its real feelings it could of course hardly approve them), instructing the militia of its duty to maintain order, ordering the release of the hostages, and urging the governor to promise the townspeople “that all due care shall be taken for maintaining their just Rights and Liberties”. Eventually an agreement was found which ended the confrontation. The hostages were returned to their ships, and the impressed Massachusetts residents were freed.
- **November 30, 1747.** The squadron of Admiral Knowles set sail for the West Indies.

With respect to the role of the militia the previous account suggests two interesting observations. (i) In principle the militia was under the control of the governor and of the Assembly. We have seen that the orders of the governor were plainly ineffective which suggests how fragile British power was at that time. (ii) The second observation is that the orders for the militia, no matter what they were, came anyway on the day following the incident which is quite natural because it takes time to convey a meeting and to discuss a resolution. In other words, in a situation of crisis in which urgent decisions need to be made the militia officers had to rely on their own judgment.

This episode is interesting also for another reason. One may be surprised to see Boston town people so much concerned about new taxes. After all, the stamp paper would be mostly used by tradesmen and the tax on tea was not more than a few percent. The riots of 1745 and 1747 show that impressment of Bostonian working-class people, a much more plausible source of resentment that has probably been going on for years, had led to mistrust of the British governor and the Royal Navy. Once defiance has taken root any opportunity to show displeasure will be seized.

Weakness of British control long before the Revolution

At first sight the following incidents may appear anecdotal but in fact they reveal that long before the 1770s the Crown had lost control.

- After King Charles II came to power in 1660 the regicides, that is to say the 56 officials who had signed the execution warrant of Charles I were hunted down and tried. Many of those still alive were sentenced to death. However, by moving to New Haven in Connecticut three regicides were able to escape arrest. After the Revolution streets in New Haven were named after them (Wikipedia article about the restoration of Charles II).

- Can one imagine Irish people firing cannon shots at a Royal Navy ship from a fort in Dublin?

Yet, this is what happened in 1764 near Newport, Rhode Island when cannon balls were fired at HMS St John, a custom ship whose crewmates were suspected of theft while the vessel was in the harbor?

- Can one imagine a Royal Navy ship set afire by Irish people near Dublin or Galway without anybody being arrested nor sentenced?

Yet, this is what happened first to HMS Liberty in 1769 and then to HMS Gaspee in 1772, both burned near Newport. HMS Gaspee, one should recall, was not a private vessel but an 8-cannon customs schooner enforcing the Navigation Acts.

Main features of tar-and-feathers episodes

Collective actions of that kind emerged gradually.

Origin of the punishment of tarring and feathering

In a general way it may first be observed that not long ago street parades were fairly common. The reason may have been a religious celebration but there were also other popular events such as Carnival, also known as Shrovetide. In Britain and New England there was one popular event which involved the punishment of an offender. Called “Pope Day”, it took place on November 5 and was a reminiscence of the “Gunpowder Plot”. This plot was a failed assassination attempt against King James I by a group of English Catholics. The plan was to blow up the House of Lords during the opening of Parliament on 5 November 1605. A description of such a rally on 5 November is given in Lemay (2006) in the following terms.

On a stage mounted on wheels and drawn through the streets with horses there were effigies of the Pope, the devil and the Stuart Pretender [James VI of Scotland seemingly]. On the front of the platform there were inscriptions written for the occasion. The Pretender was on a gibbet, in the center of the stage was the effigy of the pope grotesquely dressed and at the end of the stage was the devil sporting a long tail and holding a trident. Under the platform boys with rods could manipulate the effigies causing them to face right or left or making them look into chambers windows. After parading and collecting money from the houses, the parade arrived at the city center where the effigies were burnt.

During the first half of the 17th century the mob leaders used to be local rowdies though politics may already have played some part in the demonstration.

Beginning with the anti-Stamp Act demonstrations of 1765, Boston’s political leaders harnessed the energies of the town mobs so that the 5 November rallies

changed into an anti-English and pro-American demonstration.

This description contains several elements found in punishment events: the horse-drawn cart, the lengthy parade through the streets, the gibbet (real or fake), the inscription at the front of the platform which explains the reason.

Actually, in the earliest events, those taking place in 1765 during the Stamp Act protest, one sees effigies being used instead of tarring and feathering. This is illustrated by the following case from Sabine (1865).

Under the name of H. Martin of North Carolina one reads that after moving to Rhode Island, during the Stamp Act excitement in 1765, his effigy was drawn through the streets and hung on a gallows. In addition his house in Newport was destroyed and his person was injured which made him return to North Carolina.

Frequency of reports of tarring and feathering

After being introduced “tarring and feathering” became a common means of mob violence for centuries. For some groups of citizens it was a means for carrying out summary justice. A key-word search in three main US newspapers, namely the “Chicago Tribune”, the “New York Times” and the “Los Angeles Times” led to the following number of articles:

1850 – 1900 : 460 1900 – 1950 : 554 1950 – 1990 : 502

Separate searches in the three daylies over the whole period 1850-1990 gives the following number of articles (CT=Chicago Tribune, NYT=New York Times, LAT=Los Angeles Times):

1850 – 1990, CT: 499, NYT: 568 LAT: 468

At first sight, the fact that the numbers of articles are nearly the same in the three newspapers suggests that they reported the same articles, but a closer examination shows that this is not true. In order to check, we selected a number of tar-and-feathers articles published in the LAT and we found that they were not published in the two other papers. Repeating the same test for the two other papers led to the same conclusion. Broadly speaking, each paper reports the incidents that occur in its geographic area, the East for the NYT, the Middle West for the CT and the West for the LAT. Naturally, incidents in which the victim is a well-known person may raise interest at national levels but such cases are few.

Thus, if we do a search for the whole period 1850-1990 together in the three papers we can assume that only few incidents will be reported more than once. By dividing this total number (namely 1,516 events) by the number of years (namely 140 years) one finds an average yearly frequency of 11 incidents per year.

Naturally the fact that each of these national daylies has its own area of interest suggests that some incidents will not be reported at all. In other words the yearly frequency of 11 probably underestimates the actual incidents.

Needless to say, depending on circumstances, the frequency of such events fluctuated in the course of time. In 1918, a year in which many citizens suspected of sympathy for Germany were targeted, the same newspapers identified 31 events. In contrast, in 1915 only two cases were reported.

“No joke to be tarred and feathered”

The title of this subsection comes from an article published in the “Chicago Daily Tribune” on 17 October 1891, p.11. The sources from the time of the Revolution give us almost no information about the real effect of tarring and feathering on the victims. Through the articles of the three newspapers already mentioned we get the opportunity to learn more about the seriousness of being tarred and feathered. The “Chicago Tribune” started in 1849, the “New York Times” two years later, and the “Los Angeles Times” in 1881. First, we cite a few specific cases, then we give some broad explanations. We start with a rare report of a case which resulted in the death of the victim two days after being tarred and feathered.

“New York Daily Times”, 17 October 1854, p.4. Reverend John Basset from Ellsworth near Bangor was tarred and feathered and ridden on a rail on Saturday evening.

Same newspaper, 20 October 1854. In the evening of 19 October we received information of the death of Rev. Basset, a Catholic priest who was tarred and feathered.

In the following report the death is not reported but is said to be likely. In this case as indeed in many cases of tarring and feathering the victim is also roughly handled and beaten which makes it difficult to distinguish the effects separately.

“Chicago Daily Tribune”, 3 May 1889. News has been received from Crookston, Minnesota of a terrible outrage committed there last night on the person of a citizen named Jake Zenholt. He was taken from his room, bound, gagged, beaten, tarred and feathered and a rope was placed around his neck. He now lies in a precarious condition with little hope of recovery.

In the following case the victim remained unconscious during several hours. If she survives she will certainly need a long time to recover.

“New York Times”, 12 August 1919. Mrs Prosper Le Felche, aged 42, from Malone in New York State was taken from her bed and tarred and feathered. She was found unconscious in her yard at dawn by a neighbor who was passing by. She is now in a serious condition in hospital.

In the next case burns are explicitly mentioned because the victims are brought to hospital. The burns of victims who do not visit an hospital will of course not be reported.

“New York Times”, 27 June 1971. Two men were tarred and feathered in Belfast early today and were taken to hospital. One suffered severe burns on his legs and arms from the scalding tar. Tarring and feathering is a disciplinary measure used by the Irish Republican Army to punish wayward members.

Finally, we give excerpts of the article from which we took the title of the present subsection. His author witnessed at least one episode of tarring and feathering.

“People who read of tarring and feathering by White Caps and others know that the punishment is a very unpleasant one, but few imagine how terribly painful and dangerous it is. Numbers of men have died under the torture. As soon as the tar sets the victim’s suffering begins. The tar contracts as it cools and every one of the little veins on the body is pulled causing much pain. The removal requires several days. The tar must be peeled of bit by bit and the irritation of the skin is very great”.

The author does not indicate on which authority is based the claim that several persons died as a result.

Fatalities

In this subsection the expression tar-and-feathers treatment is taken in its proper meaning that is to say not including other rough treatments. All comments regarding such treatments that we were able to read say that there is no known case of a person’s death after this treatment. This may be true for the time of the American Revolution but may be due to the fragmentary character of the information available for this time. In later times when the events become covered by newspaper articles we have seen that there were reports of deaths.

Parallels of tar-and-feathers treatment in Fascist Italy

Comparison with similar events in other times and other countries may be enlightening. One which comes to mind immediately is the usage of castor oil¹⁸ in Italy in the time of Mussolini. Castor oil was a favorite tool used by the “Blackshirts” (i.e. Mussolini’s partisans) to intimidate and humiliate their opponents, mostly unionists and socialists¹⁹. Mussolini’s opponents in parliament charged that his power was built on bludgeon and castor oil for the administration of castor oil was often preceded by beatings.

¹⁸Castor oil is a vegetable oil pressed from castor beans. In the mid-20th century it was still widely used for a range of medical conditions. It is only in recent times that its negative effects were fully recognized.

¹⁹Between 1919 and 1922 the offices of the national Socialist daily, “Avanti!” in Milan were attacked three times. In the attack of 1919 four persons were killed. Hundreds of union offices, were looted or burnt down. (Encyclopedia Britannica online)

Political dissidents were force-fed large quantities (up to one liter) of castor oil by Fascist squads. Although not life-threatening in itself, the treatment's consequences depended upon the amount used and the beating which came along. Just as for American tar-and-feathers cases, there are no nationwide data about possible fatal consequences.

As Fascist groups were organized in many cities of northern Italy (often with support from industrialists) thousands of people were beaten, forced to drink castor oil and eventually driven out of the cities or even of the country. As for tar-and-feathers events, any assessment depends upon the frequency and magnitude of the phenomenon. In the case of Fascist Italy it seems that mob rule played a significant role in the success of the Fascist movement. Between 1920 and 1925 membership in the main union fell from one million to fewer than 6,000. Much of the middle class came to sympathize with the Fascist destruction of Socialist unions (Encyclopedia Britannica online).

The castor oil "punishment" was also used in Nazi Germany. On 9 March 1933, former Interior Minister Wilhelm Sollman was forced to drink castor oil.

Tar-and-feathers incidents which led to deaths

Here the expression "tar-and-feathers incident" is taken in the broader meaning of any rough mishandling. In Hook (2017, p.44) there are three statements

- At Charleston, South Carolina, in 1776, "John Roberts, a dissenting minister, was seized on suspicion of being an enemy to the rights of America. He was tarred and feathered; after which, the populace, whose fury could not be appeased, erected a gibbet on which they hanged him, and afterwards made a bonfire, in which Roberts, together with the gibbet, was consumed to ashes." (Moore 1875, p.359).

If this account can be trusted it would not longer be a tar-and-feathers incident but outright murder.

- "By 1776 several clerics had died as a result of the abuse at Patriot hands or due to the harsh conditions of their imprisonment".

- "Some prisoners died as a direct or indirect consequence of their marches en route to various jails in heavy irons and beaten by their guards".

However these indications are so vague (no date nor location or number of victims) that one can hardly rely on them.

There is a well documented riot against Tories which had severe consequences. However, this was in Baltimore in July 1812 and the so-called Tories were in fact Federalists who opposed the war of 1812 against Britain. This Baltimore mob showed clearly to what atrocious actions (e.g. pouring candle grease into the eyes or cutting the nose) an unrestrained mob can be led. The victims were connected to the pub-

lisher of a Federalist newspaper. One of them, Patriot Major-General Henry Lee III, did never really recover from severe internal injuries and died in 1818 at the age of 62.

Coming back to tar-and-feathers incidents, for people deprived of their clothes exposure to the cold weather of New England winters can certainly inflict serious harm. Death may follow such a shock within a few days but may not be reported. Such a winter case is described in Sabine (1865):

In early 1774, John Malcolm, a custom officer at Portland, Maine was seized at Boston, tarred and feathered and carried through the streets to the Liberty Tree where he was beaten and threatened with death. Having been detained under the gallows for an hour, he was conveyed to the extreme north part of the town, and thence back to his house. He was kept stripped for hours and was so bruised that his life was despaired. [In the present case we know that the victim survived, but what would have happened for a less robust person?]

Below are two other incidents which each, according to the accounts, resulted in the loss of one life (Sabine 1865).

In 1778 a party of Whigs attempted to take William Johnson of Delaware from his house but were beaten off. They returned the next day in great force. Johnson fled but after his flight his house was burned and Samens, one of his party was hanged on the spot.

In early 1770 the house of Ebenezer Richardson, a customs officer of Boston was assailed by a mob. They threw stones through the windows; then, as some of the multitude tried to force their way into his dwelling he fired upon them and killed a boy about 12 years of age. Richardson was then seized, dragged through the streets, and threatened with immediate death but was finally taken before a magistrate who committed him to prison.

One is surprised to learn that a magistrate was available at that time. Apparently, he did not have the power (or may be the will?) to order the arrest of the rioters who broke into a house taking a 12-year old boy as a shield.

The last observation leads us in the next subsection to examine what help and protection the victims could expect from the authorities. Very little, it will be seen.

British tax officers did not get effective support from their government

The fact that British authorities were unable to protect their officers became clear in 1765 during the Stamp Act protest. Sabine (1865) cites several cases in which threats or the destruction of their house compelled tax officers to resign. Here is an example (Sabine 1865).

Under the name of J. Ingersoll one reads that this person was appointed stamp

distributor in New Haven, Connecticut but after receiving threats he resigned his office in August 1765.

When a government is unable to collect taxes it means that it is no longer in control. There is nothing surprising about that because (i) there was a broad consensus against the Stamp Act and (ii) there were very few British troops in the colonies. Therefore the only way out was to repeal the Stamp Act which was done on 18 March 1766. It had been in operation for less than 6 months, a stinging defeat for Britain.

At that point, for the Patriots the only question was how for the issue of independence to realize the same consensus as for anti-tax protests. The closing of the Boston port and the boycott of British goods was painful for the American economy and its merchant class. In the long term that could have convinced many to accept a compromise. In his respect it can be recalled that in the late 1980s the international embargo brought down the apartheid policy of the South African government and forced it to negotiate a compromise.

In other words, as time was not working for the Patriots it was crucial for them to realize a consensus as fast as possible. The obvious solution was to silence all opponents. Later on opponents would be referred to globally as Loyalists but by 1770, from Quakers in Philadelphia to merchantmen in New York and other ports, there were still a variety of groups opposed to independence. Needless to say, sending in a massive invasion force was the best recipe for uniting the Americans.

When did demonstrations against Loyalists begin?

As was seen above the anti-tax protests targeted almost exclusively British tax officers and the persons who were working for them. It can be remembered that the silencing of Loyalists started in the early 1770s. At that time the question of independence was not yet on the table. It was not on the agenda of the “First Continental Congress”. The “Second Continental Congress” convened on 10 May 1775. Its first action was to send the so-called “Olive Branch Petition” to the King who did not accept it. Clearly, by sending the petition very openly ²⁰ the purpose was to make the King reject it which did indeed happen. This is confirmed by the fact that the petition arrived in the hands of the British government on August 21, 1775. At that moment, the Congress had already taken several decisions to prepare for war, e.g. it had ordered the taking over of arsenals and had removed Royal officials from their positions. Because such actions could only be implemented if backed by an armed force, on 14 June 1775, Congress had created the Continental Army and appointed George Washington as commanding general. Thus, it became clear that indepen-

²⁰Remember that in contrast the peace discussions started rather secretly.

dence was the real objective.

Therefore, it became all the more important to ensure unity. Until the creation of the various committees structure in late 1775 and 1776, social pressure as ensured by mob rule was the most effective means. For our investigation it is important to determine at what moment Loyalists began to be targeted for their political opinions (as opposed to economic reasons such as importing tea or breaking the trade embargo). In other words we need to know the earliest tar-and-feathers cases. In the list below (from Sabine 1865) the first case is in 1770, however such an early date seems exceptional as shown by the fact that the second earliest were only in 1774.

1770 Under the name of J. Houston one reads that this Minister from Bedford in New Hampshire was a zealous Loyalist. In 1770 the town voted to shut his church. As Houston nevertheless insisted upon occupying his pulpit, the people elected a committee to inflict on him the punishment of the wooden horse. Compelled to mount the rail, a pair of kitchen-tongs were placed astride his neck, and, amid jeers and shouts he rode about 10 km (6 miles).

The reason why Ministers were exposed to the fury of the population is given by an Episcopal Minister who wrote in November 1776 that he has been obliged to shut his church because the populace would not suffer the liturgy unless the prayers for the King and Royal Family were omitted.

It seems that anti-loyalist demonstrations began on a large scale in 1774. For instance, we know that in late August in Massachusetts there were 36 separate but simultaneous demonstrations directed against the 36 councilors recently appointed by the King (the so-called Mandamus Councilors). This is a rare case where one can get a systematic (as opposed to anecdotal) view. That is why we devote the next subsection to these cases.

The 36 demonstrations of August 1774 in Massachusetts against the Mandamus councilors

In an appendix to his detailed study, Benjamin Irwin (2003) lists 80 tar-and-feathers incidents in the time interval 1766-1784. Two of them occurred at the end of August 1774 and are in relation with two Mandamus Councilors, namely Abijah Willard and Timothy Ruggles. This means that by focusing *stricto sensu* on tarring and feathering cases, one misses 34 out of the 36 anti-Loyalist incidents, i.e. 94%. What really matters is not the specific means used by the demonstrators but their intention.

First, we start with an excerpt which seems to confirm that anti-Loyalist demonstrations became more frequent in 1774.

Starting in January 1774, Boston's Patriot newspapers [such as the "Boston Gazette"] began to run advertisements signed "Joyce, Junior, Chairman of the

Committee for Tarring and Feathering”.

Although Joyce is a fairly common name, it seems that it was chosen here in a well defined intention. On 2 June 1647 George Joyce (1618-1670) was the officer who, supported by a unit of Oliver Cromwell’s New Model Army, transferred King Charles I from the guard of Parliament to the custody of the New Model Army, a move that strengthened the position of the later. Naturally such an episode was appealing for people who, two years later would establish a new republic. At the same time, if this interpretation is indeed correct, it shows how thoughtfully even the smallest decisions were made.

In late August 1774 many cases occurred because all 36 councilors appointed by the King by writ of mandamus (and who for this reason were called mandamus councilors) were asked to resign by demonstrators.

Variability in accounts

Because Abijah Willard was a well known person, there are accounts of the incident in several sources. It may be of interest to the reader to realize that the various versions display substantial differences.

- The most obscure is a short account in Irwin (2003, p.233).
- Another short, but less obscure account can be found in the “Collections of the New Brunswick Historical Society” (vol.30, 1930, p.10). In this source one learns that Willard was seized by a crowd and kept in jail until he accepted to resign as councilor.
- The most detailed account is in Raphael (2017). According to this source Willard spent only one night in jail whereas according to the “Dictionary of Canadian Biography” he was imprisoned for 5 days. In one account Willard was sent to prison by the people who seized him in Connecticut, in another he was first sent to Massachusetts and from there to Simsbury.
- Alone among the five sources, Sabine (1865) gives the text of the letter of resignation which is probably more trustable (if a copy has survived) than many other details.

Why did we emphasize such variations and contradictions? Our purpose was to convey a message of caution. Often there is only one account, for instance given in a newspaper article, and this may give the impression that everything really happened as described. We see historians (e.g. Allison 2003, p.52) who repeat such accounts to the smallest details, e.g. including dialogues that nobody could possibly have recorded. It is true that such minute descriptions make fanciful stories (in the words of Thucydides) but at the expense of historical accuracy.

Diverse forms of mob actions

Source: [Force, 4th series, Vol.1, p.1259 and subsequent]

Mobs or commandos

The examples given previously already suggest that mob actions could take various forms but shared a common characteristic, namely that these actions were well planned. The demonstrators knew where to go, what to ask, how much violence to apply and how to use the newspapers for public relations purposes.

For these reasons the term “commando actions” would be more appropriate. However, this expression suggests small groups of a few dozen whereas in fact the groups that we see at work often numbered several hundred demonstrators. For that reason we will keep the term mob actions with the understanding that the actions were well planned by a smart leadership. This conclusion will be comforted by the cases described below.

Taunton

In August 1774 Daniel Leonard, Esquire, was driven from his house, and bullets fired into it by the mob, and he was obliged to take refuge in Boston ever since for the supposed crime of obeying his Majesty’s requisition as one of his Council for this Province.

Hardwick

In August 1774 Brigadier Ruggles was attacked by a party in his dwelling house. His horses were painted and their mane and tale were cut off. He had a very valuable English horse, which was poisoned to death, He was obliged to take refuge in Boston with his family. One should remember that by mid-1774 Boston was occupied by the British army and navy.

A constable was bound and confined 36 hours, and threatened with being sent to Simsbury Mines. He was not suffered to lay on a bed. His wife being dangerously ill, he was released, after signing something which one of the mob drew up for him to sign.

Worcester

In September 1774 a mob of about 5,000 [probably an exaggeration] collected, some of them with fire arms, and prevented the “Court of Common Pleas” from sitting, All drawn in two files, they compelled judges, sheriffs, and gentlemen of the bar, to pass them with cap in hand, and read their disavowal of holding courts under the new Acts of Parliament, not less than 30 times in their procession.

In August 1774 Colonel Putnam, a firm friend to Government, was obliged to leave

a fair estate in Worcester, and retire to Boston.

Bridgewater

Colonel Edson, one of his Majesty's Council, has been driven from his house in Bridgewater, and kept from it ever since last August, by the threats of mobs, and has been obliged to take refuge in Boston, for accepting his Majesty's appointment as Counsellor.

Essex county

In September 1774 Colonel Saltonstall, the very humane Sheriff of the County of Essex, was obliged to take refuge in Boston, to screen himself from the violence of the mob.

Rutland

Colonel Murray, of Rutland, one of his Majesty's Council, has been obliged to leave a large estate in the County, and repair to Boston, to save himself from being handled by the mob, and compelled to resign his seat at the Council Board; his house has been attacked, his family put in fear.

Plymouth

Jesse Dunbar bought some fat cattle of Mr. Thomas, the Counsellor, and drove them to Plymouth for sale. One of the oxen being skinned and hung up, the Committee came to him, and finding he bought it of Mr. Thomas, they put the ox into a cart, and fixed Dunbar in his belly, and carted him 4 miles, and then made him pay a dollar. After taking three more cattle and a horse from him, the mob delivered him to the Kingston mob, which carted him 4 miles further, and forced from him another dollar, then delivered him to the Duxbury mob, who abused him by throwing the tripe in his face, and endeavouring to cover him with it. After other abuses, made him pay another sum of money and quitted him.

In February [1775], a number of ladies attempted to divert themselves at their Assembly Room; but the mob collected; they flung stones, which broke the shutters and windows, and endangered their lives. They were forced to get out of the hall, and were pelted and abused to their own homes

Halifax, Plymouth county

Daniel Dunbar, an Ensign of Militia there, had his colours demanded by the mob. He refused, they broke into his house, took him out, forced him upon a rail, and was held on it by his hands and legs, and tossed up with violence; in resisting, when they attempted to put him on the rail, they seized him by his private parts to drag him on it, then beat him, and after keeping him two or three hours in such abuses, he was forced to give his colours up to save his life.

Massachusetts

The Honourable Israel Williams, Esquire, one who was appointed of his Majesty's new Council, but had declined the office through infirmity of body, was taken from his house by the mob in the night, carried several miles, put into a room with a fire, the chimney at the top, and doors of the room being closed, and kept there for many hours in the smoke, till his life was in danger, then carried home, after being forced to sign what they ordered. The smoke and reduced oxygen level may have been prejudicial to his lungs and brain.

Calls for help of victims of tar-and-feathers incidents

What would reasonably be expected?

In most societies the wealthy and prominent citizens are the main leaders. Yet, in New Hampshire (and also in nearby Massachusetts) mob rule was supreme at least between 1771 and 1775 and it was particularly directed against colonial officers and interests.

Usually, in the Thirteen Colonies mob rule is described as consisting in isolated, more or less random incidents.

In fact, the following oath taken in January 1775 by 59 Tory leaders shows that it was much more than that (Brown 1983, p.45). Mob riots were seen as a major and permanent threat.

Oath taken by 59 Loyalists of the "Tory Association" in January 1775 (excerpts), Brown (1987, p.45).

We, the subscribers considering the disorderly state of the times, think ourselves under an absolute necessity of associating together for the protection and preservation of our persons and properties which we find have been openly threatened of late.

We do therefore solemnly engage with each other:

- (i) First, that we will maintain the laws of the land.
- (ii) Secondly, that we will defend and protect each other from mobs riots or any unlawful attacks whatever.

Upon the first notice of any attempt upon either of the subscribers, each and everyone of us will immediately repair to the person so attacked and defend him to the utmost extremity.

According to this oath, one would expect accounts of cases in which Patriot mob rule was opposed and the victims rescued. One does not necessarily expect wealthy citizens to fight themselves. They could pay the services of vigorous (and possibly

armed) bodyguards who would come to the help of mob victims. Is it not strange that in all accounts the mob is unopposed? One can find no clashes between Patriot and Loyalist militia. The Loyalists seem completely powerless.

The only explanation which comes to mind is that the balance of power was already tilted in favor of the Patriots to such an extent that the recruitment of bodyguards would have been difficult. It will be seen below on the example of Pennsylvania that the militia, which was the main police force, sided with the Patriots around 1750 or even earlier.

The authorities are powerless

Tarring and feathering incidents occurred in broad daylight and lasted several hours while the victim was paraded through the streets of the town. In other words, the magistrates, the officers of the militia, the Assembly or the Committee of Safety (after such committees had come into existence) were well aware of what was going on. In a law abiding community the victims are of course tempted to ask for help. Did that happen and how did the authorities respond to such calls? This is illustrated below by a number of cases excerpted from Sabine (1865).

Under the name of J. Saville one reads that this officer of the customs in Providence, Rhode Island was tarred and feathered in 1769. A reward of 50 pounds was offered by the Commissioners for the discovery of the perpetrators, but without success.

Under the name of E. Parry, a merchant in New Hampshire, one reads that in 1774 after a mob demolished his windows, he tried to claim the protection of the Governor, but to no avail.

In short, the Governor was powerless, the magistrates did not wish to interfere and the Assembly (or somewhat later the Committee of Correspondance or Safety) was in the hands of the Patriots and condoned the violence. This attitude is explicitly confirmed in the following case (Sabine 1865).

In June 1775 M. Locklin of Charleston, South Carolina was tarred, feathered and carted through the streets of the city. The Secret Committee of Charleston was at this time composed of the most distinguished Whigs and they must have permitted the outrage, if they did not directly authorize it.

This supposition is hardly open to question for if the “Secret Committee” had not been in agreement it would have been easy to call out a unit of the militia. In short, it is clear that the victims could expect no assistance from the authorities. What is more disturbing is the fact that, according to available evidence, no friends or neighbors came to their help. Although there were certainly a number of citizens who disapproved the violence they did not try to oppose it openly²¹.

²¹In the Wikipedia article entitled “Krystalnacht” one learns that a majority of Germans were opposed to the destruc-

Witch-hunt in New York triggered by the British invasion

According to the following accounts given in Sabine (1865) the riots of 12 June 1776 mentioned above were not the first of that kind in New York and probably not the last.

Under the name of T. Hardenbrook one reads:

“We had some grand tory rides this week, wrote Peter Elting on 13 June 1776. Several of them were handled very roughly being carried through the streets on rails, their clothes torn from their backs. Hardenbrook was one of the victims.

Under the name of R. Rapelje the same Peter Elting mentioned on 13 June 1776 that this Tory named Rapeljie was also a victim.

Another account of the violence against the Loyalists can be found in the diary of Reverend Shewkirk, pastor of the Moravian Church in New York.

Thursday, 13th June.

Here in town very unhappy and shocking scenes were exhibited. On Monday night [10 June 1776] some men called Tories were carried and hauled about through the streets, with candles forced to be held by them, or pushed in their faces, and their heads burned. But on Wednesday [12 June 1776] in the open day, the scene was by far worse; several, and among them gentlemen, were carried on rails; some stripped naked and dreadfully abused.

Some of the generals, and especially Pudnam [sic] and their forces, had enough to do to quell the riot, and make the mob disperse.

Thomas Hickey and Michael Lynch, both members of Washington's Guard were arrested on 15 June 1776. Therefore, it cannot be said that the plot was a factor in the violence against the Loyalists. Hickey was tried on 26 June 1776 and executed on 28 June 1776. According to available sources (e.g. Neagles 1986, p.43) none of the others arrested was ever tried.

Mob rule incidents are often presented as isolated events, mostly directed against royal tax collectors and other Crown officers. Here what we see described are rather witch-hunts in which several Loyalists were targeted on the same day. Were such incidents only on two days? On 10 June, the English fleet was not yet in sight. One could reasonably expect similar incidents once the fleet had dropped anchor off the shore of New York.

What brought about this outpouring of hostility? In a previous study (Roehner 2002, chapter 3: Building blocks of the French Revolution, p. 129-131) it was shown that

tions but it was clearly impossible to oppose the tsunami of violence which was unleashed. Officially, the authorities did not intervene but the SA who were actively involved in the destructions had a close connection with the State. More surprisingly one learns also that Herman Goering was opposed to the destructions because he was planning future confiscations.

when a population is threatened (for instance by the invasion of a foreign army) it is led to take revenge on those people who are known to side with the enemy. This is what happened in Paris in September 1792. Here, fortunately, the victims were not killed but only “roughly handled”.

The fear felt by Patriots was due to the news of the arrival of the British invasion fleet. Loyalists were scape goats.

As the conquest of New York by the British troops would take three months it is likely that other “tory rides” would take place in July, August and September. Did the British commander, Sir William Howe, attempt to protect New York Loyalists by making a proclamation to this effect? That might be expected but we did not find any archive record mentioning such a declaration. In a proclamation issued on 23 August 1776 General Howe offered pardon to those “forced into rebellion” who were ready to surrender but he does not seem to realize that the people willing to surrender would be targetted by the Patriots well before British troops could arrive and offer them protection.

Incidentally, the expression “for the cause of liberty” that is often used by officials is meant to refer to the liberty of the United States as an independent country with respect to Great Britain. It would indeed be strange to use this expression with the meaning of individual liberty in a circumstance where this liberty is denied. Confirmation of this interpretation is found for instance in the fact that the resolution of Congress just cited instead uses the expression “the cause of America”.

The time of the Committees: 1775-1778

As can be seen in Fig.xx, tar-and-feathers episodes peaked in 1774-1775. After that came the time of the Committees. They could take over the task previously assigned to crowds of Patriots. As already mentioned these Committes had various names but the important point is that they were given authority to use the militia in order to ensure implementation of their resolutions. As they represented the sole executive power they were in charge of a broad range of questions but one of their main duties was to investigate opponents. In some states there were even special committees (e.g. the “Committees for detecting and Defeating Conspiracies”) exclusively devoted to this task.

How did it work?

The first step was to detect possible opponents.

Identification of opponents

There were several ways to detect opponents.

(i) People who in discussions with neighbors or friends openly criticized the rule of the Committees.

(ii) In some states, all male citizens had to sign an oath of allegiance. Those who, for some reason, did not wish to take such an oath were seen as “disaffected” or “inamical to the cause of America”. Based on religious reasons Quakers would not take oaths which led some states to introduce allegiance declarations which were not considered as formal oaths and which could therefore be signed by Quakers.

(iii) Those who refused to take part in the training of the militia were also considered as “bad citizens”. Since Quakers would not take up arms this raised additional difficulties.

On 16 March 1776, the Continental Congress recommended to the provinces that all “notoriously disaffected” be disarmed and in this number it included those who “have not associated for military service”.

Note that those identified as “bad citizens” through any of the previous criteria were not necessarily fierce pro-British Loyalists. As shown by the case of the Quakers, there may have been many reasons for shunning the rule of Committee members, including probably local disputes.

Publication of the names of the disaffected

Once the disaffected were identified the list of their names was usually published in local newspapers. As an illustration, on 5 June 1776 a resolution of the Provincial Congress of New York named 100 inhabitants of New York City who were suspected of being inamical to the Revolutionary cause (see archive “Detecting”). The date was shortly before the arrival of the British invasion fleet. One week later, as mentioned above, there was a wave of tar-and-feathers incidents in New York. It is likely that the persons who were targeted were listed among the one hundred names.

Suspects put under control

Once identified, the bad citizens were brought before the Committee. What took place then was by no means a trial but rather a short questioning. The decision taken by the Committee was not a sentence but rather a temporary punishment. A trial (if any) would come later, sometimes several months later as attested by many letters of prisoners addressed to the Committee in which they ask to be tried.

The main purpose of keeping bad citizens in jail (temporarily but for an unknown time) was to put pressure and bring them to recant.

Depending on the identity of the prisoner, confinement in jail could take several forms (see in this respect the Archive document “Detecting”).

(1) **Paroled or released on bond.** What does that mean exactly? The suspect is not sent to jail but either back home or to another confinement place which may

be for instance the house of an official. For instance, the first place of confinement where William Franklin (the tory son of Benjamin Franklin) was sent was the home of a Patriot official. Whether allowed to return home or sent elsewhere, the suspect should remain within a specified distance of the place, e.g. 5 kilometers. In some cases it is even said that if found trespassing he could be shot by anybody. Thus, in 1776, after N. Sabin of Cumberland, New Hampshire was confined to his farm permission was given to anyone to shoot him whenever he would be found beyond assigned limits (Sabine 1865, the suspect was a relative of the author).

In addition, there were financial requirements. The suspect had to cover the cost of his arrest and to pay the person who would take him to his place of confinement. The suspect may also have to “provide bond” which means to engage a property (either his own or the property of friends) as a guarantee of his promise not to escape. The bond required is often as high as 500 pounds.

Needless to say, only fairly wealthy citizens could expect that treatment.

(2) **Confined in jail** When a suspect was sent to jail the conditions could be more or less harsh. The jail could be close or far, sometimes in another state. For instance, suspects from Massachusetts were often sent to prisons in Connecticut apparently because of a larger capacity. The suspect had to pay the cost of the journey for the guard who will take him there.

In case of “close confinement” it is likely that the suspect will be in the same jail as ordinary criminals, i.e. prisoners who were not confined for political reasons. In a letter reproduced in the chapter about confiscation of property a wealthy suspect, named John Keighley, who is in close confinement complains to be in the company of felons, i.e. people sentenced for serious crimes.

The suspect may be permitted pen and paper or not. If not permitted to get paper, the prisoner will be unable to write any petition to the Committee; that is often the only means he has to attract the attention of the Committee (quite busy with many other things) on the fact that he is still waiting to be tried.

(3) **Confined in iron** The expression “confined in iron (or in irons)” means that the legs of the prisoner are bound with iron fetters. This is a way to prevent the escape of dangerous prisoners; it may also be a punishment destined to unruly prisoners as illustrated by the following excerpt (JPC1, p.1020 and p.1056)

29 July 1777. Andreas Ten Eyck appears to have been a principal in the escape of prisoners from aboard of the Fleet prison when the guard was seized and disarmed. Proper irons should be provided for the said Ten Eyck and that he be confined in irons until further notice.

6 September 1777. Petition of Andreas Ten Eyck, confined on board the Fleet prison, in irons, had his irons to be taken off to enable him to clean and shift himself.

(4) **Fines and corporal punishments**

Smith (1914) cites sentences which were a combination of several sorts of penalties: confinement, fines, physical penalties. Here are three examples.

(i) For passing counterfeit money Dr. Abraham Haskell (a physician) was sentenced to suffer 5 months of imprisonment, to pay a fine of 30 pounds and to sit one hour on the gallows with a rope around his neck.

(ii) Samuel Burnham was sentenced to pay fines to the amount of 238 pounds (a heavy amount), to stand one hour in the pillory, and to be whipped 40 stripes.

(iii) James Jewell was sentenced to be set in the pillory one hour, whipped 20 stripes on the bare back and to have the under part of his right ear cut off.

In Van Tyne (1902, p.274-276) it is reported that when the property of the offender failed to answer for his offences he became subject to corporal punishment such as whipping, exposure to the pillory, branding, cropping the ears, but the previous examples show that corporal punishments were also given in combination with fines.

Flight to New York?

In a general way the strategy of the Patriots consisted in banishing the Loyalists first to New York City during the time of its occupation by British forces, and from there to any place they would be offered by the British fleet. Nova Scotia was not necessarily the best place but it was certainly the nearest from New York. With limited British shipping capacity available this was of course a compelling argument.

Surprisingly, however, there were also cases in which the Patriots prevented Loyalists from flying to New York. Such a case is described in the following article published in the "Pennsylvania Evening Post" of January 10, 1778, a Loyalist newspaper.

In August 1777 about one hundred of the loyal inhabitants of New Jersey wearied with the oppression and persecution of the Rebels agreed if possible to go to New York. [from their home place the distance to New York was about 50 km which can easily be covered in two days]. The first night, while the rest were sleeping in a barn at Huntendon County one of them deserted and gave information to the Rebels.

The next day they were taken by a party of Patriots and only some of them were able to fly to the swamps. The prisoners were made to march loaded with irons and tied together first to Trenton, then to Burlington, Princeton and Morristown where they were lodged in jail and tried some time later. Nearly 40 were sentenced to be hung but only two of them were actually executed on 2 December 1777. Some of the others to save their lives enlisted in the Rebel army and some are still in Morristown jail.

In this story there are some features which do not seem plausible, for instance the places through which they went from Hunterdon to Morristown certainly do not make the shortest way.

In the same line of thought it can be remembered that the Quaker Ralph Morden was executed for guiding a Loyalist into the British line. In short, one can say that there were two competing policies under way. The military probably did not wish to see too many Loyalists join the British because that meant more regiments of Loyalists especially after 1778 when the British were able to provide enough military equipment. On the other hand, banishments made property confiscations easier.

People sentenced to death were often offered to save their lives by enlisting in the Continental Army or Navy. However, it seems difficult to confiscate the property of a person who is serving in the Patriot Militia or in the Continental Army.

Imprisonment: jails, prisons, prison ships, prisoner camps

Before we describe imprisonment conditions there is one important question to be mentioned. How were the families left behind (often with several children) able to survive? Even for short terms of 3 or 6 months which were the most frequent²², how could the wife keep the children and at the same time manage the farm or find another source of income. Archive sources give almost no information in this respect although it is not uncommon to see liberation pleas made by prisoners who mention the sad fate of their families.

As an example of a jail sentence, in Smith (1914) one finds the following account of a person tried and imprisoned for passing counterfeit money.

In November 1777 Jotham Bush of Shrewsbury, was condemned to pay a fine of 20 pounds and to be set on the gallows for one hour with a rope around his neck and to suffer three months imprisonment. Then he was confined on a ship in Boston harbor. In January, 1778, he petitioned the Assembly, praying that, being seized with smallpox, he be immediately removed on shore, and requesting that his son be allowed to come on shore to attend him. According to his descendants he died of smallpox in Boston.

There are two interesting things to be learned from this excerpt. Firstly, that in 1777-1778 there was a prison ship in Boston Harbor. Secondly, that given the bad conditions in prison, even a short stay could have fatal consequences. There have been many books and papers about the infamous British prison ships in New York harbor. On the American side there were prison ships in (at least) three locations:

- In the Hudson River there was the so-called Fleet prison²³. It was shut shortly

²²Because these were political prisoners the longest terms were “until the end of the war”.

²³The name comes probably from a prison in London which was near the Fleet river.

before the British invasion in the fall of 1777.

- In Boston harbor after the end of the British occupation.
- In Providence harbor in the state of Rhode Island.

The reason for setting up prison ships is easy to understand. At the beginning of the War of Independence there were only few city and county jails and they were of small capacity. Then, after 1774, Loyalists were jailed for a few months or sometimes until the end of the war. In addition, each battle brought an inflow of prisoners of war (POW). While the defeats brought only a trickle of prisoners, major victories like Saratoga or Yorktown resulted in several thousand POWs. There were two ways to solve this problem: prison ships and POW camps. Two well known POW camps were those in Reading, Pennsylvania mainly for officers, and the prison camps established for the Convention Army, one in Albermale Barracks, near Charlottesville, South Carolina and the other named “Indulgence Camp” in Pennsylvania.

As in the literature there are but few mentions of the American prison ships some additional descriptions given in the following subsections may be useful. After reading a number of documents we must confess that we still have no clear idea of how these ships were heated in winter. This problem was more serious than for sea going ships because the temperature in the upper part of the hull could fall much below zero degree.

Patriot prison ships at Esopus Creek

This fleet-prison was established in May 1777 by the Provincial Congress of New York. Its purpose was to relieve the overcrowding of Albany’s county jail²⁴. Consisting of 4 sloops, it was located on Rondout River near Kingston, New York. Incidentally, the prison is often (incorrectly) referred to as being on Esopus Creek (a creek meaning a small river) whereas it was on Rondout Creek²⁵.

Its capacity is not known exactly but on 19 May 1777 according to an estimate of the sheriff there were 175 prisoners (Jones 1879, Note 65). On 19 June 20 Quakers were jailed in the ships (see below). On 10 July 1770 some 80 Loyalists were transferred from Albany to Esopus in addition to those who were already there. One reads that the 80 prisoners were put in two sloops. This puts the total capacity to more than 275.

Most if not all of these prisoners were Loyalists, not prisoners of wars. for it is said that many were charged with heavy crimes.

²⁴The sources are the two volumes of the Provincial Congress (reference JPC1) and a paper entitled “The prison ships of Esopus” by Stephen Davidson on the website of the UELAC (United Empire Association of Canada). In JPC1, Vol.1 the keyword Fleet prison appears 52 times, and in Vol.2 it appears 13 times. In the American Archives compiled by Force (5th series, Vol.3) it does not appear at all. Strange.

²⁵Rondout Creek empties into the Hudson River in the present town of Esopus, more specifically at the hamlet of Port Ewen, site of the Fleet Prison. Esopus Creek, empties into the Hudson River at Saugerties, which is about a 20km north of Port Ewen.

Quaker prisoners Among the prisoners who were already on the ships on 10 July were 20 Quakers who were jailed in the Fleet prison on 19 June 1777. Among them was William Pemberton, a well known Quaker leader. They were arrested because they attended their annual meeting on Long Island occupied by the British. One wonders why the leadership of the Quakers had taken the controversial decision to organise their meeting on Long Island. Just as other prisoners who had a source of income, they were to remain there *at their own expense* until further notice.

On 29 July 1777 a petition of 5 of the Quakers praying liberty was rejected. Subsequently these five Quakers could demonstrate that they belonged to the Regiment of Colonel David Southerland. Therefore, they were freed on 5 August 1777 after taking allegiance to the state of New York. We do not know when the 15 others were freed.

On 6 October 1777 one reads in the “Minutes of the First Commission for detecting Conspiracies” that “Ephraim Mallery (one of the people called Quakers) affirmed his allegiance to the state and was discharged”. From 19 June to 6 October he had spent three months and two weeks in the Fleet prison.

The Fleet prison was not considered as a high security prison as revealed by the fact that on 5 September 1777 many of the least dangerous of the prisoners were removed from Kingston jail to the Fleet prison. In September 1777 some 14 prisoners made a successful escape. (JPC1, p. 1056). Note that the Albany jail was also considered less secure than the Kingston jail.

On 14 June 1777 the warden sent the following letter to the president of the New York Convention.

At the request of several of the prisoners I am to inform you that there has been no provisions served out on board of the several ships since last Sunday. If it were not that some of us get supplied from our friends on shore, those who do not have that opportunity must starve.

In principle the prisoners were supposed to receive daily one pound of meat and one pound of bread but the previous letter shows that the reality may have been somewhat different.

When the British raided Peekskill, New York, a number of local loyalists had expected to join them, but instead were arrested by local patriots and placed in the Fleet Prison.

On 8 October 1777, because of a threatening British attack, the prisoners on board the Fleet prison were moved to Hartford²⁶ in Connecticut to be confined there in

²⁶In Jones (1879, p.220) one reads that when the ships were run into shoal water and set afire there were still 150 prisoners under deck but no indication is given about the source of this information. According to Doherty (2011) and

“such manner as governor Trumbull shall direct”. In mid-October a British fleet of 30 vessels under John Vaughan sailed up the Hudson river, burned Kingston and destroyed the Fleet prison.

Patriot prison ships in Providence, Rhode Island

Rhode Island is a small state located on the Atlantic coast south of Boston. It is composed of a continental part and a Bay which has many islands. At the entrance of the bay there is Newport and on its continental side is the city of Providence. Newport was occupied by the British from December 1776 to October 1779 but Providence was not.

The existence of a prison ship in Providence Harbor is mentioned several times in the archive volumes [Providence 8,9].

(1) Sep.1778, [Providence 8, p.449]. In May 1778, Capt. James Munro, in a private warship was taken by a British warship. Ever since, together with 50 of his officers and men, he has been detained in Halifax jail. Recently Major General Sullivan, has granted them liberty in exchange of British prisoners presently on board the *prison-ship at Providence*.

(2) Feb.1780, [Providence 9, p.28] Several Loyalist prisoners who were confined on the prison ship escaped and are now at large within this state.

(3) Nov.1780, [Providence 9, p.264]. Ten pounds were paid to Mr. Elijah Shep-ardson for taking charge of the prison-ship from August 2 to September 17, 1780.

(4) Dec.1781 [Providence 9, p.497]. Mr.Dennis Byrne, and his woman servant, have been held at the prison-house until this time.

From the previous excerpts one learns that the Providence prison ship has been in operation from September 1778 to December 1781. One would also wish to know what was its capacity. The third excerpt tells us that it was probably a much smaller ship than the infamous Jersey ship in New York Harbor. Therefore one would expect that it offered better living conditions and had a lower death rate.

Patriot prison ship in Boston Harbor

The prison ship in Boston Harbor is mentioned in three documents.

- In an account of the trials at the criminal court of Worcester county (Massachusetts), Smith (1914, p.28) mentions the case of Jotham Bush who was tried for circulating counterfeit money. Around 27 November 1777 he was sentenced to pay a fine of 20 pounds and to be confined for three months in the *prison ship anchored in Boston Harbor*.

- On 10 May 1777 the state of Massachusetts passed a law entitled “Act for secur-

Dietz (2012) the prison ships were burnt on 16 October 1778 by the British at the same time as Kingston itself. Doherty tried to find further information in the newspaper “New York Packet and American Advertiser” but found none. He concludes by saying: “It is unknown if any prisoners remained in the vessels at the time of their destruction.

ing this, and the other United States, against the dangers, to which they are exposed by the internal enemies thereof” (Van Tyne 1902, Appendix C). The title is fairly obscure and Van Tyne does not explain further what the real purpose of the law was. In Leamon (2012, chapter 6 entitled “The price of an oath”) one reads that through this “Transportation Act” (as it was called) selectmen of each town were required to make lists of Loyalist suspects who would then be tried before a special court. For those convicted the penalties were severe²⁷. They would be conveyed to Boston and imprisoned aboard a *guard ship in Boston Harbor*. until transported to some place in the British West Indies (“or in Europe” says the law). They could take their families with them if they could pay for their passage.

We do not know how many Loyalists were tried under this Act, except for one case. In September 1777 William Gardiner, a wealthy person, was tried and sentenced to be sent to Boston’s prison ship but it seems he avoided banishment.

- On 10 August 1780 British prisoners of war incarcerated on a prison ship in Boston Harbor rioted. The ship’s guards were disarmed and sergeant Thomas Beckford was killed from a gunshot to the neck (Carrick 2016). Eventually the ship ran aground and “multiple boats from Boston quickly suppressed the uprising”. The source does not say how many prisoners were killed. As they had taken the weapons of the guards one would expect that they would not surrender without a fight (having killed a guard they knew that some of them would be executed anyway).

Patriot prison ships at New London, Connecticut

Little is known about the prison ship which was anchored in the Thames River near New London, Connecticut. In May of 1782, a Connecticut Navy Ship called the “Retaliation” was commissioned to receive British and loyalist prisoners. It received some 100 prisoners. Its commanding officer was Captain John Chapman, a patriot from New London²⁸.

Suggestion of a comparative study of the death rates of POWs

After each conflict there are controversial statements about death rates in POW prison camps. Usually prisons of the country which lost the war get great attention particularly by historians of the victorious country which is of course in line with the saying that “history is written by the victors”. This rule applies to the War of Independence, the American Civil War, the Pacific War, the Korean War, the Vietnam War. Why does the War of Independence provide a particularly good opportunity for a fairly objective comparative study? There are (at least) three reasons.

- As the two sides were well managed countries one can reasonably expect that

²⁷The whole text of the law (which covers three pages) is available online at the website of “Massachusetts Acts and Resolves”.

²⁸The source is an article by Stephen Davidson on the UELAC website already mentioned above.

each prison had a register in which arrivals, departures and deaths of prisoner would be recorded. In addition the two countries have well organized archives from which it should be possible to retrieve such registers. The fact that English was used on each side is also a great advantage. It is true that automatic translation has made great progress in recent years but it is not clear that the translation softwares will be able to decipher hand-written texts in Japanese, Korean or Vietnamese.

- A second reason which makes a comparative study attractive is the fact that each side had three kinds of prisons: ship prisons, land prisons in buildings and prison camps. In Britain there were no prison camps but in South Carolina the British Army had certainly to establish prison camps to manage the large inflow (of the order of 3,000) of POWs that followed the surrender of Charleston.

It would be of interest to compare the death rates in the previous prison ships to the rates prevailing in the British ships in New York harbor and in the prison ships in England. One would expect the mortality to be highest in New York for it is well known that the food supply was insufficient even for the British troops.

Finally, we suggest three publications on the topic of American prisoners of war during the War of Independence. Abell (1914), Alexander (1967), Cogliano (2001). They give a starting point and the fact that the publication years range from 1914 to 2001 shows that this is a topic for which there is a lasting interest.

Summary trials in the South

Cruel as it was, mob rule was at least parcimonous in human lives. Express trials and more or less summary executions were quite another thing. One of the proponents of such methods was judge Charles Lynch. In his Wikipedia biography one reads the following.

In several incidents in 1780, Lynch and several other militia officers and justices of the peace rounded up suspects who were thought to be a part of a Loyalist uprising in southwestern Virginia. The suspects were given a summary trial at an informal court; sentences handed down included whipping, property seizure, coerced pledges of allegiance, and conscription into the military. Lynch's extra-legal actions were legitimized by the Virginia General Assembly in 1782.

Chapter **XX**

Death sentences and executions

The battles of the War of independence are well documented. One can know the strength of each side and usually casualty estimates are also available. However, behind such purely military aspects there was also a hidden war which involved loyalists, spies, traitors. Such persons could be tried by committees of safety, by special civil courts or by court-martials. The number of disaffected persons which were tried and the severity of the sentences may give useful information about the Patriots' cohesion.

Identification of execution cases

Sources for execution data

So far the prevailing opinion was that during the Revolutionary period there were few executions. For instance, the well-known Espy file²⁹ gives only 15 executions. It can be observed that in the Espy file military executions are almost completely omitted to the point that even the well-known hanging of Major John Andre is not mentioned.

The series of books published by Daniel Allen Hearn (1997, 1999, 2005) provides a more recent, more accurate and more comprehensive source.

- In the volume specifically devoted to New England, for the whole Revolutionary War period, 15 executions are listed and described as having had for purpose some political motive such as espionage, treason or counterfeiting.
- In the volume about New York State, again for the whole Revolutionary War period from 1777 to 1783, Hearn (1997) lists 41 executions related to the same political motives.
- In the volume about New Jersey Hearn lists 43 official executions in the time interval 1777–1782. He adds: “For every legal execution that took place, an equal number (or more) involved no trial proceedings whatsoever.”

Expected number of legal executions for the United States

²⁹Although he attended the University of Alabama for two years following service in the US Navy during the Korean War, Watt Espy never received a college degree. However, through his work on execution data, he earned the admiration of academics and the general public. Although his work was seen by him as an ongoing project, it started to attract wide attention in 1987 when it was described in an article of the New York Times of 21 October 1987.

For New England, New York and New Jersey the total is 99 executions and this number does not include Pennsylvania not yet studied by Hearn, nor any of the Southern states which have already been studied by Hearn but only for the period after 1866.

On the simplifying assumption of a relative uniformity across the 13 states, one can try to extrapolate Hearn's numbers to the whole country.

In 1790 the first American census gave a population of 0.92 million for New England, 0.34 million for New York State and 0.17 for New Jersey. The total free population was about 3.0 millions. Based on these numbers one gets an expected number of 207 legal political executions for the United States.

This number does not include the kind of summary executions described below for Monmouth County nor does it include the executions ordered by court-martials.

The word "legal" is defined in the same sense as in Hearn's study and the word "political" means that we have left out executions for personal crimes like murder, rape, burglary, banditry; desertion was also left out; although desertions can in a sense be seen as "political" crimes, they are also very much influenced by personal factors which is why we preferred to put them aside. After these cases have been removed the crimes which remain are espionage, treason, counterfeiting.

What are the problems and difficulties to which one is confronted in that research?

The main problem is the fact that death sentences can be decided by several jurisdictions:

Contemporary sources of execution statements

The War of Independence was a time during which the institutions of the new republic were in the making. The colonial courts have been discontinued. This put the judiciary in the hands first of the "Committees of Safety" (which were somewhat different in each state), and after 1776 in the hands of the "Supreme Executive Council" (most often comprising the same persons as the former committees). Special courts may have been set up when needed as for the trial in October 1778 of the two Quakers Abraham Carlisle and John Roberts.

What was the connection between court martials and civil jurisdictions? Two points were of particular importance.

(i) What were the crimes for which civilians could be tried by a court martial?

Espionage was seen as a military crime because it affected directly military operations. In contrast, treason was rather considered as having to be tried by a civil court. In practice, the two charges came often together. For instance, a deserter who went to the British side (to avoid being caught by the militia) and then, for some reason (e.g. visiting his family), came back to the American side was automatically charged with being both a traitor and a spy.

(ii) By whom should death sentences brought by court martials be confirmed?

The answer has changed in the course of time. In 1776 the archives of the “Committees of Safety” (e.g. those of Pennsylvania) contain lengthy examinations of death penalties issued by court martials. The first step of the procedure was to read the minutes of the court martials, then there was a discussion of the case. If it seemed difficult to come to a consensus at county level the case was sent to the provincial Committee or Council. Needless to say, such a procedure may have been workable as long as there were only few cases, but with the expansion of the Patriot forces there was a corresponding increase in the number of cases.

Thus, in early 1777 the procedure was changed so that the confirmation decision could be made by the Commander in Chief. Initially, in 1777 and 1778, this meant by General Washington, but to send all cases to a single person created another bottleneck, so in subsequent years one sees confirmations given by field commanders, e.g. Clinton or Green. From the court martial accounts that we could read, it is clear that this made the procedure faster but also more severe. Probably many defendants sentenced to death and duly executed would have been reprimanded under the procedure of 1776.

Death sentences

Sources of death sentences

Death sentences could be delivered in (at least) four ways.

(i) By court martials; confirmation needed by Council of Safety or military commander.

(ii) By specially appointed superior courts as in the case of Carlisle and Roberts.

(iii) By Courts of Oyer and Terminer. These were not permanent courts; they were planned, appointed in a given county and announced some three weeks in advance. The frequency was variable, of the order of once a month. In the few states (e.g. Connecticut) where there were no Oyer and Terminer courts, high treason cases could be tried in other superior courts.

(iv) By acts of attainder. Depending on the state, attainders may have concerned only confiscation of property or may also have involved a death penalty (as indeed implied by the very notion of attainder) Usually, at the moment when a list of attainted persons was published, the persons were not yet in custody. However, when caught subsequently no further trial was required.

The two main sources of death sentences followed by executions were (i) and (iii). Although hundreds of persons were named in the acts of attainder it seems (according to sources currently available) that few persons were executed as a result.

Research biased by the lamp post paradigm

The lamp post paradigm is well known. It means that a person who has lost his (or her) keys at night will try to search them under a lamp post for the obvious reason that it is the only place where there is light. We are in a similar situation here.

Whereas the minutes of the Continental Congress or of the Provincial Councils have been published in the form of well organized printed volumes, nothing similar has been done (to our best knowledge) for court martials and courts of Oyer and Terminer. Court martials accounts are scattered over many places. Some are only available in handwritten form which makes reading very laborious. In short, whereas many Revolutionary archives have been edited and published with great care, the items of (i) and (iii) have been left in darkness far away from the lamp post.

As the number of Oyer and Terminer trials was certainly much smaller than the number of court martials, it is with the study of the former that one should start. Assuming that the primary sources can be retrieved, one will probably have to go back to the handwritten sources. Fortunately, there are now software tools which are able to “read” 18th century hand written English. On several websites of State Archives (e.g. in Massachusetts) it can be seen that such tools are already used with fairly good effect.

Death sentences leading to banishment

There were many death sentences but also many reprieves. Why?

Let us assume that apart from fighting dissent, the main purpose of the Continental Congress was to fund the war of independence. We know (see below) that a law for the appropriation of the property of Loyalists was passed as early as November 1777. This led all states to pass confiscation laws. However, mere confiscation did not provide any funding. It is only when the estates and the goods were sold and bought that they generated funds.

In buying confiscated property the buyers were taking the risk that a military reversal may bring back the British Army along with prior owners. After all that happened in parts of New Jersey, in Charleston and in a number of smaller places. That is also what happened in France in 1815, at least for some of the buyers of “nationalized” estates. By banishing former owners not only from the states but also from the country, the risk of re-possession was greatly reduced, a circumstance which reassured the buyers and therefore ensured better income for the sales.

This seems a reasonable explanation for the fact that so many people were sentenced to death, only to be reprieved. For instance in [Newspapers, Vol.2, p.82, 2 March 1778] one reads that 35 persons received death sentences in New Jersey but only two, namely William Iliff and John Mee were executed. The fact that the trials and

reprieves occurred in a short time interval suggests that the selection of the two poor people among the 35 was done more or less randomly. Although at first sight this may seem strange, if one thinks about it, one realizes that it was a good means of deterrence that would certainly dissuade attended persons to submit to trial. As a matter of fact it made any prediction about the outcome of trials impossible.

There is another reason which may explain the large number of pardons. Sometime in late 1777 the General Assembly of New Jersey had passed a law which was so drastic that in fact it could not be implemented. Any person corresponding or trading with the enemy could be punished by a death sentence. With the enemy staying in Philadelphia during the whole winter it is clear that many persons had contacts with them. This law led to excessive penalties which were then corrected by granting pardons. Actually, it would have been wise to pardon everybody for, as we said, selecting one or two was necessarily arbitrary.

Death sentences leading to executions

In this section we list a number of death sentences and execution cases but our ambition is fairly modest for two reasons.

- The cases listed in this section were found in archive documents and in secondary sources so to say by chance in the course of other studies. This is not surprising for, as explained previously, there is no systematic way for finding such cases, scattered as they are in many different archive sources. The main source is expected to be the court-martial sentences contained in army order books, but unfortunately these documents are particularly disseminated in many institutions.

- As the studies by Hearn mentioned above give already a good source of data, at least for northern states, in presenting the following data our main objective is to compare the two data sets.

One should be aware of the fact that in a number of cases it is difficult to make sure that there has not been a last minute reprieve. It can be granted from different sides: the provincial council, the president of the tribunal, the Commander in Chief. Sometimes, execution is just postponed but it opens the possibility of a reprieve later on. Sometimes the documents give contradictory versions.

Some readers may wonder what is the reason for compiling and publishing the list below. One answer is that we wish to give an *overall view*. As an illustration of what we mean, consider the following statement in a paper by David Fowler (2009,p.56):

The only trial of a tory partisan leader in New Jersey was that of Joseph Mulliner In Burlington County, New Jersey. He was hanged in Burlington on August 8, 1781.

This is a fairly confusing statement. Is it the only in 1781, or the only trial of a

leader, but then how do we define a leader?

According to our compilation there were (*at least*, for the search is based on a selection of records) three other trials of Loyalists in 1781. How can one explain that discrepancy? It is not due to a difference in sources for Fowler's statement is based on the same [Newspapers Extracts, Vol.5], New Jersey Archives. Perhaps the reason is that back in 2009 not all archives had been digitized. Similarly, as there is no reason to focus particularly on 1781, the search engine also allows us to easily extend the search to earlier years which again leads to several other cases.

Incidentally, Fowler's investigation suggests that treason cases were certainly under-recorded. Why? The section which mentions the case of Joseph Mulliner is entitled: "Egregious villains: Loyalist irregulars and banditti". On the Patriot side there was indeed a strong tendency to consider Loyalist fighters as bandits³⁰. In other words, a fraction of the so-called "property crimes" may have been attacks on Patriot storage facilities. Several other authors (e.g. Cohen 1985) made the same observation.

About Mulliner one reads the following description in the "New Jersey Gazette" (8 August 1781).

"Mulliner had become the terror of that part of the county. He had made a practice of burning houses, robbing and plundering all who fell in his way so that when he came to trial it appeared that the whole county, both whigs and tories, were his enemies".

Yet, he was charged with treason, not arson or plunder.

Incentives for clemency and dissimulation of executions

There were two good reasons which led the Patriots to avoid executions of defeated Loyalist leaders and to downplay and hide those which nevertheless occurred.

- Throughout the War of Independence exchanges of prisoners took place. Such exchanges naturally took into account the importance of the prisoners. A well known Loyalist may be exchanged against a high ranking Patriot officer. Conversely, the execution of an important Loyalist leader may result in the reprisal execution of a Patriot spy or officer.

- France had been secretly supporting the Patriots at least since 1776. In December 1775 there were three meetings in Philadelphia between a secret French envoy, Julien Alexandre Achard de Bonvouloir, and a Patriot committee that included Benjamin Franklin. The Patriots were clever enough to convince Achard of their strength and as a result the French government, agreed to give secretly to the Patriots a mil-

³⁰The same observation can be made about the civil war in China. In the 1930s when Communists were still in small number, the Nationalists waged several "extermination campaigns against the Communist *bandits*". In the newspapers of that time (including those in English), the Communists were described as plundering villages and indiscriminately massacring the farmers.

lion livres and promised to do its best to convince the Court of Spain to give another million. In short, French support was highly dependent upon giving a good image. Clearly, acknowledging the occurrence of important Loyalist insurrections would have been bad, not only with respect to France but also with respect to domestic Loyalists. It was essential to prevent the constitution of a united front of Loyalists supported by the British. Therefore, whenever there was an uprising somewhere it was of crucial importance to show that it was an isolated and ineffective last attempt. A harsh repression involving the execution of the main leaders would have contradicted this image.

Partial evidence for a sample of Patriot units suggests that court martials were the main purveyors of death sentences. Unfortunately, court martial accounts are scattered over a myriad of sources so that it is very difficult to get a global view. High Courts in charge of capital crimes (and particularly crimes of treason) were another institution which handed out death penalties. Although less numerous and less scattered than court martials, these courts differed from state to state and their records are dispersed over many state or even county archives.

As a tribute to the troops who served in the militia and Continental Army, the historical societies of various states published printed lists of muster rolls and pay rolls comprising thousands and thousands of names, e.g. "Muster rolls of Maryland troops" (752 pages) published in 1900. In contrast, records of civil courts and court martials attracted little publication efforts.

A certain reluctance by historians to report executions

Many present-day secondary sources give the impression that the authors are reluctant to report death sentences and executions. Here is a case in point taken from the history of Maryland.

(1) In Scharf (1882, p.145) one reads that on 25 July 1781 seven persons (whose names are given) were sentenced to death in Frederick (county of Frederick, Maryland). The court comprised two judges, Alexander Hanson and Upton Sheredine and one officer, Colonel James Johnson.

From the text of the judgement pronounced by judge Hanson that is reproduced verbatim one learns the nature of the charge, namely: "enlisting men for the service of the king and administering an oath to them to bear true allegiance to the said king and obey his officers when called on". The judge also explained that this harsh sentence was destined to serve as an exemple.

Finally, it is said that three of them were executed in the court house yard at Frederick whereas the four others were pardoned.

The main reason of the operation planned by the British was to liberate 1,600 prisoners of war held at a camp located near Winchester (in Frederick County, Virginia

nearby Frederick Country, Maryland).

(2) We now consider a second source, namely Hoffman (1968, p.240), which gives the following account: “One hundred men were reportedly involved in a plan to assist the British. The court decided to try seven of the leaders. They were found guilty of high treason and sentenced to die by hanging. After a series of appeals, four received pardons and three were executed”.

In his short account the author does not give the names of those executed nor the date or location of the executions. Moreover, technically it is not correct to say that they were sentenced to die by hanging since in the high treason mode of execution the victim is beheaded after being briefly hanged.

The sketchy account is all the more surprising because in previous pages the author devotes several pages to other treason trials which resulted in light penalties, e.g. fines of 10 or 20 pounds.

(3) Next, we turn to a more recent source, namely Nath (2009, p.25) which is a master thesis presented at the university of Maryland. Here one can find the names of the four defendants who were pardoned by the governor but any mention of those executed has disappeared. This is somewhat surprising because Hoffman’s book is cited.

In summary, from 1882 to 2009, a time interval of 127 years, the information about the trial and the executions shrinks to the point of disappearing completely.

Nevertheless in the next subsection we explain that there is something of interest to be learned from Hoffman’s book concerning the conditions under which treason trials can take place.

Conditions for treason trials to be held

The Revolutionary history of Maryland was reported by many historians but Ronald Hoffman is one of the few who gave some attention to the trials held before the General Court. This court did not convene in a fixed county but moved to the place where the crime was committed and where the defendants waited in jail to be tried. It is well known that the most loyalist and rebellious part of Maryland was the Eastern Shore, that is to say the part of Maryland located on the eastern side of Chesapeake Bay. Whereas many riots and insurrections occurred on the Eastern Shore the judges understood very well that it would be difficult to hold trials and even more to implement severe sentences.

At the Spring session of April 1778 only one riot case was heard; the man was found guilty and fined 30 pounds. Then, at the fall session of September 1778 the judges heard 7 treason and 9 riot cases. However, the sentences consisted again in fines ranging from 10 to 30 pounds, (in addition these fines could be paid in the state’s

depreciated currency).

However, for some unknown reason (at first sight his case does not seem more serious than the others), one defendant named John Tims was sentenced to death. Yet, the sentence could not be implemented because the sheriff appealed on his prisoner's behalf to the governor's council. Hoffman adds that anyway it may have been impossible to carry out the sentence because two third of the people were ingrained Tories.

In short, these cases make us understand that no trials or very light sentences do not mean an absence of incidents but can on the contrary be due to the fact that trials would be politically too risky in the sense that they may raise protests and demonstrate the weakness of the Patriots' position.

Data sources for executions, 1774-1788

The Hayburn data for Pennsylvania

In an investigation which to our knowledge is unique Dr. Timothy Hayburn searched systematically the court records of Pennsylvania to identify all death penalties and executions.

The reference "Hayburn (2011)" gives the total numbers of executions per decade but it does not give the yearly data nor does it give the names. The author was kind enough to send us the yearly data with the names of the persons and the places of execution. Since for most of these data we do not have the exact dates of the executions we have listed them at the beginning of each year.

Notes to the table

The executions listed in the table are for crimes against the state, namely: treason, insurrection, spying, desertion and counterfeiting, horse theft. As horses were very important particularly to British troops it is likely that most of the horses stolen were sold to them.

The common feature of these crimes is the fact that they were directed against the Patriot governments of the respective states. Except for a small number of spies belonging to the British army, most of the persons which appear in the list were loyalists.

The following two examples show that the charge that is claimed may not reflect the real motive.

- John McCoy was executed in May 1780 on the charge of robbery in a dwelling house in New Jersey. At first sight this does not appear to be a crime directed against the state, but in fact the house belonged to the father of General William Maxwell,

commander of the New Jersey Brigade and close advisor to General Washington. (Hearn 2005, p.43)

- Ezekiel Tilton was hanged on 13 December 1782 in New Jersey on the charge of burglary. At first sight this is not a crime related to the political situation. However, Sir Guy Carleton who would become in 1785 Governor General of British North America wrote to the governor of New Jersey that he expects Tilton to be treated with the “lenity with which a prisoner of war ought to be treated” (Hearn 2005, p.55). He was executed nonetheless.

Legal, semi-legal and extra-legal executions

The cases listed below are all legal executions in the sense that they have been ordered by an “official” authority (whatever that may mean) and recorded as such. “Recorded” is the important word here because without a record we cannot know that something happened.

What is meant by semi-legal executions? In May 1777 Major General John Sullivan took command of the New Jersey area around Princeton. He announced a zero-tolerance policy with respect to soldiers absent without official permission. When caught such soldiers should be executed on sight, without any court martial, without any possibility for pardon and without any record being kept. Therefore testimonies by other soldiers would be the only way to know about such events. In the present case, as no accounts seem available we do not know whether this drastic decree was really implemented.

What is meant by extra-legal executions? An excerpt of a book by Daniel Hearn (2005) will help us to explain this notion. Hearn has published comprehensive lists of legal executions and for that purpose he investigated many newspapers and whatever court records are available. On p.36 he writes:

The War for American Independence proved to be a horrific conflict in terms of human suffering. Sanitized accounts place a heavy emphasis on politics and personalities but in so doing they gloss over a far more earthy reality. Atrocities were committed on both sides, crime was rampant.

Court records tell only part of the story; for every legal execution that took place an equal number or more involved no trial proceeding whatsoever. Many towns formed quasi-legal vigilance committees that often shot first and asked questions later. It was not uncommon, particularly in New Jersey, to see dead men dangling from tree limbs as a warning to evildoers. “Jersey justice” as it came to be known acquired much of its subsequent reputation during those troubled times.

Jersey justice means a very severe justice and one which does not follow the rules.

An illustration can be found in the book entitled “Jersey justice: the story of the Trenton six” by Cathy Knepper (2011).

Pardons and dates of execution

After court martials or trials by civil courts, e.g. courts of Oyer and Terminer the sentenced persons could be pardoned.

Court-martial sentences had to be approved by the Commander in Chief, who could be either General Washington or a local Commander. It is fairly easy to identify pardon occurrences. In a case without pardon the name of the person will appear only twice in the document: once in the record of the court martial and a second time in the index at the end of the volume. When the name appears three or more times there is a good likelihood of a pardon and this can then be determined by reading in detail the excerpts containing the other occurrences.

For trials by civil courts pardons can be granted only by the governor (or by the General Assembly) for there was no appeal procedure. Often the court records do not indicate whether a pardon was granted. In order to find out, one must rely on other documents, e.g. the correspondence of the governors, which do not always exist. A confirmation of an execution may also come from newspapers. Unfortunately, except in New Jersey, we have found few states whose newspapers were accessible on line.

Apart from pardons, there can also be reprieves. For that reason the date of the execution set by the court may not be the actual execution date.

Uncertainty of claimed charges

In the following list of executions the charges brought against defendants are not given. The reason is that they would be more confusing than helpful. The observation that charges retained by the court often obscure and hide real political motives was illustrated by Henry Young (1966, p.297) through the following cases.

(1) Abijah Wright had entered a man’s house by night to kidnap him for the British. Yet, it is of burglary that he was convicted and hanged.

(2) James Sutton was hanged for piracy but by leading a mutiny on the American privateer “Chevalier de la Luzerne” his real goal was to deliver the vessel to the British.

(3) James Roberts (not to be confused with John Roberts) who risked his life by carrying the messages sent by “Associated Loyalist” Colonel William Rankin to Sir Henry Clinton was upon his return tried and executed for offering counterfeit currency.

(4) The noted guerrilla fighter, James Fitzpatrick, was convicted of burglary and larceny.

(5) The famous Doan gang were Loyalist Guerrillas who guided escaped prison-

ers, harbored British emissaries and threatened tax collectors. Tried as burglars and robbers, 8 of them were hanged.

In civil wars it is fairly common to see guerrilla fighters labelled as being criminals or bandits; this last expression was particularly used by the Nationalists during the Civil War in China.

Crimes against the state as an indicator of internal rift

In our earlier discussion of attainder acts we have often mentioned a paper by Henry Young (1966) about treason in Pennsylvania. It is indeed a well documented paper which uses a broad range of sources, e.g. the volumes of “Colonial Records” or of “Pennsylvania Packet” or the “Journal of the Senate”. Yet, at the last page of the paper, one finds the following sentence.

“Pennsylvania executed 4 men for treason, Connecticut but one”.

Thanks to the study of Daniel Hearn (1999) about legal executions in New England we know that from 1774 to 1783 there were at least 8 executions for treason and sedition ³¹ .

For some reason, Hearn did not yet publish a similar study devoted to legal executions in Pennsylvania. Fortunately, thanks to the careful study conducted by Timothy Hayburn (2011) we know that from 1771 to 1790 there were 21 executions for treason in Pennsylvania (6 between 1777 and 1780), a count which does not include the sentences of courts martial.

The fact that in 1966, almost two centuries after the events and despite a vast literature, our knowledge of sentences and executions was still so incomplete suggests that this topic was fairly neglected.

Why is it important? It provides an indicator of internal opposition to the Revolution that is probably more reliable than many others.

For instance, military actions by Loyalists were completely dependent on British support for pay and equipment.

Another suggested indicator of the strength of Loyalists by state are the compensations provided by the British government. However, such compensations reflect wealth of Loyalists rather than their determination to act against the American government.

Scarce mentions of executions

In Siebert (1905, p.31) one learns that James Molesworth, who for several years had been clerk to the mayor of Philadelphia, was hanged in the Commons on 31 March 1777 on a charge of (attempted) treason. One would expect this execution

³¹The “at least” qualification is motivated by the fact that Hearn did not include sentences by courts martial nor did he systematically scan the records of “Oyer and Terminer” trials.

to be mentioned in the volume of “Colonial Records” which focuses on this time. It is Vol.11 which contains the minutes of the Supreme Executive Council from 4 March 1777 to 20 May 1779. Yet, a keyword search reveals that this volume does not contain the name of Molesworth. Well known in the city as this person certainly was is that not surprising?

In a similar vein, let us consider the case of David Dawson who was executed on 25 November 1780 (see below). One would expect to find mention of this execution in the Vol.12 of the “Colonial Records of Pennsylvania” (Minutes of the Supreme Executive Council) for this volume covers the time interval 21 May 1779 - 12 July 1781. As the volume has 810 pages it means account of some 31 pages for each of the 26 months covered by the volume. David Dawson is indeed mentioned once, on p.463, 28 August 1779 i.e. 3 months before his execution, but only in the following way:

“Dawson, David, his real estate confiscated”.

Here is another case from the same volume.

On p.5 one learns that on 26 May 1779 a transcript was read in the “Supreme Executive Council” which states that Patrick Drogan (also spelled Dragan), William McCoy and Daniel Monaghan were sentenced to be executed, with the date of 12 June 1779 set for the executions. However, as this is the only mention of these persons, it means that one cannot know if they were indeed executed on that day or instead were pardoned.

Incidentally, the same excerpt of the minutes of the Council can be found in another volume of the Pennsylvania archives, namely in Vol.12 of the 6th series that is reproduced in Corbly (2013, p.296). No more information about the executions can be found in this volume either.

Here is still another example from the same volume.

It is known (see below) that on 8 December 1779 Nathaniel Patton was executed for treason in Pennsylvania Yet, once again, no mention of this case can be found in Vol.12.

By using a broad range of sources, one finds 30 executions in Pennsylvania for crimes against the state between 1774 and 1783, namely in chronological order (see the list below):

Repton, McAllister, Steward, Debadee, Molesworth, Ford, Sank, McMullen, Mansin, Myer, Morris, Worrel, Meath, Hartnet, Morrel, Spangler, Ford, Lyons, Carlisle, Roberts, Wright, Rosemary, Patton, Trout, Shocky, Roberts (James), Chamberlain, Morden, Dawson, Moody.

This list is certainly incomplete for, as mentioned above, in quite a few cases dates

of executions were set but no confirmation of either pardon or execution could be found.

List of persons who were executed

1773

Reynolds (David), EX: 17 Sep 1773, NJ, (Hearn 2005)

1774

Repton (Bernard), EX: 1774, PA (Phila) (Hayburn 2011)

Duckett (Valentine), EX: 9 Sep 1774, MASS (Hearn 1999)

Ferguson (William), EX: 24 Dec 1774, MASS (Hearn 1999)

1775

McAllister (John), EX: 1775, PA (Phila) (Hayburn 2011)

Stewart (Alexander), EX: 1775, PA (Phila) (Hayburn 2011)

Jeremiah (Thomas), EX: 8 Aug 1775, SC (Olwell 1989)

Wood (Abiel), EX: 7 Sep 1775, Montreal (Scots Magazine vol.37)

1776

Hickey (Thomas), EX: 28 July 1776, NY (Neagles 1986, p.44)

1777

Debadee (Brint), EX: 1777, PA (Phila) (Hayburn 2011)

Mea (John), EX: 1777³² (Siebert 1905, p. 34)

Stiff (James), EX: 1777 (Siebert 1905, p.34)

Strang (Daniel), EX: 29 Jan 1777, NY (Hearn 1998)

Jacobs (John), EX: Feb 1777, SC (Sabine vol.1, p.568)

Dungarven (Patrick), EX: ? Mar 1777, NY (Hearn 1998)

McNaughton (James), EX: ? Mar 1777, NY (Hearn 1998)

Dunbar (Moses), EX: 19 Mar 1777, CT (Wikipedia)

Matthew (Jones), EX: 31 Mar 1777, NJ (Hearn 2005)

Molesworth³³ (James), EX: 31 Mar 1777, PA (Corbly 2013,29)

Robinson (James), EX: 31 Mar 1777, NJ (Hearn 2005)

³²Mea and Stiff (below) were the leaders of a group of 160 Loyalists who were intercepted while trying to go over from Philadelphia to the British line.

³³For several years he was clerk to the mayor of Philadelphia before being charged with an attempt to bribe pilots to navigate Lord Howe's vessels from New York to Philadelphia (Siebert 1905, p.31). In so far as it was an attempt rather than confirmed bribery, the charge was more about intention than fact. The same observation applies to many other conspiracies which were discovered before being carried out, e.g. the Hickey conspiracy of 1776 or the Maryland conspiracy of 1781.

Key (Robert), EX: April 1777, RI (Sabine vol.1, p.602)
 Connor (Daniel), EX: 20 Apr 1777, NY (Hearn 1998)
 Mabie (Simon), EX: 20 Apr 1777, NY (Hearn 1998)
 McCaffity (James), EX: 20 Apr 1777, NY (Hearn 1998)
 Winmore (Gordon), EX: 20 Apr 1777, NY (Hearn 1998)
 Griswold (Daniel), EX: 5 May 1777, CT (Hearn 1999)
 Williams (John), EX: 9 May 1777, NY (Hearn 1998)
 Keyser (Frederick), EX: 13 May 1777 ([JPC1, p.926])
 Oakley (Richard), EX: 13 May 1777 ([JPC1, p.926])
 Hart (John), EX: 15 May 1777, RI (Hearn 1999)
 Middagh (Jacob), EX: 28 May 1777, NY (Hearn 1998)
 Roosa (Jacob), EX: 28 May 1777, NY (Hearn 1998)
 Stone (William), EX: 28 May 1777, CT (Hearn 1999)
 Burress (Richard), EX: 6 Jun 1777, NJ (Hearn 2005)
 Thomson (Robert), EX: 9 Jun 1777, CT (Richards 2016)
 Redding (David), EX: 11 Jun 1777, VT (Hearn 1999)
 Murray (John), EX: 1 July 1777, NY (Hearn 1998)
 Hovelson (James), EX: 4 Jul 1777 ([JPC1, p.974])
 Vielle (Arnout), EX: 7 Jul 1777 ([JPC1, p.974])
 Powall (sic) (Thomas), EX: 21 July 1777 ([Putnam, p.28])
 Unidentified spy 1, EX: 21 July 1777, NY (Hearn 1998)
 Unidentified spy 2, EX: 21 July 1777, NY (Hearn 1998)
 Unidentified spy 3, EX: ? July 1777, NY (Hearn 1998)
 Enniss (Richard), EX: 31 Jul 1777, NJ (Hearn 2005)
 Oakley (Samuel), EX: 31 July ([Putnam, p.43])
 Palmer (Edmund), EX: 1 Aug 1777 ([Putnam, p.38])
 Palmer (Edmund), EX: 8 Aug 1777, NY (Hearn 1998)
 Rose (Amos), EX: 8 Aug 1777, NY (Hearn 1998)
 Phillips (Abraham), EX: 9 Aug 1777, NJ (Hearn 2005)
 Woodward (Elijah), EX: 11 Sep 1777, MA ([Heath])
 Farndon (John), EX: 27 Sep 1777, ([ValleyForge, p.71])
 Edwards (Stephen), EX: Oct 1777, NJ (Tiedemann 2009,p.57)
 Lake (Thomas), EX: 6 Oct 1777, MASS (Hearn 1999)
 Taylor (Daniel), EX: 18 Oct 1777, NY (Hearn 1798)
 Kearsley (John Jr.), Died in prison 1778³⁴in Nov 1777, PA (Roberts 1976, p.91)
 Blair (John), EX: 3 Nov 1777, CT (Hearn 1999)
 Iliff (James), EX: 2 Dec 1777, NJ (Hearn 2005)

³⁴One month before his death, in a letter to Congress, he complained of the cold because his window had no glass. He died before receiving a reply at the age of about 70. It is in this sense that it can be said that it was not a natural death.

Mee (John), EX: 2 Dec 1777, NJ (Hearn 2005)

Name unknown 1, EX: 9 Dec 1777, NJ ([Newspapers Vol.1,p.509])

Name unknown 2, EX: 9 Dec 1777, NJ ([Newspapers Vol.1,p.509])

They were executed for attempting to join the enemy; 9 others are under sentence of death for the same reason but their execution was respited until Jan 2, 1778 [this law was probably inapplicable for being too severe].

1778

Ford (Samuel), EX: 1778, PA (Phila) (Hayburn 2011)

Phillips (Josiah), EX: 1778, Virginia (Sabine vol.2, p.185)

Sank (Thomas), EX: 1778, PA (Phila) (Hayburn 2011)

McMullen (Patrick), EX: 1778, PA (Phila) (Hayburn 2011)

Mansin (Henry), EX: 1778, PA (Lancaster) (Hayburn 2011)

Myer (Wendel), EX: 1778, PA (Lancaster) (Hayburn 2011)

Smith (Stephen), EX: 6 Jan 1778 (Edmonson ch.7)

Morris (Francis), EX: 7 Jan 1778 PA ([Wash 10, p.320])

Reely (John), EX: 9 Jan 1778 ([ValleyForge, p.184])

Colbhart (Matthias), EX: 13 Jan 1778, NY ([Wash 12, p.449])

Worrel (Joseph), EX: 1 Mar 1778, PA (Edmonson, p.92)

Meath (William), EX: 10 Apr 1778, PA ([Penn 2, p.488])

Hartnet (Thomas), EX: 24 Apr 1778, PA ([Wash 11, p.354], [Penn 2, p.57])

Morrel (Jno), EX: 2 May 1778, PA ([Penn 2, p. 57])

Forman (Ezekiel), EX: Jun 1778, NJ ([Oyer: Monmouth June 1778])

Harlip (David), EX: Jun 1778, NJ ([Oyer: Monmouth June 1778])

Polehemus (John), EX: Jun 1778, NJ ([Oyer: Monmouth June 1778])

Shanks (Thomas), EX:4 Jun 1778 (Edmonson p.92)

Dicke (David), EX: 5 Jun 1778, NY (Hearn 1998)

Essmond (James), EX: 5 Jun 1778, NY (Hearn 1998)

Ferguson (Robert), EX: 5 Jun 1778, NY (Hearn 1998)

Galer (Christopher), EX: 5 Jun 1778, NY (Hearn 1998)

Hart (James), EX: 5 Jun 1778, NY (Hearn 1998)

Miller (Charles), EX: 5 Jun 1778, NY (Hearn 1998)

Redding (Archibald), EX: 5 Jun 1778, NY (Hearn 1998)

Shaver (Daniel), EX: 5 Jun 1778, NY (Hearn 1998)

McCoy (David), EX: 18 Aug 1778, NY (Hearn 1998)

Sloss (Robert), EX: 18 Aug 1778, NY (Hearn 1998)

Emmons (Thomas), EX: 17 Jul 1778, NJ ([Newspapers, Vol.2, p.311])

Wood (John), EX: 17 Jul 1778, NJ ([Newspapers, Vol.2, p.311])

Spangler (George), EX: 14 Aug 1778, PA (Corbly 2013, p.354)

Fagan (J.), EX: Sep 1778, NJ (Tiedemann 2009, p.58)
 Lt. Ford³⁵ (Samuel), EX: 2 Sep 1778 (PA Arch, series 2,v1,p.236)
 Lt. Lyons (Samuel), EX: 2 Sep 1778 (PA Arch, series 2,v1,p.236)
 Edwards (Stephen), EX: 15 Sep 1778, NJ (Hearn 2005)
 Smith (Elisha), EX: 12 Oct 1778, ([Wash 13, p.60])
 Blair (John), EX: 13 Oct 1778, ([Wash 13, p.54,71])
 Brown (Elias), EX: 23 Oct 1778, ([Wash 13, p.140])
 Herring (John), EX: 23 Oct 1778, ([Wash 13, p.140])
 Walton (Moses), EX: 23 Oct 1778, ([Wash 13, p.140])
 Smith (Elisha), EX: 27 Oct 1778, CT (Hearn 1999)
 Yeomans (John), EX: 1 Nov 1778 ([NY Reg, p.37])
 Blair (John), EX: 3 Nov 1778³⁶, CT (Hearn 1999)
 Farnsworth (David), EX: 3 Nov 1778, CT (Hearn 1999)
 Carlisle (Abraham), EX: 4 Nov 1778, PA (Corbly 2013,244)
 Roberts (John), EX: 4 Nov 1778, PA (Corbly 2013,244)
 Williams (Aron), EX: 3 Dec 1778, NY ([NY Reg, p.50])
 Wright (Abijah), EX: 5 Dec 1778, PA (Young 1966)
 Hilton³⁷ (Joseph), EX: 10 Dec 1778, NJ ([Oyer: Salem Nov 1778])
 Intaken (Robert), EX: 10 Dec 1778, NJ ([Oyer: Salem Nov 1778])

1779

Groundwater (of SC, but first name not given), EX: 1779 (Sabine, vol.1, p.501)
 Rosemary (Michael), EX: 1779, PA (Northampton) (Hayburn 2011)
 Williams (John), EX: 7 Jan 1779 ([Wash 14, p.376])
 Delamar (Thomas), EX: 22 Jan 1779, NY (Hearn 1998)
 Gordon (James), EX: 22³⁸ Jan 1779, NY (Hearn 1998)
 Smith (Claudius), EX: 22 Jan 1779, NY (Hearn 1998)
 Hammett (William), EX: 29 Jan 1779, NJ (Hearn 2005)
 Emmons (Stephen), EX: 29 Jan 1779, NJ ([Newspapers Vol.3, p.53])
 West (Stephen), EX: 29 Jan 1779, NJ ([Newspapers Vol.3, p.54])
 Williams (Ezekiel), EX: 29 Jan 1779, NJ ([Newspapers Vol.3, p.54])
 Jones (Edward), EX: 16 Feb 1779, CT (Hearn 1999, O'Keefe 2011)
 Smith (John), EX: 16 Feb 1779, CT (O'keefe 2011)

³⁵Lt. Ford and Lyons were in charge of the galleys Effingham and Dickinson respectively. They deserted during an attack on Fort Mifflin. This is a rare case of officers being executed.

³⁶For Blair and Farnsworth Brown (1983, p.178) gives the date of 10 Nov 1778. Although executed in Hartford, CT the two men were from NH.

³⁷The text of the judgement reads as follows (abridged). "The said Joseph Hilton was asked by the court what he had to say why judgement should not be given against him. And the said Joseph Hilton not saying anything it is ordered that the said Joseph Hilton be taken to the place of execution on 12 of February [1779] and thence between the hour of two and three in the afternoon of the same day, be hanged by the neck until he be dead."

³⁸In Sabine's "Biographical sketches" the date of execution is 2 January 1779.

Lands (Robert), EX: 19 Mar 1779 (Edmonson, P.92)
 Bettys (Joseph), EX: 6 Apr 1779 (Edmonson ch.7)
 Depue (Isaac), EX: 6 Apr 1779 (Edmonson, ch.7)
 King (John), EX: 6 Apr 1779 (Edmonson, ch.7)
 Cole (William), EX: 9 Apr 1779, NJ ([Newspapers Vol.3, p.291])
 Welcher (Thomas), EX: 9 Apr 1779, NJ ([Newspapers Vol.3, p.291])
 Jaycocks (William), EX: 22 Apr 1779, NY (Hearn 1998)
 Young (William), EX: 22 Apr 1779, NY (Hearn 1998)
 Hall (Thomas), EX: 23 Apr 1779, ([Wash 14, p.426])
 Hollowell (Richard), EX: 23 Apr 1779, ([Wash 14, p.426])
 McManus (Henry), EX: 23 Apr 1779, ([Wash 14, p.426])
 Tarrel (James), EX: 23 Apr 1779, ([Wash 14, p.426])
 Name unknown 1, EX: 23 Apr 1779, NJ ([Newspapers Vol.3,p.292])
 Name unknown 2, EX: 23 Apr 1779, NJ ([Newspapers Vol.3, p.292])
 Hollowell³⁹ (Richard), EX: 30 Apr 1779, NJ ([Newspapers Vol.3, p.310])
 Malcolm (John), EX: 30 Apr 1779, NJ (Hearn 2005)
 Williams (John), EX: 30 Apr 1779, NJ (Hearn 2005)
 Hare (Henry), EX: ? Jun 1779, NY (Hearn 1998)
 Straffaib (?), EX: 6 Jun 1779 (Edmonson ch.7)
 Fluelling (James), EX: 8 Jun 1779, NY (Hearn 1998)
 Keith (Daniel), EX: 8 Jun 1779, NY (Hearn 1998)
 McCormick (James), EX: 8 Jun 1779, NY (Hearn 1998)
 Smith (James), EX: 8 Jun 1779, NY (Hearn 1998)
 Unknown Loyalist 1, EX: 15 Jun 1779, NJ ([Newspapers Vol.3, p.458])
 Unknown Loyalist 2, EX: 15 Jun 1779, NJ ([Newspapers Vol.3, p.458])
 Unknown Loyalist 3, EX: 15 Jun 1779, NJ ([Newspapers Vol.3, p.458])
 Unknown Loyalist 4, EX: 15 Jun 1779, NJ ([Newspapers Vol.3, p.458])

In the account one learns that those five “villains” [in fact Loyalists] fired on two Patriot light-horses, were captured, conducted to headquarters, tried by a court martial, found guilty and hanged. However, the fifth was offered clemency if he would reveal the hiding place of the rest of the group which he did.

Arnold (Oliver), EX: 26 Jun 1779 ([s6 v14, p.27])
 Rosebury (Michel), EX: 30 Jun 1779, ([s6 v14, p.32])
 Hare (Lt Henry), Ex: 6 Jul 1779, ([Clinton’s papers, V.5,p.122])
 Newberry (Sergeant), EX: 6 Jul 1779, ([Clinton’s papers, V.5,p.122])
 Johnson (Daniel), EX: 11 Aug 1779, ([Wash 16, p.77])
 Barret (William), EX: 28 Oct 1779, ([Wash 17, p.344])
 Edwards (Josiah), EX:30 Oct 1779, ([Wash 17, p.87])

³⁹The name is from Hearn (2005,p.41).

Robinson (James), EX: 30 Oct 1779, ([Wash 17, p.87])
 Ward (John), EX: 30 Oct 1779, ([Wash 17, p.87])
 Long (Thomas), EX: 4 Nov 1779, NJ (Hearn 2005)
 Helme (Peter), EX: 26 Nov 1779, NJ ([Newspapers Vol.3,p.714])
 Humphry (?), EX: 1 Dec 1779, NJ ([Newspapers Vol.4 p.60])
 Patton (Nathaniel), EX: 8 Dec 1779, PA (Hayburn 2011, deathpenaltyusa)
 Trout (Henry), EX: 8 Dec 1779, PA (Hayburn 2011, deathpenaltyusa)
 Shocky (Christopher), EX: 11 Dec 1779, PA (Hayburn, deathpenaltyusa)
 Burke (Edmund), EX: 13 Dec 1779, ([Wash 17, p.344])
 Rounds (Amos), EX: 28 Dec 1779, ([Wash 17, p.346])
 Straw (William), EX: 28 Dec 1779, ([Wash 17, p.346])
 Waterhouse (Joseph), EX: 28 Dec 1779, ([Wash 17, p.346])

1780

Baum (Jeremiah), EX: 1780, Maine (Sabine p.215)
 Warner (Thomas), EX: 10 Feb 1780, NJ ([NY Reg, p.239])
 Hammel (James), EX: 19 Feb 1780, NJ (Hearn 2005)
 Evens (Amanuel), EX: 1 Mar 1780, NJ ([NY Reg, p.275])
 Nix (Cornlous), EX: 1 Mar 1780, NJ ([NY Reg, p.275])
 Huddleston (?), EX: ? Apr 1780, NY (Hearn 1998)
 Farrel (James), EX: 21 Apr 1780, NY (Hearn 1998)
 Hodges (John), EX: 21 Apr 1780, NY (Hearn, 1998)
 Smith (Jones), EX: May⁴⁰ 1780, NJ (Sabine vol.2, p.318)
 Smith (Robert), EX: May 1780, NJ (Sabine vol.2, p.318)
 Jackson (Daniel), EX: 1 May 1780, SC ([Newspapers Vol.5 p.137])
 Arnhardt (John), EX: 8 May, NJ ([NY Reg, p.344])
 English (Joseph), EX: 8 May 1780, NJ ([NY Reg, p.344])
 Hodges (Joseph), EX: 12 May 1780, NY (Hearn 1998)
 Rush (Hendrick), EX: 12 May 1780, NY (Hearn 1998)
 MacCoy (John), EX: 12 or 15⁴¹ May 1780, NJ ([Newspapers Vol.4 p.380])
 Bell (Mathew), EX: 26 May 1780, NJ, ([NY Reg p.354])
 Coleman (James), EX: 26 May 1780, NJ ([Newspapers Vol.4 p.395])
 Lighthall (Lancaster), EX: 26 May, NJ ([NY Reg, p. 354])
 Fry (Windsor), EX: 28 May 1780, NJ ([NY Reg, p.364])
 Roberts (James), EX: 17 Jun 1780, PA (deathpenaltyusa)
 Soldier, name unknown, EX: 17 Jun 1780, NJ ([Newspapers Vol.4 p.443])

⁴⁰Actually, for the two Smith brothers it is the arrest which took place in May 1780; the source does not give the date of the execution.

⁴¹The date of 15 May is given in (Hearn 2005, p.44)

Clawson⁴² (John), EX: 19 Jun 1780, NJ ([Newspapers Vol.4 p.443], Hearn 2005)
 Hutchinson (William), EX: 19 Jun 1780, NJ ([Newspapers Vol.4 p.443], Hearn 2005)

Lacey (Ludovic), EX: 19 Jun 1780, NJ ([Newspapers Vol.4 p.443], Hearn 2005)
 Knap⁴³ (Abraham), EX: 22 Jun 1780, NJ ([NY Reg, p.376,383])
 Meed (Seth), EX: 22 Jun 1780, NJ ([NY Reg, p.376])
 Pomeroy (Robert), EX: 7 Jul 1780, NJ ([Newspapers Vol.4 p.508])
 De Armour (John), EX: 18 July 1780, ([Wash 18, p.208])
 Case (Elisha), EX: 26 July 1780 ([NY Reg, p.424])
 Clifford (Abraham), EX: 26 July 1780 ([NY Reg, p.424])
 Hutchinson (George), EX: 13 Aug 1780 ([NY Reg, p.877])
 Brown⁴⁴ (Thomas), EX: 22 Jul 1780, ([Wash 18, p.224])
 Osborn (Thomas), EX: 16 Aug 1780 (Edmonson p.92)
 Hutchinson (George), EX: 27 Aug 1780, NJ (Hearn 2005)
 Braun (Jeremiah), EX: 28 Aug 1780, ME (Hearn 1999)
 Ackesley (Nathaniel), EX: around 30 Aug 1780, ([Wash 19, p.474])
 Weeks (Reuben), EX: around 30 Aug 1780, ([Wash 19, p.474])
 Miller (John), EX: 27 Sep 1780, ([Wash 20, p.96])
 Moore (James), EX: 27 Sep 1780, ([Wash 20, p.96])
 Rooney (Peter), EX: 27 Sep 1780, ([Wash 20, p.96])
 Welch (James), EX: 27 Sep 1780, ([Wash 20, p.96])
 Andre (John), EX: 2 Oct 1780, NY (Wikipedia)
 Green (Caloun), EX: 11 Oct 1780, ([s6 v14, p.43])
 Gamble (David), EX: 13 Oct 1780, ([Wash 20, p.179])
 Wearing (James), EX: 13 Oct 1780 ([NY Reg, p.527])
 Spinhouse (Anthony), 18 Oct 1780, ([Wash 20, p. 179])
 McMullen (John), EX: 27 Oct 1780, NY (Hearn 1998)
 Schell (Jacob), EX: 27 Oct 1780, NY (Hearn 1998)
 Baker (George), EX: 31 Oct 1780 ([s6 v14, p.58])
 Parker (John), EX: Autumn 1780 (Sabine vol.2, p.149)
 Wells (William), EX: 15 Nov 1780, NJ ([Newspapers Vol.5,p.102])
 Chamberlain (Richard), EX: 25 Nov 1780, PA (deathpenaltyusa)
 Morden (Ralph), EX: 25 Nov 1780, PA (Young 1966, www.executedtoday.com)
 Dawson (David), EX: 25 Nov 1780, PA (Young 1966⁴⁵, www.executedtoday.com)

⁴²For the three executions of 19 June the newspaper does not indicate the names but they are given in Hearn (2005, p.45).

⁴³Knap and Meed may have escaped before the day set for their execution but this cannot be confirmed because the names of the escapees is not given in the source.

⁴⁴This soldier had already been sentenced to death, pardoned before being caught and sentenced again.

⁴⁵A contemporary source is the newspaper "Pennsylvania Packet" of 28 Nov p.3.

Stephens (Richard Dove), EX: 2 Dec 1780, NJ (Hearn 2005)

1781

Lovelace (Thomas), EX: 1781 (Sabine vol.2, p.31)

McDowall (Alexander), EX: 1781 (Sabine vol.2, p.62)

Patterson (Robert Jr), EX: 3 Jan 1781, NJ (Hearn 2005)

Mason (John), EX: 11 January 1781, NJ, (Hearn 2005)

Ogden (James), EX: 11 January 1781, NJ (Hearn 2005)

James (Robert), EX: 26 Jan 1781, NJ ([Newspapers Vol.5, p.191])

Gilmore (David), EX: 27 or 31 Jan 1781, NJ (Chatham) ([Newspapers Vol.5, p.190])

Tuttle (John), EX: 27 or 31 Jan 1781, NJ (Chatham) ([Newspapers Vol.5,p.190])

McDowell (Alexander), EX: 21 Mar 1981 CT (Hearn 1999)

Mapples (Robert), EX: 10 Apr 1781 ([Wash 21, p. 458])

Ackerly (Abraham), EX: 21 Apr 1781 (Hearn 1998)

Baker (Solomon), EX: 21 Apr 1781 (Hearn 1998)

Vermillon (John), EX: 21 Apr 1781 (Hearn 1998)

Weeks (Henry), EX: 21 Apr 1781 (Hearn 1998)

Williams (John), EX: 22 Apr 1781 ([Wash 21, p.496])

Treator 1⁴⁶, EX: 1 May 1781 (Edmonson ch.7, p.203)

Treator 2, EX: 1 May 1781 (Edmonson ch.7, p.203)

Treator 3, EX: 1 May 1781 (Edmonson ch.7, p.203)

Treator 4, EX: 1 May 1781 (Edmonson ch.7, p.203)

Treator 5, EX: 1 May 1781 (Edmonson ch.7, p.203)

Kent (Simon), EX: 2 May 1781 ([Wash 22, p. 70])

Powel (John), EX: 11 May 1781 ([Wash 22, p. 17])

Henesey (John), EX: 22 May 1781 ([Wash 22, p. 22])

Lampman (Wilhelmus), EX: 31 May 1781, NY (Hearn 1998) Lee (Troy), EX: 7 Jun 1781 ([Wash 22, p. 180])

Mulliner (Joseph), EX: 8 Aug 1781, NJ ([Newspapers Vol.5, p.282])

Burke (Edmund), EX: 10 Aug 1781 ([Wash 22, p.487])

Fritchie (Casper), EX: 17 Aug 1781⁴⁷, MD (Scharf 1882,vol.1, p.142-143)

Peckler (Yost), EX: 17 Aug 1781, MD (Scharf 1882,vol.1, p.142-143)

Sueman (Peter), EX: 17 Aug 1781, MD (Scharf 1882,vol.1, p.142-143)

Carter (James), EX:24 Sep 1781, NJ (Hearn 2005)

Readman (John), EX: 13 Oct 1781 ([Wash 23, p.219])

⁴⁶The 5 traitors had deserted from the American Army and were captured at the battle of Camden (in SC on 16 Aug 1780) in the uniform of the enemy; the dates suggest that they were kept confined from August 1780 to May 1781; one wonders why.

⁴⁷Fritchie (or Frietschie), Peckler and Sueman suffered the kind of execution prescribed by English law for crimes of high treason, namely: hanged, drawn, and quartered

King (Jeremiah), EX: 28 Sep 1781, NJ (Hearn 2005)
 Killiam (Noah), EX: 19 Oct 1781, NJ (Hearn 2005)
 Timmans (William), EX: late Oct 1781 ([Wash 23, p.323])
 Dubée (John), EX: 28 Oct 1781, ([Wash 23, p.284])
 Moody⁴⁸ (John), EX: 13 Nov 1781, PA (Reed 1847, Vol.2, p.338)
 Thomson (John), EX: 15 Dec 1781, NJ (Hearn 2005)

1782

Morgan (James), EX: 29 Jan 1782, NJ (Westfield) ([Newspapers Vol.1,p.147])

This soldier was hanged for the murder of a well-known Patriot clergyman, James Caldwell.

Fury (James), EX: 1 Mar 1782 ([Wash 24, p.33])
 Beattys⁴⁹ (Joseph), EX: 1 Apr 1782, NY (Hearn 1998)
 Lovelace (Thomas), EX: 1 Apr 1782, NY (Hearn 1998)
 Harling (John), EX: 17 Apr 1782 ([Wash 24, p.132])
 White (Philip), EX: 25 April 1782, NJ (Scots Magazine Sep 1782)
 Clarke (William), EX: Jun 1782, NJ (Sabine, Vol.1,p.317)
 Canfield (?), EX: 6 Jun 1782, NY (Hearn 1998)
 Glenn (Thomas), EX: 10 Jun 1782 ([Wash 24, p.325])
 Cook (George), EX: 13 Jul 1782, NJ ([Wash 24, p.374])
 Casner [or Casour] (Christian), EX: 13 Aug 1782 ([Wash 25, p.190])
 Johnson (John), EX: 13 Aug 1782 ([Wash 25, p.190])
 Young (Abraham), EX: ? Oct 1782, NY (Hearn 1998)
 Taylor (William), EX: 11 Oct 1782 ([NY Reg, p.685])
 Dyer (Samuel), EX: 14 Oct 1782 ([Wash 25, p.260])
 Brown (John), EX: 6 Dec 1782 ([NY Reg, p.712])
 Salmon (William), EX: 6 DEc 1782 ([NY Reg, p.712])
 Eaton (Peter), EX: 13 Dec 1782, NJ (Hearn 2005)
 Orbison (John), EX: 13 Dec 1782, NJ (Hearn 2005)
 Tilton (Ezekiel), EX: 13 Dec 1782, NJ (Hearn 2005)

1783

Tomlinson (Nathan), EX: 29 Aug 1783, NJ (Hearn 2005)

1784

Love (Matthew), EX: 1784, SC (Hook 2017,p.374)

1788

⁴⁸His accomplice Lawrence Marr, was reprieved and kept in prison for two years. It was said that they attempted to steal the secret papers of the Continental Congress in Philadelphia. Why?

⁴⁹This person was presented as an horrible outlaw ("Pity and mercy are emotions which he never felt") by Sabine (vol.1, p.228) and as a guerrilla fighter by Hearn.

Clow (Cheney), EX: 1788 (date unknown), DE (Bell 1940)

Crime in 1778, arrest and trial in 1782, execution in 1788

...⁵⁰(Samuel), EX: 8 Aug 1788⁵¹, [Death warrants MD, p.553]

Uncertain cases

In a number of death sentences one ignores whether or not they were carried out. This raises the broader question of executions versus pardons discussed in the next section. In the present subsection our only goal is to list death sentences whose outcome is uncertain.

(1) William Cassedy, sentenced to death in Philadelphia in the aftermath of the British occupation (Siebert 1905, p.70).

(2) Joseph Murell: tried in 1778, sentenced to death. Execution was postponed. It is not clear whether or not he was executed (Siebert 1905, Sabine vol.2 p.112)

(3) Verner, Frederick: tried in 1778 as a spy and sentenced to death. Execution postponed. No information is given about his death (Sabine vol.2 p.387)

(4) Parsons (John): Of the NJ volunteers. Taken prisoner on Staten Island in 1777 and sent to Trenton. No information about his death (Sabine vol.2 p.564)

(5) Parrock (John): Of Philadelphia. Property confiscated. No information about his death (Sabine vol.2 p.564)

(6) Marr (Lawrence): According to Sabine (1865, vol.2, p.48), Marr was tried as a spy and executed in November 1781. According to Reed (1847, vol.2, p. 338) Marr was reprieved and confined for two years.

In search of evidence about pardons and executions

Position of the problem

Whether delivered by civil courts (e.g. courts of Oyer and Terminer) or by courts martial, death sentences are usually well reported. However, between the sentence and the day set for the execution, a pardon may be given either by the governor or by a legislative assembly (e.g. committee of observation or Supreme Executive Council) or by the Commander in chief in case of courts martial. Because pardons may be transmitted in the form of letters (e.g. from the governor to the chief justice) they are not well documented and the archive evidence may be difficult to find.

Facing uncertainty on the side of the pardons one is naturally led to search evidence about the executions themselves. There are two possible sources: (i) reports of executions in newspapers, (ii) death warrants. For instance in Maryland the death warrants were recorded (ironically enough) in the pardon records. However, apart

⁵⁰The family name was not readable in this manuscript source.

⁵¹The death penalty was for returning from banishment

from Maryland, such “Pardon records” seem only available in a few state archives⁵²

Reports of execution in newspapers were fairly uncertain too, in the sense that in the Revolutionary period only public executions were usually reported. Executions occurring in military units or behind prison walls may have been ignored. Needless to say, the political coloration (whether Patriot or Loyalist) of the newspaper may also have played a role.

In cases for which one can find no evidence whether about pardon nor execution one can try to find a record showing that the person was still alive at a date following the planned execution. For instance, in the military bounty jumpers (who enlist, desert and enlist again) are seen sentenced to death several times. In the next subsection we provide another example.

Investigation of death sentences: illustrative examples

At the April-May 1778 session of the Court of Oyer and Terminer in Essex county (New Jersey) John Edeson was found guilty of treason and sentenced to death. ([Oyer: Essex, NJ, Apr-May 1778]).

However, an Internet search gave the following record.

John Edeson

Born: 1742, Belleville, Essex County, New Jersey, USA

Death: 1814, Bayham, Elgin County, Ontario, Canada

Source: <https://fr.findagrave.com/memorial/139528036/john-edeson>

How can one be sure that the two “John Edeson” are indeed one and the same person. One cannot be hundred percent sure but it is highly likely because the age is in agreement and the fact that the person died in Canada shows that he was indeed a Loyalist.

Naturally, this keyword search method can only work for family names which are not too common. For persons named Brown, McDonald or Wilson there would be too many targets. In addition, for uncommon names, there is the problem of name variability due to handwriting uncertainty.

In the fall of 1777 in the newly established civilian courts of New Jersey 34 defendants (3 of them 16 year old and 3 others 17 year old) were found guilty of treason and bearing arms against the United States. They were sentenced to death by hanging and the execution was set on 2 December 1777 at Morritown, Morris County in the north of New Jersey. Their names are listed in Hearn (2005, p.37-38). Then, it is stated that (i) a 30-day reprieve was granted to all prisoners (ii) On 2 December 1777 only two persons were hanged, namely James Iliff and John Mee, who, however were

⁵²In the Maryland archive the “Pardon records” were microfilmed but, curiously, only after 1783.

not listed among the 34 sentenced to death. Regarding the 34, Hearn observes “*it is said that 24 were offered conditional pardons if they agreed to join the American forces whereas the other 10 remained jailed for a while until being also freed under certain conditions*”.

It can be observed that nulifying completely the sentences set by the court was not the best way to promote respect for its work and decisions.

There was another mass trial in New Jersey in the fall of 1779 after the British had evacuated Philadelphia. This time 18 defendants were sentenced to death by a court of Oyer and Terminer held in the county of Gloucester (a short distance south of Philadelphia). The court set 29 January 1779 as their execution date.

Whereas the reason of the mass trial described in the previous paragraph is unclear, in this case it was clearly a consequence of the British evacuation.

Daniel Hearn (2005) describes these circumstances in the following terms.

The Tories of New Jersey were put in a difficult position by the departure of the British. The reign of terror that Tory guerrillas had hitherto imposed on Patriots was reversed. Summary lynchings of Loyalists became common. Even more were arrested and kept confined. Soon all jails from the north to south of New Jersey were full of prisoners. Courts of Oyer and Terminer were set up to hold sessions in various counties. Among them was the session of the Gloucester court mentioned above.

Most accounts say that all 18 were pardoned except one. Hearn, however, is more careful and says only that “most of the condemned men were pardoned”.

In an Oyer and Terminer session which took place in Salem County (in the south of New Jersey) in November 1778 there were 4 death sentences, namely (see [Oyer, Salem, NJ, November 1778]): Abbott (Abdon), Hilton (Joseph), Intaken (Robert), Langley (Reuben). We found a statement (but not a proof) according to which Abbott was pardoned and for Langley Internet gives 1803 as date of death. For the two others no mention of pardon could be found (which of course does not mean that there was not one).

How many executions in relation with the Maryland plot of 1781? First account, 1910

For this episode there are several accounts which will permit an instructive comparison. We will proceed from the oldest to the most recent.

The first source that we will use is truly a remarkable book. Published in 1910 by Williams and McKinsey, it is a detailed history of Frederick County (in the north west of Maryland). Totalling 1,872 pages in its two volumes, it provides, not only an historical account but also a selection of archive documents. However detailed, in

some places one would like even more explanations. Here is an example.

On p.96 one reads that at the end of 1777, prisoners (probably prisoners of war but it is not said explicitly) who had made several ineffectual attempts to escape from a newly erected prison in Frederick County, were to be transferred to Fort Frederick. One day before that, on Christmas Day, they set fire to their jail and in the confusion tried to escape. “But, as it is said, a small company of militia quickly quelled them”. Did the militia open fire (otherwise one wonders how the prisoners could be subdued so easily)? Were there casualties?

Now, let us come to the so-called Maryland plot. This is a case which is very different from those examined previously in New Jersey. Although it was only an intended plot, not a real uprising with arms and fighting, according to most accounts, 3 of the 7 plotters were sentenced to death and “hanged, drawn and quartered”, which is the sort of execution that British and Maryland law prescribed for crimes of high treason. Williams and McKinsey (1910) provide a detailed account of the address made by the judge but without giving any information about what the defendants had to say. As a result, we do not know if the objective was to free British prisoners as the authors claim, or to facilitate the occupation by British troops as explained in the next document.

The authors claim that 4 of the plotters were reprieved but give proof for only one of them. This proof is in the form of a letter of pardon acceptance by Henry Shell. It read as follows (excerpt).

“This is to testify that I, Henry Shell, the subscriber, having been indicted, arraigned and found guilty of high treason, do most thankfully accept the conditions contained in the pardon granted to me by his Excellency the Governor dated 18 September 1781, and will enter myself on board of one of his most Christian Majesty’s ships of war during the continuance of the present war between America and Great Britain”.

Witness my hand and seal this 20 September 1781.

HEINRICH SHELL,” [Signed in German script]

How many executions in relation with the Maryland plot of 1781? Second account, 1942

Our second source is a paper by Quynn et al. published in 1942. On p. 230 one reads the following.

Orendorf, the officer who posed as a plotter, testified that Casper Frietschie was the commanding officer of the group. The “Maryland Journal” (Baltimore, Tuesday, 28 August 1781.) gives the only contemporary record of the sentence which we have been able to find. Casper Frietschie, Yost Blecker and Peter

Sueman were hanged, drawn and quartered on 17 August 1781.

This account comes in confirmation of the previous account and in addition, thanks to the newspaper article, it gives the date of the execution. It suggests also that the trial was mostly based on the testimony of a Patriot spy who infiltrated the group of Loyalists. Here, it is not said that the plotters wanted to free British prisoners but that they tried to persuade people not to oppose the British army and rather to help them with provisions and horses. However, such a charge made in August 1781 seems somewhat weird when one recalls that the port of Charleston (some 500 km south of Maryland) surrendered to the British on 12 May 1780, i.e. more than one year earlier. Thus, one wonders what was the real motivation of such a plot. As some 100 other persons were arrested at the same time one can imagine that the plot was rather used as a pretext.

How many executions in relation with the Maryland plot of 1781? Third account, 1978

In Kettner (1978, chapter 7, p.183, note [23]) one reads.

“Of the seven men tried for treason in connection with a Tory plot in Maryland, only the leader, Johan C. Frietschie, was hanged”.

The reference mentioned in support of this statement is a paper of 1945 by the same author, D.M. Quynn, whose account was described in the previous subsection.

Summary and conclusion

Although an archive document giving proof of pardon was provided for only one of the 7 persons sentenced to death, the first of the three accounts (1910) claimed that there were only 3 executions in a plot whose hypothetical purpose was to free British prisoners. The next account, this one in 1942, carried on the same executions but the destination of the plot was described as a broad cooperation with British troops. Then, in the third account, this one published in 1978, the reported number of executions dropped from 3 to one.

One is not really surprised to see much uncertainty regarding the purpose of the plot for, as we understand, the charge of treason relied on intentions as revealed by an informant rather than on facts. The accounts explicitly deplore that the sources do not record the declarations of the defendants.

In the decade 1945-1954, there were several trials of leaders of the American Communist Party on charges of conspiracy against the State which were also largely based on testimonies provided by infiltrated FBI agents. Fortunately, in those cases the sentences were limited to terms of one or two years in prison. (Fast 1990, 2005).

Sentences by court martials

Sources of court martial records

The court martial records are dispersed because the troops themselves were dispersed. The militia units were organized at state level but even in the Continental Army at the regimental level the troops contributed by each state remained separate.

One may think that because death sentences had to be approved by the Commander in Chief, all such sentences would be sent for approval to General Washington. That would make the task easy because each and every death sentence would be included in Washington's writings, a very convenient source published in dozens of volumes. The matter will be discussed in detail below in the subsection in which the main sources are compared in terms of coverage. The conclusion is that the Writings of Washington include less than one fourth of all court martial death sentences. This is due to the fact that many were approved by local commanders in chief.

The work of James Neagles (1986)

A special inquiry into court martial defendants was conducted by James Neagles in 1986. In his book he lists the names of 3,315 soldiers and officers who were court-martialed (p. 67-280).

What sources did he use? Mostly orderly books. Let us recall that orderly books contain the orders issued by the generals commanding a unit and entered into the books on a daily basis. Sometimes also referred to as "orders books" they are more often called orderly books because they were usually kept by an "orderly sergeant".

Altogether the author used 136 orderly books: (i) 66 available on microfilm at the National Archives in Washington, DC (Series M853).

(ii) 64 from the Library of Congress (Manuscript Division). (iii) and 6 as printed published books.

In addition to these 137 sources, the author has consulted 37 others (4 from NARA and 29 from the Library of Congress) which were not used for various reasons, for instance because they were too faint to be read.

Although these 136 orderly books certainly represent a large collection there are still orderly books which remain in the hands of private persons or kept in other libraries.

Proof of omitted death sentences can be found in the cases of Sergeants David Gilmore and John Tuttle of the New Jersey Line who were executed by a firing squad on 26 January 1781 after a failed mutiny (Boatner 1966, p.579, cited in Neagles 1986, p. 63). There is a broader discussion below.

It should be mentioned that, surprisingly, the reports given by Neagles do not include the dates of the execution.

How complete are Washington's and Neagles's sources respectively?

In the Washington's Writings the period of the War of Independence is covered by the volumes 1 to 25. A search with the keyword "sentenced" was done in each of these volumes. This resulted in the identification of a total of 43 confirmed death sentences. What proportion of the total (but unknown) number of death sentences (that we denote by T) does this represent?

If for a moment we assume that the 167 executions (without pardon) reported by Neagles represent *all* executions those reported in the Washinton's Writings would represent $43/167 = 25\%$ of the total. That is why we said previously that this source represents *less than one fourth* of the total.

In order to get a more accurate estimate we need to find out what proportion of T the 167 cases reported by Neagles represent. This is not easy but at least we can say that 23 of the death sentences reported in the Washington's Writings do not appear in the cases mentioned in Neagles (whereas 20 are common to both datasets. Thus, it would be "reasonable" to assume that $T \sim 2 \times 167 = 334$; Under this assumption the 43 cases of the Washington's Writings would represent $43/334 = 12\%$ of the total.

If one accepts that $T = 334$, what annual frequency does this represent? The war lasted 8 years and in addition we assume that the average size of the Continental army was 10,000 men (remember that in the militia there were very few death sentences). This gives an annual frequency of $e = 334/8 = 42$ sentences per 10,000 troops.

How does the frequency of death sentences compare with other conflicts

How does the frequency e compare to the data for other armies in time of war?

In the Wikipedia article entitled "Capital punishment by the United States military" one reads: "The United States Army executed 35 soldiers during the First World War by hanging between November 5, 1917 and June 20, 1919." The strength of the expeditionary force was approximately 2.8 million which leads to the following rate: $e = 35/(2 \times 2800) = 0.0063$ per year and 10,000 troops, 6,700 times less than during the War of Independence. It is true that in term of desertions a war fought overseas can hardly be compared with a war fought on US soil. Therefore a comparison with the Civil war would be more appropriate.

In Cutrer (2015) one reads: "Approximately 500 men, representing both North and South, were shot or hanged during the 4-year conflict, two-thirds of them for desertion". The average strength of the armed forces was approximately 600,000 for the Union and 200,000 for the Confederation which leads to the following annual rate: $e = 500/(4 \times 80) = 1.5$ per year and 10,000 troops, i.e. 27 times less than during the War of Independence. By changing our assumptions this ratio may be divided by 2 or 3 but it would remain of the order of 10. In other words, in terms of capital pun-

ishment the War of Independence was very different from the the other wars fought by the US Army.

This conclusion meets a judgment made in 1864 by Lorenzo Sabine when he writes (Sabine 1864, p.147):

In a word, I fear that whippings, drummings from the service, and even military executions were more frequent in the Revolution than at any subsequent period of our history.

Dissemination of Neagles' study about courts martial

With its list of names covering 210 pages, the study by James Neagles was mostly destined to genealogists. However, it is clear that usually families do not necessarily wish to find out that their ancestor was court martialled. Therefore, one would expect a fairly limited dissemination of the book. Is that confirmed by observation?

As such books are mostly bought by libraries one can use the WorldCat catalog to count how many libraries hold the book, which in turn will give an estimate of the books' circulation. As of 13 September 2020, Neagles' book was available in 253 libraries. This number must now be compared to those for similar books. For this comparison we have selected the following books:

Lancaster (1955): 821; Karsten (1980): 504; Martin et al. (1982): 845; Royster (C.) (1979): 1,528;

As can be seen, the numbers of libraries holding these test-books were 2 to 6 times larger. It is true that this test may not be entirely convincing because the numbers of copies printed depends upon the publisher. However, when a book is published by a small publisher, usually that shows that it does not appeal to a broad audience.

Charges

The offenses by far the most frequent were desertions. Of the 3,315 cases examined by Neagles (1986), desertions represented 35% which can be decomposed as follows.

- (i) Simple desertions: 25%
- (ii) Desertion to the enemy: 6.3%
- (iii) Multiple desertions and reenlistments by so-called bounty hunters: 3.5%

Mutiny is mentioned for 86 (i.e. 2.6%) defendants. The way mutiny was defined is not completely clear but it can be assumed that it differed from individual refusal to carry out an order by the fact that it involved several soldiers.

Most common sentences

Among the 3,315 defendants listed in Neagles (1986) 167 (i.e. 5.0%) were sentenced to be executed without any pardon forthcoming and about an equal number were sentenced to death but pardoned before the execution, in fact often they were informed

about a pardon (decided earlier) only minutes before the execution.

In principle, the death sentences had to be approved by the Commander in Chief, that is to say General Washington but this principle was not always implemented for two obvious reasons (i) Washington's time was limited. (ii) The distance between the headquarters and the location of the unit was a factor worthy of consideration. Therefore the mention "approved by the Commander in Chief" may often refer to the local commander in chief. This procedure was approved by a resolution of the Continental Congress Of 18 June 1777: "A general officer commanding a separate department is empowered to grant pardons" (Neagles (1986, p.6). By the way, this is why the archives of the "Washington's Writings" contain only a fraction of the complete court martials.

Apart from the death sentences, what were the other penalties. Here is a typical exerpt. ⁵³ One comes across a considerable number of similar sentences.

For desertion, 100 lashes was the standard punition. For lesser charges, lashes were also the main punishment, 25 being the minimum number. Sometimes, such sentences were given for fairly light faults. For instance, a soldier named Benjamin Mumford was sentenced to 39 lashes for "losing his new Regimental hat" (Neagles 1986, P.207, the name of the unit is not given). Another strange case is that in the Seventh Maryland Regiment a soldier named James Farrel was sentenced to death (without pardon) for the "*intention* to desert" (Neagles 1986, p. 132).

Sentences of more than 100 lashes

Incidentally, when the sentence involved more than 100, e.g. 150 or 200 (e.g. 100 for one part of the crime and 100 for the remaining part) Washington often voiced disapproval, saying that the code of military justice did not allow sentences of more than 100 lashes. Despite that, Neagles (1986) mentions 19 sentences of 200 (or more) lashes. An extreme case occurred in the Third Maryland Regiment with a soldier named James Carter sentenced to 500 lashes. Another severe sentence was issued in the Sixth Virginia Regiment where a soldier named Thomas Carson was sentenced to 100 lashes *followed by death*. Another weird sentence was inflicted on Samuel Burris: 100 lashes over a period of two days with the wounds washed with salt water after completion of each lashing (Neagles 1986, p.95). Was the purpose disinfection of the wounds?

Actually, one wonders what was on average the survival capacity or the ability to

⁵³GENERAL ORDERS. Head Quarters, Verplanks Point, Wednesday, September 4, 1782.

Caleb Fetch, soldier of the 2d. Connecticut regiment, charged with desertion found guilty and sentenced to receive 25 lashes each morning for 4 mornings successively amounting to 100 lashes on his naked back.

Job Smith of Colonel Lees Legion for desertion and joining the enemy was found guilty of desertion but acquitted of joining the enemy; sentenced to receive 100 lashes on his naked back.

recover in a reasonable length of time. As was already observed for the tar-and-feather torture, the sources are mute on this aspect. It seems as if one could receive 100 lashes and just resume normal activity on the same day. Apparently, there were never any infections of the wounds, never shock reactions, never irreparable damage to nerves or muscles.

Units with the highest numbers of death sentences

The tables xxa and xxb list the death sentences sorted by names of soldier and names of units respectively. The second allows to count the number of death sentences for each unit. In order to make this comparison meaningful one should recall that a regiment comprises 3 or 4 battalions⁵⁴.

Three units stand out.

- (1) The “Fourth Georgia Continental Battalion” which has 7 death sentences (per battalion).
- (2) The “German Battalion” which has 5 death sentences (per battalion)
- (3) The “Sixth Maryland Regiment” which has 10 death sentences which means 3 per battalion.

The case of the militia

Based on the previous description it may appear that the US armed forces were very disciplined. However, the articles of war (which define the punishments) adopted by the Continental Congress on 7 November 1775 and 20 September 1776 covered only the Continental Army. They did not apply to the militia. Militiamen were paid by their own states or counties and Neagles (1986, p.6) writes that they were subject “to no penalty more severe than a fine”, without however giving a justification of this statement.

Global data and group sentences

Some sources give global numbers for the executions during the whole War of Independence, however such data are of little usefulness because it is impossible to check how trustworthy they are. If we recall here some of these data it is rather to urge readers to be careful in using or citing such data.

Letter of Loyalists to King George

In April 1782 a group of 11 Loyalist officers from South Carolina sent a letter to Lord Germain for presentation to the king which contained the names of 300 Loyalists allegedly murdered by the Patriots. While the letter can be easily found on Internet

⁵⁴Incidentally, it can be observed that during this war the size of American regiments was usually much smaller than in European armies, some 500 soldiers instead of 3,000. As each regiment was commanded by a colonel, this means that in a general way there were more officers than in European armies of that time.

(e.g. on “tripod.com”) it is immediately apparent that it is almost useless for, apart from the names, it gives no other information. Moreover, as many of the family names are quite common (e.g. the first name is “Austin”, the second “Anderson”, the sixth “Adams”) it is in fact impossible to identify the persons among all those who have the same name.

Alleged executions of Loyalists by Patriots in Monmouth County, New Jersey

In a letter dated 27 April 1782 written by the president of the board of the “Associated Loyalists” there is a list of 14 Loyalists whom, he claimed, were summarily executed by a group of Patriots of Monmouth County. The “Associated Loyalists” was a Loyalist organisation set up by William Franklin, the son of Benjamin Franklin. The letter was addressed to Sir Henry Clinton on 27 April 1782. It was published in the “Scots Magazine” of September 1782, p.490-495. The following list is a little bit better than the previous one in the sense that, apart from the names, it provides some additional information. The list seems to be in chronological order but the date of the executions are indicated only very vaguely.

At the beginning of the letter, the group of Patriots is described as being known by the name of “Monmouth Retaliators” and is said to be headed by one General Furman whose cruelty has gained him the name of “Black David”.

(1) Stephen Edwards. The first to fell as a martyr in Monmouth County.

(2) James Pew. Taken prisoner in 1778, confined in Freehold gaol and put to death by the sentry.

(3,4,5) Stephen Emmons, Stephen West, Ezekiel Williams. Three Loyalists from Monmouth murdered by the rebels in 1778.

(6,7) Thomas Emmons, John Wood. Taken in 1778 and executed at Freehold gaol.

(8,9) Jonathan Burge, John Farnham. Were taken in 1781 and executed at Freehold gaol.

(10) Joseph Wood was taken in 1781, carried to Cold Neck, then put to death by a guard.

(11) Joseph Mulliner. Captain of a whale boat privateer, he was taken in 1781 tried and executed notwithstanding he produced his commission as a privateer captain. There is a confirmation of the execution in [Newspapers Vol.5, p.282]

(12,13) Richard Bell, John Thomson. Two Loyalists from Monmouth, taken in November 1781 from Sandy Hook, carried to Freehold and hanged.

(14) Philip White. Taken on 25 April 1782, shot and killed after having been told to run [in fact there are different versions of his death]

A question must be raised. How could the Loyalists learn the circumstances of the executions of those mentioned in this list?

A view of the situation in Monmouth County from the Patriot side can be found in Owen (1975). It is said that the “Retaliators” were formed to avenge Tory crimes. In fact, the accusations formulated by the Loyalists were not completely baseless for Owen confirms that General Washington ordered to shot summarily plunderers and irregulars. That created the conditions of an escalation in the violence on both sides.

The Huddy and Asgill affair

The execution of Philip White led to a diplomatic incident involving General Washington and France. Why?

The starting point was that in retaliation to the execution of White the Associated Loyalists executed Captain Joshua Huddy of the militia of Monmouth county. He had been captured on 24 March 1782, held in leg irons on a prison ship for three weeks and was hanged on 12 April 1782 by Associate Loyalist Captain Richard Lippincott. Then in turn, General Washington issued an order according to which a British officer, 19-year old Charles Asgill, should be hanged in retribution for Huddy’s execution. Asgill’s mother appealed to King Louis XVI of France. Eventually Asgill was released on 7 November 1782 by a decision of the Continental Congress.

For historians, this episode is of interest for one of its side effects. After being released Asgill described in a 16-page letter the harsh conditions of its detention which in turn led Washington to publish several documents suggesting that Asgill was well treated. Thus, this episode gave historians a better idea about detention conditions which were often harsh especially due to leg irons. Each side saw them in a different light because there was often a stark contrast between orders and how they were carried out by jailers.

In France the Asgill affair led to the writing of two plays, one by Benoit-Michel Decomberousse and a second in 1785 by Jean Louis Le Barbier.

Among the persons mentioned in the previous letter only those for whom the year of death is known (either through the letter itself or by other documents) were included in the above list of executions.

Mass trials of Loyalists

Loyalists were often tried in fairly large groups.

(1) North Carolina, April 1776

As a first example one can mention that on 4 April 1776 the Provincial Congress of North Carolina appointed a committee to inquire into the charges against 80 Loyalist prisoners held in Halifax (Demond 1964). All these prisoners had made an oath of

allegiance to the Loyalist cause. Their names are given in the publication and it would be interesting to know how many of them were banished.

(2) North Carolina, September 1779

As a second example one can cite a trial which took place on 20 September 1779 in North Carolina at the high court of Salisbury (Demond 1964,p.119).

Upward of 80 Loyalists were indicted but the court find time to try only 10 of them, all of whom were convicted. Four of them the jury recommended for mercy which seems to suggest that the other 6 were reprimanded. Unfortunately, the author does not give any further information.

(3) New Jersey, January 1779

In December 1778 seventeen Loyalists were sentenced to death for high treason by a Court of Oyer and Terminer in Gloucester county, New Jersey. Here are their names: James Birch, Jonathan Chew, Paterson Cook, Laurence Cox, Joshua Dilks, Joseph Dill, Abraham Fennimore, John Franklin, Daniel Fusman, William Hammet, David Lloyd, Isaac Lord, Thomas Nightingale, Joseph Pratt, Charles String, Gideon Urine, Harrison Wells. – The executions are scheduled for Friday 29 January 1779.

It should be noted that Gloucester county is near Philadelphia which means that the western part of the county was certainly also occupied by the British during their occupation of Philadelphia which lasted from the fall of 1777 to the spring of 1778. Of these 17 Loyalists it seems that only one, Jonathan Chew, had accepted to serve in the British army; the others had provided aid to the British side in ways which were probably difficult to avoid while living close to them during the whole winter. For instance, the Quaker Elizabeth Drinker (the wife of a Quaker exiled to Virginia) explains in her often-cited diary that she shared a part of her house with a British officer with whom she had good relations. In a sense this was also a way of providing aid to British forces. This is just to suggest that in such unusual circumstances it is very difficult to draw a clear line which would define what was permitted and what was not.

Were all 17 executed? Probably not. After this strange trial with its uniform sentences which did not even try to make a difference between those who served in the British army and those who did not, came the clemency phase. Pardon could be granted by the governor and by the council. We have the letter written by Chief Justice John Symmes to Governor Livingston of New Jersey to give him advice in this respect. [Correspondence p. 135]

The letter is dated from 7 January 1779. In fact, it gives an advice for two of the defendants, namely Jonathan Chew and William Hammet. Regarding the 15 others the judge recognizes that he has got no information. Regarding Chew and Hammet his advice is surprising: he recommends clemency for Chew but none for Hammet

who did not serve in the British military. Apparently the reason is that Hammet is single whereas Chew has 12 children. We would have been glad to find a document stating the decisions of the governor but we did not find any. In secondary sources one reads that only Hammet was executed but without mention of the source.

In the same volume [Correspondence p. 77] there is another letter of Judge Symmes to Governor Livingston. It is dated 14 June 1777 just one or two days after two prisoners escaped from the jail of Newton (in Sussex County, New Jersey) but were retaken. The judge writes:

The people cry out to a man, "let them be hanged" and a gallows was never adorned with two gems more deserving of it. James Morris and one of the Atwoods are the two taken.

Unfortunately, we were not able to determine what was the fate of the two prisoners.

(4) On 30 April 1777, 14 persons were sentenced to death by a court martial ordered by General George Clinton Their names are given in the "Papers of George Clinton, vol.1, p.749,762,791": (1) Campbell (Alexander), (2) Furler (Cornelius), (3) Gardener (Silas), (4) Keyser (Andries), (5) Longyore (Jacob), (6) McGinnis (William), (7) McKenny (Arthur), (8) Middagh (Jacob), (9) Mysener (Conradt), (10) Rapalje (John), (11) Rosa (Jacobus), (12) Teets (william), (13) Vandermark (Silvester), (14) Van Vliet (John).

The question is: where they all executed or only some of them? It will appear that the issue must be considered carefully.

The document No 482 in the "Public Papers of George Clinton", Vol.1, p.789-792 strongly suggests that all were executed except Alexander Campbell and William Teets. This document is an account of a deliberation that took place at the Convention of the Representatives of the State of New York held at Kingston on 3 May 1777. The document is entitled: "The Convention acts promptly and approves the sentences of the courts martial with one exception.

On p.791 one reads: "The question of whether the convention approves the sentences of the court martials was carried in the affirmative except in the case of Alexander Campbell which was carried in the negative.

Because of his young age William Teets was recommended as a proper object of mercy by the court martial, therefore it is resolved that the President do issue a pardon to the said William in the name of the Convention.

The document ends with the following sentence: "Resolved that General George Clinton be requested to cause the said persons to be executed at such places as he, in his discretion, shall find proper". There would be good reason to believe that once

approved by the Convention the sentences of the court martial become final. That is not the case however as we will see below. Perhaps an indication in this direction is the fact that the Convention does not set a date nor does it put the date at the discretion of General Clinton.

The “Journals of the Convention” for New York (Vol.1, p.928) gives an account of a meeting held on 12 May 1777, that is to say 9 days after the date of the document considered above. The list of sentenced persons considered by the Convention is the above list from which the names of Alexander Campbell and William Teets have rightly been removed but to which, more surprisingly, the names of Abraham Middagh and Richard Oakley have been added. Note that there are now in the list two persons having Middagh as family name.

Then, the following question was put to the votes: “Should anymore than Rosa and Middagh be hanged”. It was carried that no more be hanged but there were 7 dissenting votes.

Clearly, the fact that this decision contradicts the one taken on 3 May is somewhat puzzling as is also the fact that the decision makes no distinction between Abraham and Jacob Middagh. We have assumed here that only Jacob was executed. This is in conformity with Hearn (1997, p.19) who, by the way, uses a secondary source.

It can further be noted that on 9 May 1777 General Clinton resigned from his command in the militia on reason of having received from General Washington an appointment in the Continental army.

Judges versus governor’s pardons

As mentioned above there were many cases of mass trials resulting in death sentences for all defendants which were soon followed by pardons by the governor to all except possibly one or two. Two such cases are described in detail in Hearn (2005, p. 37, 38, 40). In the first case (1777) pardon was granted on condition to join the American army. In the second case (November-December), it seems that there was no condition of any kind except for 2 or 3 who were banished from New Jersey.

If one thinks about it, is this not a strange situation? Does a wholesale pardon not suggest that the trials were bungled. How could judges take their task seriously when knowing in advance that 95% of their decisions would be overturned. In addition, it would be natural to assume that defendants sentenced to death for high treason may represent a danger for the state and the Patriot cause. How, then, can one understand that they would simply be released?

Executions by court-martials

There have been two important dates as far as court-martial trials were concerned.

- The first change occurred in the spring of 1777 when in several states the Com-

mittees of Safety (which later became Supreme Executive Councils usually with the same members) allowed the court-martials taking place among their troops to carry out death sentences after confirmation by the commander in chief but without the cases being discussed by the Committees (Flick 1901). Before this decision (taken across states at slightly different dates) the minutes of the Committees of Safety reported of lengthy accounts of discussions about death sentences. Firstly, the court-martial records were read so that all Committee members could learn about the case, then there was a discussion about the sentence, and finally there was often a second discussion shortly prior to the date set for the execution about a possible pardon. As the number of court-martials was increasing, along with the number of troops, such a procedure was capturing too much of the precious time of the Committees of Safety. As could be expected, this change led to an increase in the number of executions.

- On 20 August 1778, on the suggestion of General Washington, the “Council of General Officers” took a decision which had important consequences as far as death sentences were concerned (Vol.12 of the Writings of George Washington). Although a fairly technical point, it made a great difference. By the articles of war the highest corporal punishment by court martials was 100 lashes. The next more serious sentence was death. There was no intermediate sentence. As the 100 lashes sentence was fairly frequent, capital sentences became also more numerous. At the same time there was an increase in pardons decisions often taken at short notice before the execution. In this way a more serious crime eventually led to a lighter punishment (indeed to no punishment at all except the fear of death before pardon being granted) which was certainly not satisfactory.

For this reason Washington proposed punishment by “hard and severe labor” as an intermediate punishment between 100 lashes and death. In the following months and years there were no pardons anymore as many death sentences were commuted into hard labor, often in the form of serving on the ships of the US Navy.

There has been few global studies of desertions, court martials and executions. There is an obvious reason which is given at the beginning of one of the rare studies about desertion (Edmonson 1971):

“The problem of desertion is not a popular subject. There are many books describing the acts of American heroes but few deal with desertion and punishment in the patriot camp.”

This was written in 1971. Currently, some 50 years later, one would avoid to eulogize the “American heroes” too openly but the studies of military executions are still as rare as they were then.

A book written by an “Ancestry” genealogist, namely Neagles (1986), claims that during the War of Independence there were 278 executions by court-martial in the

Continental army. This gives an interesting order of magnitude but one must be aware that there are two questions. (i) The “orders books” which give court martial accounts are in the hands of many institutions and private persons which makes it very difficult to get a comprehensive count. (ii) When a death sentence is remitted by the commander in chief this fact is rarely mentioned in the orders books.

Security measures directed at groups of people

So far we have considered interdictions to travel and removals to assigned places as measures directed against individuals. However such measures could also target states, counties or groups of individuals. The approach of the enemy or surges of activity among the Tories of a given area usually resulted in collective coercive measures. The claimed pretext was often to defeat a budding conspiracy.

Such episodes were already mentioned, albeit fairly briefly, in Van Tyne’s classical study of 1902 about Loyalists. Some 118 years later there is still little information available on such cases. In most of the removal and confinement episodes described below we still ignore how many people were concerned or how long the confinement lasted. The main reason of this paucity of information is that such topics were and still are largely neglected. Whereas much is known about purely military operations their impact on the lives of civilians is seldom documented, except in very general terms.

Ostracized counties

In January 1776, Congress resolved that since the inhabitants of Queen’s County in New York State had refused to send deputies to the New York convention, they were put out of the protection of the United Colonies. All trade and intercourse with them was to cease. None of them were permitted to travel in any part of the United States.

At the census of 1790 Queen’s county had a population of 15,000.

Prisoners held after the battle of Moore’s Creek Bridge

List of Loyalist prisoners taken at the Battle of Moore’s Creek Bridge and sent to prison in Philadelphia.

Source: Letter of Committee of Secrecy, War and Intelligence of NC to John Hancock, President of the Continental Congress.

North Carolina. General Assembly, April 1776, Volume 11, Pages 294-295.

List of Prisoners destined for Philadelphia

1 His Excellency Donald McDonald Esqr Brigadier General of the Tory Army and Commander in chief in North Carolina

2 Colonel Allen McDonald (of Kingsborough) first in Commission of Array and

second in Command

3 Alexander McDonald son of Kingsborough

4 Major Alexander McDonald (Condrack)

5 Capt Alexander McRay

6 Capt John Leggate

7 Capt James McDonald

8 Capt Alexr McLeod

9 Capt Alexr Morrison

10 Capt John McDonald

11 Capt Alexr McLeod

12 Capt Murdock McAskell

13 Capt Alexander McLeod

14 Capt Angus McDonald

15 Capt Neil McArthur

16 Capt James Mens of the light horse

17 Capt John McLeod

18 Capt Thos Wier

19 Capt John McKenzie

20 Lieut John Murchison

21 Kenneth McDonald Aide de Camp to Genl McDonald

22 Murdock McLeod Surgeon

23 Adjutant General John Smith

24 Donald McLeod Quarter Master

25 John Bethune Chaplain

26 Farquard Campbell late a delegate in provincial Congress, spy and confidential emissary of Governor Martin

What is the interest of this list?

- It confirms the statement found in the account of the battle that the officers were sent in confinement to Philada.

- The fact that the previous list includes 15 captains and only two lieutenants suggests that there was an inflation of high ranks. One should recall that, according to the latest (and probably most reliable) estimates the strength of the Loyalist force was around 800. Thus, each captain had only some 50 soldiers under his command. There was a similar inflation in the Continental army in the sense that the number of generals and colonels far exceeded what European standards would have been. Remember that in European wars every colonel was in command of a regiment numbering some 2,000 soldiers.

- In the same source one finds the following statement. “We have thought it

expedient to send the prisoners taken during the late commotions, some to Maryland, some to Virginia and some to Philadelphia for the more immediate disposition of the Continental Congress". One would like to know the numbers of those sent to Maryland and Virginia respectively.

In a general way, there is little information about the management of the prisoners. For instance, one reads that at the battle of Trenton the Patriots made 600 Hessian prisoners. Where were they kept?

Destruction of the Six Nations Indian tribes

In America the Seven-year War between Britain and France was called the "French and Indian War". It is likely that by making alliance with Indian tribes the French side tried to compensate its numerical inferiority. During the War of Independence the Tories implemented a similar policy basically for the same reason. This gave the Americans a good pretext for going against the Indians. However the instructions given by General Washington to General Sullivan for the expedition of 1779 (see below) show clearly that the intent was not to win the War of Independence but rather to push the Indians (and therefore the settlement frontier) further to the west. This is said very explicitly in the following instructions.

Instructions given by General Washington to General Sullivan From Washington's headquarters under date of May 31, 1779.

The expedition you are appointed to command is to be directed against the hostile tribes of the Six Nations of Indians. The immediate objects are the total destruction and devastation of their settlements and the capture of as many prisoners of every age and sex as possible. It will be essential to ruin their crops now in the ground and prevent their planting more. The troops to be employed under your command are Clinton's, Maxwell's, Poor's, and Hand's brigades, and Independent Companies raised in the State of Pennsylvania. [...]

I would recommend that some post in the center of the Indian country, should be occupied with a sufficient quantity of provisions; whence parties should be detached to lay waste all the settlements around, with instructions to do it in the most effectual manner, that the country may not be merely overrun, but destroyed.

After you have very thoroughly completed the destruction of their settlements, if the Indians should show a disposition for peace, I would have you encourage it, on condition that they will give some decisive evidence of their sincerity. But you will not by any means, listen to any overture of peace before the total ruin of their settlements is effected. Our future security will be in their inability to injure us; (i.e. the distance to which they were driven) and in the terror with

which the severity of the chastisement they receive will inspire them.

We may then endeavor to draw further advantages from their fears. But, even in this case, great caution will be necessary to guard against the snares, which their treachery may hold out. They must be explicit in their promises and execute their engagements with decision and despatch. Hostages are the only kind of security to be depended on.

(Source: This excerpt can be found in several sources, for instance: (i) Norton (1879,p.76-80). (ii) Public Papers of George Clinton, Vol.5, p.123-124). (iii) The writings of George Washington, v.15 May 1779-July 1779, p.189-193.

Washington's orders sound ominous. Were they really executed?

The destruction of Indian crops and log houses was certainly carried out (see Cook 1887). However, according to available accounts, contrary to orders only few prisoners were taken. It can be added that, apart from 12 deaths in the Newtown Battle, almost no Indians were killed because they fled from their villages before the arrival of the troops.

Hundred years later in 1879 there was a centennial celebration of which one can excerpt the following sections

Cook (1887,p.374) The place was remarkable for its peach trees. There were 1,500 of them, also some apple trees, and acres of corn. Early the next morning, September 24 1779, the work of destruction commenced. As remorseless as a cannon shot, the axe levelled every tree though burdened with its loads of luscious fruit. The freshly ripened corn was gathered only to be destroyed. At 10 o'clock the torch was applied to the dwellings, and as the crackling flames lifted their fiery heads over this scene of havoc and destruction, the detachment resumed its march.

Cook (1887,p.378) In this expedition, the army had burned 40 Indian villages; destroyed 200,000 bushels of corn, besides thousands of fruit trees and great quantities of beans and potatoes. It might be said of this army that the land was as the Garden of Eden before it and behind it a desolate wilderness.

According to the report given by General Sullivan, in the whole campaign the US Army had to deplore only 41 deaths, including the 8 killed in the battle of Newtown⁵⁵.

In short, even if it did not destroy the Indians in the short term (they could probably survive by hunting and collecting wild fruits), this scorched-earth policy made their situation very difficult in the coming winter and in addition they knew that if they

⁵⁵There is something odd about the account of this battle We are told that one of its main objectives was to suppress the threat represented by the Iroquois who were allies of the British. Now, according to the Wikipedia article about it, 1,000 Iroquois took part in it but only 12 were killed. Nevertheless it was declared an important American victory.

did not move away there could be a similar campaign the following year.

In other words, this campaign opened the way to a new wave of settlers and at the same time, by moving the frontier further to the west, it increased the value of the land that had been frontier-land previously. The fact that this campaign was set up and waged while the War of Independence was still going on, shows the importance of the frontier question. It adds weight to the claim that the establishment by Britain first of the “Proclamation Line” in 1763 and then of the “Quebec Act Boundary” in 1774 were important motivations for independence in the sense that they both hindered westward expansion.

Chapter xx. Acts of attainders and their effects

Two different kinds of acts: general versus nominal

Regarding acts directed against Loyalists an important distinction is in order between

- (1) Laws and resolutions which set general rules, for instance by providing a definition of what is meant by high treason and how it may be punished.
- (2) Acts which contain nominal lists of persons who are subjected to a specific penalty (e.g. banishment from the state).

Quite understandably, people will feel the acts of second kind much more threatening than those of the first. In the following subsections we examine these two cases more closely.

Laws setting general rules

Some of the laws passed in the course of the war were exceedingly severe, for instance promising death sentences for any contact with the enemy, be it for small scale business transactions. When a law is obviously too harsh one observes that it is little (or never) used in its most severe form. This is what happened in several states and in consequence such laws are not taken too seriously by citizens.

Acts targeting specific persons

Very different are the acts which define a specific sentence that is to apply to a list of persons named explicitly. Acts of attainder (to be described below) or of the Banishment acts passed in several states are of this kind. For instance, the persons named in such an act may learn that if they are still in the state on the date when the act is issued, they will be arrested for the purpose of being banished. Clearly such acts will be taken very seriously in the sense that to avoid being arrested and jailed the persons will try to find refuge behind British lines.

As a matter of fact, for the persons who are named acts of this kind amount to summary judgments, that is to say judgments without trials. Not only are there no trials but when the list includes a great number of names, e.g. the “Massachusetts Banishment Act” of September 1778 targets some 300 people, one can hardly expect that their situations have been weighted carefully. There was just not enough time and evidence for a careful investigation.

Acts of attainder and property confiscation

Confiscations preceding the resolution of 27 Nov 1777 in Congress

The states did not wait until the directive of Congress to start confiscations. It seems that Rhode Island, North Carolina, New York and Massachusetts were among the first.

In Rhode Island the confiscations of Loyalist estates began as early as October 1775 (Gallo 2019).

In April 1777 the legislature of North Carolina resolved that persons giving aid to the enemy were to be imprisoned for the remainder of the war and one half of their estates confiscated.

In contrast, in some states the legislature was unable to pass such resolutions until much later. A typical case is Maryland where the dominant figures of Samuel Chase in the House of Delegates and Charles Carroll in the Senate blocked any action.

Progress of confiscation

In the next subsection we mention the resolution of the Continental Congress of November 1777. In fact, the rules relating to confiscations began to be introduced as early as 1775. Why?

Loyalists started to be targetted by Patriot mobs fairly early. In Brown (1983, p.28) one learns that in New Hampshire Patriot mobs were already active and well organized in 1771⁵⁶. This is shown by the fact that on 29 October 1771 an incident occurred in Portsmouth harbor which was very much a prefiguration of the “Boston Tea Party” of December 1773. In this case a mob unloaded the molasses brought by a ship without however throwing it overboard.

We have seen that in 1774, as a result of the Patriot mob rule, the Mandamus councillors were compelled to leave the state of Massachusetts. There were certainly other Loyalists who experienced the same fate and took refuge in Boston behind the British lines. These people did not necessarily wish to leave their home and their

⁵⁶Actually their action was already noticeable during the Stamp Act protest in 1765. It was one of the main strengths of the Patriots to have plenty of opportunities to improve their organization and train.

family permanently. Probably they were waiting for the situation to calm which would allow them to come back. In the meanwhile somebody had to take care of their property. This involved cutting the grass, feeding the farm animals, collecting apples, and so on. Through the archives of Massachusetts acts and resolutions in [mass act, p.707-709] one learns that select men were appointed to take care of the estates of absentee landlords. Because they had to be paid one way or another they were given the permission to manage the estate and take possession of the crops. Some estates were also occupied and taken over clandestinely, something that the select men had to prevent.

In short, we see that, if only for very practical reasons, the management of unoccupied estates was progressively taken over by the state. Naturally, from management to taking possession and selling the estates for the benefit of the state, there was still a considerable distance. It was the purpose of the Confiscation Acts to allow this major step.

Resolution of 27 November 1777 in the Continental Congress regarding confiscations of Loyalist property

The following resolution was passed on 27 November 1777 in the Continental Congress⁵⁷. It “earnestly recommended” to all states to confiscate the property of the Loyalists (however it does not use that word).

Resolution on confiscation of Loyalist property. (simplified)

Resolved. That it be earnestly recommended to the several states, as soon as may be, to confiscate and make sale of all real and personal estate of such of their inhabitants who have forfeited the right to the protection of their respective states, and to invest the money arising from the sales in continental loan certificates.

It can be noted that the resolution does not contain the word “Loyalist” nor the expression “Act of Attainder”.

However, each of the thirteen colonies enacted attainder legislation for the purpose of confiscating estates of Loyalists. Not surprisingly, New York was the state which collected the biggest amount, namely 3.6 million dollars.

As a matter of comparison in 1800 the revenue of the federal government was \$ 8 million.

It seems clear that altogether, for the thirteen states, the amounts produced in the sales of Loyalist property was higher than the federal budget in the 1780s.

In spite of the fact that the Peace Treaty of 1783 prohibited acts of attainders after its signature some states (e.g. North Carolina and Georgia) passed bills of attainder as

⁵⁷According to the minutes reported in the reference given under the label [Confiscations], it seems to have been passed without vote.

late as 1790. Other States, e.g. Pennsylvania, refrained from resorting to attainders against Loyalists after 1783 because this was forbidden by the Peace Treaty, but instead they used an old “outlawry” procedure which existed in common law but had almost never been used before (Young 1966)

Did the confiscations only target people who had fled to the British line?

In many books and articles it is said that the confiscations targeted persons who had fled to places occupied by the British Army or who went abroad. Although this may be true in some states where the confiscation process started fairly late (e.g. in Georgia there were two series of confiscations with the second starting only in May 1782), in a general way this was not true. This can be seen in two ways.

- The resolution of the 27 November 1777 does not state that the confiscations should concern persons who left. As a matter of fact at that time few people had fled to the British lines. They had no real reason for that.

- In Pennsylvania an act of 6 March 1778 named 13 of the most prominent persons. It gave them 40 days, i.e. until April 21 to surrender and stand trial under the Treason Act. Anyone failing to surrender would stand attainted of high treason meaning forfeiture of all property, the loss of the right to inherit and, in case of capture, hanging.

At that time the British army was still occupying Philadelphia. It would leave only on 18 June 1778. In other words, all inhabitants of Philadelphia could be considered as having joined the British.

Implementation of the resolution of the Congress at state level

The resolution passed on 27 November 1777 indicated a direction but left the states free to implement the recommendation. Across the 13 states several versions were tried.

An important distinction was between conditional and absolute attainders.

The conditional procedure was first used in England in the wake of the Jacobite uprising of 1745 (see more details below). After proclamation of the names of the attainted persons, they had 40 days to surrender. Failure to surrender put the attainder in full force. This was a smart procedure because failure to surrender could in a sense be seen as a recognition of guilt. However, to risk his life before a partisan judge and an antagonist jury was a gamble that few were willing to take. Moreover, damage done to reputation by the publication of the names was not to be repaired by surrender even in case of an acquittal.

Absolute acts of attainder such as those passed in New York State or in Delaware became effective immediately and in fact forbade any kind of trial (Young 1966, p.305).

In principle, as explained above, an act of attainder erased all rights of a person including the right to live. However, according to Young (1966, P.313), it seems that in Massachusetts the acts of attainder applied only to property and rights of residence, not to life. We wrote “it seems” for in this case one wonders what compelled the Loyalists to leave. By doing so, they definitely forsook their rights as citizens and abandoned their home place. Delivered from the threat of immediate execution, would it not have been more sensible to stay put in the hope of a possible change of policy, for instance after the end of the war?

Origins of Acts of attainder

The fact that the words “oyer” and “terminer” are two ancient French words (meaning “listen” and “decide”) indicates fairly clearly that the courts of Oyer and Terminer were a legacy from the English judiciary. Although set up for the trials of political opponents, they had still some appearances of more lawful courts.

A completely unlawful but even more “effective” way to deal with political opponents was through proscription. The origins of such proscription campaigns go back to the late Roman Republic, particularly under the rule of Lucius Cornelius Sulla.

Proscription of political opponents in the Roman Republic

A mass proscription took place in -82 after Sulla was appointed “Dictator for the Reconstitution of the Republic” by the Senate. Lists of “enemies of the state” were drawn up by the Senate and posted in the Roman Forum. Any man whose name appeared on the list was ipso facto stripped of his citizenship and sentenced to death. Reward money was given to any informer and any person who killed a proscribed man was entitled to keep part of his estate while the remainder went to the state. This helped to restore the depleted Treasury of the Republic which had been drained by costly civil and foreign wars in the preceding decade. Wealthy men from the Ordo Equester (as distinct from the aristocratic class to which Sulla belonged) were particularly hard hit.

In the Roman Republic the process took a gruesome and sinister character. Many proscribed men were taken at night from their homes. They were likely beheaded, their heads were displayed on spears in the Forum. Often their bodies were mutilated and dragged before being thrown into the Tiber River. Incidentally, this may have led to the “drawn, hanged and quartered” punishment for high treason in British law.

Moreover, anyone who assisted the condemned could be capitally punished.

Because the names of informers and of those who were profiteers from the killings were entered into the public record, many of them were later prosecuted.

Under such conditions it is understandable that citizens were terrified to find their

names on the lists. There was a general fear of being taken from one's home at night as a consequence of any supposedly seditious behaviour. A wave of mass terror swept Rome and the Italian cities..

There was a second wave of proscriptions in -43 which was aimed at those who had planned the assassination of Julius Caesar. However, its reach became even broader. Cicero was caught in it. His head and hands were cut off and fastened to the Rostra, that is to say the place in the Forum where speakers delivered their addresses.

Fortunately, except for a few cases, the proscriptions which took place during the American Revolution were limited to loss of civil rights (which included banishment) and confiscation of property.

Proscription of political opponents in Britain

What is really an act of attainder is best explained by an example.

William Laud was an English clergyman in the time of King Charles I. In 1633 King Charles appointed him Archbishop of Canterbury that is to say religious head of the Anglican Church. Convinced that the service of his king involved ensuring greater uniformity in the Church of England he set about to repress dissenters and opponents. For that purpose he made use of the "Court of Star Chamber"; in so doing he simply followed Charles' example who made extensive use of this Court against his opponents. What makes this court interesting in the present discussion is the fact that it was an intermediate stage between a regular court and an act of attainder.

The Star Chamber was established to ensure the fair enforcement of laws against people so prominent and powerful that ordinary courts may not feel qualified to convict them. Like a regular court, the Star Chamber had judges and a jury. However, it should come as no surprise that in political trials the Court was often led to punish defendants for crimes which were specifically defined by the Court during the trial itself. After all even in modern times political trials are often the expression of a form of justice defined by the victorious or dominant party. King Henry VII had used the Star Chamber Court to break the power of the landed gentry in the intend of reducing domestic warfare. Not surprisingly, used and misused as it was by Charles and Laud, the Star Chamber Court attracted the wrath of Parliament. For instance, in 1637 Henry Burton, a Puritan theologian had his ears cut off for attacking the views of Archbishop Laud. The Star Chamber Court was suppressed by Parliament in 1640.

Laud was arrested in late 1640 and indicted by the House of Lords on what were mostly fairly unclear political charges. As a result his trial lasted several years with long interruptions and ended inconclusively.

Then, on 30 October 1644, the House of Commons took up the issue and passed a

bill of attainder under which he was sentenced to death. He was beheaded, aged 71, on 10 January 1645.

Charles I was tried in 1648 by a special court of the House of Commons. He was accused of treason in the sense of using his power to pursue his personal interest rather than the welfare of the country. It was estimated that as many as 300,000 people, or 6% of the English population, had died directly or indirectly as a result of the First Civil War; given by Carlton (1995) this seems at first sight a rather high estimate. Needless to say, the trial of Charles was very much a political matter and was not, in essence, very different from an Act of Attainder. He was sentenced to be executed and was beheaded on 30 January 1649, four years after Laud.

A bill of attainder does not require a trial. Like any other bill, it is passed by a political assembly. Being purely political, an Act of attainder may seem arbitrary but is it more arbitrary than a trial by a Star Chamber Court? The attainder expresses a balance of power, so does any political trial.

Repression of the Jacobite Rising of 1745-1746

This episode followed the model set by the repression of the Monmouth Rebellion in 1685 which involved a campaign of executions (the so-called “Bloody Assizes”). For instance, of more than 500 prisoners brought before the court on 18-19 September 1685, 144 were hanged⁵⁸. Moreover, a bill of attainder was passed through which some 800 men were transported to the West Indies where they provided a source of labor.

Likewise, in 1746 the repression took two forms.

(i) Summary executions through a campaign of rebel hunting. For instance, some 600 Jacobite prisoners taken at the battle of Culloden (16 April 1746) may have been executed.

(ii) Two acts passed in 1746 set rules for the confiscation of Jacobite property. The act entitled “For vesting in His Majesty the Estates of certain Traitors”, stated that any traitor who had been attainted before 24 June 1748, was to automatically forfeit all property to the Crown, without the need for any further legal procedure whatsoever.

Then, the Act entitled “Traitors Transported” made it punishable with death for anyone who had been pardoned for treason and transported to America to return.

The American Revolution produced a flow of “traitors” in the opposite direction.

⁵⁸See the Wikipedia article entitled “Bloody Assizes” and the references given therein. In fact, prior to the “Bloody Assizes” James II had sent a large troop of cavalry under Colonel Kirke for the purpose of “teaching the rebels a lesson”. Thereby, an unknown number of common people were strung up on improvised gibbets unless they had money enough to buy protection. It should be observed that in British historiography James II stands on the wrong side (being Catholic he would be removed three years later) which is perhaps why this repression is described in a more gruesome way than the repression of the Jacobites under George II.

Courts of Oyer and Terminer

Apart from “normal” courts, star chamber courts and acts of attainder there were also courts of Oyer and Terminer. These are also special courts set up in special circumstances. In Britain, somewhat similarly to the star chamber court, they were also used for political trials particularly high treason trials. In the United States, the special purposes for which they were used included the Salem witchcraft trials, trials of Native Americans, slaves and Loyalists. A case in point (described later on in more detail) is the trial of 17 Loyalists in New Jersey in the fall of 1778 who were all sentenced to death.

There have been courts of Oyer and Terminer at one moment or another in several places: Delaware (Kent County, Dover), North Carolina (Craven County, New Bern), Pennsylvania (Lancaster County), Maryland.

What makes these courts important is the fact that they were often used to try Loyalists. Bell (1940, p.33) gives a reason for this.

The (normal) courts were puzzled by the cases of the Loyalists excepted from pardon that came before them [for instance those who refused to take the oat of allegiance or to serve in the militia]. The records of the Courts of Oyer and Terminer indicate that the customary procedure was to try the “excepted Loyalists” for High Treason.

In [Newspapers, Vol.2, p.452] one reads that in New Jersey “His excellency the Governor has appointed *Courts of Oyer and Terminate and General Gaol Delivery*⁵⁹ to be held in: (i) Salem County on Monday 13 Nov 1778

(ii) Gloucester County on Tuesday 17 Nov 1778

(iii) Cumberland County on Friday 11 Dec 1778

(iv) Cape May County on Monday 21 Dec 1778

As such courts were in charge of capital crimes and particularly High Treason crimes it would be interesting to know the related sentences. Unfortunately, although we know that the trials have taken place, sentences records are difficult to find.

There is a question which remains, namely why was it necessary to try the Loyalists for High Treason crimes? Once they had been banished and dispossessed they did no longer represent any threat for the young republic.

An illustration is given by the following excerpt from the same reference as above.

Trenton Sep 13, 1778. We hear that Ezekiel Forman, who was under sentence of death on a conviction of High Treason, is pardoned on condition of his leaving this state in two months and the United States in six months from the date of this pardon and never returning again.

⁵⁹The expression “Gaol Delivery” has probably its origin in the fact that such courts were appointed in places where the capacity of the jail was reached; the purpose of the trials was to settle all waiting cases and clear the jail.

As long as there were only few such cases this policy was acceptable. However, when the British started to equip and organize Loyalist regiments, the Loyalists were no longer allowed to go over to British lines.

A case in point: Philadelphia

With a force of about 15,000 British and German soldiers the British army marched into Philadelphia on September 26, 1777. It would be their second winter in America. It was an easy invasion because the troops came by ship from New York. It is likely that one of the main reasons of the invasion was the claim of prominent Loyalists, including Joseph Galloway that many Philadelphians were loyal to the Crown and would welcome the British. Well, this was not completely wrong in the sense that those citizens who did not leave the city before the arrival of the British engaged into cordial relations with the occupiers. Sullivan does not signal any attacks, any slain soldiers or officers as could be expected in a city occupied by enemy troops (e.g. see German officers shot and killed during the occupation of Paris from 1940 to 1944).

Why is Philadelphia a case in point? There are at least two reasons.

- The first reason is simple. Philadelphia was occupied by the British Army from the fall of 1777 to the Spring of 1778. Needless to say, the Continental Congress, the Supreme Executive Council of Pennsylvania, all other Patriot institutions and a fraction of the population left Philadelphia before the arrival of the British troops. However, the bulk of the population had to stay simply because they had no other place where they could get a roof over their heads. Naturally, as in any military occupation this led many citizens to collaborate with the occupants. After the departure of the British it was easy for the returning Patriots to name many of these “collaborators”.

Between 8 May 1778 and 15 June 1778 the Supreme Executive Council issued three proclamations by which 332 heads of household were attainted if they did not submit to a trial for treason (Corbly 2013, Larson 2019).

The text of the attainder of 8 May 1778 is given in the following archive volume: Pennsylvania Archives, Fourth Series, Vol.3, entitled “Papers of the Governors”, 1759-1785, edited by: John Edward Reed.

In fact, there was even an earlier confiscation ordinance on 6 March 1778 but it concerned only 13 persons (Ousterhout 1978).

The book by Don Corbly (2013) gives the 6th series, Vol.XII of the Pennsylvania Archives and it does not contain the attainder of 8 May 1778. However, it gives acts by which the estates of individuals considered as traitors were forfeited and sold. For instance, on 2 August 1776 six contiguous tracts of land situated in the county

of Northampton belonging to “Christian Huck, traitor” were sold to six buyers for a total amount of 1422 pounds (Corbly 2013,p.16).

How were the lists of attainted persons set up

To make a reliable list of about one hundred names of Loyalists within a few weeks was an almost impossible task. The reason is simple. There were of course a few outstanding cases of collaboration which could be immediately included. The others, however, had to be selected among the whole population of the city or county which required information to be collected for thousands of citizens. Moreover where should this information come from? From denonciations, gossip, hearsay?

Henry Young (1966, p.305) describes the selection procedure as follows.

The names of the persons supposed to have joined the enemy were sent to the Committees (or Councils) by the agents of forfeited estates. These agents profited by receiving a percentage on sales of estates. As no sworn testimony was required to set up the lists, the agents could base their reports on whatever information was best for them.

Going in the same direction, one can cite a revealing statement made in July 1778 by Supreme Court Justice McKean of Philadelphia according to which the Commonwealth may grant a general pardon “excepting cruel fellows and some men of property whose estates really ought to be confiscated” (Maxey 2011,p.26-27).

Such a procedure was not only good for the agents, but also for the Patriot leadership because it optimized the sale procedure and the funds that were collected.

How were attainer lists set up? The case of Philadelphia

In Pennsylvania 500 persons were attainted and 17 were subjected to outlawry procedures which had basically the same effect in terms of confiscation. Annually, the break up is as follows (Young 1966).

1777 : 13 1778 : 396 1779 : 32 1780 : 43 1781 : 16 1782 – 1784 : 17

Such long lists raise the question of how they were set up. Henry Young (1966) gives an explanation. He observes that the agents in charge of making inventories and organizing the sales received a percentage on the sales. He notes also that the selection of the attainted persons followed a fairly loose procedure based on hearsy and rumors. Testimonies were accepted without sworn in procedure.

Thus, if the agents were clever enough they first decided which estates could be sold quickly and for a good price and then they brought claims against the owners through mouthpieces. In a few cases a person who was targeted may have been saved from proscription by an influential Patriot friend but as there was no orderly procedure including a review of the cases this was just a matter of chance.

Incidentally, it would be interesting to know if among attainted persons the proportion of Quakers was higher (or lower) than in the general population of Pennsylvania.

Less information is available for other states than Pennsylvania but it is likely that the commissioners in charge of property inventories had some influence.

What led Loyalists who collaborated with the British Army to flee?

There is a point which remains unclear. All sources we were able to read say that almost all those who submitted to trials were acquitted. This should have encouraged many to come back and be tried. It is only through some exemplary sentences that other attainted persons would be convinced that it was safer not to submit to a trial.

The explication of this conundrum may be found in trials by a Court of Oyer and Terminer which took place in the fall of 1778 and targetted persons who collaborated too closely with the British. These trials took place in Gloucester County in New Jersey. Why did they not take place in Philadelphia? At first sight this seems surprising. One should however remember that Gloucester county is located just next to Philadelphia. All the 17 persons who were tried were sentenced to death for High Treason. Here are their names (Scots Magazine 4 January 1779, (New Jersey Gazette of 16 December 1778 published in Trenton):

James Birch, Jonathan Chew, Paterson Cook, Laurence Cox, Joshua Dilks, Joseph Dill, Abraham Fennimore, John Franklin, Daniel Fusman, William Hammet, David Lloyd, Isaac Lord, Thomas Nightingale, Joseph Pratt, Charles String, Gideon Urine, Harrison Wells.

Were some of them reprieved? According to the Gazette the answer is no for it says: "On Saturday night sentence of death passed against the above offenders. Our attempt to find additional information about these persons met little success except for two.

- Regarding Hammet, in the "Minutes of the Gloucester County Court of Oyer and Terminer", November-December 1778, New Jersey State Archives, one reads that he pleaded guilty to the charge of High Treason. Then in Tiedemann et al. (2009,p.72), there is the following sentence: "Details regarding Hammet and a poignant vignette of his last hours appear in the Journal of Biography of Nicholas Collin 1746-1831."

- Regarding Wells one reads (www.familysearch):

Rather reluctantly he made contact with the British while they were in Philadelphia but he did not accept any official position and did not follow them when they left. Instead, he gave himself up to the Patriots. In May 1778 [that is to say well before his trial] his possessions were sold, among them were some hogs, two cows, a heifer, a rocking chair. His wife purchased a part of his belongings [weird situation that

makes a wife buy back the property of her husband]. On 5 December 1778 he was sentenced to hang until dead. It seems that a person with the same name appears in archive documents of 1786, but then, Harrison Wells is a fairly common name.

In the following years there were additional attainder proclamation with the last of them being issued on 27 April 1781. Altogether nearly 500 heads of households had been attainted. They represented a diverse sample of the population of Philadelphia and included lawyers, bakers, farmers (Yeomen), laborers, hatters, millers, innkeepers, surgeons. The fact that only a small proportion of the named persons are farmers shows that most of them were living in Philadelphia which makes sense because the rest of the state was not occupied (remember that Philadelphia is located near the south-east border of the state).

What proportion of the population does that represent? The census of 1790 gives Philadelphia a population of 42,500 persons (including the suburbs) In 1780 it was certainly smaller but as we cannot know by how much let us keep the same number for 1778-1780. The census of 1690 gives an average household size of 5.7 persons which means husband, wife and almost three children. This leads to 7,400 households for Philadelphia. Of this number the 500 attainted households represent a percentage of 6.7%. This calculation does not take into account the (unknown) number of those who were tried but on the other hand it uses a population number which is certainly too high. One expects that the two effects more or less cancel each other.

Other places

Firstly, one should consider other places that had been occupied by British troops; these include Boston, New York, New Jersey, Charleston, Savannah. In such places one would expect similar attainder procedures to have taken place. Unfortunately, for these places the statistical information is less detailed than for Pennsylvania; in the following subsections we give whatever information we could find.

An important but largely overlooked topic

Despite its victory at Saratoga in October 1777 during the following winter the Continental Army was in a difficult situation.

“Unless some great and capital change suddenly takes place”, General Washington wrote from his winter headquarters of Valley Forge on December 23, 1777 in a letter to Henry Laurens then president of the Continental Congress, the Army will inevitably be reduced to starve or disperse in order to obtain subsistence. One week later in an other letter he reported that some 3,000 of his troops lacked appropriate winter clothes. The estimated amount of money required to supply the army for the coming year and to operate the new countrys central government was three million British pounds. (Shachter 2020). The confiscation of Loyalist property discussed in

the present chapter was a decisive step in funding the Continental Army.

Attention was attracted on this point a long time ago par Claude Halstead Van Tyne (1902) in his book: “The Loyalists in the American Revolution”, only to be almost completely phased out in subsequent decades. Here is Van Tyne’s conclusion.

That the Whigs had early had a covetous eye upon the Tory property seems hardly dubitable for the legislative bodies had hastened to pass such laws as would prevent those suspected of Toryism from transferring their property either by real or pretended sale.

They also made efforts to stop the plundering of the estates of absentees. These efforts were made to prevent individual plunderers enriching themselves by preying upon the Tories, but the disposition of the property was such that, if the Revolution succeeded, the proceeds would fall into the coffers of the state.

Although the present book goes in the same direction as Van Tyne there is one major difference between the two studies. Van Tyne is mostly interested in the laws and acts passed in each state but he cares little about numbers. What fraction of the American war effort did the confiscations represent? The answer to this question will tell us whether the confiscations were merely accessory or on the contrary a key-episode. More broadly, Van Tyne’s book contains little facts. For instance in his Appendix A he cites a sentence of the “Loyalist Declaration of Independence” of 17 November 1781 which says: “They [Americans] suffered the murder of a number of our fellow citizens under their eyes in Philadelphia to pass unnoticed”. However, apart from the executions of Carlisle and Roberts, Van Tyne gives no facts in support of such a claim.

Example of how the confiscations in Philadelphia are left out of accounts of British occupation

In a recent book Aaron Sullivan (2019) describes the occupation of Philadelphia by British troops (October 1777 - March 1778).

According to Sullivan’s account nothing of importance happened after the departure of the British army. True, he mentions that some 600 of the Philadelphians who remained in the city during the occupation were sentenced to death as traitors but he adds immediately that this was more formal than real and that all of them were quickly pardoned.

Yet, as soon as the Patriots returned to the city started the process of attainder, confiscation, proscription and banishment which is described in Corbly (2013). Months after months, in several waves, long lists of attainted persons were published, their property was seized, inventoried and sold by auction. For instance, on p.75-78 (an excerpt selected randomly among many similar ones) there is a long list of goods

which is entitled:

April 24, 1778: Inventory of the goods and chattels [personal possessions] belonging to Michael Witman lately absconded to the English, seized by Colonel Stewart.

It is signed: “George Stewart, Agent. In other words it is not in his capacity as an officer that Colonel Stewart was involved in this operation.

It is followed by a second table which lists the sales with prices and names of buyers. It is entitled

A list of the goods and chattels sold by Col. Stewart. They lately belonged to Michael Witman who absconded to the English from Cocalicok [Lancaster county] and Lancaster [Lancaster county is about 100 km west of Philadelphia].

The table is followed by a description of the land owned by Whitman [his name is spelled Witman or sometimes Whitman].

The total value of the sales of goods and chattels was 489 pounds (they were bought by several persons) whereas the land was sold to a single buyer named Michael Diffindarfer for the sum of 20,000 pounds. It is noteworthy to observe that, in contrast with other cases, this estate was not divided. The buyer paid in several instalments, the last one on March 11, 1780.

To come back to Sullivan’s account, two questions come to mind.

(1) Why did Michael Whitman “abscond” and take refuge behind British lines. If all attainted persons were pardoned there was really no reason to fly and leave all property behind.

(2) Even if one accepts the idea that all persons who remained were pardoned should the fate of those who left not be reported?

Confiscation of Loyalist estates in American historiography

There have been many books written about the American Revolution but very few (if any) contain the term “attainder”. This despite the fact that, as will be seen below, this judicial process was of great financial importance.

One reason for neglecting a topic may be simply the lack of appropriate sources in the archives. However, that is not the case of the topic considered in this chapter. It is documented in several series of published archive documents⁶⁰. However, until they became available online these documents were not easy to find. Moreover, until be-

⁶⁰It can for instance be found in the following volumes of the Pennsylvania Archives (i) Colonial Records (i.e. first series), Minutes of the Supreme Executive Council, Vol. XI, 1776-1779, subsequently to be referred to as “Minutes 11”. (ii) Fourth series, Papers of the Governors, Vol. III, 1759-1785, subsequently to be referred to as “Governors 3”. (iii) Sixth Series, Vol. XII subsequently to be referred to as “Forfeited 12”. In addition to being available on the HathiTrust website, this source has also recently been republished in book form as Corbly (2013).

coming searchable by search engines, it was not easy to locate the relevant documents because, as will be shown later, most indexes ignore the topics of confiscations and attainders.

Funding the Continental Army

If one needs a confirmation of the fact that American historians prefer to overlook the topic of attainders, proscriptions, banishments and confiscations let us consider a recent paper entitled: “Tapping America’s wealth to fund the Revolution: two good ideas that went awry” (Shachter 2020).

Most historians would probably agree that the extensive confiscations and sales of Loyalist estates was a considerable step forward in funding the Revolution. It is easy to show that this step was many times more effective than the plans discussed in the paper. The first of these plans, the one proposed by Henry Laurens, was to convince 500 wealthy families to buy new government-issued bonds to an amount of 3,000 British pounds; this would have generated a total of 1.5 million pounds.

The property confiscations described in the present chapter concerned at least 2,291 wealthy Loyalists; this number represents the Loyalists who got cash compensations from the British government, many others instead of cash were granted land in Nova Scotia. Total claimed compensations amounted to 10.3 million pounds. Thus, even if one omits the land grants, which results of course in a substantial under-estimation, the claimed amount represents six times the amount that would have been generated by Henry Laurens’ plan. Yet, in the paper there is not a single word about the confiscation of Loyalist estates. Is it not odd to discuss in detail a plan which was dropped, without even mentioning a similar but much more effective one which was duly carried out?

Before we discuss the significance of acts of attainders in the American Revolution one needs to recall their meaning.

A person targeted by an act of attainder was *ipso facto* sentenced to death and his (or her) estates was confiscated by the state. Attainders could be delivered in three ways. (i) Attainder by confession, i.e. through a plea of guilt made before judges. (ii) Attainder by verdict as resulting from conviction by a jury in a trial. (iii) Attainder by process which means through an executive order of a king or a government or through a legislative act passed by an assembly. In this last case it is also called a bill of attainder.

In the last form, the only one we will consider here, the attainder act is directed against political enemies or traitors. Monarchs typically used attainders against nobles considered as potential rivals. In essence, acts of attainder were not much dif-

ferent from summary executions (in the sense that no proof of guilt was required) but there was the advantage of a well defined judicial procedure.

In England the last act of attainder was passed in 1798 against Lord Edward FitzGerald (1763-1798) for his participation in the preparation of the Irish uprising of 1798 but attainder procedure itself was abolished only in 1875.

Scale and significance of confiscated property

Why should attainder acts be considered as essential steps of the American Revolution?

The reason is very simple.

The British occupation of New York in the summer of 1776 made the financial situation of the young republic founded on 4 July 1776 fairly difficult because Congress was facing the cost of creating the new Continental Army which meant offering bounties to the recruits, equipping them in terms of shoes, uniforms, tents, providing them with weapons, i.e. rifles, cannons, ships. At the same time, due to the slowdown of foreign trade tax receipts were greatly reduced. The only way to cover those increased expenses was to issue bonds. This had already been tried, and with good success, in previous decades but never on such a scale. With almost no gold nor silver available in the country and with the prospect of future economic activity not so bright in time of war, on what asset could the emission of bonds be backed? Attaining suspected loyalists was an obvious solution⁶¹. Starting in March 1778, this process comprised the following steps. As an illustration we consider the case of Pennsylvania.

(1) Long lists of names were issued. For instance, on 21 May 1778 a “Proclamation of Attainder Against Certain Named Persons Adjusted Guilty of High Treason” was issued by the “Supreme Executive Council of the Commonwealth of Pennsylvania”. It comprised 75 names of household heads. Subsequently, additional lists were issued, e.g. on 15 June 1778, 30 October 1778 (Corbly 2013, p.80,90,241, a more comprehensive recapitulation will be given later).

(2) Detailed inventory of the confiscated property was established and appraised by official agents. It concerned not only the land and house but also the goods found in the house, including bee hives, horses and cattle. Just as an example on 13 August 1778 two agents made an appraisal of the “forfeited estate of Oswald Eve, traitor” which was published under the following title: “Inventory of the sundry household goods found in the house of Oswald Eve, gun powder maker of Oxford

⁶¹When a little more than one decade later the young French constitutional monarchy was confronted to the same problem it resorted to a similar solution by nationalizing the estates of the Church, i.e. some 15% of the farm land.

township, Philadelphia county”. The total amounted to 592 pounds; the horses and cows were among the most valuable items (Corbly 2013, 193).

(3) Finally, the confiscated items were sold to the best bidders at public auctions. As an illustration, such a sale took place in Philadelphia County on 24 August 1778 for a total amount of 5,141 pounds. For another which took place on 4 September 1779 the source provides a the following account written by the agent who held the auction sale (Corbly 2013, p.149)

To his Excellency the President of the Supreme Executive Council of Pennsylvania.

I certify that on 4 September 1779 I exposed to public sale at the court house in the borough of Chester (having previously given legal notice of the time and place) a tract of land late part of the estate of Gideon Vernon but by his attainder of high treason forfeited to the use of this state. William Kerlin of Chester borrough bought the same for the sum of 2,520 pounds, he being the highest bidder. Which said sum the said William Kerlin has duly paid into my hands in divers payments between the said 4th of September 1779 and the 23rd of October 1779.

Signed: Thomas Lewis, Agent.

To the previous account it can be added that the forfeited estate was seized and appraised on 27 July 1778. The dates are of interest. They show a delay of over one year between seizure and sale, but an interval of less than two months between sale and complete payment even for such a large amount. This is important because it is cash that was needed by the states. The fact that payment of such large sums could be made so fast shows that substantial savings were available in the 13 colonies. Through the mechanism of confiscation and sale the states were able to extract a very needed part of it.

However, we have a statement made on 9 September 1779 by Joseph Reed, the president of the “Supreme Executive Council” of Pennsylvania in which he says:

“We have proceeded to the sale of confiscated estates and have the satisfaction that the sums arising therefrom are *so considerable* as to afford a great relief to the good people of the State.”

This “great relief” certainly slowed down the depreciation of the banknotes and bonds issued by Congress but only for a while. The British occupation of Charleston in May 1780 reduced foreign trade even further. By that time, the bonds issued by Congress in 1776 were worth only 1/55 of their initial value and in 1781 they would fall to 1/500. This hyperinflation spiral is well described in the early account published by Congressman David Ramsay (1811). Such accelerated depreciation is not uncommon in time of civil war under the combined effect of economic stagnation and heightened military expenses. The staggering depreciation of the Guomintang issued currency that occurred in China in the last phase of the civil war comes immediately in mind as a similar case. There was however a striking contrast in the sense that the Guomintang was defeated whereas the United States emerged victorious.

To this starkly different outcome the banishment of the Loyalists contributed in several ways. (i) The confiscation of their estates and goods alleviated, at least to some extent, the financial burden of the young republic. (ii) At same time the Loyalists represented a growing burden for the British side in the sense that after streaming to New York they had to be housed, fed, then transported to London or to various parts of the British colonial empire and eventually they obtained compensations from the British Government for the loss of their property. It is true that occurring several years after the peace treaty that last step had no direct influence on the outcome of the war. However it was a project that may have contributed to the downfall of the Tory government and its replacement in

Attainted persons in Pennsylvania

In Pennsylvania there were attainder proclamations on: (i) 6 March 1778, 13 persons.

(ii) 8 May 1778 (see Table 1, 75 persons).

(iii) 21 May 1778, 75 persons.

(iv) 15 June 1778 (see Table 2), 30 October

What was the subsequent fate of attainted persons?

For the persons who did not submit prior to the deadline set by the attainder act, and this was the large majority, the conditional attainder became an absolute and definitive attainder. Even if at that time they were within British lines they were still in America and due to fluctuations of the line they could possibly become prisoners of the Patriots. What will happen to them in that case? Henry Young (1966) gives an answer for the Pennsylvania Loyalists. During the war 6 attainted persons fell into the hands of the Whigs. For all six the death sentence was confirmed without any trial by a decision of the Supreme Court of Pennsylvania; however, 5 of the 6 were pardoned, only one, David Dawson, was hanged. One wonders how the persons to be pardoned were selected; if the persons were not tried no reliable information (e.g. provided by witnesses) was available.

This case shows that the death sentence contained in the attainder was not purely formal and had to be taken seriously. The fact that the decisions were taken without any trial that is to say almost randomly made the threat even more fearsome.

Sending capital abroad was not allowed

The confiscations started in 1778 that is to say 3 years after the beginning of war. Smart people could be tempted to sell their property and to transfer their wealth abroad either in the form of cash or letters of change. The text of the following letter shows that this was prohibited under pain of imprisonment (Archive FORCE1)

13 July 1776, Boston jail.

Letter of John Keighley to the Honourable Council at Watertown, Massachusetts.

May it please your Honours. I cannot conceive any crime I have committed that could deserve 3 months close confinement in a prison for felons. I have acted in no way prejudicial to the country. If any accuse me of it, I beg to face them. My case is really hard in being obliged to suffer without having in my power to prove, by being brought to examination that I do not merit it, unless in attempting to take my property to another part of the world is a crime that deserves such rigorous treatment.

Situation of attainted persons

Did attainder Acts only target persons who had already fled to the British side?

Main stream opinion

The mainstream opinion on this important question can be summarized by the following sentences contained in an email to one of us (BR) by Todd Braisted⁶².

20 September 2020. “Generally speaking, the states that listed those who were indicted or proclaimed in some fashion, were dealing with people who had already joined the British, not people living at home. If anyone was still at home, it tended to be the family, not the male head of household”.

As far as the occupation of Philadelphia is concerned, this statement is certainly true for a number of Loyalists who accepted official British positions during the occupation. For instance, as a close adviser to General Howe, Joseph Galloway became virtually the governor of Philadelphia during the occupation (Siebert 1910, p.30-40). For Loyalist leaders like him, their only chance to save their estates rested on a British victory. In contrast, many testimonies show that most ordinary people just wanted to remain neutral and care about their own business. The occupations of attainted people listed in the tables show that those ordinary people (inn keepers, yeomen, carpenters and so on) were far more numerous than the few leaders about whom one has personal data.

In other words, to become really convincing the previous statement needs to be backed by solid evidence, particularly so because it is rather counter-intuitive. Why should Loyalists leave their homeplace and family and forsake their property if not subject to any kind of threat?

⁶²within the framework of the “Online Institute for Advanced Loyalist Studies”, Prof. Braisted has set up a remarkable website devoted to Loyalists . It offers extensive datasets about various aspects of Loyalism.

Different forms of attainder Acts

For states (like New York or Delaware) which used absolute attainders (i.e. attainders effective immediately after proclamation) one needs proof of their presence behind British lines *prior* to the proclamation.

For states (like Pennsylvania) which used conditional attainders (which became effective only 40 days after the proclamation), one also needs proof of their flight prior to the date of the proclamation for flights may be expected to occur as a consequence of the threat that the proclamation represented. For listed persons it would be natural to take advantage of the 40-day reprieve to fly to British protection.

So far, we did not see much published evidence of this kind. Actually, the evidence we came across rather goes in the opposite direction.

Confiscations versus defections in New Hampshire

Naturally, in order to determine on which side heads of family were living one can hardly expect to find a file giving their personal address. Any file of that kind would give the address of the household and certainly not the address of a household head who has moved secretly to the British line.

It is a piece of good luck that the State Archive of New Hampshire has “petition files” which give comments made by some people about their neighbors and these comments often mention people who “defected to the enemy”. How neighbors were able to draw this conclusion is not completely clear. The wives would certainly try to cover the escape of their husband by saying that he was visiting a relative in another county. However when the head of state has been away for several months there can be little doubt that he joined the British. Therefore, it seems reasonable to accept the statements made in the petitions.

In New Hampshire we also know the names of the heads of households whose estates and property have been confiscated for they are listed in the Confiscation Act of 28 November 1778.

By bringing together confiscations and defections dates it becomes possible to determine which comes first. Such results are summarized in Table xx for a sample of persons whose property was confiscated.

It can be seen that most often the confiscations precede the defections. Of particular interest are the cases where the defection came years after the confiscations.

In states like Pennsylvania the conditional attainders were a strong incitation to take refuge into British lines. In New Hampshire there was a similar incitation in the form of the “Proscription Act” of 11 November 1778. The 74 persons named in this act were to be arrested if they were still in the states before being banished. Anyone who returned after being banished was facing a possible death sentence. In

Property confiscations versus defections to the enemy in New Hampshire, 1775-1783

Family name	Given name	Type	Confiscation	→	Defection	Defection	→	Confiscation
Batchelder	Breed	CD	1775		10/1778			
Baxter	Simon	DC				05/78		11/78
Cochran	John	CD	11/78		04/80			
Cummings	Samuel	CD	11/78		02/83			
Cutler	Zacheus	DC				09/78		11/78
Holland	Stephen	CD	11/78		12/82			
Roger	James	CD	11/78		06/80			
Stinson	John	CD	11/78		12/83			
Whiting	Benjamin	CD	11/78		09/82			

Notes: A case is of CD type when confiscation of property precedes defection to the British and of DC type when defection occurs first. Except for the first case, all initial confiscations took place through the “Confiscation Act” of 28 November 1778 (11/78); some additional confiscations took place subsequently whenever other estates of owners were identified. It can be seen that the CD cases are by far the most frequent. The sample is still small but in the future the “petition” collection may allow to expand the investigation.

Source: The data come from “petitions”, i.e. requests from various people to the provincial government. Presently kept at the New Hampshire archive, this collection of petitions is not yet available online but is in the process of being digitized. It is a unique resource for providing individual information especially when used in conjunction with another index (here. the index of confiscations). Many thanks to NH State Archivist Brian Burford who kindly sent us these data.

one word, it would have been foolish for these persons to remain in the state. Clearly this “Proscription Act” was in fact a banishment act.

Individual cases where confiscations preceded the flight to British quarters

Most of the following cases concern the occupation of Philadelphia.

(i) Through a resolution of 31 August 1777 (Thomas Wharton being President) that is to say, before the British occupation Samuel Shoemaker was arrested together with a number of Quakers. A detailed inventory of his property was published on 20 July 1778. (Corbly 2013, p.43, 130) It is true that during the occupation, according to Siebert (19095, p. 44), he was a magistrate of the police⁶³ and it is likely that he left with the British in June 1778. However, he was targeted as a Loyalist before going to the British line.

(ii) There is a similar case for Joseph Stansbury. He was already arrested and confined (first in jail, then under house arrest) on 6 December 1776 (Corbly 2013, p.23,24). Then, he was again arrested on 1 August 1777 together with 34 other persons including John Penn the former governor and proprietor of Pennsylvania. Although included in the attainder proclamation of 15 June 1778, quite surprisingly he was still in Philadelphia in November 1980 where he was arrested for illegal trade with the enemy (Siebert 2013, p.78). He and his family was then allowed to go to

⁶³How was he able to move from Patriot confinement to British service? This point remains unclear.

New York.

In short, Joseph Stansbury was arrested and attainted well before definitely settling behind British lines. Probably, he had some Patriot protectors for he was treated with much forgiveness and patience.

(iii) Although Abraham Carlisle and John Roberts had indeed cooperated with the British during the occupation of Philadelphia, they did not leave with the British troops in June but stayed and were arrested in July. Their cases are well known because of their subsequent execution but one reads that several dozens Loyalists who had also entertained contacts with the British were arrested at the same time. They were not executed but kept in prison for some time; however it is likely that their property was confiscated. If the names of those arrested could be found it would be possible to check.

Of the 3,000 Loyalists said to have left with the British, most were not from Philadelphia but were deserters and Loyalists from other states for during the British occupation Philadelphia became an attractive magnet for Loyalists, just as New York would become later on (Siebert 1905, p.30-40).

In support of the notion that a substantial number of Loyalists remained in Philadelphia after the end of the occupation it can be mentioned that in subsequent months some 45 persons were tried or attainted in the city including David Dawson who was executed and William Cassedy who was sentenced to death and possibly executed if not pardoned.

(iv) Siebert (1905, p.70) cites several trials of Loyalists in Philadelphia after the end of the occupation, e.g. Samuel R. Fisher, George Hardy, Joseph Pritchard, William Cassedy. In other words, there were quite a number of loyalists remaining in Philadelphia after the departure of the British.

(v) On 30 September 1778 in New Jersey, Ezekiel Forman who was under a death sentence for high treason was pardoned on the condition that he leaves the state within 2 months and the United States within 6 months and never returns (Vol.2, p.452 of "Extracts of American Newspapers"). Thus, conviction and the confiscation which came with it, preceded banishment.

(vi) The case of George Harding of Philadelphia is reported in Corbly (2013, p.280, 285, 291). On 8 April 1779 he was sentenced to be hanged in a Court of Oyer and Terminer. The date of the execution was set on 1 May 1779. Then, on that day, through an order taken in the Council (then presided by Joseph Reed) one learns that Harding was reprieved until the end of the session of the General Assembly. On 15 May 1779, the estates of "George Harding, traitor" were inventoried, seized and forfeited to the state of Pennsylvania. In short, the confiscation occurred while the owner was still in confinement in Philadelphia.

In Ousterhout (1978, p.331) it is observed that the commissioners in charge of the

inventories had wide powers which enabled them to find and seize the goods. They could break open doors, call military force to assist them, jail those who resisted. Therefore, even if still in town, the owners were powerless and had no other choice than to submit to the confiscations. Perhaps was it sometimes possible to bribe the commissioners? We do not know.

The Corbly source does not tell us what was Harding's fate. However, the fact that he had remained in Philadelphia well after the departure of the British (which occurred in June 1778) suggests that he did not have the feeling of being a traitor. Although his property was confiscated in May 1779 it was sold only several months later. However, Anne Ousterhout (1978) reports that in Pennsylvania some sales occurred as early as February 1778, e.g. the properties of John Biddle and Reynold Keen.

States where the confiscations started early

In some states the confiscations started before the resolution of November 1777 taken by the Continental Congress.

(i) in Rhode Island the confiscations of Loyalist estates began as early as October 1775 (Gallo 2019).

(ii) in April 1777 the legislature of North Carolina resolved that persons giving aid to the enemy were to be imprisoned for the remainder of the war and one half of their estates confiscated.

(iii) In Pennsylvania the so-called militia acts of 1 April 1777 and 13 June 1777 stated that the citizens who did not take the allegiance oath would become incapable of transferring real estate and of suing for debt (which simple means that debt owed to them no longer needed to be honored and paid to them. This was already a major breach into the property rights of Loyalists (Siebert 1905, p.32).

Wording of the resolution taken by the Continental Congress

The resolution of 27 November 1777 taken by the Continental Congress regarding confiscations of Loyalist property does not say that it should be limited to people who have joined the British line nor does it use the term "Loyalist". In fact, it stated that confiscation should concern all "inhabitants who have forfeited the right to the protection of their respective states", a fairly flexible definition.

Confiscations in Pennsylvania

In Pennsylvania most of the proclamations of 1778 occurred between 6 March and mid-June 1778, that is to say before British troops had left Philadelphia. As long as the British were in Philadelphia, except for the few people who had joined the military, it was not easy to determine who really aided them. Probably many people had business contacts with them during the 8 months of their occupation.

In Pennsylvania and other states which had conditional attainders, listed people had

40 days to leave, which was a smart way to compel them to leave. Therefore, when the attainders became real most had probably joined the British line.

What led listed persons to leave in states like Massachusetts whose acts of attainder did not include a death sentence is somewhat unclear at this point for in such cases there was no real threat.

Attainder lists

In a well known paper about Loyalism in Pennsylvania, Henry Young (1966) describes how attainder lists were set up. He says that real estate agents in charge of organizing the sales played a major role. He does *not* say that the main part of the procedure was to find out the identity of the people who had fled. This would have been a difficult task anyway because it was impossible to get information about what was going on behind British lines. Needless to say, the families left behind would certainly try to hide the departure of the household heads, because they understood very well what would be the consequence.

Reasons deserters had to join the British

In a testimony before the British Parliament Joseph Galloway (a wealthy American landowner and adviser of General Howe) stated that the Loyalist recruits gained by the British during their occupation of Philadelphia were mostly deserters from the Continental Army Siebert (1905, p.43).

This makes sense. A deserter had many reasons to join a Loyalist regiment.

- (i) A possible grudge against the Patriots after receiving a punishment of 39 or 100 lashes.
- (ii) The bounty offered by the British.
- (iii) Probably most of these deserters did not leave any family behind.
- (iv) Finally, in 1777-1778 the British forces were in such a dominant position that the likelihood of being captured by the Patriots was small.

On the contrary, for wealthy citizens of Philadelphia it made little sense to join a Loyalist regiment.

- (i) They would leave their family behind them without protection.
- (ii) Through the acts of 1 April and 13 June 1777 (mentioned above), they knew that their property would be confiscated. In other words, they had much to lose and nothing to gain.

Banishments

In Sabine's "Biographical sketches" the term "banished" appears 93 times in Volume 1 and 230 times in volume 2. The expression that is used in a standard way is "proscribed and banished".

Confiscations and banishments in the 13 colonies

So far we have considered the confiscations and banishments in Pennsylvania because of the comprehensive on line archives that exist for this state

It would of course be useful to know the total amount of the confiscations.

Information about confiscations can be obtained in two ways: (i) At the American side in the diverse states where confiscations took place. (ii) On the British side by considering the claims made by the Loyalists and the compensations provided by the British government.

Both methods have major defects.

- It seems difficult to make an estimate on the American side because many inventories and sales were not recorded in the printed archive sources at our disposal. This is revealed by the fact that in Pennsylvania there were hundreds of attainted households whereas in the archives there are only a few dozens of appraisal and sale records.

- On the British side there is great obstacle in the sense that only those Loyalists who went to London or Nova Scotia (where there was a second registration office) were in good conditions to claim compensations. Moreover, only the wealthiest Loyalists submitted claims as will be seen from the cases given below.

In the next subsections we summarize whatever information we were able to collect for individual states.

One should also keep in mind that those states which did not, by enactment of laws, banish the Loyalists left the matter to the natural social effects of persecutions. “A good law of tar and feathers” (as an humorist expressed it) was a powerful agent for this purpose. The Tories were constantly threatened with violence. The story of a flight from an angry mob followed by weeks of hiding in the woods and swamps and the final escape to the British camp, constantly recurs in the records of the Loyalists contained in their compensation request from the British government (Van Tyne 1902, p.242).

Confiscations in Maryland

In the thesis of Richard Overfield (1968) there is a chapter which is devoted to the question of confiscations. Most of the 56 pages of this chapters are devoted to a description of how the rules for confiscations were passed in the House of Representatives and the Senate. In contrast the factual part, that is to say the number and prices of the sales of confiscated estates is concentrated in one footnote on p.362.

From this description one learns the following.

There were two peaks in the sales of confiscated properties: 1781-1782 and 1785. In

total 106 estates were sold.

The description distinguishes 4 categories.

(1) British estates. Probably owners who were British officials or British companies.

(2) Absentee estates. Probably owners who took refuge behind the British lines.

(3) Outlaws.

(4) Owners who did not belong to any of the previous categories. In fact, in terms of number of estates this was the largest category: 65 estates sold against 41 for the three other categories.

The author says that

- 17 urban estates were sold for high prices
- 11 estates of more than 1,000 acres (400 hectares) were sold.
- Not surprisingly, the largest number of estates sold were small ones, under 100 acres (40 hectares). There were 40 in total.

However, for all these estates the author he does not give the relevant prices. An omission which is even more serious concerns the sales of the vast estates of Lord Baltimore (see below).

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; 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. (Nath 2009)

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. 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.

Property was still confiscated in 1783, 1784, and 1785 but the greatest amount of surveying and auctioning occurred in 1781 and 1782.

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. His property included valuable manors lying throughout Maryland. His manors, known as

Beaverdam Manor and Chaptico Manor, in St. Marys County were sold in September of 1781. Additional property lying in Charles County and St Mary's County was auctioned by the state in 1781 and 1782. Henry Harfords total British Property was a great source of revenue for the Commissioners and was valued at more than 43,000 pounds.

FIN DE LA PARTIE A REVOIR

Banishments and confiscations in Massachusetts

The procedure used in Massachusetts to banish suspected Loyalists is described by Van Tyne in the following terms.

The selectmen of each town were to convey a meeting of the inhabitants . The selectmen were to make out a list of men who had shown Tory sympathies. Any one present at the meeting could suggest names to the moderator. Some persons firmly attached to the American cause were chosen and charged with the duty of laying before the courts evidence to prove the inimical character of suspected Loyalists. This name was to be added to the list , If the majority of those present so voted the person was added to the final list. The completed lists were given to justices of the peace who issued warrants for the arrest of the proscribed persons. The trial followed at a special session of the court. On conviction of being dangerous to the public peace, the Loyalists were sent to the Board of War As soon as possible the prisoner was to be transported to Europe or the West Indies at his own expense.

A law passed on 10 May 1777 defined a simpler procedure according to which a complaint made to any two of the justices of the peace and accepted by them was enough to catalog a person as "evilly" disposed to the state. The justices had full power to issue a warrant for the arrest of such persons and to bring them to trial. A person coming back after being transported was treated as guilty of felony without benefit of clergy which, in case of a death sentence, means that no pardon would be forthcoming.

Van Tyne wrote (but forgot to give the relevant reference) that in 1778 Massachusetts introduced a test law with banishment being the penalty 40 days after refusing to sign the oat of allegiance to the state. More specifcally Van Tyne says:

“Vessels were hired for that purpose and paid for out of the personal estate of the banished man. He was allowed to sell his personal estate and take with him what money remained after paying all his debts. Death without the benefit of clergy was threatened to any one who returned after banishment.

Not content with these stringent measures, a proscription of about 260 Loyalists was made: 53 merchants, 60 esquires (i.e. gentelmen), 24 mariners. , 63

yeomen. They were to be seized, committed to jail by the Justice of Peace, and sent out of the state by the Board of War. Death without benefit of clergy was the penalty for returning.

New Hampshire and Georgia passed proscriptive acts in the same year and Rhode Island in 1780.”

In Boston the estates which changed hand amounted to 8% of the city area and 11% of its value (Brown 1964).

Banishments and confiscations in New Hampshire

Confiscations in New Hampshire were a 4-step process.

(1) The first step was to identify the Loyalists. This was done through the “Association test” performed in 1776. It turned out that about 6% of the adult male population did not sign it. This represented about 570 non-signers (Brown 1983, Appendix C). On account of the fact that this survey did not cover all towns (lack of data in some towns) the real number of non-signers was somewhat higher, may be of the order of 650.

(2) The second step was the “Proscription Act” of 11 November 1778. It stated that the 74 persons named in the Act who were still in the state at that moment would be arrested and banished. Those who would come back to NH would be arrested a second time and face a death sentence. Incidentally, 40% of the proscribed persons were “Esquires”, that is to say persons of high social status.

(3) The third step was the “Confiscation Act” itself. It was passed shortly after the previous one, on 28 November 1778. Through it the real and personal estates of some 25 family heads were confiscated.

(4) Finally, an Act taken on 25 March 1782 confiscated the estates of all those who had left during the war.

Note that in all confiscation proceedings the nomination of the commissaries in charge of making the inventories and organizing the sales was an important step. In New Hampshire there were 3 commissaries in each county. Of the 15 commissaries, 7 were officers: 4 colonels and 3 majors (Metcalf 1916, p.191-192).

From what precedes result different metrics for estimating the number of Loyalists:

- (1) The non-signers, about 500, in
- (2) The 59 Associated Loyalists of 1775
- (3) The 74 who were proscribed in November 1778
- (4) The 25 whose estates were confiscated in late November 1778.
- (5) On 25 March 1782 the estates of all those who had left were confiscated

Banishments and confiscations in New York State

In New York State alone, over \$ 3,600,000 worth of property was acquired by the state, although lands in New York City, Long Island and Staten Island practically escaped confiscation, because that territory was in British power until 1783, and then the zeal for confiscation had abated. (Van Tyne 1902, p.280)

In October of 1779 New York banished about 60 officers, merchants and yeomen and confiscated their estates at the same time. New York's test act had already ordered the banishment to the enemy's lines of all who refused the oath. (Van Tyne 1902, chapter 10)

In New York the legislature passed a "Trespass Act" in which all persons who had been driven from their homes at the coming of the British were given the legal right to recover damages against those who had used their property during the British occupation (Van Tyne 1902, p.294).

Confiscations in New Jersey

For New Jersey, extracts of newspaper articles which appeared during the Revolutionary period were published in the form of 5 archive volumes (see the reference [Newspapers])

In the Preface the editor observes that in volumes 3 and 4 which cover the period Jan 1779 - Sep 1780 there are the names of some 1,200 Loyalists whose property was declared confiscated by the State for reason of "treasonable practices". For 1778 (Vol.2) some 370 names can be counted on more than a dozen lists which gives a total of 1,570 chiefs of families. What proportion of the households of New Jersey does this represent?

At the census of 1790 New Jersey had a free population of 174,000 which corresponds to: $174,000/5.7 = 30,500$ households (5.7 individuals was the average size of a household). This leads to the conclusion that 5.1% of the households were affected by confiscations.

This number does not comprise the persons who, for some reason, were not mentioned in the selected newspaper extracts.

Data published in London as part of the compensation procedure by the British government give lists of names by county. The tables 1, 2, 3 give these data for the three counties, namely Bergen, Essex and Monmouth, which had the highest numbers of confiscations.

For the whole set of 12 counties the numbers of confiscations are as follow.

Bergen: 132, Burlington: 12, Cumberland: 20, Essex: 105, Gloucester: 36, Hunterton: 39, Middlesex: 90, Monmouth: 106, Morris: 31, Salem: 22, Somerset: 22, Sussex: 32, TOTAL: 647.

We see that the largest numbers of confiscations occurred in the counties on the sea-

side and nearest to New York. Actually, it is surprising that Gloucester which is near Philadelphia has only 36 confiscations.

By comparison with the 1,570 confiscations mentioned in the newspapers, we see that only $647/1,570 = 41\%$ of those of suffered confiscations made claims for compensation. This is consistent with the observation already made that claims came mostly from the wealthiest owners.

The following extract describes a typical sale of confiscated real estates in March 1779 in Essex County.

Newark, January 25, 1779. Inquisitions having been found and final judgement entered against Nathaniel Richards, William Stiles, . . . [there are 28 names, mostly people from Newark and Aquackanonck], notice is thereby given that the houses and land and all the real estate lately belonging to them in the county of Essex will be exposed to sale at public vendue on 1 March 1779 at the house of Capt Joshua Pierson in Newark. The vendue will begin at 10:00 and continue by adjournments from day to day until the whole is sold.

There are some elegant houses and many agreeable situations. The land is excellent and the place is healthy.

Signed: Joseph Hedden, Samuel Hayes, Commissioners.

According to its organization it does not seem to be an auction sale. There are footnotes which give short information about some former owners, for instance one was an eminent lawyer, another a school teacher who also owned a small farm, a third was a tailor.

Confiscations in North Carolina

The data given below come from the following sources: Harrel (1926), NCPEDIA⁶⁴.

Confiscation Acts were passed by the North Carolina General Assembly from 1776 to 1791 to confiscate the property of Loyalists. There were two aims: (i) to push Loyalists to leave the state and (ii) to obtain income for the state⁶⁵.

The Treaty of Paris in 1783 had provided that Congress would recommend to state legislatures the restitution of confiscated property. It also stipulated that there would be no future confiscations. The states virtually ignored both provisions.

Starting from May 1776 successive anti-Loyalist laws were passed. With respect to property confiscation the process was mostly the same as in Pennsylvania.

- May 1776. The Provincial Assembly ordered the imprisonment of all persons

⁶⁴<https://www.ncpedia.org/confiscation-acts>

⁶⁵On this point NCPEDIA is in disagreement with Harrel (1926) who, in his conclusion, claims that if the Patriots were in the hope of rising funds to carry on the war it was a failure. Curiously this ending statement is not supported by any evidence in the paper itself. In fact, from 1779 to the end of the war the confiscated estates netted about 600,000 pounds.

who took part in the Moore's Creek Loyalist uprising of February 1776⁶⁶

- April 1777. Persons giving aid to the enemy were to be imprisoned for the remainder of the war and one half of their estates confiscated.
- November 1777 All males over 16 year old were required to take a Patriot oath of allegiance or leave the State.
- January 1779. All debts due to Loyalists were cancelled. Commissioners were appointed to conduct inventory of confiscated property but they were directed to rent (not sell) the real property. This was not deemed satisfactory by many because it did not provide any financial relief to the state. Ten months later the law was modified to allow sales.
- October 1779 Under the new law all confiscated estates were divided into lots of less than 250 hectares and sold by auctions. Purchasers could get credit but only for 6 months.

Confiscations in South Carolina: the Confiscation Act of 26 February 1782

In South Carolina Confiscation Act came much later and was less severe than in other states. At that time the Whig government was totally bankrupt and any proposal that could generate revenue was welcome.

The Bill of Attainder concerned 238 persons⁶⁷. Special commissioners were appointed to inventory and sell the affected estates. The sales were conducted in the Summer of 1782.

An Amercement Act was also passed on the same day. Its meaning was that the 47 persons concerned would be fined annually at a rate of 12% of the appraisal value of their estates. For persons who had performed a military service for the state the fine rate was reduced to 10%.

Distinctive features of Georgia

We left the examination of the case of Georgia for the end because among the 13 colonies Georgia was rather special in several respects.

- Georgia was settled much later than the other colonies. As mentioned in an earlier chapter, with its initial rules, Georgia did not attract many settlers. As a result, at the time of the Revolution the population was mainly composed of recent immigrants whose turn of mind was more British than American.
- Georgia was the only colony where the stamps prescribed by the Stamp Act were actually accepted and used.
- Georgia was the only colony where the colonial governor, after having been

⁶⁶This statement seems to contradict the account given in the Wikipedia article entitled: "Battle of Moore's Creek Bridge" which says: "In all, about 850 men were captured. Most of these were released on parole, but the ringleaders were sent to Philadelphia as prisoners."

⁶⁷Source: http://sc_tories.tripod.com

removed in 1776, could come back and keep his position until 1782.

Treason trials in Georgia

With respect to treason trials, we got the following information from the Georgia archives.

Georgia's courts of Oyer and Terminer were held by the justices of the General Court [i.e. the State Assembly]. There was only one court of Oyer and Terminer and its records are not held by the Georgia archives. Our best guess is that they were returned to Great Britain by the last Royal Governor [in power until 1782]. However, it is not clear that they survived.

Fortunately, there is more information available about the confiscation process.

Confiscations in Georgia

There was an Act of Confiscation dated 4th May 1782. ([United Emp Loy, Vol.1, p.60, case of John Brown whose name appears in the act])

On account to the late shift of power one is not surprised by the fact that the confiscation process started late and developed slowly. The information given below comes mostly from the following sources: Lambert (1963), Mitchell (1984).

There were two waves of attainders in Georgia. A first list of 117 persons said to be guilty of treason was published in March 1778 following the recommendation given to this effect by the Continental Congress. However the process was interrupted by the British occupation of Savannah and Augusta in the winter 1778-1779. Through the "Disqualifying Act" of 1780 some of the earlier confiscations were written off.

Augusta was recaptured by the Patriots in June 1781 and Savannah in July 1782. This allowed a second wave of confiscation based on a Act passed on 4 May 1782. This time the list had only 61 of the names published in the earlier list of 117. The names that were left out corresponded to property already treated (whose exact number we do not know) or persons who died in the time interval. To these 61 were added 216 new names giving a total of 277 household heads.

At the census of 1790 Georgia had about 50,000 free people; with the average size of households being about 5.7 one gets 8,770 households, thus giving a percentage of $277/8770 = 3.2\%$ for expropriated households.

Altogether the sales brought 754,000 pounds. As the war was almost finished by then, this amount was put to use to reimburse the war debt and to prop up development.

Did the confiscation process result in a change of ownership concentration. The answer to this question is determined by how the Loyalist property was sold. If the houses and tracts of land were subdivided before being sold, then one would expect

the concentration to decrease. This is what happened in Pennsylvania but in Georgia the property was sold as it was confiscated. The 513 square-km (128,300 acres) confiscated from 166 Loyalists were sold to 188 Patriots. In addition one can see that the ownership of confiscated estates put to sale was highly concentrated; one third of the acreage went to 12 buyers. Some of the best estates were not sold but *given* as rewards to high ranking officers. For instance, the property of Lieutenant-Governor Graham went to General Nathanael Green.

Why were the sales conducted very differently in Pennsylvania and Georgia? It may have resulted from a political decision but it is also possible that a technical factor played a role. This factor is how were paid the commissioners in charge of administering the whole process, i.e. making inventories and organizing the sales. In Georgia they were paid 1.5% of the value of the sales. Needless to say, this encouraged them to sell big estates because it took the same time to sell an estate of 10,000 acres than one of 100 acres. On the contrary, a remuneration based on the number of sales would have been more realistic and would have been a strong incentive for dividing the estates into smaller parcels.

Compensations granted by the British government

The claims were presented not by each individual but by the family heads. In all there were 3,225 claims of losses but after subtracting those which were outside of the limits set for the compensation process) only 2,291 were treated (Eardley-Wilmot 1815). What percentage does that represent with respect to all exiled Loyalists? The number of exiled Loyalists is usually estimated to be comprised between 60,000 (Jasanoff 2011) and 100,000 (Brown 1969, Ferling 2003). This means an uncertainty of $\pm 25\%$. We need also to make an assumption for the average number of individuals by household. It seems reasonable to assume that it is comprised between 4 and 6 individuals. To make things simple let us assume an average of 6 persons by household and 60,000 exiles which means a total of 10,000 households; under these assumptions, we see that $3,225/10,000 = 32\%$ of the households filed a claim. This seems a fairly high proportion for, as we have seen in the case of Georgia (which can be considered as a random sample of the whole set), the average value of the claims was around 5,000 pounds, quite a high amount

If one repeats this calculation with the alternative values of 100,000 and 4 one gets a total of 25,000 exiled households, Now the claimants represent only $3,225/25,000 = 13\%$.

The Board required both satisfactory proof of loss and of loyalty. Obviously, this was easier for prominent persons and nearly impossible for common farmers whose land had remain in the same family for several generations.

Moreover, several kinds of losses were excluded from the compensation process (Mitchell 1984).

- Confiscation of uncultivated land was excluded.
- Damages due to war or losses resulting from requisitions by British forces were excluded.

-

Asked compensation amounted to 10.3 million pounds. This represents $10.3/13 = 792,000$ pounds by state, a figure that is consistent with the amounts published for individual states whenever data are available. One sees figures around one million pounds but usually below that number.

The compensation board awarded a total of 3.03 million pounds that is to say about one third of what was claimed.

Chapter 2

Dual representations and forgotten stories

Dual (and multifaceted) representations

Multifaceted representations in history

It is a fairly trivial remark to observe that a given historical situation, e.g. the confrontation between Patriots and Loyalists, gives rise to a broad spectrum of actions. More specifically what we wish to emphasize is that, depending on circumstances and context, the same persons may behave in different ways. For instance, we will see below several examples of contrasting attitudes of Patriots against Loyalists. Whereas there were courteous relations between gentlemen of the two sides, at the same moment in New Jersey the Tories were “harrassed, plundered and imprisoned without mercy” (Allen p.280)

Naturally, historians do not have access to the “real” situations, except through the filter of the documents they can find, which means that duality in situations inevitably leads to duality in representations. Depending on where historians direct their interrogations, they will get different answers. For instance, the minutes of the Committees of Safety will not give the same representation as the chronicles of the deeds of mobs and militia men. In writing this, we implicitly assumed that archives of both minutes and chronicles are truly available. This is an optimistic assumption,

however, for most often official records like minutes of legislative and executive bodies are much more common than accounts of what happened at grass root level. As a rough estimate, the minutes may represent 90% of the archives of the American Revolution that are available on line. The reason is simply that a secretary was in charge of writing and keeping the minutes whereas the misdeeds of the militia were not recorded at all. The only sources may be brief statements in court martial records and testimonies of the victims. The latter may be more likely available in the “Records of the Commission of Loyalist Claims” kept in the UK than in American archives.

Duality in physical phenomena

At first sight the multifaceted nature of historical situations and representations described above might suggest that social events are definitely of a different nature than physical phenomena⁶⁸. However, such a conclusion would ignore the existence of duality in micro-physical phenomena.

From quantum mechanics one learns that, depending on environment and circumstances, a microscopic particle like an electron or a proton behaves in different ways, e.g. either as a particle or as a wave. More precisely, it is the observation device that determines which aspect will manifest itself. If the observation forces the particle to reveal its position (e.g. by making it move through a narrow slit), it will behave like a wave in the sense that we can know its position but not its velocity. On the contrary, if electrons are accelerated in an electric field, one may be able to measure their velocity but at the expense of knowing their positions.

The important point here is that what is seen by an external observer is determined by the question that he asks. The connection between the question and the real world is embodied in the experimental device that is used. Similarly, depending on whether historians observe mob actions directed against Loyalists or the meetings and resolutions of Provincial Councils, they will see different facets of the confrontation.

In the following subsections this will be illustrated by several examples.

Dual representation cases from J. Allen diary

We start with a number of cases taken from the diary of James Allen (1885).

James Allen (1742-1778)

James Allen was the third son of a wealthy Pennsylvania merchant and lawyer who became Chief Justice of the Provincial Supreme Court.

⁶⁸If true, this would directly contradict the rule emphasized by the sociologist Emile Durkheim. In his work “The rules of sociological method” he stressed that social and historical events should be studied just as natural phenomena, “like things” Durkheim said.

At first on the Patriot side, he was elected in May 1776 to the Pennsylvania Assembly as a representative of Northampton (present-day Allentown). However, although opposed to the Stamp Act and other British taxes, like many other wealthy Americans he was against independence. Why should he wish such a radical change while being in a most enjoyable situation and surrounded by relatives and friends of same opinion? Whereas his three brothers, Andrew, John and William, moved to the British side immediately after the Declaration of Independence, James tried to keep a neutral attitude and was able to preserve his good personal relations with major Patriot leaders. Allen tells us that in the summer of 1776:

General Washington received me with the utmost politeness. I lodged with him and found there Joseph Reed, Tench Tilghman, William Grayson, Stephen Moylan, Lambert Cadwalader. (all from Philadelphia but Grayson who was from Virginia) and many others of my acquaintance, and was very happy with them.

James Allen died at Trout Hall, his residence in Northampton County, in September 1778 at the early age of 36.

Threatened but not assaulted (Oct-Nov 1776)

The degree of protection enjoyed by James Allen can be judged from the following observation.

During October and November 1776 I remained at Trout Hall [Allen's mansion] a calm spectator of the civil War, but occasionally gave great offence to the violent whigs in Northampton by entertaining the regular officers, our prisoners, and was often threatened on that account.

It is remarkable that, although threatened, he was not bullied. Other wealthy persons were not so lucky. Even more remarkably, he does not seem to fear mob actions. Probably, he was convinced that the Patriot leaders who controlled mob actions were aware of his close connections with prominent Patriot leaders.

Loyalists hunted in Philadelphia

In early December 1776, after the full military occupation of New York City by British troops was completed, many Patriots feared the invasion of New Jersey and the occupation of Philadelphia would be the next step. Similarly to what had happened in New York City before the British invasion, the threat on Philada led to a panic and Loyalist hunt. There is little information on this episode which makes Allen's testimony all the more interesting.

In December 1776 when General Howe was expected in Philada a persecution of Tories (under which name, is included every one disinclined to Independence) began. Houses were broken open, people imprisoned without any colour of authority by private persons, and as, was said a list of 200 disaffected persons

was made out, who were to be seized, imprisoned and sent off to North Carolina, in which list our whole family was set down. My brothers under this dreadful apprehension fled from Philada and, against my judgment, claimed protection from General Howe's army.

In mid December 1776 the author himself was apprehended and brought before the Council of Safety (see below).

Allen's assessment of the situation in Pennsylvania (December 1776)

About the situation in Pennsylvania, James Allen (1886, p.196) has the following to say.

To describe the present state of the Province of Pennsylvania, would require a Volume. It may be divided into 2 classes of men. Those that plunder and those that are plundered. No Justice has been administered, no crimes punished for 9 months. All power is in the hands of the associators, who are under no subordination to their officers. Not only a desire of exercising power sets them on, but they are encouraged. to oppress countrymen in love of Liberty [i.e. Loyalists] Private friendships are broken off and the most insignificant now lord it without discretion over the most respectable characters. Not only the means of subsistence are cut off, but every article of consumption is raised six fold.

One might think this to be a very pessimistic description; after all for someone who favored a victory of the Tories, such a bias would be quite natural. However, Allen's assessment concerning the inflation is not unreasonable. According to modern historians, e.g. Bezanson (1951, p.321), Ferguson (1961, p.32), Kaspi (1976, p.155), during 1776 the average price of foodstuff were multiplied by a factor of three. Thus, in Philadelphia, the largest American city, a sixfold increase may seem plausible.

Allen's assessment of the situation in New Jersey (February 1777)

About the situation in New Jersey, James Allen (1886, p.280) has the following to say.

General Washington has forbidden the militia and soldiery to molest any one on pretence of being Tories, and the Governor of Jersey has done the same. This is highly necessary, but comes rather late.

No country has ever been more harrassed than Jersey. Those who are called Tories, though they have been passive, have been plundered and imprisoned without mercy.

For the purpose of an objective assessment one would need to know how many people have been plundered or were in prison.

Good contacts with gentlemen versus bad contacts with Patriot troops

The following excerpt shows two contrasting situations. While being questioned by the Council of Safety, Allen (p. 193) was treated like a gentleman. On the contrary the incident described below shows the militia troops to bear strong resentment against such lofty Loyalist citizens.

Incidentally, it can be noted that in the minutes of the Council of Safety there is no notice of the arrest and examination of Mr. Allen, despite the fact that this had taken probably at least one hour. This shows (once again) that instead of “minutes” which suggests a *verbatim* transcription, “excerpts” would be a more appropriate term.

Thursday 19 Dec 1776. At 7a.m. my house was surrounded by a guard of soldiers with fixed bayonets. The officer who was at the front door produced a warrant from the Council of Safety to seize me and bring me before them.

Mr Owen Biddle that the Council had received accounts of the unwillingness of the Militia of Northampton County to march, that they knew my influence and property there, and were afraid of my being the cause of it.

This excerpt is of interest because it reveals the uncertainty regarding the attitude of the militia. In addition it suggests that the Council of Safety was kept well informed.

In his reply Allen emphasized the following points.

I told them that my political principles were well known to be unfriendly to the present views of independence but that I do not intend to interfere in public matters. I then produced some certificates which I had the precaution to procure, testifying the truth of the above. I told them I would incline to go to dinner and wait on them in the afternoon if they approved. They agreed and took my word to return. In the afternoon I drew a picture of the state of the province, and particularized two of the Council’s ordinances authorizing field officers to invade and pillage our houses and imprison our persons on mere suspicion.

I pledged my honor verbally not to say or do any thing injurious to the present cause of America. We parted amicably with great politeness on both sides.

If one can believe Allen’s account, this was more a free discussion between equals than a cross examination.

Very different was an incident that occurred several days later.

Being ignorant that any of the militia were in the town Mrs Allen with her daughter Peggy went to visit Mrs Bond in the chariot⁶⁹ Entering the street a company of the militia met them in front. Our coachman endeavoured to drive out of the road but was stopped by a hollow way. Then, the soldiers started to beat him with their muskets on which to defend himself he made use of his whip. This so enraged them, that they pushed their bayonets into the chariot,

⁶⁹One should add that only a few very wealthy were using such chariots.

breaking the glass and piercing the chariot in 3 places. Their design was to destroy it. During the whole scene my wife was begging to be let out.

Utmost pressure on the disaffected

In early December 1777 a balanced situation was prevailing. On the one hand the defeat at Saratoga was a great setback for the British side. On the other hand the invasion of Philadelphia (along with the ability to supply the occupation army) marked a (temporary) success for the Tories. During this time James Allen was not in Philadelphia but remained in his house of Northampton. He found his situation becoming more difficult by the day as asserted in the following excerpt.

Dragging out the disaffected to serve in the militia is attended with every species of violence. A substitute is now not less than 50 pounds, which to many is certain ruin. The Assembly go on increasing the system of penal laws and it is said, confiscation is to be the lot of all who will not swear allegiance to the present government. In short it becomes almost impossible for disaffected people, to reside in the country.

At that point, after citing the new penal laws directed against Loyalist people, James Allen (p.432) wonders whether the Assembly can really be considered as representing the people. In addition to the fact that Tories could not vote, he cites the small numbers of voters: 19 in the county of Philadelphia, 21 in Lancaster, 30 in Northampton and about 150 in the whole state of Pennsylvania.

Escape of William Drewit (or Drewett) Smith from Stanton

The exile of a group of 22 Philadelphia Loyalists to Virginia is an episode which is well documented but the escape of William Drewit (also written Drewett) Smith is not often mentioned.

One of the gentlemen exiled to Stanton in Virginia, namely William Drewit Smith, has escaped and got back to Philada in consequence of which the others are closely confined. Hard is the fate of those poor people who are not charged with any crime.

Not long ago, Dr. Kearsley fell a martyr to this species of oppression, having died in Carlisle prison; his offence was writing a passionate letter to England long before the commencement of Independency, after being carted through the City.

This event took place around January 1778 (the chronology of Allan's directory is not well indicated because successive entries are separated by long time intervals). What is here exactly the meaning of "closely confined"? Often it means confined in iron but that is probably not the case here. William D. Smith, a druggist from Philada, was attainted on 30 October 1778 along with 58 other citizens from Pennsylvania

(Corbly 2013, p.241-242).

The case of John Kearsley Jr

Dr. John Kearsley (whose death is mentioned above) died in Carlisle prison in November 1777. His son, also named John Kearsley, was attainted on 22 June 1779 along with 28 other Pennsylvania citizens (Corbly 2013, p.306).

When was the Kearsley who died in 1777 born? A note in the present paper gives the year 1684 but there is almost certainly a confusion with his uncle, also called John Kearsley who was baptized on 4 June 1684 in England, emigrated to Philadelphia in 1711 and died in 1772 at the advanced age of 88 (Roberts 1976, p.89).

Dr. Kearsley had a brother, Oliver, who was also a physician but who remained in England. The son of Oliver Kearsley, known as John Kearsley Junior, joined his uncle in Philadelphia in the 1730s. Although Roberts (1976) does not give his birth year, one can assume that he was at least 20 years younger than his uncle. Thus, when he died in 1777 he was in his early seventies.

John Kearsley Jr. was arrested in October 1775 being accused of sending military information to England in an intercepted letter in which he gave also an account of how he was mistreated by a mob in Philadelphia in September 1775. He spent his first year in prison in York, then was transferred to the Carlisle prison where he spent a second year. In October 1777, in a letter to Congress, he complained of the cold for his window had no glass; he died in November 1777 before a reply was given (Roberts 1776, p.91).

The case of the Moore's Creek Loyalist uprising

The Battle of Moore's ⁷⁰ Creek Bridge was a puzzling incident. The Loyalist plans and tactic were inept and the account of the aftermath of the battle seems difficult to believe.

Inept Loyalist plans and tactic

To plan an uprising in conjunction with the arrival of a British invasion fleet made sense. Why then did the Loyalist leaders decide to start it three months before the fleet was able to arrive?

At a tactical level, the attempt of a force of 800 to storm a bridge which was less than 20 meter wide and was defended by the fire of a cannon does not seem to make sense.

Then, we are told that in the wake of the battle (if one can call that a battle) the

⁷⁰Moore was the name of the Patriot Commander; he did not take part in the battle itself but was there for the subsequent operations. A creek is a small river.

Patriot made 850 prisoners that is to say the whole Loyalist force. How is that possible? An enemy force can be taken captive after being encircled. Here, however there was no encirclement and for the disbanded Loyalist force it should have been easy to disappear in the woods.

In other words, one suspects that the 850 prisoners were civilians taken up in neighboring villages. Whereas it would have been inappropriate for the Patriots to parol “genuine” Loyalists (especially with a British invasion being expected) this becomes more plausible when the prisoners are mostly villagers.

One should realize that this was the first Patriot victory following a series of setbacks. Therefore, it was important to make it look as impressive and shiny as possible. When governor Martin commented that the battle was nothing of importance, one may think that he was in his role in minimizing a defeat but it is also possible that he was just expressing the truth.

One knows that some prisoners were sent to Maryland and Virginia; it would help our understanding to know their numbers; certainly the Patriots did not wish to keep and feed simple villagers for a long time.

Putting New York afire

About one fifth of New York was burned in a big fire in the wake of the occupation of the city by the British in the Fall of 1776. In such cases it is customary that each side accuse the other of having started the fire. As another instance one can mention the fire of Moscow after its occupation by Napoleon’s troops.

For a retreating army it makes sense to destroy the buildings which would be used by an invading force to shelter its troops. This was especially true in the case of the invasion of New York because it took place shortly before the Winter season. It is true that this alone does not mean that the fire was started by the American army. However, in the days before the invasion proclamations and orders were issued to deny to the invaders any resources. Apart from the houses those orders targetted also farm products (carriages, grains, cows, porks, horses).

For such a matter one has good reason to trust the accounts given by the “Scots Magazine”. Not only do the articles state that some whigs were caught as they were starting fires, but they describe also the efforts made by British troops in fighting the fires and limiting their extension.

Accomplices of General Arnold

General Arnold’s treason is well described in all accounts of the War of Indepen-

dence but, as revealed by the following excerpt, he had several accomplices in his plundering activities following the departure of British troops from Philadelphia.

[Philadelphia 30 Sep 1780](#). As soon as the treason was known, the Continental Council directed an immediate seizure of Arnold's papers. They disclosed his participation in the plunder of Philadelphia (where he was the military commander) after the evacuation of the enemy. An agreement was discovered between him and his accomplices to share the profits of that shameful business. It appears that he and some others *whose names will probably in due time be made known* now have contracts with persons in New York for merchandise. [Newspapers Vol.5,p.8-9]

Most accounts leave in the dark the question of who were those accomplices and whether they were tried and punished. Arnold's case is treated as if he had acted completely alone. As an illustration one can mention an article by Nathaniel Philbrick (2016) published in the Smithsonian Magazine. Although it gives a very detailed account of the events which led to Arnold's betrayal, not a single of his associates is mentioned.

Chapter 2

Elusive consensus in the Civil War

Necessity knows no law. Case in point: Baltimore, 1861

As an introduction to this chapter we describe a special episode which occurred in Baltimore shortly after the beginning of the Civil War. It resulted in the arrest of almost all political leaders of the city: mayor, congressman, members of the city council.

Clash

The story starts with an event known as the Baltimore riot of 1861. In reality it was not a riot but rather a clash between Massachusetts militia troops en route to Washington DC and residents of Baltimore. As it occurred on 19 April 1861 this clash is also known as the "First Bloodshed of the Civil War".

The Civil War had started one week before on 12 April 1861. In its inaugural address on 4 March 1861, President Lincoln had declared: "I have no purpose, directly or indirectly to interfere with the institution of slavery in the United States where it

exists. I believe I have no lawful right to do so.” This did not convince the Southern States, however, for at the same time in his administration Lincoln had appointed mostly resolute opponents to slavery.

The purpose of the troops moving to the Federal capital was to protect it. One should recall that Washington DC is sandwiched between Maryland in the north and Virginia in the south and that the latter had sided with the Confederacy on 17 April 1861. There is only a short distance (about 50km) from Baltimore to Washington but for this last leg of their journey the troops had to change from their arrival station in Baltimore to another station from where the line to Washington started. It was on their march between the two stations that the troops were attacked with stones, bricks and firearms. The clash left 4 soldiers and 12 civilians dead.

After the attack on the soldiers, the office of the “Baltimore Wecker” (meaning the Baltimore alarm clock, a German-language newspaper) was wrecked by a crowd (the German community in Baltimore was strongly opposed to slavery). The publisher was threatened and compelled to leave town.

This last episode is particularly interesting for this mob action closely paralleled the anti-Loyalist mob events that occurred in 1773-1775 in places like Massachusetts or Rhode Island. Almost all other mob actions to be seen later on in this chapter will be acted by Southern people. It suggests that on this issue Northern citizens were less strongly minded than those from the Confederacy.

Arrests without warrants

In the following months there were numerous incidents which showed that the city was more in sympathy with the Confederacy than with the Union. The American flags which were waving over the Federal offices were brought down; the fact that nobody was arrested in relation with the attack on the troops made clear that the rioters were not disapproved; the supply of provisions intended for the garrison of Fort McHenry was discontinued. Clearly, the city was in a situation of rebellion against the federal government. Something had to be done to prevent the city, along with the rest of the state, to rejoin the Confederacy.

On 13 May 1861 the Union army occupied Baltimore and martial law was declared. This was a means that was easy to implement but one can guess that it was disapproved even by the fraction of the citizens which opposed slavery. In an earlier chapter we have seen that the occupation of Boston by British troops did not win them the hearts and minds of the residents, quite the contrary indeed. Here too, not surprisingly, the opposition persisted.

Then, on 12-13 September 1861 all political leaders of the city were arrested in the middle of the night and incarcerated at Fort McHenry. This group of about 20 per-

sons comprised the Mayor George Brown, congressman Henry May, Frank Howard who was the editor of the Daily Exchange, a Baltimore newspaper sympathetic to the Southern cause. Howard was also the grand son of Francis Scott Key, the composer of the lyrics of the National Anthem. His stay in prison was described in Howard (1863), a book published in London⁷¹ Brown and Howard would remain in jail for 14 months whereas May was released after 3 months. On 17 September 1861, 27 state legislators (one-third of the Maryland General Assembly) were arrested and jailed by federal troops.

All these persons were arrested without a warrant, using Lincoln's suspension of habeas corpus in the territory located between Washington DC and New York. The general suspension of the Habeas Corpus came much later at the end of 1863.

This was not a very subtle way to neutralize opponents for at least two reasons.

- The arrests were illegal, a feature which gave a moral benefit to the opponents.
- Such a wholesale treatment of the opponents can only unite them. For instance, what was the merit of jailing Representative May for 3 months. His stay in prison certainly did not make him more favorable to the cause of the Union.

To send troops to quell dissent may be a natural temptation for leaders but historical observation has shown time and time again that such an action instead unites the rebels. In October 1768, confronted to unruly Boston, the English cabinet had sent 4,000 troops to the city. Tensions escalated with the Boston Massacre of 5 March 1770 an indirect consequence. After the destruction of a tea shipment on 13 December 1773, more troops were sent in with their commander, General Gage, appointed governor of Massachusetts. Little good resulted.

In addition to sending troops, Lincoln arrested members of the Assembly and city council which added insult to injury. On the other hand, from a purely military perspective these harsh measures were effective for they prevented Maryland to join the Confederacy.

The Civil War in the light of the Revolutionary War

There have been many suggestions for how the Civil War and Reconstruction could have been made more successful. Here, we wish to limit ourselves to policies which were duly tried with good results in other times. First of all we must explain what, beyond the immediate objective of winning the war, was really at stake

Importance of wheedling public opinion

During the War of Independence the rallying cry of "American Liberty" was tremen-

⁷¹As at time of publication Baltimore was still under martial law, the book could not be sold there. Two book sellers who tried to sell it were arrested (Schoettler 2001).

dously successful. It seems that during the Civil War and subsequent Reconstruction era there was no serious attempt to spread the catchword of “American Equality”. In the Chicago Tribune of 27 August 1861 (p.1) there is an article entitled “Secession newspapers” which contains the following sentence:

A leading newspaper in New York can give more substantial aid to the rebellion and inflict more damage on the government than a dozen rebel regiments.

This was a lucid recognition of the influence of newspapers on public opinion; implicitly it justifies the closing of rebel newspapers. There is no doubt that the Lincoln administration followed this advice. However, it seems there were little or no attempts to set up public relation campaigns presenting the end of slavery not only as the suppression of an evil but, in a more positive light, as an important step in improving social equality. Such a message would certainly have captured some attention in the southern states for one should not forget that besides an aristocracy of 35,000 slave holders, and a population of 4 million slaves there were also 6 million non-slave holding (and mostly poor) whites (Chicago Tribune 1 August 1861, p.2). It is of course understandable that those poor whites felt threatened by the competition of freed slaves ready to accept to work the same jobs for lower wages. This, in a nutshell, was the great challenge of a successful Reconstruction.

What could possibly have been attempted, if not during the war, at least in the earliest years of the Reconstruction, is suggested by the earlier episode of the American Revolution and the later episode of the participation in the First World War.

The issue of land redistribution

As explained in the first chapter the American Revolution consisted in two key-events.

(i) By taking control of the militia the proponents of independence were able to overcome the rule of the land holding class which had strong links with the British aristocracy. This shift of power occurred fairly silently and not everywhere at the same time. However, by 1770 it was largely completed.

(ii) The second event was the partition and sale of the confiscated estates of wealthy Loyalists. It created a class of small and medium landowners which gave the young republic a firm social basis.

After the end of the Civil War there was no substantial land redistribution. It is true that two Confiscation Acts were passed by Congress and signed by the president on 6 August 1861 and 17 July 1862 respectively. As in the Constitution slaves were considered as a property, these Confiscation Acts concerned slaves as well as land. Congress had mostly in mind the confiscation of the slaves which would anyway result from their liberation. However, the Constitution also contained a prohibition

of bills of attainder. Clearly the confiscation of all property was an act of attainder in disguise. Since 1778 the right of property had become a pillar of the American society which means that confiscations which were possible in 1778 were no longer possible one century later. In practice the implementation of these Confiscation Acts was left to the judgment of the military or sometimes to civil courts. Confiscation cases that occurred in the civilian court of South Illinois are described in Blake (1994,p.101). While there were 150 confiscations of various items (exclusive of land) there were only two confiscations involving estates and in both cases the confiscation was only temporary, namely during the “natural life” of the owner; in other words, contrary to an act of attainder, it did not affect the rights of the heirs. This is clear evidence that the constitutional prohibition of attainder acts prevented any substantial redistribution of land ownership.

Incidentally, in the same paper by Blake (1994,p.103) one learns something that is of interest in relation with the draft riots which will be discussed later. Blake writes:

While Southern Illinois contributed more than its share in filling enlistment quotas, federal court records reveal that it had also its share of difficulties in executing the draft. Enrollment officers were assaulted, shot and some were forced at gunpoint to relinquish their enrollment lists. At least 57 persons were indicted for opposing the draft.

However, for reasons which are not further explained, only one of the defendants was convicted and sentenced to a relatively light sentence of 2 years hard labor. Unfortunately the author does not give the date of this event.

Given the protests occasioned by the draft law of 1863 one would also expect similar incidents in other states.

The fact that a redistribution of land ownership would be conducive to a reduction of social tension. was in a sense confirmed by an experiment conducted on the Port Royal islands off the coast of South Carolina after they were captured by Union forces at the beginning of the Civil War. The landowners had left, leaving behind them some 10,000 slaves. On the one hand the experiment showed that the former slaves successfully worked the land abandoned by the planters, but on the other hand it demonstrated also that the federal government wanted to devote a large part of the land to extensive cotton production under the management of northern financial institutions. In other words, most of the former slaves would be employed on large domains, the only difference with their previous condition being that they would become wage earners, a status somewhat similar to the condition of indentured servants. One wonders why it was impossible to bring about such a transition gradually without such a costly war.⁷². The fact that no broad land redistribution was consid-

⁷²The present argument relies on the assumption that land ownership was more concentrated in Southern than in North-

ered even after 1869 when a fairly radical Congress was in power suggests that what had been done in 1778, for some reason, was no longer possible one century later.

A less ambitious objective could have been tried, nevertheless. The public relation capacity so convincingly demonstrated during the War of Independence and again in 1917 could have been used in a positive way to promote the acceptance of freed slaves. As will be described in the next chapter, sending American troops to fight in France was not a proposition well received by most Americans. However, an astonishing public relation campaign made the idea eventually acceptable. The best proof is the numerous mob actions against many people suspected of harboring pro-German feelings.

How successful was consensus building during the Civil War?

Overview

Initially, in 1861, the idea of a war against the south was not very popular in northern states and even less so in the so-called border states such as Maryland for instance. The fact that the war lasted four years in spite of an overwhelming superiority of the Union⁷³ in terms of both population and national income also suggests a higher motivation in the Confederation. As a matter of comparison the Austro-Prussian War of 1866, also called the German Civil War, lasted only two months.

In short, in this war the major challenge was to ensure a consensus broad enough to fight the war successfully. How was it done? In the chapters about the War of Independence we have seen that the consensus was built in four steps: (i) Control of the militia. (ii) Well directed mob rule. (iii) Clever presentation of the Patriot cause⁷⁴ (iii) Committee rule and arrests of Loyalists. (iv) The banishment of declared Loyalists removed them from the country (v) The sale of their property strengthened the consensus in creating a class of citizens who had a direct material interest in victory and independence.

What means will be used in the Civil War?

(i) The control of the militia was of course automatically ensured on each side because local troops are under state control. The question of how the split affected the US Army and particularly its equipment is more difficult point. (ii) It will be seen that (well directed) mob rule played almost no role. This is not because mob rule was found inappropriate in a well organized nation for it was again massively

ern states. One has of course in mind the picture of large cotton producing plantations but this needs to be confirmed by solid statistical evidence.

⁷³The Union had a population of 20 millions whereas the Confederation had a free population of only 5 millions.

⁷⁴For instance, immediately after the Declaration of Independence was adopted broadsides were printed and dispatched to all other states.

used during the First World War particularly in 1918. (iii) In 1861 newspapers have more importance than they had during the War of Independence. The case of the New York draft riots of 1863 will serve to illustrate how they can be used to improve cohesion. This factor will be of even greater importance in 1917-1918. (iv) Arrests of opponents was the main streamlining means used in the Union. As a low estimate of the number of military arrests Neely (1983) gives the number of 14,400. It is a low estimate in the sense that some documents are no longer available. (v) Banishments existed in the form of exchange of prisoners but also as a punishment of disloyal persons. For instance in one case a sentence of house arrest for the duration of the war was changed into banishment to the South⁷⁵. (v) In the same way as prominent Loyalists had lost their estates, after the defeat of the Confederation southern slave owners (numbering 35,000 according to the Chicago Tribune of 1 August 1861, p.2) lost their slaves. However, in contrast to the independence war this transfer of property did not generate a class of supporters; one would rather expect that the former slave owners became opponents of the federal government.

In the following subsections we describe how these means were implemented and we discuss their possible effects.

Mob actions

When in an earlier chapter we were studying mob actions we had to rely on historical accounts given by historians. Presently, we are in a better position for we can use online newspaper archives, particularly the archives of the “Chicago Tribune” and “New York Times”. As we have already done for the War of Independence we will take tar-and-feathers incidents as an indicator of mob actions. This should be reliable for this form of punishment remained commonly used until the end of the 20th century.

A key-word search leads to the following numbers of articles containing the expression “tarred and feathered”.

1859	1860	1861	1862	1863	1864	1865	1866	1867	1868
10	20	17	6	1	4	6	4	2	2

Two observations can be made.

- The only years which stand out are 1860 and 1861. How can this be explained?
- The content of the articles of 1860-1861 reveals that they are all about northerners (particularly Irishmen) who expressed anti-slavery feelings in the south⁷⁶.

The second observation explains the first for in 1860 and at the beginning of 1861

⁷⁵The name of the person was Zaidec J. Bagwell and her case is mentioned on the website: paperlessarchives.com.

⁷⁶There are also a few moralistically motivated “punishments”, for instance directed against husbands having an extra-marital affair.

there were still many people from the north who were working in the south, thus providing easy targets for southern mobs.

It is remarkable that in the north opposition to slavery did not trigger mob actions against people from the south working in northern states. This observation is consistent with what we see in the Baltimore incidents of April 1861 in which soldiers from northern states are attacked. For the north the end of slavery is a political objective whereas for the south the continuation of slavery is a vital concern, not only for slave owners but also for the poor whites who see freed slaves as competitors. By the way, Irishmen may have been despised in the South for the very same reason.

Is it not revealing that to refer to Northerner the people from the South use the same kind of energetic epithets (e.g. “tyrants”, “oppressor”, “worse than hyenas”) as used by Patriots with respect to Loyalists.

One could be surprised by the small number of mob actions in 1863 during the great anti-draft uprising in New York. This is due to the fact that instead of tar-and-feathers more lethal means were used, such as cobblestones and bricks throwing and hangings.

It is interesting to compare the accounts of the uprising in American newspapers, e.g. “New York Times” or “Chicago Tribune”, to those given in the Times of London. It helps to realize the importance of newspapers (or in a more general way of information means) in consensus building. This point is explained in the next subsection⁷⁷.

One sided accounts of the draft uprising

For the Lincoln administration and its supportive newspapers it was essential to discredit the demonstrators. The vocabulary used in the “New York Times”, e.g. “their infamous and fiendish ruffianism” (14 July, p.1) leaves no doubt in this respect. This could be done easily by emphasizing two aspects, namely the plundering and the attacks on blacks. Needless to say, plundering comes automatically with any unrest of this magnitude because it provides an opportunity for thieves and poor people. The tension between black and white workers is also quite understandable because free blacks and recent immigrants were competing for low-wage jobs. In March 1863, in an attempt to eliminate black contenders white longshoremen had refused to work with black laborers.

However, in British accounts (see “Times” from 27 July to 1 August⁷⁸) the race and looting aspects are almost inexistant in the first thirty six hours of the uprising. More-

⁷⁷The biased account given by pro-government newspapers has become the most commonly accepted picture as for instance reported in the Wikipedia article entitled “New York draft riots”.

⁷⁸At that time there was no telegraphic connection across the Atlantic which means that newspapers had to rely on news brought by packet ships (the term “packet” means a small parcel for fast delivery) with an implied delay of about two weeks.

over, the articles of the “Times” emphasize four points which are barely mentioned in the accounts of the “New York Times” and “Chicago Tribune”. Incidentally, one can note that in the “Times” the account for Monday, first day of the uprising, consists in a long excerpt of the “New York Journal of Commerce” because the correspondent of the “Times” was out of town at that moment and came back only on Wednesday morning.

- There were good reasons to think that the Act of Congress which set up the draft was unconstitutional. According to sections 15 and 16 of the federal constitution the draft was restricted to recruitment for the local militia and should be set up and organized by the states. That is why in a speech attended by 10,000 demonstrators on Tuesday morning (14 July), Governor Seymour suggested that the draft should be postponed until its legality could be tested in the courts. This request was indeed accepted by President Lincoln in the evening of the same day and brought immediate relief in the tension.

- The main targets of the demonstrators were clearly the officials who, directly or indirectly, were connected with the draft. This included (i) Assistant Deputy Vanderpoel who was framed on Monday morning when the building where the draft was taking place was invaded. (ii) Police Superintendent John Kennedy who was injured (iii) Colonel Henry O’Brien, the commanding officer of the James Brady Guard (250 men), who was hung at a lamp post by the demonstrators.

- The behavior of the crowd is often described as disorderly and chaotic. This may have been true on Wednesday but not during the first 36 hours. During that time interval there was quite a logical thread.

The first thing to do was to destroy the files from which the names of the draftees were drawn. This meant finding the enrolment lists which were then torn into shreds and to complete the destruction of the papers turpentine was poured on the floor in the intend of putting the building afire.

The first confrontation between troops and demonstrators occurred on Monday afternoon when a detachment of the Provost Guard arrived at 41st street and fired a deadly volley into the crowd which killed 20 people (Times 28 July). One can guess that this event convinced the demonstrators that they needed firearms which in turn led them to invade an armory belonging to the Mayor George Opdyke.

Nevertheless this did not lead to indiscriminate violence for the protestors were still able to make a difference between their allies and their opponents. Thus, on Tuesday morning the demonstrators gathered in front of the City Hall when Governor Seymour addressed a crowd of several thousands from the balcony. He announced his intention to bring before the courts the constitutionality of the draft.

Draft riots outside New York City

The New York uprising was not an isolated event. In this subsection and in the next we briefly discuss riots which occurred in the vicinity of New York.

- There was an early anti-draft riot in Detroit, Michigan on 6 March 1863. At the same time as a protest against the draft it was also an attempt to drive away black workers by burning their homes. Numerous race riots of this kind occurred in the 1910s and 1920s as more black workers were moving up from the south to northern states⁷⁹. There was another race riot in Detroit in 1943 and it occurred basically for the same reason as in 1863.

- There were also riots in Buffalo (New York State), Troy (New York State), Boston (Massachusetts), Hartford (Connecticut), Portsmouth (New Hampshire) In Troy, on July 14 the mob erected a scaffold on Congress Street and pledged to execute anyone involved in carrying out the draft. But it was in Boston that the unrest was particularly serious. The most daring act of the rioters was the attacking of the armory in Cooper Street. After they had broken down the doors they were fired upon by a 6 pounder loaded with canister. The expression “6 pounder” refers to a gun that discharging a missile containing 6 pounds of lead balls (or other metallic fragments). The article (i.e. “Times”, 29 July) says that 4 or 5 persons were killed during the night.

Boston was not the only place where guns were used against the demonstrators. In the “Times” of 1 August 1863, p.9 one learns that in the evening of Wednesday (15 July 1863) the police backed by the militia made a deliberate attack on the mob at their headquarters and were repulsed although they had two howitzers (short guns) with them and made free use of them. No less than 16 were killed before the force retreated.

There were additional draft riots in later months. For instance, in the “New York Times” of 11 October 1863, p.1 one reads that in Jackson (New Hampshire) on Thursday night a mob burned the hotel where the Deputy Provost Marshall was stopping while notices on drafted men. He narrowly escaped with his life.

- A last question should be raised. How many black people were killed? The interesting point is that there are two very different answers.

In a summary of the riots the correspondent of the “Times” in New York says: “Five or six negroes had been hanged”. Similarly, Iver Bernstein (1992), one of the main historians of the draft riots estimates that about 10 black people died in the riots. There are however accounts which speak of more than hundred killed. What is the truth?

In such cases it is very difficult to make a sound decision. Although in itself one hundred is a big number a fire in a single crowded building may well cause a number of death of the order of one hundred. In the present case a possible explanation is as

⁷⁹Several cases are described in Roehner (2004).

follows. In the "Times" of 29 July one reads the following statement. "The Evening Post says that in the early morning of 17 July [Friday] the rioters in Staten Island burned negro shanties [small huts made of thin sheets of wood] killing 100 negroes". Admitting the claim is true, one wonders if this event is part of the draft riots. The riots occurred in the higher part of New York City and hardly affected the lower part that is to say the South of Manhattan. Why should demonstrators suddenly wish to take a boat, cross the harbor in order to visit Staten Island. Secondly, whereas people may be trapped in a burning building, it is easy to leave shanties if set afire. to leave them. Even if one assumes that the rioters were from Staten Island rather than from New York City, the second objection remains.

Mob action against enrolment officers

Joan Cashin (2002, p.277) describes a mob action which took place toward the end of the war. The incident happened in Tuscarawas county, Ohio in February 1865. Two deserters, Delaney and Cunningham, cornered a deputy provost marshal⁸⁰ (dispatched to arrest them) in a hotel, took away his weapon, put handcuffs, hobbles, and chains on him, plunked him in a wagon and then drove him around the county exhibiting him as if he were a captured horse thief. They sang songs before a large crowd requiring the marshal to keep time by clinking his chains together. At last, they dropped him off at an hotel and disappeared. Two weeks later Delaney was arrested but Cunningham remained at large.

What makes this episode remarkable is that during the Independence war this kind of humiliation taking place under the eyes of numerous people was inflicted on Loyalists. It means that even toward its end this war enjoyed little support from common people. Actually, whether or not this account is hundred percent true does not really matter. The fact that it was printed and found plausible and enjoyable by readers is in itself sufficiently revealing.

Comparison with mob actions during the American Revolution

Our study of the New York draft uprising allows a comparison with mob actions in the time of the Revolution. Our previous discussion of the absence of tar-and-feathers incidents in the Union has already shown that there was much stronger motivation among supporters of the Confederation.

This conclusion is confirmed by the draft uprising. What would have been the parallel of such draft incidents in the time of the Revolution?

It is true that, strictly speaking, there was no conscription. However, refusal to enroll in the militia was seen as a sign of disaffection. Thus, for suspected Loyalists it was the only way to show that they were on the Patriot side and to prevent confiscation of

⁸⁰A provost marshal is an officer in charge of internal military security; he has under his orders the Military Police.

their property. Only 3,000 or 4,000 heads of family were proscribed and banished, but the “deterrence effect” of these proscriptions certainly extended to many more people who had Loyalist inclination. Thus, if it was not formally a draft system, in practice it was one. Therefore draft protests should have meant setting fire to the buildings in which the Committees of Safety or other Executive Councils were meeting and deciding whose names would be included in the proscription lists. This would have been the parallel of burning the draft building in New York. The fact that this did not happen anywhere (at least we do not know of any reports of such incidents) confirms a much stronger consensus than during the Civil War.

Actually, when one thinks about it, it is quite surprising that the members of the Committees of Safety were not targeted in any way by the people against whom they decided such severe measures.

The study of the draft uprising also allowed us to see how such events were represented (and misrepresented) in Union newspapers. This gives the opportunity for another parallel with the time of the Revolution, as described in the following subsection

Effectiveness of means of mass information

In previous chapters we have seen that in terms of mass information the Revolutionists were quite innovative. Among them, the figure of Benjamin Franklin stands out in three respects.

- The “Pennsylvania Gazette” that he founded in the 1740s offered opinion articles more capable of attracting the attention of readers than the columns about prices, official regulation or the arrival of ships that had been the main content of newspapers so far.

- Franklin had already in mind the idea of an intercolonial network of newspapers across several states. For instance, he established a close cooperation with the gazette of South Carolina; a similar attempt in Connecticut was less successful. More generally, although there were also a few Loyalist papers, most of the weekly newspapers were strongholds of the Patriot cause.

- “Plain truth”, the pamphlet that Franklin published in support of the creation of a militia in Pennsylvania⁸¹, was so successful that soon after it was circulated some 10,000 people volunteered for service in the militia. Franklin published a pamphlet called “Plain Truth,” Soon after the pamphlet was circulated 10,000 people signed to volunteer. Franklin’s pamphlet was promptly translated into German under the title “Lautere Wahrheit” and both versions were distributed free of charge. Although the distribution of “Plain Truth” was limited to Pennsylvania, it opened the road for a

⁸¹It should not be confused with another pamphlet bearing the same title but published in 1776 by a Loyalist in response to “Common Cause”.

the publication of Tom Paine's "Common Sense" in 1776 which had a more nationwide distribution. The number of copies which were printed is not really known. Only two things can be said for sure. (i) Paine himself wrote that he gave the copyright to all states which means that the pamphlet could then be printed locally. (ii) The number of 500,000 copies is certainly exaggerated for it would mean that every household (including illiterate households) had got one⁸². See also Raphael (2013) in this respect.

When compared to the previous innovations and achievements those which took place during the Civil War were more modest. As will be seen in the next chapter they were also modest in comparison with the innovations introduced during the First World War. For instance, it does not seem that any pamphlet was widely distributed in the Union to promote the cause of abolition of slavery. One of the main *raison d'être* of such a pamphlet should have been to give a guaranty to workers that the supply of black manpower would not be used by employers to reduce the price of labor, that is to say hourly wages. Naturally, to make such a promise credible it should have been supported by a federal law regulating the flow of black workers into the labor market or at least trying to regulate that flow⁸³. Such a law would have been of great effect not only in the north but even more so in the south. If passed before the start of the Civil War it may have prevented the war.

We know that in many southern states, until at least the First World War, black workers were confined on their plantations and not allowed to move out of their state by state regulation. Thus, for 5 decades during which the huge black labor force remained confined, it did not bring about any drastic change in labor market conditions. This holds for the north but also for the south.

Conclusion: A war end ripe with further conflicts

After the Emancipation Proclamation the war had a clearly defined objective, namely the abolition of slavery. This was a moral problem but closely entangled with it there was an economic problem: how can one organize the release and diffusion of this huge number of black workers into the labor market without unsettling already existing white workers? This question has nothing to do with slavery and must be addressed in all cases of massive rural flight. It seems that few developing countries were able to solve it in a satisfactory way. There are in fact two distinct problems.

(i) For the same person rural income is usually 2 to 3 times lower than urban income. How then can one prevent people from moving from their village to nearby cities or

⁸²The free population was about 2.5 millions and, according to the census of 1790, the average family size was 5.7 persons.

⁸³The impossibility of passing federal laws limiting the employment of children suggests that even the Progressive Era was a time of unrestrained capitalism. Thus, our assumption regarding a federal law regulating the flow of labor is probably just wishful thinking.

even to foreign countries?

(ii) How can one bring education and welfare to the villages without accelerating rural flight?

Here we will not discuss these questions further for that would lead us too far away from our topic but their main message is that the social unrest which marked Reconstruction in the Southern states was not specific to this case but was something expected in any unregulated competition between former residents (i.e. the poor whites) and newcomers (i.e. freed slaves). What we see in 2020 in Brazilian favelas or in the outskirts of Mexico City is probably not much different from what happened in Louisiana or Alabama in the decades following the Civil War.

The only thing which can be said for sure is that preventing the children of freed slaves from getting access to education may have been for Southerners an appropriate answer in the short term because it reduced economic and political competition but it made further integration even more difficult.

Confinement

Both in the War of Independence and in the Civil War arrests and confinement were used to curb opponents, respectively Loyalists and so-called Copperheads. The latter were not necessarily against ending slavery but wanted an end of the war and peace negotiations.

In accounts of the Civil War a great case is made by the fact that the arrests of civilians in the Union were decided by the military and conducted without warrant. In time of war can it really be otherwise? Is it not a fact that in any war and any country enemy aliens are arrested and held without being charged. Whether in World War I, World War II or the more recent War on terror suspects were held without being charged nor tried. Actually, whenever they occurred trials may be quite as arbitrary when merely based on the political attitude and opinions of the defendants. An illustrative example will be given below.

If one leaves aside legality issues, the main difference with the Civil War is that in the Independence War most decisions were made by county committees. Advice from the state committee was asked only in the more serious cases. This made the confinement procedure more flexible. Release on bail, confinement on parole at home or release after taking the loyalty oath were common. In contrast, during the Civil War the fact that confinement was in the hands of the military made the procedure more uniform and rigid. From President Lincoln to the officers handling the prisoners there was a long command chain:

Lincoln → Stanton → Holt → General Burnside → Lieutenant → prisoner

Edwin Stanton was the Secretary of War, Joseph Holt was the Judge Advocate (i.e. in charge of military judicial questions), General Ambrose Burnside was the Commander of the Ohio Department who gave orders for the arrest of Congressman Clement Vallandigham

One may say that viewed from the perspective of curbing disloyalty the Civil War procedure was less effective. A sentence attributed to George Clemenceau, a French statesman known for his role in World War I, comes to mind in this respect: “War is too important an issue to be left to generals” by which he meant that the goals and means of war should be decided by political leaders chosen by the nation, not by military authorities. In 1919 Clemenceau had to reign in Marshall Foch (Becker 2012, p. 149); similarly in 1950 President Truman had to refrain General MacArthur when the latter planned nuclear retaliation against China. In the present case it can be observed that the order to arrest “anyone giving aid and comfort to the enemy” was issued by Secretary of War Edwin Stanton in August 1862. At that moment Stanton could already rely on lists of persons suspected of disloyalty that had been set up by Secretary of State William Seward (historically it is the State Department who had authority over spying, covert activities and counterintelligence). Lincoln’s proclamation giving sanction to this policy came only one month later, in September 1862.

In conclusion, one is tempted to say that in the fight against disloyalty a common feature of the two cases is that they resulted in few executions and deaths. However, before that conclusion can be accepted definitely it would be necessary to close a number of gaps in historical evidence.

(1) For the Independence War we do not know how many Loyalists were arrested, held and tried and we do not know the average death rate in Patriot prisons.

(2) If one accepts the figure (given by Neely 1992,p.162) of 4,271 trials by Military Commissions, one would like to know how many of these trials concerned civilians. In Blake (1994,p.104) one reads the following.

By the end of 1863 President Lincoln encouraged the use of military courts to try allegedly disloyal persons for he believed that federal civil courts were incapable of coping with the exigencies of an insurrection.

Therefore one can be sure that a fraction of the 4,271 trials concerned civilians, but how many?

For the time interval from early 1864 to the end of the war one would also wish to know the number of death sentences handed down to civilians by military commissions. How many were remitted and how many were carried out?

(3) It is admitted that 400 deserters were executed by firing squads in the Union army (see Weitz). However it is difficult to understand why and how these 400 were

singled out from a total number of about 200,000 deserters. In the charges against them there must have been something more serious than just desertion. It would be helpful to get a better understanding.

The following conjecture can be proposed. In our study of court martials in the Independence War we have seen that the charges most commonly associated with desertion were spying and treason. This makes sense because to avoid detection deserters often crossed the line to the Confederation side. If subsequently they happened to be caught on Union side (for instance because the front line had changed) additional accusations of spying and treason were likely to be added to the charge of desertion.

Illustrative cases

Below we present a few specific cases of trials by court martials and military commissions for the purpose of illustrating the broad discussion presented above.

Capital sentences issued by military courts

An article of the Chicago Tribune (11 September 1861,p.1 actually it is an excerpt from the “Richmond Dispatch” of 22 August 1861) shows that in the Confederacy army court martials (in addition to military commissions) could deliver death sentences and have them approved and carried out fairly swiftly. This was nothing new as it continued the procedure already in use during the Independence War. The only difference is that here the approval of the commanding officer was obtained very rapidly. As usually there is a reciprocity in the procedures used on both sides one would expect the same behavior on the Union side, whether officially or semi-officially.

Confirmation is found first in an article of the “Chicago Tribune” of 3 March 1864 which tells that a spy of the name of Hincky is under sentence to be hanged in Knoxville. “He deserted from the rebels, took the oath of allegiance and has since been acting the vile part of a perjured traitor and a spy.

A second confirmation is found in a very short article (only two lines) of the “Chicago Tribune” of 23 December 1864. It says: “Three guerrillas are to be hanged at St. Joseph, Missouri tomorrow.”

In a general way most accounts of executions are very sketchy. For instance, a two-line article in the “New York Times” (28 February 1864, p.1) says: “Streeter was hanged at Medina yesterday”.

Trial of conspiracies by military commissions

Only a fraction of the 14,000 civilians arrested by military authorities were tried by

military commissions (Neely 1991). Most were never indicted. Of those indicted many were probably charged with conspiracy for from 1861 to 1865 there are no less than 388 newspaper articles with the word “conspiracy” in their title. Actually, there was a special “conspiracy court” in charge of such trials. From 8 November 1864 to 30 April 1865 there were 72 articles devoted to the trials of the Chicago conspiracy. Apart from the Chicago conspiracy, there *was also the Indiana conspiracy, the conspiracy of the Seymourites and many others. It seems that many of these conspiracies are not to be taken seriously. For instance, the purpose of the Chicago conspiracy was to free the thousands of Confederate prisoners held at Camp Douglas south of Chicago. Whereas overtaking the guards and opening the gates of the camp may perhaps have been possible, bringing the prisoners back to the Confederacy appears as an impossible task!

Below we present a trial for another conspiracy which seems more plausible

Draft resistance conspiracy trial

The following account is from an article of 5 February 1864 (p.5) in the New York Times.

Reading, Pennsylvania, 1 February 1864. A Military Commission has been convened by Special Order number 9 for the trial of the Mauch Chunk [now Jim Thorpe township in Carbon county, Pennsylvania. rioters of October 1863. It met on 18 January 1864 and comprised one colonel and three captains [whose names are given] The defendant, Philip Bergeman, is tried on the following charges.

Charge 1. Assisting in forming combinations to resist the execution of the Enrollment Act [of 3 March 1863].

Charge 2. Publicly expressing sympathy for those in arms against the government of the United States and uttering disloyal sentiments and opinions with the purpose of weakening the power of the government.

Charge 3. Harboring and concealing deserters and advising drafted men to evade their duty as soldiers.

After that comes a detailed description of the “specifications” of the charges. One of them reads as follows: “In late August 1863 a mob of 50 to 100 persons visited Mauch Chunk and by force of violence took one Patrick Cull from the country jail. No sheriff dares to undertake an arrest because of the secret “Molly Maguire” organization among Irish miners.

The next person put on trial was Michael O’Donnel who was arraigned under the same charges.

There are about 75 cases of this kind to be tried by the Commission.

Such series of trials by military commission in which many persons were tried un-

der the same charges did not at all exist during the Independence War but it is an innovation which will again prove useful in subsequent conflicts. For instance, a similar procedure was used by special congressional committees in the investigation of Communist conspiracies.

Chapter 2

Streamlining in the First World War

Overview

From start to end, and for reasons explained in the previous chapter, the Civil War was very unpopular. Moreover, we have seen that there was no serious attempt to make it popular. Of course, as in all wars, opponents were repressed. However, the ways and means were left to the military and they used the methods to which they were used, e.g. arrests, imprisonment, oaths of allegiance, trials by military tribunals. The smarter methods which had been used in the War of Independence were forgotten. Mob action had been of great effect but in the Civil War whenever it occurred it was rather against abolitionists. In terms of secret societies the War of Independence had its “Sons of Liberty”, the First World War would have its “Knights of Liberty” but no effort was made to develop anything similar during the Civil War. Rather than soft power, the Lincoln administration preferred to use the hard power means of the military.

On the road to independence, the publication and broad diffusion of pamphlets like Franklin’s “Plain truce” (1747) or Paine’s “Common cause” (1776) played a great role. It seems that during the Civil War nothing similar was tried to explain why the abolition of slavery was a great idea.

The clash of 28 March 1864 in Charleston, Illinois illustrates the enduring activity of opponents within the Union. It opposed Union soldiers to Copperheads (i.e. persons who opposed the war). The surprising but revealing outcome of this clash is 6 killed on the soldiers’ side against only two among the Copperheads. Moreover, of the 12 Copperheads who were indicted for murder, none was ever captured. Such an event shows that even toward the end of the war no consensus had been achieved.

As will be seen in the present chapter the situation was very different when the United States became involved in the First World War. Considerable efforts were

devoted to promoting the cause of the war. Close links were established between the Department of Justice and patriotic leagues such as the “American Protective League” or the “Anti-yellow Dog League”. Pamphlets were distributed in schools by the “National School Service”, films were produced by the “Division of Pictorial Publicity”.

Either in Europe or in the United States, most socialists were opposed to the war. How could members of a union such as the “Industrial Workers of the World” (IWW) be good patriots when their objective was to reach out to workers of other countries including Germany? In this way the patriotic leagues could count on the support and funding of the business community.

In the following sections we describe and analyze successively mob actions, public relation campaigns, arrests and confinement.

Mob actions

Frequency

As we have already done previously we take tar-and-feathers incidents as an indicator of the broader category of mob actions. This is particularly convenient for key-word searches in newspaper articles.

For the three newspapers Chicago Tribune, New York Times, Los Angeles Times (available on the ProQuest database) a search with key-word “tarred and feathered” leads to the following annual numbers

1914	1915	1916	1917	1918	1919	1920	1921	1922	1923
5	2	4	4	31	9	6	39	38	11

The peak of 1918 was certainly due to US involvement in the war against Germany. It is true that the American declaration of war on Germany was passed by Congress in April 1917 but the declaration of war on Austria-Hungaria came only 9 months later in December 1917 and it is only in 1918 that substantial numbers of US troops started to arrive in Europe.

Although the declaration of war passed by a large majority of 89% it is interesting to note that the few senators and representatives who cast a negative vote were from western states.

There is a second peak in 1921-1922 which is more mysterious. It is known that the years 1920-1921 saw a revival of the Ku Klux Klan, an organization which first appeared in the south in the wake of the Civil War. It is under the leadership of two experts in public relations, Elizabeth Tyler and Edward Young Clarke, that the KKK experienced a rapid expansion in membership; after the Russian Revolution of 1917

anti-Communism became a major pillar of the ideology of the KKK. By analyzing more closely who were the targets of the tar-and-feather incidents it will be possible to check whether the present interpretation is correct.

Targets of tar-and-feathers actions

Below we describe two fairly typical incidents. The first is directed against left-wing union workers; perhaps it is more than a coincidence that it happens in November 1917, i.e. shortly after the Revolution in Russia. The second takes place among academics.

[Chicago Daily Tribune, 10 November 1917 \(p.1\)](#). Tulsa, Oklahoma. Twenty members of the IWW [Industrial Workers of the World] who had been arrested for charges ranging from opposition to the war down to vagrancy were taken from the police by a large crowd of masked men clothed in black robes. They were hustled into the Osage hills where they were stripped and lash applied to their backs. Then they were tarred and feathered and started out of the city. The mob returned to the city and placarded all of the streets with large signs in which this warning was conveyed. "To the IWW, don't let the sun set on you in Tulsa".

The account reveals a tacit agreement between demonstrators and police in the sense that the latter did not try very hard to keep the prisoners.

[Los Angeles Times 21 December 1917 p.II-1](#). Prof. Cooper, Head of the Department of German literature at Stanford University is denounced by Dr. Alfred Noyes, associate member of the faculty of Columbia University who declared that Cooper should be tarred and feathered. Dean Shailer Mathews of the University of Chicago said that "Never again can Germany be what it had been. We have seen brutality and deception where we had been accustomed to see efficiency and ideals.

Clearly the statements themselves are of little importance: is a war not by definition based on brutality and deceit?

The following excerpt shows in the same city mixed actions against leftists and against pro-Germans. The latter were compelled to kiss each star of the American flag, a feature commonly seen in such incidents.

[New York Times, 16 February 1918, p.16](#) Near Staunton, where two IWWs were tarred and feathered Tuesday night, a mob trashed two and forced another to kneel and kiss each star of the American flag.

The man who was made to kiss the flag is Peter Heine, a merchant. When he saw the mob approaching his home he took refuge in a neighbor's home. The mob warned the neighbor to give up Heine who came out and was seized.

What are the similarities and differences of mob actions in 1770-1775 and 1917-1918?

- Sons of Liberty ↔
- Tar-and-feathers and riding a rail are seen in both cases but kissing the flag was new.
- Extreme language was used in both periods. As an illustration one can mention: “the bestial, blood thirsty, of war-crazed Huns” (Los Angeles Times 29 March 1918).

How many actions are directed against leftists (mostly IWWs) and how many against pro-Germans?

In a total of about 30 incidents one sees 34% against leftists and 66% against persons suspected of being pro-German. It can be noted that usually the treatment is harsher for the first than for the second.

Mob actions tacitly approved by authorities and newspapers

It is easy to show that as in the War of Independence War the mob-actions are carried out with the approval of the authorities. Not only do police never intervene but one can give even more clear-cut cases.

(1) On 25 March 1918 at Pocatello, Idaho a man “with a rope tied around his neck was handcuffed to a lamp post on a prominent downtown corner where he was viewed by several thousands persons”. This means that he was left there several hours. No police, no magistrate tried to have him delivered (Chicago Daily Tribune 26 March 1918, p.9)

(2) Often after being tarred and feathered the victim was in addition fined and jailed for having created a disturbance. That was for instance the case of Edgar Ross who, after being tarred and feathered, was fined \$300 and ordered to serve 90 days in jail (Los Angeles Times 30 November 1918).

(3) Major John Birkner of the US Army, a federal prisoner for violation of the espionage act, was temporarily jailed at the state penitentiary of Santa Fe, New Mexico. He was tarred, feathered and led around with a rope around his neck by the 400 other convicts (Chicago Daily Tribune 18 April 1918, p.8). Not only did the guards not intervene but it is very likely that they provided the tar, the feathers and the rope.

Needless to say, such compliance of the authorities is not limited to war time cases. The same observation holds for the thousands of lynch cases that we know to have occurred. One wonders if the passivity of the authorities is not even more shocking than the actions of the mobs.

With the civil and military authorities approving mob actions it is of course not surprising to find the same attitude in national newspapers. This is confirmed by the following case. In the “Los Angeles Times” of 29 March 1918 there is the descrip-

tion of two particularly harsh treatments. In Oklahoma two persons suspected of being pro-German were lashed with a blacksnake whip [a whip about 2 meter long]; in Reno, Nevada a man was lashed to a stake and beaten with a cat-o-nine whip. In Oakland, California ten men who toasted the Kaiser last week in a café were fined \$200 and sentenced 90 days in the county jail.

The article ends with a rather stunning conclusion: “The Times is of the opinion that the Oklahoma and Nevada method of dealing with traitors is more effective than the Oakland method”.

Did the journalist not realize that to stay clear of the anti-German hysteria does not mean to be a traitor?

Patriotism could only be proven by subscribing to liberty loans, donating to the Red Cross, participating in parades, and joining the armed forces. Any form of dissent was considered pro-German and thus unpatriotic. Government officials warned Americans to be watchful of their neighbors and to report suspicious persons to the authorities.

Hanging of Robert Praeger

In a well documented case, on 5 April 1918 45 year old Robert Praeger was hanged by a mob in Collinsville, Oklahoma, 30km east of Saint Louis (Chicago Daily Tribune 5 April 1918). He was accused of making disloyal remarks in a speech to miners. Early in the night he was dragged through the streets by the local patriotic committee, forced to kiss the American flag and to sing the national anthem. He was then kept by police in the city hall. However, later in the night the police was unable or unwilling to stop a mob who took him out. First he was again led to the street but this time at the end of a rope and somewhat after midnight he was hanged by a mob of some 300 persons.

Characteristically, Praeger’s killers were tried but all acquitted. The jury stated that the mob had done a “patriotic murder”.

Hanging of Henry Rheimer

Two weeks later, on 19 April, in the same town of Collinsville, Oklahoma another disloyal suspect, Henry Rheimer, was also hanged by a mob of 50 men. In the afternoon it had been discovered that the American flag on the front window of his home had been removed. He was immediately brought to jail. However, as the previous time, a crowd came to the jail, overpowered the Assistant Chief and two patrolmen and took Rheimer from his cell. The men stood Rheimer on a chair, wrapped a double electric light cord twice around his neck, attached the other end to a basket ball goal post, and commanded him to kiss every star in the flag. Rheimer complied with the demand and apologized for whatever disloyal statement he may have made. Then

the chair was removed. The body swang twice past the goal post. "Give the man a chance" Assistant Police Chief Miller pleaded. "Give him until 9:00 tomorrow morning and we will see that he gets a real hearing". The would-be executioners cut him down as he was semi-conscious on the promise of a speedy trial by the County Council of Defense. It is believed that the 50 years old victim will recover. (Los Angeles Times, 20 April 1918,p.13, New York Times 20 April 1918,p.9)

In the Federal capital President Wilson was fighting a war for democracy but in Oklahoma the county police had a strange conception of democracy and human rights.

Hanging of Henry Steinmoltz

On May 1, 1918 in San Jose, California, Henry Steinmoltz, a tailor of Oakland "was hanged to a tree until unconscious" [or perhaps until dead?]. Then his body was taken away in an automobile by a band of masked men calling themselves the "Knights of Liberty". Twenty four hours later the fate of Mr. Steinmoltz remains unknown.

According to a member of the group who today talked to the police by telephone, Steinmoltz was "tried" together with another person, George Koetzer from San Jose, and both were "found guilty" of making disloyal statements. Koetzer was tarred and feathered and chained to a cannon in a city park; then he sought refuge in the county jail for his own protection. In the same jail there was Herman Schmitt who sought refuge there two weeks ago after having been threatened.

On the same page one learns that in Richmond, California, another person of German descent, Guido Poenisch, was taken from his home, then tarred and feathered by 50 white-robed men. (Los Angeles Times 3 May 1918,p.12, New York Times 3 May 1918,p.7.)

Public relation campaigns

The First World War was a time highly innovative in terms of public relation techniques⁸⁴.

President Wilson appointed journalist George Creel to head the newly created "Committee on Public Information" (CPI), a federal propaganda agency. He had claimed that "this is not a war for war's sake, but a war for democracy, a war to halt the bestial Hun and a war to end war". The CPI was armed with writers, photographers, historians and entertainers and it was tasked with promoting the war objectives defined by the President. Edouard Bernays, later referred to as the father of the public relations

⁸⁴It may be useful to recall the difference between advertisement and public relation campaigns. Whereas in advertisement, viewers and listeners know that they are subject to a message intended to influence their opinions, in public relation campaigns (also called spin campaigns) the targets ignore that they are framed. In other words their opinions are influenced without their knowledge.

industry, was one prominent CPI member.

The CPI had 19 domestic divisions. One of them was the “Division of pictorial publicity”. Of particular interest was the campaign for the advance promotion for a movie entitled “Yellow dog” for most of this campaign took place in schools. Although the film was only released on 13 October 1918 the promotion campaign started several months earlier.

Anti-yellow dog clubs⁸⁵ were organized in schools by motion picture theater owners. They distributed badges and initiated the boys to patriotic espionage harassment. It was estimated that by late August 1918, in New York City alone, several tenths of thousands boys were enrolled in detective squads (Steinmetz 2018). In spite of the fact that on 13 October the influenza epidemic was already active parades took place in several cities to mark the release of the film. The person behind this campaign was Robert Cochrane, vice president of Universal. Previously, he had already produced a movie entitled: “The Kaiser, the beast of Berlin”.

Another episode, this one about the production of a movie entitled “The spirit of 1776”. can make us realize how sensitive the movie issue had become. This film on the American Revolution was accused of being pro-German propoganda because it did not present the British and Hessian troops in a good light. On 29 November 1917, two days after the premiere, federal agents seized the film and took its producer, Robert Goldstein, in custody. Sentenced to 10 years in prison he was confined in harrowing circumstances for over three years before President Wilson commuted his sentence to three years. This leads us to the topic of arrests as examined in the next section.

Arrests and confinement

Before considering the question of the arrests we must explain the unique cooperation which took place between the federal Department of Justice and a private organization called the “American Protective League” (APL).

The American Protective League

Created in March 1917 by a wealthy advertising executive, the “American Protective League” was an organization of private citizens closely connected with the Department of Justice. On the membership cards it presented itself in the following terms: “American Protective League organized with approval and operating under direction of United States Department of Justice, Bureau of Investigation”. At its peak it

⁸⁵Where does the expression “yellow dog” come from? In workplaces a union which refuses to take part in a general strike promoted by the other unions will be called a yellow union, giving the word its meaning of unreliable and treacherous.

claimed to have 250,000 members. Its purpose was to identify German sympathisers and anti-war activists. In this role, it was similar to the Patriots when they discredited Loyalists by publishing their names in local newspapers.

The connection, already observed in mob actions, between pro-Germans and leftists led APL members to vandalize union offices and harass union leaders; the “Wooblies” (members of the “International Workers of the World”) were one of their main targets.

Here we are particularly interested in the participation of the APL in the so-called “anti draft slacker” campaigns because they led to great numbers of arrests.

Arrests in slacker detection campaigns

Draft slackers were men, 21 to 31 year old, who did not register for the draft or, having registered, avoided enrolment. With the cooperation of the military and the help of APL members, the Department of Justice organized anti-slacker raids in major cities, e.g. New York, Chicago, Boston. In a three-day raid (3-5 September 1918) in New York and New Jersey an estimated number of 34,200 persons were apprehended. In an earlier similar raid in Chicago some 27,000 had been rounded up (New York Times 4-6 1918).

How were these raids organized?

In the New York raid some 25,000 took part including regular and special agents of the Department of Justice and APL members. People were apprehended not only in the streets but also in restaurants or at the exit of train stations and theaters. The persons had to show their registration card They were taken into temporary custody in anyone of the following cases.

(1) The information on the registration card was not correct, for instance because it had not been updated.

(2) Persons who did not have the card with them were taken into custody until someone of their family (contacted by phone or telegraph) could fetch the card.

(3) Persons who claimed to be under 21 or over 31 had to prove their age through an official document.

(4) Whereas the identification of slackers was the primary objective of the raid it gave also the opportunity to arrest other persons for instance illegal immigrants.

On average the number of identified slackers was between 2% and 5% of the persons arrested. Naturally, when a raid lasted three days more slackers were netted on the first day than on the two following days.

How successful was registration and enrolment?

How many people were able to evade the draft either by not registering or by not

reporting to their military unit? This number is an interesting indicator of the unanimity of the citizens in favor of the war.

Officials estimated privately that of the 10 million in the 21-31 age group some 3 million successfully avoided draft registration. Of those who registered some 12% failed to report to their units. (Venzon 2013,p.541)

If one could make comparisons with other cases, e.g. Britain, France or Germany or the US in the Second World War, these figures would become more instructive.

Restrictions on public liberty

New laws restricting the rights of speech and publication, were passed shortly after America's entry into the war. They included the "Espionage Act" and the "Trading with the Enemy Act", both passed in 1917, and the "Sedition Act" of 1918. Criticism of the government, the draft, or any aspect of the war could be punished by imprisonment for up to 20 years. The case of Robert Goldstein cited above shows that these laws were indeed enforced.

These laws were even harsher than those in force during the Civil War. Yet, Senator William Borah got little support when he opposed them by arguing that it is not "necessary to Prussianize ourselves in order to destroy Prussianism". It can be recalled that the first substantial American fatalities occurred on April 1918 during the Luddendorf offensive.

Restrictions put on enemy aliens

After war was declared, President Wilson immediately proclaimed all German citizens "alien enemies". They were barred from living near military facilities airports or port towns. They had to disclose their bank accounts and any other property to an "Alien Property Custodian" appointed by the Attorney General.

German-language services in churches were disrupted, German-language newspapers were shut down, churches housing German congregations were painted yellow, German societies, musical organizations, theaters were shuttered. Many orchestras stopped playing works by German and Austrian composers such as Beethoven or Mozart to avoid being labeled disloyal. Schoolchildren were forced to sign pledges in which they promised not to use any foreign language⁸⁶By March 1918, 38 out of 48 states had restricted or ended German-language instruction in schools. Books written in German and even English books that dealt with Germany and Austria-Hungary (such as history books or tourist guides) were stowed in basements for the duration of the war.

There was a similar move at the beginning of the Cold War with respect to books

⁸⁶The source is "German-Americans during World War I". on the website of "Immigrant entrepreneurship".

written by Communists. For instance, on 18 January 1949 at a meeting of the “New York School Librarian Association” an announcement was made instructing all school librarians to remove any and all copies of “Citizen Tom Paine” by Howard Fast. Later on agents from the Justice Department visited the libraries of the New York Public Library System to make sure that orders to ban books written by Communists had been duly executed (Fast 1990,p.202).

After being followed for a few years this policy was gradually dropped. In January 1954 the New York Times published an article entitled “Book censorship losing force” which reports the following declaration made by President Eisenhower in June 1953 in an address at Dartmouth College (NYT 3 January 1954,p.68).

Don’t join the book burners. Don’t think you are going to conceal faults by concealing evidence that they ever existed.

The In April 1918, a delegation of greengrocers asked the Federal Food Board to rename “sauerkraut” since sales of pickled cabbage had dropped 75% since the beginning of the war. They suggested “liberty cabbage” or “pickled vegetable” as more suitable names.

A similar episode occurred in 2003 after a motion in the United Nations Security Council allowing an invasion of Iraq by the US had been successfully defeated by French opposition. French fries were renamed “liberty fries”; in addition many unpleasant things were told about France on Fox News.

More than 1,500 Mennonites and Hutterites (who did not only use German in their religious services but in addition were pacifists) migrated to Canada during the war in order to escape further harassment (Homan 1992, Stoltzfus 2013).

Anti-war and anti-draft protests

In 1863, during the Civil War, there were major anti-draft riots in New York and several other cities that we discussed in an earlier chapter. Were there also anti-draft protests against the participation of the United States in the First World War?

Unpopularity of the war

Opposition to the war could be expected for at least three reasons.

- As we have explained, the reason of the Civil War, namely the abolition of slavery, was not well publicized and no safeguard was provided to shield white workers from the competition of free black labor. Thus, one can hardly be surprised that there was little popular support in the Union.

Were people more convinced that the country should fight Germany. Despite a massive anti-German public relations campaign, and in spite of a limited number of incidents like the sinking of the Lusitania, it was probably not clear why the country

should take part in this European war. Probably many realized that to become the ally of tsarist Russia was a strange way to “make the world safe for democracy”.

- President Wilson was reelected for a second term on the promise to continue his policy to keep the country out of the war.

- Since the 1860s, in most western countries, there had been an important development of socialist and democratic ideas. Many workers saw the conflict as “a rich man’s war and poor man’s fight”. In October 1917 the Post Master General made clear that papers writing that the government was controlled by Wall Street or by war equipment manufacturers would not be tolerated by the censorship board.

In short, there were good reasons to expect opposition to the war and to conscription. Obviously, however, there was no major clash like the New York uprising. The reason is that although there were demonstrations in almost all states the opposition remained scattered and was easily suppressed. However, these protests attracted considerable attention in newspapers as will be seen now.

Time line of protests as reflected in newspaper articles

Not surprisingly, the peaks of the anti-war and anti-draft protests both occur in 1917, the year in which the US entered the First World War and also the year in which there was the draft registration on 5 June 1917 followed on 20 July by the drawings of the numbers of those drafted. The age group 21-31 year comprised 10 million males which was much more than needed. Therefore there was a system of classes based on the amount of resources available to the family apart from the salary of the husband. Those who did not have a family to support were drafted first.

Table x Anti-war articles in US papers during World War I

	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922
Anti-war	7	64	93	69	291	251	54	22	18	31
Anti-draft	0	0	0	2	150	62	10	3	8	3

Notes: Annual numbers of articles which contain the expressions “anti-war” or “anti-draft” in the following newspapers “New York Times” (NYT), “Chicago Tribune” (CT) and “Los Angeles Times” (LAT)

Source: ProQuest database.

Below we list several titles of articles in order to give a flavor of the accounts. Overall, it can be said that the three newspapers cited in the table did a very good job in presenting the draft in good light whereas the opponents were described as “slackers”, “agitators”, “anarchists”, “rioters”. Although the country was by no means under threat to be invaded as had been the case during the War of Independence, and although no martial law had been declared the basic democratic rights of citizens are already forgotten: mob rule is tolerated, people are arrested for distributing

“seditious” handbills, censorship of mail, telegraph and newspapers is openly announced⁸⁷.

2,000 in riot over draft (CT 30 May 1917,p.1)

Death for treason awaits anti-draft plotters (LAT 1 Jun 1917, p.11)

In Cincinnati twelve men are charged with distributing seditious handbills denouncing conscription (CT 2 Jun,p.1)

Following alleged remarks in which he attempted to discourage enlistments a man was seized by citizens, thrown into a river, hauled out, and forced to kneel and kiss the flag [apparently with approval of the authorities and of the newspaper] (CT 2 Jun,p.1) Four men and one woman were arrested in New York and charged with distributing treasonable literature (NYT 2 Jun 1917,p.2)

The president of Columbia University declared that “no person convicted of conspiracy will ever receive a diploma from Columbia University”. This statement was made with respect to the students who are members of the “Collegiate Anti-Militarism League” (NYT 2 Jun 1917,p.2)

Quebec mob continue anti-draft rioting (LAT 6 Jun 1917,p.11)

Anarchists convicted of obstructing draft (NYT 13 Jun 1917)

Women attack police in anti-draft riot (NYT 17 Jun 1917,p.7)

German money used by the IWW to aid draft resisters in Oklahoma (NYT 22 Sep 1917,p.1)

120 indicted in Oklahoma in seditious anti-draft conspiracy.

Post Master General Burleson declares that papers may not say that the government is controlled by Wall Street or munitions manufacturers (NYT 10 Oct 1917,p.8)

It is understood that the Commerce Department will have custody of enemy property (NYT 10 Oct 1917,p.8) In Oklahoma City, Orville Enfield, a Church of Christ Socialist, was sentenced in federal court to 20 years confinement for conspiracy to obstruct the draft (Los Angeles Herald 12 June 1918,p.13)

The “Green Corn Rebellion” in Oklahoma

In Oklahoma the political and social situation was ripe for a broad protest that would go beyond the question of the draft. These special circumstances are well described in a document of the “Oklahoma Historical Society” entitled: “Green Corn Rebellion”. This name

Speculation and falling crop prices had by 1917 forced over half of Oklahoma’s farmers into tenancy. There was much resentment against big landowners and many tenants joined the state’s Socialist Party. In addition there was the more radical

⁸⁷After the war, in 1919, in *Abrams v. United States*, the Supreme Court upheld the conviction of a man who distributed circulars in opposition to American intervention in Russia following the Russian Revolution (Wikipedia article entitled “Espionage Act of 1917”). Yet, and fortunately, two of the five judges expressed their disagreement.

“Working Class Union” (WCU) which for farmers was the parallel of the “Industrial Workers of the World” (IWW).

In early August 1917 hundreds of men (white, African American and American Indian) gathered at Sasakwa. To end the war the men dreamed to march to Washington surviving on the way by roasted green corn, the latter giving the rebellion its name. On August 3 the rebels began burning bridges and cutting telegraph lines on August 3, but they soon faced well armed posses which halted the revolt. Three men were killed, 400 arrested of whom 150 were convicted and received federal prison terms of up to 10 years.

This uprising and its suppression can remind us of the Regulator uprising of 1770 in North Carolina (described in an earlier chapter). In both cases it was a failed uprising of tenants and small landowners; in both cases it was badly organized, quickly defeated, harshly repressed.

German immigrants as enemy aliens

Why German immigrants were perceived as a threat

According to the census of 1910 about 9% of the American population had been born in Germany or was of German parentage. With a total US population of 92 million, they represented 8.2 million people. This was the largest minority ethnic group. The number of 8.2 million probably includes the German speaking component of Austria-Hungary.

There is a broad rule which says that the stronger a threat, the sharper the reaction. An illustration was given by southern states during the Reconstruction era. The larger the proportion of black people the more severe the Jim Crow rules which restricted their constitutional rights.

How does this rule apply to German immigrants?

Not only was the German minority the largest, but German cultural achievements in science, philosophy, literature, music were so impressive that Germans really represented competitors who were not necessarily willing to accept the British cultural heritage. For instance, the symphony orchestras of several large cities (e.g. Boston, Chicago, Cincinnati) had conductors who were born in Germany or were of German descent. Such a cultural threat may explain the violence of anti-German reactions.

By the end of the 19th century hostility against major minority groups like the Germans and the Irish led to the derogatory expression of “hyphenated Americans”. A hyphen is a short dash which connects two letters as in “co-operation” or German-American. The implication of the hyphen was that such people were only half Amer-

ican in the sense that they tried to preserve their own national cultural heritage. Both Theodore Roosevelt and President Wilson used strong words against hyphenated Americans⁸⁸. “There is no such thing as a hyphenated American who is a good American. The only man who is a good American is the man who is an American and nothing else” claimed former President Roosevelt in 1915. President Wilson had even stronger language when he declared in 1919: “Any man who carries a hyphen about with him carries a dagger that he is ready to plunge into the vitals of this Republic”.

How many enemy aliens?

Enemy aliens were defined as males over the age of 16 who were not US citizens. How can their number be estimated?

In May 1917 New York State conducted a “Military Census and Inventory”. which included all persons, male and female who were between the age of 16 and 50 years of age. Approximately 5.6 million men and women completed the form. The names and addresses of all German males from New York City who were not citizens were printed in a series of articles in “The Herald”. The list comprised 26,000 names⁸⁹ and it was published between December 4, 1917 and December 9, 1917.

Two interesting conclusions can be derived from this information.

- What was the purpose of publishing the names and addresses of these persons in a newspaper? Most certainly the objective was the same as when the names of Loyalists were published in the local newspaper during the War of Independence, namely social control in the sense that the neighbors were supposed to keep an eye on these persons.

- We see that in a total population of 2.8 males (if one assumes a fifty-fifty proportion) there were 26,000 German male aliens, that is to say about 1%. If we extend this proportion to the whole American population of 92 millions we get a number of German male aliens of the order of one percent of 46 millions, i.e. 460,000. But this number includes all ages; in order to get the number between age 16 and 50 a simple way is to take one half 460,000 which is: 230,000. This number is not far from the number of 250,000 German male aliens mentioned in the Wikipedia article entitled “Internment of German Americans”. It says: “Some 250,000 German aliens were required to register at their local post office, to carry their registration card at all times, and to report any change of address or employment.”

However, as will be seen in the next subsection, the regulations on German aliens were much more severe than the fact of having to carry an up-to-date registration

⁸⁸The citations are from the Wikipedia article entitled “Hyphenated American”.

⁸⁹These names are available on a database at the following address:

<https://www.germangenealogygroup.com/records-search/german-enemy-aliens.php>

card.

Regulations on enemy aliens

On April 6, 1917 President Wilson issued a proclamation describing 12 regulations for “alien enemies”, i.e. persons of enemy birth who had not completed the naturalization process. We excerpted three of them (given below in simplified form) which are of particular interest because they repeat what was done (unofficially) during the Civil War and they prefigure what will be done on a much larger scale during the Second World War.

Section 4 An alien enemy shall not be found within one-half mile of any fort, camp, arsenal, aircraft station, naval vessel, navy yard, factory for the manufacture of munitions of war.

It is likely that to comply with this regulation many persons had to move out from their homes to other places.

Section 7 An alien enemy shall not reside in any locality which the President may designate by Executive Order as a prohibited area.

If the prohibited area is small this rule is essentially the same as the previous one, but if it extends to the whole west coast then it creates the situation which led to the massive incarceration of Japanese people in World War II. If all Japanese families had been able to move out of the exclusion zone one can assume that no concentration camps would have been needed. Actually, with the benefit of hindsight, the case of Hawaii (where the exclusion zone was quite limited) suggests that such a wide exclusion zone was not really necessary. It is true that in Hawaii the population was closely controlled and submitted to so-called loyalty interviews and numerous trials by military provost courts. Those whose loyalty was found somewhat shaky were arrested and sent to continental camps; more details can be found in Roehner (2014).

Section 12 An alien enemy believed to be aiding or about to aid the enemy will be subject to summary arrest and confinement in such prison or military camp as may be directed by the President.

This regulation permitted arrests which were arbitrary not only because the arrests did not lead to trials by tribunals, but also because *intention* of aiding the enemy was accepted evidence. In other words, any arrest for whatever reason was authorized. This was the same situation as during the Civil War. One may object that here the rule applied only to aliens, but our investigation of World War II cases showed that in practice the same rules of procedure were in use for citizens and aliens. Moreover, in World War I as in World War II, the “Bureau of Naturalization and Loyalty Investigations” could revoke citizenship from naturalized citizens deemed disloyal.

The battle against Germanspies in the UK and US

The “Defense of the Realm Act” was passed by the British Parliament on 8 August 1914 (Post 1917). It made espionage a *military* offense. This had several important consequences.

- Spies could be investigated and tried by military tribunals, e.g. special court martials.
- Arrests could be made (either by police or by the military) without warrant.
- Any person whose behavior was suspect could be taken into custody.

Post’s article was published shortly before the US declared war on Germany and in the last section the author suggests that the British experience can be of value for US lawmakers. It goes without saying that in this matter the crucial point was whether espionage crimes should be tried by civil courts or military tribunals. Whereas the “Defense of the Realm Act” was very clear in this respect, the US “Espionage Act” is not. Of the nine sections of the Act only one (i.e. section 7) is concerned with this point:

Section 7. Nothing contained in this title shall be deemed to limit the jurisdiction of the general courts-martial, military commissions, or naval courts-martial under sections 1342, 1343, and 1624 of the Revised Statutes as amended.

Whether or not the Espionage Act allowed trials by military tribunals, it was of course impossible to try espionage cases in public trials by civil courts. The issues which need to be discussed are much too sensitive. For aliens there was no problem because the proclamation of the President allowed arbitrary arrests. However, to attract less attention spies are usually naturalized citizens. Thus one must assume that Section 7 gave the military the authority to try civilians.

The test of conscientious objectors

This case is interesting not only in itself but as a test case; it shows that there can be a huge gap between declarations of intention and reality.

The “Selective Service Act” of 18 May 1917 exempted conscientious objectors from combat duty. Later on, Secretary of War, Newton Baker, even recommended that conscientious objectors should be treated with consideration. This was a measure of tolerance which at that time was probably not common among other belligerents. However, the reality was much harsher for after having registered or even if they did not register, they conscientious objectors were put under the jurisdiction of the military. This resulted in trials by military tribunals, severe sentences, harsh jailing conditions. During the whole duration of the war, 64,693 registered as conscientious objectors (Venzon 2013) but only 20,000 were judged to be “sincere” (on what criterion?). Various forms of pressure “convinced” 16,000 of them to accept combat

roles.

For the 4,000 who remained adamant life became really difficult. In addition to being conscientious objectors, many were of German descent or aliens who came to the US to find more tolerance than in their home country. They were taunted, beaten, handcuffed in painful position, in short the camp commanders tried to break them (see Stoltzfus 2013). Some 500 who did not wish to cooperate with the military in any way were tried by court martial. 159 received life sentences, and the 345 remaining were given sentences with an average term of 16 years.

In one specific case mentioned below 45 Mennonites received sentences of 25 years.

Were such sentences out of proportion to those of civil courts in similar cases? To some extent yes, but one should not forget that this was a very special time. It can be recalled in this respect that in September 1918 the socialist leader Eugene Victor Debs (several times a candidate at the presidential election) was tried under the “Espionage and Sedition Acts” for a speech he had made in Ohio in June 1918 and sentenced to 10 years in prison.

How many people were arrested?

The answer completely depends on how an arrest is defined. If one includes all cases in which a person is taken into custody, brought to a jail and confined there for a few hours or a few days then, as seen in our description of the slacker raids, the number is quite large, say one or two hundred thousands.

On the other hand, if one adopts a more narrow definition, for instance incarceration for more than one month, then the number becomes smaller but at the same time it becomes difficult to estimate because for each person arrested one needs to know the length of the confinement.

In the Wikipedia article entitled “Internment of German Americans” (that we already mentioned) it is said that some 6,300 aliens were “arrested” but as the exact meaning of the word is not defined the statement is almost meaningless.

The persons who were confined for the whole duration of the war constitute a category which is fairly well defined. They are considered in the next subsection.

How were alien enemies identified?

Often referred to as alien internees, these people were held in camps for the duration of the war. How they were singled out from among the 250,000 German alien enemies is not clear.

Consider for instance the case of John Sattler whose data are made available on the website of NARA (National Archives and Records Administration). Aged 52, living in Lyon County, Kansas as a farmer, married with two sons, Sattler was arrested on

2 May 1918 and released on 5 April 1919. He was interned at the camp of Fort Oglethorpe in Georgia. As a farmer he did of course not have any association with labor unions such as the IWW (“Industrial Workers of the World”), a question explicitly mentioned in the form.

In fact, he was arrested for his opinions.

(i) He justified the killings of Americans travelling on the Lusitania, (ii) denied German atrocities in Belgium, (iii) encouraged his relatives to take a hostile attitude toward the United States, (iv) refused to buy Liberty Bonds.

There were probably many Germans who shared such opinions, particularly in so far as there is some evidence to support them: apart from passengers the Lusitania transported war material and regarding Belgium, in the 1920s it was recognized by the British government that there has been a public relations campaign built on atrocity stories.

In short, it is really difficult to understand why this person, among many thousands others of similar opinion, landed at Fort Oglethorpe.

There is a file from the Department of Justice which may give an indication. It is a letter from the office of US Attorney Fred Robertson dated 1 June 1918 which say.

“Sattler is a tight fist, greedy money maker, who has lived a life of self deprivation and thereby became wealthy for a man in his community, he being estimated to be worth at least \$150,000.00.”

Another letter from Robertson dated 28 February 1919 reported that prominent people in John Sattler’s community felt that he had received “ample punishment” and should be paroled. To use the term “punishment” with respect to a neighbor who is not guilty of anything does not appear very friendly. Could it be that these same neighbors had denounced Sattler to the Department of Justice? That may explain why the Department of Justice devoted so much attention to a farmer of Kansas.

The “Trading with the Enemy Act” allowed the federal government to seize, administer, and sell alien-controlled property under certain circumstances. As will be seen below, it happened indeed that the property of a number of alien enemies was confiscated. Can that be a reason for targeting John Sattler?

How many aliens remained prisoner for the whole duration of the war?

In the British magazine “Saturday Evening Post” one can find two articles about German aliens in war time Britain. The first, published on 17 March 1917 (Post 1917) describes anti-espionage measures taken in Britain since the beginning of the War, with the intend that they may be useful to the US administration when confronted to the same problem.

The second article was published by Jeff Nilsson on 16 March 2017, that is to say

exactly one century later (Nilsson 1917). It contains the following sentence.

The enemy alien laws affected 250,000 German men; out of this number, the Justice Department's Enemy Alien Registration Section incarcerated 2,048 Germans.

If it is correct, the figure of 2,048 would be 15 times smaller than the number of enemy aliens arrested in Britain. Indeed, Stibbe (2006) states that in the UK at the beginning of the war some 32,400 civil enemy aliens were arrested and that at the end of the war after some exchanges of prisoners had taken place there were still 24,000 civil German prisoners.

There is also a great discrepancy with Canada where, despite a much smaller population than the US, nearly 8,000 immigrants, including many Ukrainians, were interned as prisoners in prison camps across Canada.

The big discrepancy with the UK is all the more surprising because the two countries had fairly similar rules. So, with a much larger number of German aliens one would on the contrary expect the UK number to be dwarfed by the US internees. One possible explanation is that the figure of 2,048 covers only a fraction of the total number of camps. What leads us to think so?

It is commonly accepted that there were 4 camps for enemy aliens with the following populations (Nagler 2000).

- (1) Hot Spring, North Carolina: 2,300
- (2) McPherson, Georgia: 1,300
- (3) Fort Oglethorpe, Georgia: 4,000
- (4) Fort Douglas, Utah: 800

The total is: 8,400. It is true that in these camps there were also a number (probably a few hundreds) German navy personnel. However, we are still far from the British number.

The fact that the figure of 2,000 Germans in custody in the US (mentioned in several sources) cannot be correct is clearly shown when we consider the crews of German ships taken over. At the declaration of war some 27 German ships whose crews totaled 1,100 were taken over by US authorities (NYT 7 April 1917, p.1). This number must be added to the crews of two warships totaling 800.

In other words, German crews alone represented 1,900 prisoners.

It is known that Germans were kept in custody at the ' and probably several others.

It is known that there was a prison ship, the "Southery", at the Portsmouth Navy Yard, near Boston (NYT 17 Jan p.1). It remained in service until at least November 1919.

It is known that apart from the four places already mentioned there were (at least) four others where German prisoners were interned, namely: (i) “Ellis Island Internment Camp”,

(ii) the Immigration Station at Gloucester in New Jersey

(iii) a civil facility, the Leavenworth Penitentiary (USP) in Kansas

(iv) a military facility, the United States Disciplinary Barracks of Fort Leavenworth (USDB) located near the previous one.

How do we know that the last two places had civil internees?

According to the New York Times of 11 June 1918 (p.9), on this date, 45 Mennonite pacifists were sentenced by court martials⁹⁰ to spend 25 years at Fort Leavenworth. For the Penitentiary an individual index of admissions is available on which the admissions of the Memmonites are indeed recorded. Incidentally, Fort Leavenworth was later designated as a concentration camp for the whole group (numbering some 600 persons) of conscientious objectors who refused non combattant service.

As a second check one can consider the admission of 18 prisoners on 1 November 1917 with the charge of conspiracy in eastern Oklahoma; these certainly correspond to the incarceration of the “Green Corn” rebels after their arrests and trials.

In short, to settle the question of the number of interned German civilians one would need to know *all* places where German civilians were confined. What complicates the question is that there were two institutions which were so to say in competition: (i) the Department of Justice, (ii) the War Department. In principle, each institution had its own detention facilities but sometimes when a prison was overcrowded groups of prisoners were transferred elsewhere.

During war time, for obvious military reasons, some incarcerations under the Espionage Act and the Sedition Act were not made public (in this respect see Kohn 1994) However, this can only account for arrests carried out during the war. It cannot explain why initial numbers of arrests in the US and UK were so different.

Civilians turned over to the military authorities

Neither the “Espionage Act” nor the “Sedition Act” define the circumstances in which the investigation of a civilian should be turned over to the Army or Navy authorities. The trials of civilians by military tribunals are conducted under Article 88 of the “Articles of War” which reads as follows.

Article 88 Any person who in time of war shall be found lurking or acting as a spy in or about any of the fortifications, posts, quarters, encampments, shall be tried by a general court martial or by a military commission and shall, on conviction thereof, suffer death.

⁹⁰This is a case of civilians tried by a court martial for draft evasion. It seems clear that a civil court would not have given such heavy sentences.

There were also trials of civilians by court martial in Britain (see the “Defense of the Realm Act”), in France (see the trial of Mata-Hari) or in Germany (see the case of two Belgian Socialist senators sentenced to death in March 1918)

Below we describe a number of such cases. Their comparison may give a better understanding of the procedure. **Apr 27, 1917:** John B. Love of Philadelphia was charged with being a German spy. He was turned over to the military authority to await orders from headquarters for court-martial (NYT p.13) [Note that this arrest occurred before passage of the “Espionage Act”.] **Jun 5, 1917:** For the three men arrested in New York (two American born and one naturalized from Sweden) in relation with the mail-plot case (letters sent to Germany via Mexico) a military court martial is one of the possibilities facing the prisoners. If a military trial develops it would be conducted under Article 88 of the “Articles of War”. (LAT p.15). **Jan 16, 1918:** Walter Spoermann, a German who was caught in an alleged attempt to blow a powder magazine at Camp Morrison in Virginia may face a sentence of death by court martial. With the Department of Justice rests the decision whether he shall be tried under civil or military law (NYT p.4) [It would be surprising that the War Department would not also be involved in this decision.]

Is there a connection between the American and International Red Cross?

Founded in 1863, the “International Committee of the Red Cross” (ICRC) is the only organization authorized by the Geneva Convention to visit prisoners of war; as it visits also civil prisoners its role is of interest in the present study. In an article of 2006 M. Stibbe compared the condition of interned civilians in belligerent states during the First World War. At first sight it appears surprising that the United States is not included in the study. The reason is that the ICRC visited many countries including Turkey or Russia but it was not invited to visit the internment camps located in the US. This is because the United States has its own national Red Cross organization, namely the “American Red Cross” which was founded in 1881. In contrast with the ICRC whose governance is by an Assembly composed entirely of Swiss nationals, the “American Red Cross” is closely aligned with the US armed forces as shown by the fact that it is audited annually by the US Secretary of Defense.

It is a fairly paradoxical situation because, on the one hand the US government is ICRC’s largest single donor (in 2004 it has funded 20% of the ICRC’s budget of \$650 million) but on the other hand US taxpayers who donate to the “American Red Cross” get a tax deduction whereas donations to the ICRC do not provide any tax deduction benefit.

In answer to the question raised in the title of this subsection one may say that nowadays there is a one way connection between the US and the ICRC in the sense that

through its donation the US has certainly an influence on the ICRC but at the same time does not welcome the statements made by the ICRC on matters of military importance (e.g. usage of anti-personnel mines in foreign countries).

Before closing this subsection we must say a few words about the “International Federation of Red Cross Societies” (IFRC) As this organization focuses almost exclusively on peace time activities it is not of relevance for our topic but it will help to better understand the link between the US and the ICRC.

The IFRC (at that time also called “League of Red Cross Societies”) was created in 1919 on the initiative of Henry Davison, then chairman of the “American Red Cross”, with the support of President Wilson and the assistance of the British general Sir David Henderson who became its first Director-General. The main objective was to extend the mission of the ICRC to relief operations in cases of natural disasters. There was also a hidden agenda which was to supplant the Swiss ICRC with a multilateral organization created and controlled by the US and its British ally. At first, Davison did not want to include defeated powers, namely Germany, Austria, Hungary, Bulgaria and Turkey, which was contrary to the ICRC’s principle of universality. Between 1919 and 1950 five of the 6 presidents of the IFRC were also chairman of the “American Red Cross”.

After the Second World War the relationship between the IFRC and the ICRC was discussed and a broad international agreement was eventually reached. As a sign of this “internationalization”, between 1965 and 2019 the presidents of the IFRC were from a wide range of countries from Norway, to Venezuela, to Japan. Incidentally, as for the ICRC, donations to the IFRC by US tax payers do not provide any tax deduction benefit.

Daily life in prisoner camps

As an illustration one can take the example of the camp at Fort Leavenworth for which a fairly long article can be found on Wikipedia⁹¹. The camp had two parts: Camp A housed wealthy prisoners in private rooms who paid for their own food (we have seen that this kind of arrangement was also fairly common during the Revolutionary War). Camp B consisted of 30 barracks, each one housing about one hundred prisoners.

Between 7:00am and 12:00 the prisoners had to perform hard labor on roads and quarries. At one point they were ordered to sign a document saying that they were doing so of their own free will. As alleged supporter of Germany that would have been surprising of course. Those who refused to sign were locked into a separate (probably less convenient) camp. However, an intervention of Count Rosen, the Swedish representant of German interests, the decision was reversed.

⁹¹Although its title is “Fort Oglethorpe (prisoner of war camp)” there were in fact mostly civilians.

In an earlier chapter it was already mentioned that for the purpose of a comparative analysis of prisoner camps mortality statistics would be required. Such data would be of particular interest in the present case because they would give the opportunity to study the impact of the influenza epidemic of October-November 1918. Needless to say, large dormitories as found in the barracks of soldiers or prisoners favored the transmission of the virus.

Confiscation of German assets in America

Overview

At the same time that they were proscribed and banished the Loyalists lost their property. As was mentioned in an earlier chapter the confiscation did not concern only land or real estate but also furniture, cattle, even beehives. Everything was sold at auction (Corbly 2013). The total amount was estimated at 10 million pounds sterling (Mitchell 1984). To make sense of this figure we must put it in comparative light. For instance, what percentage of the federal budget of 1800 did that represent? In 1800 the federal expenditure amounted to 11 million dollars. As the dollar-sterling exchange rate was 1 pound = 5 dollars, the total of the confiscations represented 5 years of federal expenditure.

The compensation provided to the Loyalists by the English government totaled 3 million pounds. As in 1800 the budget of Britain was around 100 million pounds, the compensations represented a modest 3%.

During the Civil War laws were passed by Congress allowing confiscation of Confederate property but they were little used. Of course, Southern slave owners lost their slaves; any further confiscation would not have made the country richer, which may be one reason why almost none happened. However (as we have already emphasized) it would have made sense to set up a redistribution of land ownership.

The confiscation procedure

The “Trading with the Enemy Act” which laid the basis was passed on 6 October 1917, but of greater importance was an amendment passed on 28 March 1918 which legalized the confiscation of German assets in the US and made it possible for the government to put them up for auction.

Attorney General Mitchell Palmer, divided German property into two groups: the first group included the property of people he regarded as friendly to the United States. Their investments and possessions were preserved unharmed until the end of the war.

The second group included large-scale German corporate investments in American

industries such as textiles, machinery, and especially chemistry. It included also small holdings of owners who had been enemy aliens. Daniel Gross cites the case of a chocolate manufacturer in Connecticut or a beer-brewer in Chicago.

In a first step the seized property was taken over by a government agency called the "Alien Property Custodian" whose head was Mitchel Palmer who a few years later as Attorney General set up the so-called "Palmer's raids" against leftists. At that point it was simply a conservation measure for it is obvious that once confined in camps the owners or managers of these businesses could no longer look after them. Ultimately, the assets taken over were worth more than 500 million dollars, an amount which represents one half of the US federal budget in 1914. (Gross 2014, Wüstenbecker 2014).

The decisive step was taken toward the end of the war when it was decided that all this property would be sold at auction.

Patent appropriation

An amendment passed on 4 November 1918, legalized the confiscation and sale of thousands of patents of German companies. This was particularly significant for the chemical industry in which Germany was the world leader. Now American companies were able to use their competitors' techniques without having to compensate them. Palmer immediately sold about 4,500 patents to the Chemical Foundation, an organization of the American chemical industry, which then licensed those patents and brands under the foundation's name.

Incidentally, it can be observed that after World War II similar operations took place during the occupation of Germany and Japan in the sense that technical designs had to be released to teams of American industrial competitors.

Comparison with the reparations paid by Germany

Another way to make sense of these confiscations is to compare them to the reparations totaling 100 million dollars received by the United States from Germany according to the Peace Agreement. It can be remembered that the unwillingness or inability of Germany to pay the reparations plagued international relations in the 1920s. In his sense the confiscations were a smart and secure way to get reparations independently of the largely unsuccessful negotiations with Germany.

Examples of confiscations

Starting in January 1918 there are 49 articles with a title containing the expression "Alien property custodian". Here are some typical titles.

How seized German millions fight Germany: Enemy money is put into Liberty Bonds. (NYT 27 Jan 1918,p.63).

“Alien Property Custodian” to take over Schutte and Koerting’s Valve Works. Palmer charges conspiracy to conceal real ownership. (NYT 15 Feb 1918,p.4)

[In this case the firm tried to conceal German ownership which led its manager into jail as a “dangerous alien”.]

Enemy cotton sold to American mills. “Alien Property Custodian” takes 5,391 bales owned by Germans and Austrians. (NYT 23 May 1918,p.17)

[This is a case of seizing raw material.]

“Alien Property Custodian” takes over three great groups of german-owned corporations. Complete surrender of property is announced. (NYT 24 May,p.24)

US gets secret of German Steel. “Alien Property Custodian” seizes Becker Works and all processes it used. (NYT 19 Jul 1918,p.8)

[This is a case of seizing manufacturing secrets.]

The copyrights of German works in literature and music are taken over. As a result, “the royalties will now be invested in Liberty Bonds”.

Chapter **XX**

Impact of sources selection

Overview

It is a common saying that history is written by the victors. Most often this sentence is given the fairly weak meaning that historical events are interpreted from the point of view of the victors. Why did we call this a *weak* meaning? In any historical account there are two phases. Firstly, the events and facts must be collected as completely and accurately as possible. However, most history books do not just consist in a enumeration of facts. Based on them the historian will create a narrative. We wrote “based on them”, but it would have been more correct to write “based on some of them” for usually historians select those facts which they think most relevant.

Let us illustrate this important point by an example.

Different sources, different accounts: an illustration

To be convincing the example must involve two accounts about the same topic but made from two different perspectives. The accounts that we selected are an English (WikiE) and a French (WikiF) Wikipedia biographical article about an African

leader, Jean-Bedel Bokassa. Mr. Bokassa was president of the Central African Republic (called Ubangi Shari prior to independence in 1960) from 1966 to 1976 and Emperor of the same country from 1976 to 1979. Mr. Bokassa came to power on 1 January 1966 by overthrowing President Dacko. Although overall fairly similar, WikiE and WikiF are not identical and it is of interest to identify the differences.

WikiE mentions the following facts which cannot be found in WikiF.

- In September 1964 President Dacko established diplomatic relations with Communist China⁹² and accepted a Chinese interest-free loan of one billion CFA francs (\$4 million). On 6 January 1966, six days after the coup, Mr. Bokassa cut off diplomatic relations with China⁹³. Nevertheless, he restored ties with the PRC in 1976 and visited China in the same year (needless to say, four years after Nixon's visit to China such a move did not have the same significance as in 1966.).

- WikiE devotes a long section to the political activities of Captain Alexandre Banza who participated in Bokassa coup and then failed to overthrow him in a coup attempt on 12 April 1969. A gruesome account is given of how Banza was executed.

- Toward the end of the article, WikiE reports that in his memoirs Mr. Bokassa wrote that he shared women with President Valéry Giscard d'Estaing during his visits to Bangui, a statement which led a French court to order the destruction of all 8,000 copies.

Conversely, there are also sections of WikiF which are omitted in WE (e.g. about the description of the coronation) but most are of little political significance.

Naturally, the differing tones of the two accounts are reflected in their sources. WikiE is based almost exclusively on Titley (1997⁹⁴), whereas WikiF is based on numerous newspaper articles and a few books, including Titley (1997).

The previous example illustrates a well known rule (yet often overlooked) that, most often, it is through the omission of specific facts that historical narrative become uncertain and biased. In the next subsection we consider the history of the American Revolution.

Controlling access to sources

Among all world events, the history of the American Revolution is certainly the story whose narrative has been established with the greatest care. For over one century, basically between 1830 and 1930, hundreds of printed volumes were published in each of the 13 states which give detailed accounts of the meetings of the Continental Congress, the General Assemblies, the Supreme Executive Councils. The writings

⁹²This recognition was in the wake of the establishment of diplomatic relations between France and the People's Republic of China on 27 January 1964.

⁹³This action was probably a message of good will sent to Washington.

⁹⁴Although Brian Titley has written several other books, surprisingly, it seems that none of them has anything to do with African countries.

and the papers of General Washington were collected and published in dozens of heavy volumes, each with a detailed accounts.

This was a formidable task: (i) the manuscripts had to be located and collected, (ii) the handwriting had to be deciphered and had to be either re-written or retyped before being forwarded to the printer (iv) an index had to be established for each volume. Finally, the volumes had to be made available to the users either in the form of paper volumes, microfilm reels and, more recently made available on the Internet. Because this publication process was costly it had to be funded by the states. Therefore, one is not surprised to read on the first pages the name of the governor and the date on which the state assembly authorized the publication.

However, not all documents were published in this way.

- We have already mentioned that court martial accounts are dispersed in many collections most of which are still in handwritten form.
- It is reasonable to assume that for each town or county jail there was a register in which were recorded the dates and names of newly arrived prisoners, their departures or their deaths. However, such registers seem difficult to find.
- Although judicial records are recognized as an important source of evidence, they did not benefit from the same treatment as legislative records.

Should one trust diaries?

In their diaries people are supposed to write what they have seen. At first sight it might seem that such testimonies can be trusted. The example of the “Diary of Samuel Richards” presented here shows that the matter is not so clear.

References

Archives

(most are readable and searchable by keyword on the “HathiTrust” website)

[Confiscation] Journals of Continental Congress, Thursday 27 Nov 1777 (p.971).

Another source for the Resolution of the Congress about the confiscation of Loyalist property is the following.

The Remembrancer or Impartial Repository of Public Events for the year 1778 (p.160). Extracts from the minutes, Charles Thomson, Secretary. Almond (printer), London.

[Detecting] Minutes of the Committee and of the first Commission for Detecting and Defeating Conspiracies in the State of New York. 11 Dec. 1776 - 23 Sep. 1778, with collateral documents.

Published by the New York Historical Society in the year 1924.

- [Force 1] American Archives consisting of a collection of authentic records, state papers, debates, and letters and other notices of public affairs, the whole forming a documentary history of the origin and progress of the North American Colonies, of the causes and accomplishment of the American Revolution and of the constitution of government for the United States. By Peter Force, 1843, Vol.1, 4 July 1776 to 3 Sep. 1783.
- [Forfeited 12] Pennsylvania Archives, Sixth Series, Vol. XII, Forfeited estates.
- [Governors 3] Pennsylvania Archives, Fourth Series, Papers of the Governors, Vol. III, 1759-1785.
- [JPC1] Journals of the Provincial Congress and Provincial Convention of the State of New York. 1775-1776-1777. Vol.1.
- [Minutes 11] Pennsylvania Archives, Colonial Records (i.e. First Series), Minutes of the Supreme Executive Council, Vol. XI, 1776-1779.
- [Providence 1 to 10] Records of the colony of Rhode Island and Providence Plantations in New England. 10 volumes. Published in printed form between 1856 and 1865. The successive volumes are organized in chronological order. The volumes which cover the War of Independence are Vol.7 to vol.9. Vol.7: 1770-1776. Vol.8: 1776 Oct - 1779 Dec. Vol.9: 1780-1783.
- [Worcester 1] History of Worcester County, Massachusetts with biographical sketches of many of its pioneers and prominent men. Compiled under the supervision of D. Hamilton Hurd. Vol.1. Illustrated.. J.W. Lewis and Co, Philadelphia (1889).
- [NARA Sattler] National Archives and Records Administration, College Park, Maryland.
John Sattler, File 9-16-12-4418; Class 9 (European War Matters), NAID 599528; Record Group 60, General Records of the Department of Justice; Litigation Case Files, 19141959.
- [Newspapers] Archives of the State of New Jersey. Documents relating to the Revolutionary history of the State of New Jersey. Extracts from American Newspapers. 5 volumes. Vol.1: 1776-1777; Vol.2: 1778; Vol.3: 1779; Vol.4: 1 Nov 1779-30 Sep 1780; Vol.5 is not available online on HathiTrust presently.
- [NJ] Archives of the State of New Jersey, First Series. Documents relating to the colonial history of New Jersey. 10 Vol.
- [Death warrants, MD] Archives of the State of Maryland. Microfilm MSA SC M3151. Proclamations, Orders, Commissions, Records of Pardons, 1658-1818 Unit 2: Record of Pardons [also death warrants], 1785 Dec-1790 Nov 1.
- [Correspondence] Selections from the correspondence of the executive of New Jer-

sey from 1776 to 1786. Published by order of the legislature. Newark, 1848.

[Wash] Writings of George Washington, 39 Vol. Published between 1931 and 1944.

[ValleyForge] Valley Forge orderly book, August 1777-May 1778. Published in 1902.

[Force] American Archives. A collection of authentic records, state papers, debates and letters and other sources of publick affairs. Collected and edited by St Claire Clarke and Peter Force. [The plan of the author was to publish 6 series covering one century from 1688 to 1787. Each series would have comprised some 6 volumes, each of nearly 2000 pages. However, only the 6 volumes of Series 4 and 3 volumes of series 5 were published because Mr. Force could not get official support for the rest of the publication. These 9 volumes cover the period from March 1774 to December 1776.

What makes this source particularly valuable is the fact that it includes different kinds of documents, e.g. newspaper articles, letters written by English and American officials, military documents.]

[Oyer: county name, NJ, time interval] Records of the minutes of a court of Oyer and Terminer holding a trial in the county and time interval indicated. These hand written records have not been printed, nor put on microfilm. They had to be ordered from the New Jersey State Archive.

[NY Reg] Orderly books of the Fourth New York Regiment 1778-1780 and of the Second NY Regiment 1780-1783.

[Heath] General order issued by Major General William Heath when in command of the eastern department, 23 May 1777 - 3 October 1777. 124 p.

[This short volume covers only one half of his command.]

[Putnam] General orders issued by Major General Israel Putnam, when in command of the Highlands in the Summer and Fall of 1777. 86 pages.

[Penn 2] Orderly book of the second Pennsylvania Continental Line, Colonel Henry Bicker, 29 March 1778 - 27 May 1778, at Valley Forge. Edited by John W. Jordan. *The Pennsylvania Magazine of History and Biography* 35,3 (1911), 333-342, 463-496; 36,1 (1912) 30-59; 329-345.

[Three observations are in order. (i) This publication is in fact a selection of documents as can be seen in the following way. On 1 May 1778 (p. 51) one reads: "A General Court Martial is appointed to sit tomorrow". However, on 2 May the document does not mention any court martial. Whether the missing parts were already missing in the source or whether they were left out in the publication process is difficult to say.

(ii) The courts martial tried also civilians, e.g. for selling goods to the enemy. Such cases are mentioned on p. 471,490,35,47. For instance, in March 1778 an

inhabitant of Pennsylvania was sentenced to be kept at hard labor until the end of the war. (iii) Surprisingly, in contrast to what is seen elsewhere, a majority of the defendants are not soldiers but officers; most of them were either acquitted or sentenced to light penalties, e.g. to be reprimanded.]

[s6 v14] Pennsylvania archives, Series 6, Volume 14.

[Mass Acts] Acts and Resolves, public and private, of the Province of the Massachusetts Bay. Vol.5 (1631 p.) Wright and Potter Printing Company 1886, Boston.

[United Emp Loy] United Empire Loyalists. Inquiry into the losses and services in consequence of their loyalty. Evidence in the Canadian Claims. Two volumes.

[Clinton's papers] Public papers of George Clinton, 10 volumes.

Books and articles

Abell (F.) 1914: Prisoners of war in Britain 1756-1815. A record of their lives, their romance, and their sufferings. Oxford University Press, Oxford.

Alexander (J.K.) 1967: Forton prison during the American Revolution. A case study of British prisoner of war policy and the American prisoner response to that policy. Essex Institute Historical Collections 103, October,365-389.

Allen (James) [1778] 1885: Diary of James Allen. Pennsylvania Magazine of History and Biography Volume 9,2, 176-196,278-296,424-440.

[This diary of a wealthy Loyalist from Pennsylvania is of great interest because it shows that it was impossible to remain neutral or more precisely those who tried were treated as enemies. James Allen was attainted through the proclamation of 15 June 1778 and died in Philadelphia on 19 September 1778 probably from a pulmonary disease for in May 1778 he complained that difficult breathing has "continued for a year and a half". He was also much affected by the death of his brother John on 2 February 1778 in Philadelphia from a "putrid fever" after a short illness which lasted 16 days. His conditional attainder became effective after 40 days, that is to say at the end of July. At that moment he was at risk of being arrested. As his diary ends on 15 July 1778 it does not give any information about the last two months of his life.]

Allison (R.I.) 2007: The Boston Tea Party. Commonwealth Editions, Carlisle (Massachusetts).

American Civil Liberties Unions 1919: Wartime prosecutions and mob violence : involving the rights of free speech, free press, and peaceful assemblage, from 1 April 1917 to 1 May 1919. (54 p.)

[This notice lists incidents of mob violence which occurred in the United States in the two years from April 1917 to May 1919. In the preface it is indicated

that these incidents were mainly directed against IWW members; the “International Workers of the World” was a leftist union which was targeted on the two grounds that (i) it was a union and (ii) it opposed the war.

Contrary to later editions, this edition is available (“Full view”) on HathiTrust. An edition dated 1918 and comprising only 24 pages is also available on line but covers only the first year.]

Anderson (J.D.) 1981: Thomas Wharton, exile in Virginia, 1777-1778. *The Virginia Magazine of History and Biography* 89,4,425-447.

Bassett (J.S.) 1895: *The Regulators of North Carolina (1765-1771)*. Government Printing Office, Washington.

Becker (J.-J.) 2012: *Clemenceau, chef de guerre*. Armand Colin, Paris.

Bell (H.H.) 1940: *The Delaware Loyalists*. Historical Society of Delaware, Wilmington (Delaware)

Bernstein (I.) 1992: *The New York city Draft Riots*. Oxford University Press, Oxford.

Bezanson (A.) 1951: *Prices and inflation during the American Revolution, 1770-1790*. University of Pennsylvania Press, Philadelphia.

Blake (K.G.) 1994: *Aiding and abetting: disloyalty prosecutions in the federal civil courts of Southern Illinois, 1861-1866*. *Illinois Historical Journal* p.95-108.

Boatner (M.M.) 1966: *Encyclopedia of the American Revolution*. David McKay Co., New York.

Boonshoft (M.) 2016: *Dispossessing Loyalists and redistributing property in Revolutionay*. Blog of New York Public Library.

Bradley (A.D.) 1966: *Friends in the Fleet prison at Esopus*. *Quaker History* 55,2,114-117.

[The article says that 20 Quakers were arrested, but that, for some reason, only 6 were sent to the prison ship. The article is short and not very clear because it was written for readers familiar with Quaker terminology and rules.]

Brown (R.D.) 1964: *The Confiscation and disposition of Loyalists’ estates in Suffolk County, Massachusetts*. *The William and Mary Quarterly* 21,4,534-550.

Brown (R.M.) 1983: *Revolutionary New Hampshire and the Loyalist experience. Surely we have deserved a better fate*. Thesis, University of New Hampshire.

[A very lucid analysis in the sense that the harshness of the treatment of Loyalists is not overlooked but is shown to have been necessary to win a war against a powerful enemy. It mentions and describes the “Proscription Act” of 11 November 1778. Through this act, if still in the state at that moment, the 74 persons listed in the Act were to be arrested and banished from the state to the

British line. This act which came two weeks before the “Confiscation Act” of 27 November 1778 sealed the fate of the Loyalists.]

Brown (W.) 1969: *The good Americans. The Loyalists in the American Revolution.* William Morrow, New York.

Brunsmann (D.) 2007: The Knowles Atlantic impressment riots of the 1740s. *Early American Studies* 5,2,324-366.

Canale (J.P.) 2014: *American dictators. Committees of Public Safety during the American Revolution 1776-1784.* PhD Dissertation, Department of History, State University of New York at Binghamton.

Canale (J.P.) 2019: “When a state abounds in rascals”. *Journal of the Early Republic* 39,2,203-238.

Carlton (C.) 1995: *Charles I: The Personal Monarch.* Routledge, London.

Carrick (C.) 2016: From the case notes of Robert Treat Paine. The prison ship riot. [Available online at: <http://www.masshist.org>]

Cashin (J.E.) 2002: *The war was you and me. Civilians in the American Civil War.* Princeton University Press, Princeton.

Chávez (T.E.) 2002: *Spain and the independence of the United States: an intrinsic gift.* University of New Mexico Press, Albuquerque.

Clodfelter (M.) 2002: *Warfare and armed conflicts. A statistical encyclopedia of casualty and other figures 1492-2015.* McFarland and Co.

Cogliano (F.) 2001: *American maritime prisoners in the Revolutionary War.* Naval Institute Press, Annapolis (Maryland).

Cohen (D.S.) 1985: The origin of the Pineys: local historians and the legend. In: Jabbour (A.), Hardin (J.) editors. *Folklife 1985* [an annual Magazine].

Cook (F.) 1887: *Journals of the military expedition of Major General John Sullivan against the Six Nations of Indians in 1779 with a record of the centennial celebrations.* Knapp, Peck and Thomson Printers, Auburn, New York.

[It seems odd that such a campaign (with its clearly announced extermination goal, see Washington’s orders) could be the occasion of a celebration. It becomes more understandable when one realizes that this campaign opened the road to westward emigration as formalized in the Treaty of “Big Tree” of 1797, yet another of those treaties which deprived the Indians of most of their land (they gave away 3.5 million acres i.e. 4,000 sq-km) and left them on reservations.

This volume has certainly public relations purposes; it celebrates the “brave soldiers who gave their lives”. There were only 41 deaths for the whole campaign; this number includes accidental deaths as well as the 8 killed at the battle of

Newtown which, it is said, was one of the most decisive and important of the Revolution. The journals written by the officers differ in many ways but almost all include a description of the mutilated body of Lt. Boyd who fell into an ambush with 20 soldiers. The claimed atrocities committed by the Indians is a permanent and recurrent theme of American accounts, yet many cases are known of white prisoners who were able to remain among Indians for several years or white children who were raised by them. Incidentally, it is surprising that after the killing of Lt. Boyd there was no revenge action]

Corbly (D.) 2013: Pennsylvania's traitors and criminals during the Revolutionary war. Lulu Press, Raleigh, North Carolina.

Crothers (A.G.) 2009: Northern Virginia's Quakers and the War for Independence. In: Tiedemann (J.S.), Fingerhut (E.R.), Venables (R.W.) editors 2009: The other Loyalists. Ordinary people, Royalism, and the Revolution in the Middle Colonies, 1763-1787. State University of New York Press, Albany (New York).

Cummings (H.) 1944: Richard Peters: Provincial secretary and cleric, 1704-1776. Philadelphia.

Cummins (J.) 2012: Ten tea parties : patriotic protests that history forgot. Quirk Books, Philadelphia. [Electronic Book]

Cutrer (T.W.) 2015: Military executions during the Civil War. Encyclopedia Virginia October 27, 2015.

Dawson (H.B.) 1886: History of Westchester County, New York, during the American Revolution. Morrisiana, New York.

Demond (R.O.) 1964: The Loyalists in North Carolina during the Revolution. Archon Books, Hamden (Connecticut).

Diary of Reverend Shewkirk, pastor of the Moravian Church. Published in 1876, Bethlehem, Pennsylvania.

Dietz (T.) 2012: Dutch Esopus, Wiltwyck, Kingston memories. Dorrane Publishing, Pittsburgh (Pennsylvania).

Doherty (F.) 2011: The Revolutionary War Fleet prison at Esopus. The Hudson River Valley Review 103-123.

Durant (A.) 1984: History of the International Committee of the Red Cross. From Sarajevo to Hiroshima. ICRC, Geneva.

Durkheim (E.) 1894: Les règles de la méthode sociologique. Flammarion, Paris. English translation under the title: "The rules of sociological method". [Both the French and the English versions are freely available on the Internet. Although Durkheim is widely recognized as one of the founding fathers of so-

ciology, the most important of the rules that he advocated, namely to study sociological phenomena like natural effects, has been largely forgotten and brushed aside.]

Eardley-Wilmot (J.) 1815: Historical view of the Commission for enquiring into the losses, services and claims of the American Loyalists. J.Nichols, London.

Edmonson (J.H.) 1971: Desertion in the American army during the Revolutionary War. PhD dissertation, Louisiana State University.

[The thesis contains accounts of courts martial and of executions that are mostly based on Washington's papers.]

Egnal (M.) 1988, 2010: A mighty Empire. The origins of the American Revolution. Cornell University Press.

[The author gives a very detailed account of the political changes in the legislatures of Massachusetts, New York State, Pennsylvania, Virginia and South Carolina in the decades preceding 1770.]

Evans (R.J.) 2004: The Coming of the Third Reich: how the Nazis destroyed democracy and seized power in Germany, Penguin Books.

Fast (H.) 1990: Being Red, a memoir. Sharp. The book was republished by Routledge in 2015.

[In the early 1940s Howard Fast was a young but already celebrated American writer. During the war he worked for the "Voice of America" at the "Office of War Information". As soon as the war was over, everything changed for Fast as he became a member of the Communist Party. In June 1947 he was tried for contempt of Congress (because he refused to give names of other members) and conspiracy against the state; as the second charge was dismissed he got a fairly light sentence of 3 months imprisonment. The book was translated into French in 2005 under the title "Mémoires d'un rouge".]

Ferguson (J.E.) 1961: The power of the purse. University of North Carolina Press, Chapel Hill.

Ferling (J.E.) 2003: A leap in the dark : the struggle to create the American republic. Oxford University Press, New York.

Flick (A.C.) 1901: Loyalism in New York during the American Revolution. Columbia University Press, New York.

Fowler (D.J.) 2009: "Loyalty is now bleeding in New Jersey". Motivations and mentalities of the disaffected. In: Tiedemann (J.S.), Fingerhut (E.R.), Venables (R.W.) editors 2009: The other Loyalists. Ordinary people, Royalism, and the Revolution in the Middle Colonies, 1763-1787. State University of New York Press, Albany (New York).

[This study is one among a few based on judicial sources and particularly on

the records of trials in the courts of Oyer and Terminer of New Jersey. These courts were not permanent but were summoned at county level whenever necessary. This makes it very difficult to get an overall view. The present author uses records from trials held in only 3 counties (i.e. Burlington, Gloucester and Monmouth), but in fact similar trials took place, at one moment or another, in many other counties, e.g. Cape May, Cumberland, Essex, Middlesex, Salem, Somerset. To get a realistic view one needs to consider all these records globally.]

Franklin (B.) 1747: Plain truth or serious considerations on the present state of the City of Philadelphia, and province of Pennsylvania by a tradesman of Philadelphia.

Fuller (S.M.) 2009: The Loyalist Quaker settlement, Pennfield, New Brunswick, 1783. *Canadian Quaker History Journal* 74,62-79.

Gross (D.A.) 2014: The United States confiscated half a billion dollars in private property during World War I. *Smithonian Magazine* 28 July 2014.

Han (Suyin) 1994: Eldest son. Zhou Enlai and the making of modern China 1898-1976. Hill and Wang, New York.

Harrel (I.S.) 1926: North Carolina Loyalists. *The North Carolina Historical Review* 3,4,575-590.

Hayburn (T.) 2011: Who should die? The evolution of capital punishment in Pennsylvania 1681-1794. Thesis, Lehigh University, Pennsylvania.

Hearn (D.A.) 1997: Legal executions in New York State. A comprehensive reference, 1639-1963. McFarland, Jefferson (North Carolina).

Hearn (D.A.) 1999: Legal executions in New England. A comprehensive reference, 1623-1960. McFarland, Jefferson (North Carolina).

Hearn (D.A.) 2005: Legal executions in New Jersey. A comprehensive registry, 1691-1963. McFarland, Jefferson (North Carolina).

[The subsequent volumes published by the same author start in 1866 which means that both the Revolutionary period and the Civil War are not included. It can also be noted that there is no volume for Pennsylvania.]

Hearn (D.A.) 2015: Legal executions in Georgia. A comprehensive registry, 1866-1964. McFarland, Jefferson (North Carolina).

Hodges (A.) 2007: Enemy aliens and silk stocking girls. The class politics of internment in the drive for urban order during World War I. *The Journal of the Gilded Age and Progressive Era* 6,4,431-458.

[Although the largest part of the paper focuses on Portland, Oregon, the paper contains also some nation wide data.]

- Homan (G.D.) 1992: Mennonites and military justice in World War I. *Mennonite Quarterly Review* 66,3,365-375.
- Hook (H.) 2017: *Scars of independence. America's violent birth.* Crown.
 [This was one of the first studies that tried to break with the tradition of sanitized accounts showing benevolent Patriots. However, violence is understood here in the narrow meaning of physical violence. Are the confiscations, proscriptions and banishments not also a form of violence?
 Moreover, without quantitative data (e.g. for cases of mob violence) it is impossible to assess how prevalent violence has been.)
- Howard (F.K.) 1863: *Fourteen months in American Bastiles.* H.F. Mackintosh, London.
- Hubbard (R.E.) 2017: *Major General Israel Putnam: hero of the American Revolution.* McFarland and Co, Jefferson.
- Ingersoll (T.N.) 2016: *The Loyalist problem in Revolutionary New England.* Cambridge University Press, Cambridge (UK).
- Irvin (B.H.) 2003: *Tar, feathers, and the enemies of American liberties, 1768-1776.* *The New England Quarterly* 76,2,197-238.
- Johnston (H.P.) 1878: *The campaign of 1776 around New York and Brooklyn including a new and circumstantial account of the battle of Long Island and the loss of New York.* Long Island Historical Society, New York.
 [A very short account of the Great Fire of New York is given in the following terms. "Washington securely established himself on Harlem Heights. The chief excitement was the occurrence of the great fire on the night of 21 September 1776, which broke out near Whitehall Slip, in New York, and destroyed a fourth of the city. In addition to accounts of the calamity already published and generally familiar, the experiences of Pastor Shewkirk, as given in his diary in the present work, will be read with interest".
 An excerpt of the diary of Rev. Shewkirk reads as follows: "If the wind had shifted to the west as it had the appearance a couple of times, the whole city might have been destroyed. There are great reasons to suspect that some wicked incendiaries had a hand in this dreadful fire, which has consumed the fourth part of the city. It is said that some 200 persons have been apprehended by the British troops but most were discharged fairly quickly".]
- Jones (T.) 1879: *History of New York during the Revolutionary War.* Edited by Edward Floyd de Lancey. New York Historical Society, New York.
- Jones (T.C.) "The rage of tory-hunting": loyalist prisoners, civil war, and the violence of American Independence. *The Journal of Military History* 81,719-746
- Jones (T.C.) 2020: *Captives of liberty. Prisoners of war and the politics of vengeance*

in the American Revolution. Pennsylvania University Press.

Kabisch (T.R.) 1982: *Deutsches Kapital in den USA. Von der Reichsgründung bis zur Sequestrierung* in: Kommission bei Klett-Cotta, Stuttgart.

Karsten (P.) 1980: *The military in America: from the colonial era to the present*. Free Press, New York.

Kaspi (A.) 1776, 2013: *La Révolution américaine, 1763-1789*. Gallimard, Paris. (384 p.)

[Written for the bicentenary anniversary of the Revolution, the present account is well presented with a map, population data and a chronology. From an examination of the table of contents (the book has no index) it becomes immediately obvious that it is a “sanitized” account. In the whole volume there are only two pages (0.52% of the content) about the Loyalists and only two lines about their banishments and the confiscations of their estates. Published some seventeen years after Van Tyne’s study on Loyalists, the very existence of a mainstream book like this one shows that in the meanwhile such a one-sided account has become well accepted. In omitting the Loyalists, the author misses the most successful aspect of the Revolution, namely the ability to bring about a nearly total consensus with minimal losses of lives. Compared to subsequent war time episodes, such as the Civil War or the First World War, the coercion framework developed in the American Revolution was by far the most effective.]

Kercheval (S.) 1902: *A history of the Valley of Virginia*. W.N. Grabill.

Kettner (J.H.) 1978: *The development of American citizenship, 1608-1870*. North Carolina University Press.

Kluskens (C.P.) 2017: *Internment of enemy aliens during World War I*. NGS Magazine April-June 2017, 43,2,35-39.

[NGS means “National Genealogical Society”].

Knepper (C.D.) 2011: *Jersey justice. the story of the Trenton Six*. Rivergate Books, New Brunswick.

[In 1949-1950 the six defendants became a cause célèbre supported by prominent persons including Paul Robeson, Eleanor Roosevelt and Albert Einstein and by the “Civil Rights Congress”.]

Kohn (S.M.) 1994: *American political prisoners. Prosecutions under the Espionage and Sedition Acts*. Praeger, Westport, Connecticut.

Lambert (R.S.) 1963: *The confiscation of Loyalist property in Georgia 1782-1785*. *The William and Mary Quarterly* 20,1,80-94.

Lamplugh (G. R.) 1986: *Politics on the periphery: factions and parties in Georgia, 1783-1806*. University of Delaware Press, Newark. p. 45.

Lancaster (B.) 1955: *From Lexington to liberty*. Doubleday and Co. New York.

Larson (C.F.W.) 2019: *The trials of allegiance. Treason, juries, and the American Revolution*. Oxford University Press, New York.

[The book starts with the so-called “Fort Wilson” clash which occurred in Philadelphia around the house of James Wilson, a prominent Patriot lawyer, but the account does not mention that the main issue was the control of grain prices by the Council.]

Leamon (J.S.) 2012: *The Reverend Jacob Bailey, Maine Loyalist. For God, King, country and for self*. University of Massachusetts Press, Amherst.

Lemay (J.A.L.) 2006: *The life of Benjamin Franklin. Vol.1. Journalist 1706-1730*. University of Pennsylvania Press.

Lovejoy (D.) 1987: *The Glorious Revolution in America*. Wesleyan University Press, Middletown.

Lustig (M.L.) 2002: *The imperial executive in America: Sir Edmund Andros, 1637-1714*. Fairleigh Dickinson University Press.

Maguire (J.H.) 1970: *A critical edition of Edward Parry’s journal, [covering] 28 March 1775 - 23 August 1777*. PhD dissertation, Indiana University.

[It is a journal of some hundred pages written by a merchant initially in the process of buying masts to be delivered to Halifax to the British. He was detained, had to give bond worth 2,000 pounds (provided by two of his friends). He wrote letters to many officials to explain his case. He appeared several times before a committee of the House of Representatives. Eventually, after two and a half years of resolutions and counter-resolutions, he was released and went back to London while the committee confiscated the cargo of masts for the benefit of the state. It is a rather uninteresting story which sheds little light on how Loyalists were treated.

One can note that Parry was arrested by a person who styled himself as Colonel Thomson. However, instead of being the head of a regiment (i.e. some thousand soldiers) this person had under his orders a company of some 40 people armed with sultry kinds of arms and who were often intoxicated through abuse of rum.]

Martin (J.K.), Lender (M.E.) 1982: *A respectable army: the military origins of the Republic, 1763-1789*. Harland Davidson, Arlington Heights, Illinois.

Maxey (D.W.) 2011: *Treason on trial in Revolutionary Pennsylvania. The case of John Roberts*. American Philosophical Society, Philadelphia.

[The book gives a detailed account of the trial of John Roberts. It appears that both Carlisle and Roberts were included into a (conditional) attainder proclamation of 6 March 1778. Roberts should have surrendered before the end of

April but did so only on 19 June 1778. At that time the conditional attainder had already become an absolute attainder. However, he was arrested on 10 August 1778 following a testimony by one of his neighbors, Michael Smith, of Lower Meriam township. In other words, his trial was a separate procedure from the attainder. It should be added that on 5 August 1778 a rather inappropriate proclamation by a Quaker “Meeting of Sufferings” had ignited public opinion against them.]

Metcalf (H.H.) editor 1916: *Laws of New Hampshire including public and private acts and resolves with an appendix embracing the journal of the Committee of Safety. Volume 4, Revolutionary Period 1776-1784.*

Miller (R.F.) editor 2015: *States at war. Delaware, Maryland and New Jersey in the Civil War.* New England University Press, Hanover.

[The purpose of this series of books is to cover all states. However, desertion and military justice (i.e. court martials and military commissions) do not seem to be among the topics which are investigated.]

Minehan (J.R.) 1934: *Quaker persecutions in Massachusetts from 1656 to 1661.* Master Thesis, Worcester Teachers College, Boston University.

Mitchell (R.G.) 1984: *The losses and compensation of Georgia Loyalists during the American Revolution.* *The Georgia Historical Quarterly* 68,2,233-243.

Moore (F.) 1875: *Diary of the Revolution.*

Nagler (J.) 2000: *Nationale Minoritäten im Krieg: “Feindliche Ausländer und die amerikanische Heimatfront während dem Ersten Weltkriegs.* Hamburger Edition, Hamburg.

Nath (K.M.) 2009: *Difficulties in Loyalism after independence. The treatment of Loyalists and non-jurors in Maryland, 1777-1784.* Master thesis. University of Maryland.

Neagles (J.C.) 1986: *Summer soldiers. A survey and index of Revolutionary War court-martials.* USA Ancestry, Salt Lake City (Utah).

Neely (M.E. Jr.) 1983: *The Lincoln administration and arbitrary arrests: a reconsideration.* *Journal of the Abraham Lincoln Association* 5,1,6-24.

Neely (M.E. Jr.) 1991: *The fate of liberty. Abraham Lincoln and civil liberties.* Oxford University Press, Oxford.

[The book won the Pulitzer Prize for History in 1992. Neely is the director of the Lincoln Museum.]

Nilsson (J.) 2017: *Persecution of German citizens during World War I. In 1917, all German-Americans were labeled enemy aliens. Many endured harassment, vandalism, and arrest.* *The Saturday Evening Post* 16 March 2017.

Norton (A.T.) 1879: History of Sullivan's campaign against the Iroquois being a full account of that epoch of the Revolution. Lima (New York)

[According to this account almost no Indians were killed in this campaign because Sullivan was firing a big gun every morning and every evening which allowed the Indians to flee from their villages. Thus, it is claimed firing the gun would not have allowed any prisoners to be captured. When one thinks about it, it seems difficult to take the "firing the gun" story seriously. Why? Three objections come to mind.

(i) This tactic would have contravened Washington's explicit order to "capture as many prisoners of every age and sex as possible".

(ii) Sullivan had about 3,000 troops and of course many wagons. Therefore, whether a gun was fired or not, it was certainly easy for Indian scouts to locate the bulk of the forces. However, that does not prevent surprise raids on Indian villages by small units. In other episodes of that kind one reads that such attacks took place before sunrise when the Indians could be surprised in their sleep.

(iii) The journals in Cook (1887, e.g. the journal by Lt. Barton) tell about attempts to surprise Indian villages in night attacks but it seems they were largely unsuccessful because the villages had been evacuated.

Another question comes to mind.

What was the purpose of carrying 10 brass field pieces (see Wikipedia article about the Newtown battle) if it was only to use them against empty, deserted villages?]

O'Keefe (T.C.) 2011: Incident on Gallows Hill. The Hudson River Valley Review, 125-147.

[The article gives a very detailed account of the courts martial and executions of two young soldiers, one for spying and the other for treason. The author makes the point that Edward Jones and John Smith may have been executed too hastily. That was perhaps due to a short-lived mutiny which preceded the trial of the two men.]

Olwell (R.A.) 1989: Domestic enemies: slavery and political independence in South Carolina, May 1775-March 1776. The Journal of Southern History 55,1,21-48.

Ousterhout (A.M.) 1978: Pennsylvania land confiscation during the Revolution. Pennsylvania Magazine of History and Biography 102,3,328-343.

[The paper says that of the 500 persons who were to be attainted if they did not submit to a trial within 40 days, 113 reported in time; unfortunately no reference source is given for this statement. It turns out that the statement comes from Young (1966,p.306) where it is also given without reference. Subsequently this unreferenced statement was cited by many authors, for instance, Gallo (2019). Moreover, it is not explained how, among these 113, were selected the 17 who

were actually tried. It is said that among these 17, two were executed but their names are not given. One knows of course that Carlisle and Roberts were executed but it was probably under a different procedure for they were not given any alternative than to be tried.

One reads that the property of Joseph Galloway, one of the wealthiest citizens, was plundered but it is no said by whom and no reference is given.]

Overfield (R.A.) 1968: *The Loyalists of Maryland during the American Revolution*. University of Maryland PhD thesis.

Owen (L.F.) 1975: *The Revolutionary struggle in New Jersey, 1776-1783*. *New Jersey's Revolutionary Experience*, No 16.

Philbrick (N.) 2016: *Why Benedict Arnold turned traitor against the American Revolution*. *Smithsonian Magazine* May 2016.

Post (M.D.) 1917: *Alien enemies*. *The Saturday Evening Post*, 17 March 1917.

Quynn (D.M.), Quynn(W.R.) 1942: *Barbara Frietschie*. *Maryland Historical Magazine* 37,3,227-254;

Raphael (R.) 2013: *Thomas Paine's inflated numbers*. *Journal of the American Revolution*, 20 March 2013.

Raphael (R.) 2017: *Country crowds in Revolutionary Massachusetts: mobs and militia*. *Journal of the American Revolution*, 16 March 2017.

Reed (J.) 1847: *Life and correspondence of Joseph Reed by his grand son William Reed*. Vol.1, Vol.2. Lindsay and Blackiston, Philadelphia.

Richards (S.) 1909, 2016: *Diary of Samuel Richards. Captain of the Connecticut Line. War of the Revolution 1775-1781*. Published by his great grand son. Philadelphia Republished by: Big Byte Books and also available on HathiTrust.

Roberts (G.B.) 1976: *Christ Church Hospital*. *Historical Magazine of the Protestant Episcopal Church* 45,1,89-102.

[This paper gives brief information about John Kearsley (1684-1772) and John Kearsley Junior, his nephew, who died in Carlisle prison in November 1777 and is considered by many Loyalists as one of their first martyrs.]

Robinson (G.) 2009: *A tragedy of democracy. Japanese confinement in North America*. Columbia University Press.

[Contrary to most other accounts which present the sale of Japanese property before internment in an anecdotal way, the present study shows that it was a systematic policy in which the Federal Reserve Bank participated by dispatching representatives to oversee the sales.]

Roehner (B.M.), Rahilly (L.) 2002: *Separatism and integration*. Rowman and Littlefield, Lanham (Maryland).

- Roehner (B.) 2004: *La cohésion sociale*. Odile Jacob, Paris.
- Roehner (B.M.) 2007: *Driving forces in physical, biological and socio-economic phenomena. A network science investigation of social bonds and interactions*. Cambridge University Press, Cambridge (UK).
- Roehner (B.M.) 2014: *Relations between military forces and the population of Hawaii*. Working Report, University Paris 6.
[full text available online]
- Rowe (G.S.) 1994: *Embattled bench. The Pennsylvania Supreme Court and the forging of a democratic society. 1684-1809*. University of Delaware Press, Newark.
[What makes this study particularly interesting is the fact that the judicial system of Pennsylvania was designed on Quaker principles by the first proprietor William Penn. This was the first (and probably only) opportunity to shape the organization of justice according to Quaker principles.]
- Royster (C.) 1979: *A revolutionary people at war*. University of North Carolina Press, Chapel Hill, North Carolina.
- Sabine (L.) 1865: *Biographical Sketches of Loyalists of the American Revolution. With an Historical Essay*, Vol.1: 628p., Vol.2: 609p. Little Brown, New York.
[Together these two volumes provide short biographies of hundreds of distinguished Loyalists. Many of them were Harvard or Yale graduates, ministers of the Anglican Church, officers or big landowners. The list comprises few tradesmen and manufacturers. The word “executed” occurs 59 times in the two volumes; unfortunately, the author does not give the dates of these executions. Most often he gives only the year, sometimes the month, very seldom the day.]
- Scharf (J.T.) 1882, 1995: *History of western Maryland*. Louis H. Everts, Philadelphia. Two volumes. The book was re-edited in 1995 by Clearfield Company.
[The edition of 1882 is available on HathiTrust.]
- Scharf (J.T.), Westcott T.) 1884: *History of Philadelphia, 1609-1884*. Louis H. Everts, Philadelphia. 3 volumes.
[The history of the Revolution is in Vol.1. The authors give very detailed accounts of some episodes, e.g. the Boston Massacre or the Fort Wilson riot. However the impression of accuracy that is given is misleading for in the Fort Wilson case they largely under-estimate the number of militia who were killed.]
- Schiff (S.) 2006: *A great improvisation: Franklin, France, and the birth of America*. Henry Holt, New York.
- Schoettler (C.) 2001: *A time liberties were not a priority*. Baltimore Sun, 27 November 2001.
- Seymour (J.) 2012: *The Pennsylvania Associators 1747-1777*. Westholme, Yardley.

Shachtman (T.) 2020: Tapping Americas wealth to fund the Revolution: two good ideas that went awry. *Journal of the American Revolution*, January 16, 2020.

Siebert (W.H.) 1905: *The Loyalists of Pennsylvania*. University at Columbus.

[This fairly short book offers a detailed description of the British occupation of Philadelphia and raises many interesting points. For instance, one reads that on 25 August 1777 (the day of the British landing on their way to Philadelphia) the authorities of Pennsylvania and Maryland requested that all “notoriously disaffected to be apprehended, disarmed and secured”. Was that resolution really carried out? If it was, where were those people, in the number of several hundreds certainly, confined? The standard way would be to open prison camps but no such camps are mentioned.]

Solly (I.) 2020: D.C. statehood is closer than ever to becoming a reality. The Senate has a problem with that. *The Georgetown Voice*, 17 July 2020.

[“The Georgetown Voice” is a weekly publication of the students of Georgetown University which has the distinctive feature of having been founded by the Jesuits. It is now open to students of any religions, including 400 Muslim students (as of 2007) but it has nevertheless kept a close connection with the Society of Jesus.]

Smith (J.) 1914: *Toryism in Worcester County during the War of Independence*. *Proceedings of the Massachusetts Historical Society, Third Series, Vol. 48* (Oct 1914 - Jun 1915), p. 16-35.

Stark (J.H.) 1907: *The Loyalists of Massachusetts and the other side of the American Revolution*. W.B. Clarke, Boston.

[Although published in Boston, this book is written from the perspective of the Loyalists. This could be seen from the very beginning through the following dedicace: “To the memory of the Loyalists of the Massachusetts Bay whose faithful services and memories are now forgotten by the nation they so well served.”

However, although the rhetoric, tone and arguments are Loyalist (e.g. the Patriots are called “Disunionists”) the author provides few facts about their suffering that could explain why so many abandoned their homes. The second part of the book gives biographies of Loyalists but focuses almost exclusively on those who came to Canada. Those who were indicted, tried and sentenced are hardly mentioned. The keyword “indicted” does not appear at all and the keyword “sentenced” appears only once.]

Steinmetz (J.D.) 2018: *Beyond free speech and propaganda. The political development of Hollywood. 1907-1927*. Lexington Books, New York.

Stibbe (M.) 2006: *The internment of civilians by belligerent states during the First*

World War and the response of the International Committee of the Red Cross. *Journal of Contemporary History* 41,1,5-19.

[The article explores all belligerent countries except the United States.]

Stoltzfus (D.C.S.) 2013: *Pacifists in chains. The persecution of Hutterites during the Great War.* Johns Hopkins University Press, Baltimore.

[The expression “in chain” is not just a way of speaking. The prisoners were handcuffed and chained to the bar of the door in standing position 9 hours a day.]

Sullivan (A.) 2014: *In but not of the Revolution. Loyalty, liberty and the British occupation of Philadelphia.* Thesis, Temple University.

[There is no index but a “search” performed in the pdf file shows that the word “attainder” appears only 6 times and always in fairly general terms. The fact that in Pennsylvania the confiscations by proclamations continued in 1779, 1780, and 1781 seems to contradict the leniency argument developed in the study. Instead of drawing conclusions from the study of only one state would it not be helpful to give a look at the 12 others?

Sullivan (A.) 2019: *The disaffected. Britain’s occupation of Philadelphia.* University of Pennsylvania Press, Philadelphia.

Tiedemann (J.S.), Fingerhut (E.R.), Renables (R.W.) editors, 2009: *The other Loyalists. Ordinary people, royalism and the Revolution in the Middle Colonies 1763-1787.* State University of New York Press, Albany (New York).

Titley (B.) 1997: *Dark age. The political odyssey of Emperor Bokassa.* McGill-Queen’s University Press, Montreal.

Vagts (D.F.) 2007: *Military commissions, a concise history.* *American Journal of International Law* 101,1,35-48.

Van Tyne (C.H.) 1902, 1929: *The Loyalists in the American Revolution.* P. Smith, New York (360 p.).

[There were several editions of this pioneering study of American Loyalists but they have all the same number of pages (namely 360p). The edition of 1929 was published one year before Van Tyne’s death at the age of 60. The only drawback of this masrerly book is that it is somewhat short on facts and whenever facts are mentioned it often happens that no primay reference is provided. For instance, on p. 295 one reads that in the south after the publication of the peace treaty the Tories fled for their lives and a few of the bolder ones who attempted to return to their homes were attacked, eight of them being murdered”. Yet, no reference is given.

Consequently, this book could have served as a ground work and agenda to be develop by subsequent researches but instead many of the most important top-

ics examined by the author were rather neglected in subsequent studies. As examples one can mention the removals of groups of Loyalists to what Van Tyne called “reconcentration” camps. Van Tyne’s descriptions of several cases (Philadelphia, North Carolina, Massachusetts, Maryland, Delaware) are quite interesting but would deserve more precise assessments of the number of Loyalists involved, how they were transported, how many died and so on.

Van Tyne did not know that the same procedure would soon be used during the Second World War against the persons of Japanese descent living on the west coast and actually for the same reason. During the War of Independence the removals were triggered by threats of the British fleet whereas in early 1943 they were ordered in response to a possible (but quite unlikely for logistic reasons) Japanese invasion of the west coast and concerns about security risks. Among other topics considered by Van Tyne which fell out of favor thereafter one can mention high treason trials, attainders, property confiscations; for instance, it would be interesting to know how Quaker fared compared with declared Loyalists.]

Venzon (A.C.) 2013: *The United States in the First World War*. An encyclopedia. Routledge.

Voorhees (D.W.) 1994: The “fervent zeale” of Jacob Leisler. *The William and Mary Quarterly* 3rd series, Vol.51,3,447-472.

Webb (S. S.) 1998: *Lord Churchill’s coup: The Anglo-American Empire and the Glorious Revolution reconsidered*. Syracuse University Press, Syracuse (New York State).

Weitz (M.A.) [no date] *Desertion, cowardice and punishment*. An analysis of how both sides handled desertion and cowardice. *Essential of Civil War curriculum*. Virginia Tech Center for Civil War Studies.

Williams (T.J.C.), McKinsey (F.) 1910: *History of Frederick County, Maryland from the earliest settlements to the beginning of the war between the states, continued from the beginning of the year 1861 down to the present time*. L.R. Titworth and Co., Hagerstown, Maryland. Two volumes illustrated, 832p., 1040p.

[This book is unusual by thr length of its old-style title and also by its number of pages, namely 1,872p. for the two volumes. Its account is also unusual in the sense that it consists in two parts: (i) an account by the authors is given in the first half of each page and below are reproductions of relevant documents. In other words the book serves as a narrative and at same time as an collection of archive documents. The book was republished several times.]

Wüstenbecker (K.) 2014: *German-Americans during World War I. Immigrant Entrepreneurship, 1720 to present*. *German-American Business Biographies*.

Young (H.J.) 1966: Treason and its punishment in Revolutionary Pennsylvania. The Pennsylvania Magazine of History and Biography 90,3,287-313.

[On the last page of the paper it is said that in Connecticut only one person was executed for treason. However, based on newspaper sources, Hearn found that 9 were executed for treason. On the same page it is reported that in Pennsylvania only 4 were executed for treason. However, based on partial records of the court of Oyer and Terminer, Hayburn found that 11 were executed for treason. We used the term “partial” because the records for 1767-1777 are missing.]

Table 1

<u>Date</u>	<u>President</u>	<u>Kind of meeting</u>
1959-1990		No meeting
Apr 1991	Bush	First meeting
Sep 1995	Clinton	Meeting skipped
Apr 1997	Clinton	Informal meeting
May 2001	Bush	Meeting
Oct 2007	Bush	Private meeting
Feb 2010	Obama	Official meeting
Jul 2011	Obama	Official meeting
Feb 2014	Obama	Official meeting

Notes:

Source: New York Times (search engine)

Summary Patriot actions against Loyalists

Below we list specific actions directed against Loyalists. We refrained from labelling them as “mob rule” actions, even for those which were indeed carried out by mobs, because in most cases such mobs were in fact well directed and organized.

The information is given in the following format.

Year (date), state, place (whenever available)

Name of person targeted in the form: family name (given name); in cases where several persons were targeted it is rather the cause of the incident that is indicated.

Description of the event

(Source) [Comment; in some cases the comment precedes the description]

1770, Mass, Boston

McMaster (Patrick)

He was seized by the mob and carted through the streets at Boston and Portsmouth because his company imported British goods. He took shelter at Castle William in Boston.([Unit Emp Loy,V.1,p.56])

1774 (18 Jul), SC, Charleston

Maitland (Capt)

Captain Maitland, who had brought in several chests of tea for merchants in this town, which he had promised the General Committee, as it is called, to destroy or carry back, and taken in his load of rice in the mean time, gave great offence to the Committee and the people, as the tea was that day landed by the Custom House Officers and lodged in the King’s store house.

Several hundred men went with great threats in quest of him in the evening, but as they entered his ship on one side, he went off from the other, and took shelter on board his Majesty’s ship Glasgow. Another parcel of tea, since arrived, by consent of the Committee, is lodged in the King’s stores in the same predicament.

[AAF,s4,v1,p.663]

1774 (Aug), Mass, Boston

Nutting (John)

Moving powder from Cambridge to Boston at the request of the British made him obnoxious to the Patriots; as a result he was obliged to fly to Boston. THE fact that he was an officer in the militia shows that in 1774 the militia was not yet completely controlled by the Patriots. [Unit Emp Loy,V.1,p.58]

1774 (2 Aug), CT, Litchfield

Ingersoll (David)

On 2 August 1774 persons from the county of Litchfield in Connecticut proceeded to Great Barrington (Berkshire County in Massachusetts Bay) and there made an assault on David Ingersoll and carried him to Canaan where he was falsely imprisoned for 12 hours.

A warrant was issued by virtue of which on 19 August 1774 the Sheriff brought 7 persons to the court. The persons arrested were attended by 30 persons of their friends but no act of hostility was attempted. Their trial was adjourned and they were released on bail. [AAF,s4,v1,p724]

[This is a fairly rare case in which some of the demonstrators were arrested. However, one can observe that the arrests take place 17 days after the assault and that the court does not seem eager to try the defendants.]

1774 (24 Aug), NJ, Salem

Forbidden meeting

On 20 August 1774, printed notifications were posted up by the Committee of Correspondence in Salem desiring the inhabitants to meet at the Town House, on 24 August at 9am to appoint deputies to meet at Ipswich, on 6 September with the deputies of the other towns in the county to determine on measures that the late Acts of Parliament render necessary.

Salem, 23 August 1774. Proclamation of the Governor.

All meetings called without the consent of the Governor, are illegal. I do strictly prohibit all persons from attending the meeting of 24 August 1774.

At 9am on 24 August the governor claimed: "If the people do not disperse, the Sheriff will go first: if he is disobeyed, and needs support, I will support him". The Governor ordered troops to be in readiness. They prepared as if for battle and about 80 advanced to the Town House. But before this movement of the troops occurred the whole business of the meeting was transacted and the deputies chosen. [AAF,s4,v1,731]

[This is an interesting episode because many accounts give the impression that the governors were completely powerless. This may have been true later on, but the present account shows that in August 1774 the Governor of NJ was still obeyed by the militia and used it to suppress the meeting of the Patriots for he understood very well that such meetings were the bricks used by the Patriots to undermine British authority.

The account also shows that the Patriots preferred to avoid a direct confrontation. It would be of interest to know how they were able to take the control of the militia.]

1774 (24 Aug), Mass, Brimfield , Willard (Col. Abijah) Col. Willard, one of Governor Gage's New Council, was arrested by Patriots, kept in prison one night, then

taken to Briemfield where he was condemned to newgate prison in Symsbury (an underground prison in a mine). After being carried some 6 miles on the way to Newgate, Col. Wilard accepted to sign and read a resignation in which he recognized his mistake. [AAF s4,v1,p732]

[Col. Willard was one of the so-called Mandamus councilor. The word “Mandamus” refers to their mode of nomination by the king. There were some 35 councilors of that kind whose names are listed in the source. Also given is the text of the resignatio; obviously it was written by a lawyer or a well educated person.]

1774 (27 Aug), Mass, Boston Paine (Timothy)

Timothy Paine was another Mandamus councillor who had to resign as explained in the previous entry. [AAF s4,v1,p745] [After Paine in the following days of late August and early September other Mandamus councillors were compelled to resign, e.g. Samuel Danforth, Joseph Lee, Thomas Oliver. The last named added the following sentence at the end of his resignation: “My house at Cambridge being surrounded by about 4,000 people, in compliance with their commands, I sign my name.”

In a letter to England of 2 September Governor Gage of Massachusetts writes that no Court could proceed on business and he gives the names of 7 other councilors who have abandoned their dwellings to the mercy of the people and have taken refuge in Boston under the protection of the troops. He observed further that the disturbance being so general, and not confined to any particular spot, there was no knowing where to send troops to be of use.]

1774 (6 Sep), Hebron (CT) , Rev. Peters (Samuel)

Hezekiah Huntington, Vine Elderkin, Ebenezer Gray and John Ripley, all of Windham (Connecticut), of lawful age, testify that on the 6th of September, 1774, we went to Hebron to visit and deal with the Reverend Samuel Peters. After many discussions, Peters being still unwilling to sign the resolutions of the Committee (which were completely opposite to his own views), the demonstrators rushed into the house, seized and brought Peters out of the house, and placed him on a horse, and carried him to the Common Parade, (about one kilometer away) where Peters agreed to sign the paper; he read it to the people himself on which, they gave three cheers and dispersed. [AAF,s4,v1,p718]

[Seemingly it was an orderly compulsion but the account says nothing about the threats. It seems clear that there were some, for otherwise it is difficult to understand why Peters suddenly changed his mind.]

1774 (14 Sep), CT , Beebe (Dr.),

Letter to Governor Trumbull of CT. A large number of people visited the Doctor this week, and as he refused to say anything that gave satisfaction, the people have been

so rough with him as to give him the new fashion dress of tar and feathers. He thinks himself extremely abused and wants to prosecute some of them but applies to your Honour for advice. [AAF s4,v1,p787]

[This is the first case of tar-and-feather reported in the present episode of mid-1774.]

1774 (27 Sep, MA) , Boston troops,

The Committee of Correspondance of Boston and neighbouring towns (Braintree, Cambridge, Dedham, Dorchester, Milton, Mistick, Roxbury, Stow, Watertown, Woburn) have unanimously decided to withhold from the troops now in Boston all articles (e.g. labor, straw, timber, boards) excepting provisions necessary for their subsistence. [AAF,s4,v1,p.807]

[Withholding provisions for the Navy ships off the American coast was a powerful means in the hands of the population. Although the men of war had the capacity to bomb coastline towns that did not solve their provisioning problem.] **1774 (Oct),**

Boston , Letter from Reverend Peters,

Six regiments are now coming from Englad and sundry men-of-war. So soon as they come hanging work will go on and destruction will first attend the sea-port towns. [AAF,s4,v1,p.746]

[Although this was indeed a plausible assumption, for some reason it did not materialize.]

1774 (20 Oct, Annapolis (MD)) , Tea,

The brig Peggy Stewart arrived from London with one ton of tea destined to “Williams and Co”, merchant in Annapolis. The duty on the tea was paid by Mr. Antony Stewart, one of the owners of the brig. A committee of 12 persons was appointed to prevent landing of the tea. The committee decided that if the tea was destroyed by the owner nothing further ought to be required. Mr. Stewart further offered to burn the vessel together with the tea. In addition a declaration containing a promise to respect the embargo in the future was signed by Joseph Williams, James Williams and Antony Stewart. After which they went on board and set fire to the tea which burned for hours together with the vessel. [AAF,s4,v1,p885]

[The account does not explain why the owner of the vessel offered to burn it together with the tea. It was not possible to burn the tea apart because it could not be landed but it would have been possible to throw it overboard as was done in Boston on 16 December 1773.]

1774 (7 Nov), Gloucester County (NJ) , Tea,

From information that the vessel Virginia had arrived with a quantity of tea 23 persons of the Committee of Gloucester County assembled and visited the vessel in York River. When they arrived there they were told by the Committee of York that

the tea had already met its deserved fate by being committed to the waves. To punish the owner of the ship, it was resolved that it should leave within 20 days without any tobacco on board. [AAF,s4,v1,p965]
[Tobacco was probably the customary shipment on the return voyage.]

1774 (8 Nov 1774, Virginia) , Wardrobe (David),

At a meeting of the committee of Westmoreland county came a certain David Wardrobe charged with writing a letter false, scandalous and inimical to America, published in the "Glasgow Journal" of 18 August 1774. The committee considered the fatal consequences that will be derived to the just liberties of America if such enemies are suffered to proceed in this manner.

The Committee resolved:

- (1) that the said Wardrobe will no longer be able to teach.
- (2) that he should publish a letter in the same newspaper expressing his remorse for his misrepresentation.
- (3) that he should appear at the Westmoreland court house on 29 November 1774. [AAF,s4,v1,p]

[The committee basically explained that in the present conflict a free press was a luxury that America could not allow. Actually the same situation prevailed in Britain where the charge of libel was a disguised and commonly used form of censorship. It would be interesting to read the published letter to see if it was really a misrepresentation or simply the expression of a different opinion.] **1774 (7 Nov), Rochester (NH)** , Austin (Nicholas),

Mr. Austin is accused by the committee of correspondance of providing workers for building barracks for British soldiers in Boston. He was obliged on his knees to confess and to make promise of good behavior in the future. [AAF,s4,v1,p974]

1774 (26 Nov), Baltimore (MD) , Park (John),

Suspected of dissimulating a chest of tea, Mr. Park had to bring and burn it before the Committee of Frederick County. Moreover, the population was told to avoid having any contact with him. [AAF,s4,v1,p1009]

[Excluding offenders from their local community was a common and very effective punishment.]

1774 (14 Dec), Portsmouth, NH , William and Mary Castle,

Letter of NH Governor Wentworth to Governor Gage in Boston. Four hundred men proceeded to his Majesty's Castle at the entrance of this harbour and forcibly took possession thereof, and carried off upwards of one hundred barrels of powder, belonging to the King. Tomorrow all the cannons and arms in the Castle will be carried away unless some assistance should arrive from Boston in time to prevent it.

[AAF,s4,v1,p1042]

[This was a major step. In July 1789 at the beginning of the French Revolution the people were also able to seize arms, first at the Invalides and then at the Bastille castle. It is clear that the militiamen to whom these arms will be distributed will be on the Patriot which means that the governor will lose control of the militia.]

1774 (27 Dec), New York , Mr. Elliot, Royal Collector,

A number of firearms have been lately seized by your orders and conveyed on board the man-of-war in the port. By this you have declared yourself an inveterate enemy to the liberties of North America. We shall demand these Arms whenever they are needed, probably soon. You will therefore prevent their being sent away, as you may depend upon answering for a contrary conduct with a vengeance. [AAF,s4,v1,p1070]
[The rest of the later makes these threats even more ominous, e.g. “Do not treat this admonition as a vain menace for we are implacable”.

It is signed: “From the Mohawks and River Indians”.]

1775 (9 Jan), Morristown (NJ) , Rivington (James, printer),

Resolution of the Assembly of the county of Morristown. Taking into consideration the conduct of James Rivington, printer in New-York, in publishing two pamphlets, the one entitled “A friendly address”, the other under the signature of “A. W. Farmer” containing many falsehoods, wickedly calculated to divide the colonies do unanimously resolve, that they esteem the said James Rivington an enemy to his country and for the future, will refrain from all further commerce with him. [AAF,s4,v1,p1105]

[Despite this resolution, it seems that Rivington remained a bridge between the Patriots and the British which is why he was tolerated by the two sides.]

1775 (14 Feb), CT (Wetherfield) , Discussion,

In a public house two inhabitants of Ridgefield had a conversation in which it was heard that they disapproved the decisions of the Continental Congress. As a result they were asked to leave the place and were accompanied by two Patriots on their way home. [AAF,s4,v1,p1236]

[Expression of opposition was not even tolerated in private discussions but the account emphasizes that no violence was done.]

1775 (15 Feb), Savannah (GA) , Murder,

Proclamation by the governor. A waiter named James Edgar and a seaman named David Martin, were in guard of a shipment of mollasses. Around midnight a group of patriots armed with pistols and cutlasses arrived who wanted to take control of the mollasses. The waiter was abused and tarred and feathered. The seaman was thrown

over the wharf into the river Savannah. He was seen in the water begging for mercy before he disappeared and is feared to be drown. [AAF,s4,v1,p1253]

[In this account by the governor of Georgia the Patriots are shown in a bad light.]

1775 (23 Feb), Boston , Numerous cases,

[The letter under consideration was addressed to the Provincial Congress of Massachusetts. It is a detailed summary of mob actions in the months from August 1774 to February 1775. Here is a summary in which the cases are arranged by category. Some of the cases may already have been mentioned.

- **Demonstrations against judges and tribunals to prevent their meeting.**

(i) A mob in Berkshire forced the Justices of the Court of Common Pleas from their seats, and shut up the Court House. (ii) In September, Mr. Sewall, his Majesty's Attorney General for this Province, was obliged to repair to Boston for refuge; after his elegant house at Cambridge was attacked by a mob. (iii) Colonel Phips, the Sheriff of the County of Middlesex was obliged to promise not to serve any processes of courts, and to retire to Boston. (iv) In Taunton the Court of Common Pleas was forbidden to set by a large mob, with a Justice acting as one of their Committee. (v) The Courts of General Sessions of the Peace, and Inferiour Court of Common Pleas for the County of Plymouth, have been shut up by mobs. (vi) The Judge of Probate for the County of Worcester was obliged to retreat to Boston for protection. (vii) Honourable John Chandler, Judge of Probate for the county of Worcester, obliged to retreat to Boston for protection.

- **Names of persons attacked by mobs and obliged to retreat to Boston.**

David Ingersoll, Daniel Leonard, Colonel Gilbert, Brigadier Ruggles, Lieutenant-Governour Oliver, Daniel Oliver, Colonel Saltonstall, Colonel Edson, Colonel Vassal, Colonel Putnam, Colonel Murray, Thomas Foster, Richard Clark, Daniel Dunbar, Israel Williams, Sir William Pepperell.

Below, as a case in point, is a account of violence against Daniel Dunbar.

They broke into his house, took him out, forced him upon a rail, in resisting they seized him by his private parts to drag him on it, then beat him. He was held on it by his hands and legs and tossed up with violence. After keeping him 2 or 3 hours in such abuses, he was forced to give his colours up to save his life. [AAF,s4,v1,p1260-1262]

1775 (25 Feb), Boston , Captain Brown,

[The following story is rather long (although it was substantially abridged) but it describes fairly well the climate of fear experienced by Loyalists who wanted to travel outside of Boston. Here the two military were much afraid of being discovered. Except a few Loyalist friends they could not trust anybody.]

Captain Brown and myself [an Ensign] received orders to go through the counties

of Suffolk and Worcester, and sketch the roads for the information of General Gage, as he expected to have occasion to march troops through that country the ensuing spring.

We set out from Boston, on Thursday, disguised like countrymen, in brown clothes and reddish handkerchiefs round our necks. We went to Watertown, and were not suspected. It is a pretty large town for America, but would be looked upon as a village in England; a little out of this town we went into a tavern. We called for dinner, which was brought in by a black woman, at first she was very civil, but afterwards began to eye us very attentively. We observed to her that it was a very fine country, upon which she answered "So it is, and we have got brave fellows to defend it. and if you go up any higher you will find it so". In fact she knew Captain Brown very well. She advised us not to go any higher [i.e. farther away from the coast] If we did we should meet with very bad usage. Nevertheless we decided to push on to Worcester and run all risk.

We went about six miles further and stopped at a tavern, at the sign of the Golden-ball, with an intention to get a drink. The landlord told us we might have either *tea* or coffee. We immediately found out with whom we were, and were not a little pleased to find, on some conversation, that he was a friend to Government. He told us that he had been very ill used by them some time before. We asked him for the inns that were on the road between his house and Worcester; he recommended us to two, one at about 9 miles from his house and another at Worcester held by Mr. Jones.

The next morning being a very fine one we resolved to push on for Worcester, which was about 30 miles from us. We arrived at Worcester at 5pm, very much fatigued. The people did not take notice of us as we came in, so that we got safe to Mr. Jones's tavern. On our entrance he seemed a little sour, but it wore off by degrees and we found him to be our friend [i.e. a Loyalist] which made us very happy.

After Worcester we wanted to go to Marlborough. Three miles before arriving there we were overtaken by a horseman who asked us where we resided; he then asked us where we were going, we told him to Marlborough to see a friend, Mr. Barnes. He asked several rather impertinent questions, and then rode on for Marlborough.

On our entering the town the people came out of their houses, though it snowed and blew very hard, to look at us. We begged Mr. Barnes he would recommend some tavern where we should be safe, he told us we could be safe no where but in his house; that the town was very violent. We asked Mr. Barnes if they did get us into their hands, what would they do with us? He said we knew the people very well, that we might expect the worst of treatment from them. Immediately after this Mr. Barnes was called out; he returned a little after and told us the doctor of the town had come to tell him he came to sup with him. Now this fellow had not been within Mr. Barnes's doors for two years before, and came now for no other business than to

see and betray us; Barnes told him he had company and could not have the pleasure of attending him that night. We were just beginning to eat when Barnes found they intended to attack us, and then he told us plainly he was very uneasy for us, that we could be no longer in safety in that town; upon which we resolved to set off immediately, and asked Mr. Barnes if there was no road round the town, so that we might not be seen; he took us out of his house by the stables, and directed us a bye road which was to lead us a quarter of a mile from the town. At last we arrived at our friend Jones's again, very much fatigued, after walking 32 miles between 2pm and 10.30pm through a road that at every step we sunk up to the ankles.

The next morning after breakfast, we set off for Boston. A few days after our return Mr. Barnes came to Boston and told us, immediately on our quitting the town, the Committee of Correspondence came to his house and demanded us; he told them we were gone; they then searched his house from top to bottom, looked under the beds, and in the cellars, and when they found we were gone, they told him if they had caught us in his house they would have pulled it about his ears. [AAF,s4,v1,p1263] [One may wonder whether sending two unarmed officers on such a mission was a smart decision. The fact that they had to hide themselves and were at the mercy of the people did not procure much respect for the army. Would it not have been wiser to send a platoon of well trained soldiers?]

1775 (6 March), Cumberland County, NJ , Newcomb (Silas),

[Below is an example of a very mild form of punishment in which the dissident is only subject to social isolation, then recants and is immediately re-integrated in the community of the Patriots.]

It appeared by the voluntary declaration of Silas Newcomb, a member of the Committee, that in open violation of the rules of Congress he had drunk East-India Tea in his family ever since the first day of March and is determined to persist in this practice. After much time spent in vain to convince him of his error, it was agreed that Patriots break off all dealings with him. [AAF,s4,v2,p34]

[Then five days later Mr. Newcomb eventually recognized his error and signed the following declaration.] I, the subscriber, do hereby publicly acknowledge my error in refusing to submit to a majority of the Committee. I ask pardon and promise for the future to regulate my conduct.

Witness my hand, Silas Newcomb.

1775 (14 March), Hardwick , Loyalist statement,

[Below is a declaration signed by a group of Loyalists.]

At a meeting of the inhabitants of Hackensack, county of Bergen, NJ. 1. That we are and will continue to be loyal subjects to his Majesty King George. that we will ven-

ture our lives and fortunes to support his Crown.

2. That we disavow all riotous mobs whatsoever.

3. That humbly petitioning is the only means we can think of to remove our present grievances.

4. That we have not and will not be concerned by any unconstitutional measures.

Signed by 37 inhabitants. [AAF,s4,v2,p131]

1775 (7 Aug), Hardwick , Inimical persons,

Deacon James Fay, Jonathan Danforth, Abner Conant, Joseph Ruggles, Jun., Israel Corkey, and Jonathan Nye, all of Hardwick, in the County of Worcester, have, by their conduct in various instances manifested a disposition inimical to the rights of their countrymen. Therefore,

Resolved,

That their names be published to the world; and that it be earnestly recommended to the inhabitants of this town, county, and colony, not to have any commercial connection with them but to shun their persons, and treat them with that contempt and neglect they deserve. And the said Committee have thought it necessary that they be confined to this town, and that they assemble not together more than two of them at a time, except at publick worship and at funerals. [AAF,s4,v3,p59]

[This was probably one of the first penalties in the form of personal confinement.]

1775 (7 Aug), Baltimore , Christie (James),

Resolved,

That the said James Christie ought to be considered as an enemy to America, and that no person trade, deal, or barter with him hereafter, unless for provisions.

That the said James Christie deposite in the hands of this Convention the sum of 500 pounds sterling, to be expended for the defence of America in the present contest with Great Britain. [AAF,s4,v3,p105]

[This may be one of the first penalties in the form of a payment. This amount equalled the price of a small house.]

1775 (09 Aug), Massachusetts , Parry (Edward),

[The following is an example of a person put under house arrest by a committee of the House of Representatives of Massachusetts acting in the role of a court of justice after colonial courts had been suppressed as seen above.]

The Committee appointed to examine Mr. Edward Parry is of the opinion that the said Parry be immediately sent to the town of Sturbridge, there to be detained. Should he leave said Sturbridge, he shall be taken and put under close confinement.

[AAF,s4,v3,p326]

1775 (14 Aug), Maryland , Prisoners,

[Petitions by Loyalist prisoners are fairly common occurrences; often they are supported by friends of which the following excerpts give 4 examples.]

To the Honourable the Deputies of Maryland in Convention at Annapolis. The humble petition of Patrick Graham of Port Tobacco, Charles County, Maryland. The petitioner writes that he has already suffered greatly and if continued the present situation would reduce an innocent wife and 4 young children to beggary and ruin. The petition is supported by the signatures of 115 friends whose names are listed.

The second petitioner named John Baillie writes that he experienced great difficulty in obtaining the necessary food to support his life. His plea is supported by only 4 friends.

The third petitioner, Alexander Ogg, is not in jail but as he was named an offender in the "Maryland Gazette" he can no longer recover any debts.

The fate of the 4th petitioner named Richard Henderson has not yet been decided. He is accused of having let flee one of his employees who was under suspicion. He explains that the accusation was invented by neighbors who have some old feud against him. [AAF,s4,v3,p119]

1775 (30 Aug), Massachusetts (Worcester) , Willard (Nahum),

[Apart from house arrest, another common method for getting rid of unwelcome persons was to make them flee by threatening them with mob violence. Here is an example.]

A committee was chosen to consider the best procedure regarding Nahum Willard. For instance, he wrongly asserted that the guard who conducted the prisoners [what prisoners?] from Worcester to Springfield were quite cruel, picking them repeatedly with their bayonets. It was thought most advisable that the persons who had suffered should do themselves justice. Apprehension that they would, caused Willard's flight without the least regret of the inhabitants except the Tory gentry. [AAF,s4,v3,p462]

1775 (09 Sep), Providence , Letters,

[As early as September 1775 there was a battle under way in the Atlantic. The following excerpts from a letter sent by governor Cooke to General Washington describe two instances. (i) The Americans tried to intercept the Packet vessel which transported letters from Britain to America. (ii) The British tried to intercept the vessels transporting powder from France to America.]

(i) Captain Whipple will cruise 10 days off Sandy-Hook for the Packet expected from England.

(ii) Our vessel will be loaded with powder in Bayonne in three days which will not give enough time for intelligence to reach England and will therefore prevent interception. [AAF,s4,v3,p682]

1775 (27 Sep), New York State , Judge James Smith,

[Tarring and feathering was still done and still presented like a kind of joke.]

We hear from Dutchess County that James Smith, a judge at the Court of Common Pleas, was very handsomely tarred and feathered for acting in contempt of the resolves of the County Committee; as was also Coen Smith for the same reason. They were carted six kilometers into the country. The judge had tried to sue to recover the arms taken from the Tories; this enraged the people. [AAF,s4,v3,p823]

1775 (1 Nov), Charletown (SC) , Captain Robert Cunningham,

[At that time, in late 1775, prominent Loyalists were most often assigned to a restricted district at a good distance from ports exposed to British invasion. It is only later on, in late 1778 that Loyalists began to be banished. An intermediate situation described in the following case was confinement in jail under high security conditions.]

In Provincial Congress, South-Carolina, to the keeper of the common jail in Charlestown.

“You are hereby commanded to receive into your custody in the common jail, and there safely keep until further order, Captain Robert Cunningham charged with high crimes against the liberties of this Colony. The said Cunningham should not converse or correspond with any person whatever, or to have the use of pen, ink, or paper”.

[AAF,s4,v4,p29]

1775 (6 Dec), Middlesex County, NJ , Thomas Randolph,

[The punishment of tar-and-feathers was usually carried out by mobs. The following is a case where it was inflicted officially. The excerpt also shows that it was usually reserved to people of the middle or lower class.]

Thomas Randolph, cooper, who had publicly opposed the proceedings of the Continental and Provincial Conventions and he being judged a person of not consequence enough for a severer punishment, was ordered to be stripped naked, well coated with tar and feathers, and carried in a wagon round the town. [AAF,s4,v4,p203]

1775 (12 Dec), Bedford (NY State) , James Miller,

[On p.247-248 there are three recantations similar in form to the one by James Miller. All will be published in the NY newspapers. On 16 Dec there is still another recantation by one James Judd of Fairfield County, NJ]

To my shame, I acted against the liberties of the country which gave me birth. I now ask the forgiveness of all the inhabitants of my bleeding country and promise to behave myself for the future, consistent with the proposals of the Continental Congress.

[AAF,s4,v4,p247,288]

1775 (26 Dec), Sussex County (NJ) , Group of 40 Tories,

[The following excerpt describes a raid of 400 militia against 40 loyalists. Not surprisingly, except 3 or 4, all Tories accepted to sign the Patriot Association Statement. What else could they do being in such a disproportion of forces. It would be more interesting to read accounts of raids in places with larger groups of Tories.]

Most Tories have recanted, signed the Association, and profess themselves true “Sons of Liberty”, being fully convinced of their error. Two or three who remain incorrigible are to be sent to the Congress to be dealt with. [AAF,s4,v4,p475]

1775 (29 Dec), NC , Toward a war economy,

[The following is an excerpt from letter written by a person in NC to a person in Britain. It describes how the production of weapons, powder and other supplies previously imported from Britain was encouraged. In fact, weapons were imported from France a long time before the formal alliance of 1777 was established.]

To encourage the supplying of what we used to import from Great Britain, large premiums are given to persons who shall erect furnaces for refining iron, slitting mills, and for the making of cotton cards, needles and pins, the refining of sulphur, the making of saltpetre and gunpowder. [AAF,s4,v4,p476]

1775 (Dec), Maryland , Giving bond,

[In the following excerpt one reads that a person named Isaac Atkinson was released from confinement under a bond of 1,000 pounds. This remains a mystery for one thousand pounds was a big amount. One could understand that the person pledged his house but how could he pay such an amount in cash and at short notice.]

The said Isaac Atkinson is to be discharged from confinement, having given bond with good security, payable to the President, in the sum of one thousand Pounds, currency, for his future good behaviour; and for the payment of such reasonable expenses as shall be adjudged by the Convention to have been incurred in guarding and

confining him. [AAF,s4,v4,p719]

1776 (Nov), NJ (Shrewsbury) , Boogs (Jas)

A number of Loyalists were taken up in Shrewsbury. The dread of being taken up made him fly to Sandy Hook where he got aboard the Swan (a British ship). ([Unit Emp Loy,V.1,p.35])

1777, Boston , McMaster (James),

On his arrival at the British port of Halifax, he said that he had been imprisoned and had to fly to the woods for safety. ([Unit Emp Loy,V.1,p.56])

1778, SC (Broad River) , Dawkins (George)

The dread of being ill-used by the rebels induced 500 inhabitants to assemble and fly for protection to St Augustine. Dawkins was one of them. ([Unit Emp Loy,V.1,p.33])