

## *Pennsylvania Land Confiscations During The Revolution*

IN THE last fifteen years or so, and especially with the impetus of the bicentennial, historians of the American Revolution have increasingly turned their attention to the previously neglected subject of the Loyalists, those who opposed independence and the violence that accompanied it. By correctly pointing out the sizable amount of dissent that existed during the Revolution Loyalist scholars have restored the balance to our study of that war. Yet, at the same time, in correcting this oversight, we must not overemphasize the significance of the opposition. It has been argued,<sup>1</sup> for example, that the extent of American confiscation of the property of defectors who fled behind the British lines helps to prove the truly revolutionary character of the conflict. A close study of Pennsylvania's land confiscations, however, does not support such a claim.

Of course, in addition to land confiscations, émigrés lost a great deal of other property. Mobs, uncontrolled by an inadequate or nonexistent police force, occasionally broke into the homes of persons whose opinions they disliked, and destroyed or stole much of the contents. Joseph Galloway's home in Bucks County, for example, was stripped clean of everything moveable including windows and doors, after his wife joined him in Philadelphia during the occupation. In addition, property came to the state through seizures to satisfy unpaid fines and by escheat when the owners did not pay their taxes.

But as for confiscations, laws authorizing such seizures were passed slowly, and, once passed, the government seemed reluctant to enforce them. Actual sales of confiscated real estate did not begin until the summer of 1779, and the number of estates affected and the total acres involved were small.

<sup>1</sup> Robert R. Palmer, *The Age of the Democratic Revolution* (Princeton, N. J., 1959), I, 188

The first provision for the forfeiture of the property of the opponents of independence was an attempt to define treason and protect the state from its dangers, using the courts in the traditional fashion to determine guilt. A convention, meeting in Philadelphia to prepare a constitution, passed an ordinance on September 5, 1776, which proclaimed that anyone then living in Pennsylvania or anyone voluntarily moving into the state in the future owed allegiance to Pennsylvania. Such a person if found guilty in a court of Oyer and Terminer of high treason, which was defined as waging war against the state or adhering to or helping the enemies of the state, would forfeit all his possessions and be imprisoned at the discretion of the judges, but for no longer than the duration of the war. Anyone convicted of misprision of treason, defined as knowingly helping or concealing a treason, would forfeit one-third of his possessions and be imprisoned no longer than the duration.<sup>2</sup> Several persons were charged under this ordinance and spent short periods in jail, but, since there were no courts functioning, there could be no convictions, hence no confiscations. In any case, the ordinance was considered of doubtful legality because the convention had not been authorized by the people to legislate.

Therefore, the first legislature under the new Constitution passed its own law against traitors on February 11, 1777. Anyone convicted in a court of Oyer and Terminer by the evidence of two witnesses of aiding the enemy in ways designated in the act was guilty of treason, punishable by death and forfeiture of all his possessions. In defining misprision of treason, the Assembly went beyond the definition in the ordinance and included in the term various acts of sedition not severe enough to justify execution, yet believed serious enough to warrant punishment. Persons convicted in a court of Quarter Sessions by the evidence of two or more witnesses of misprision of treason would suffer imprisonment during the war and forfeit half their estates.

The first prosecutions under this law did not take place until the summer of 1778, after the British evacuated Philadelphia. Most war dissenters who remained in Pennsylvania during the early years of the war either were too passive to commit treason or had no occasion

<sup>2</sup> *Pennsylvania Gazette*, Sept. 11, 1776.

to do so. But as the British marched from Head of Elk toward Philadelphia in the late summer of 1777 they attracted colonial supporters to their ranks, and, during the occupation of the city, other citizens moved behind their lines. Although the actions of these persons fell under the provisions of the law of February 11, they could not be punished unless captured, tried, and convicted. Even when captured, trial was difficult because it was impossible to reactivate the courts and normalize their procedures until after the British had departed.

Some of these émigrés, however, had left substantial land holdings that might be used to alleviate the state's increasing financial woes if some method could be found to confiscate them. This possibility attracted the attention of the Patriots during 1777. Among the first to suggest such a move was "A Civilian" who reported to the readers of the *Pennsylvania Evening Post* on May 6, 1777, that several Tories had sought protection from General Howe. He called these people outlaws and said that "all property held under that tenure is considered as *British property*, and subject to the same fate as if at sea." In June, the Supreme Executive Council sought the opinion of Chief Justice Thomas McKean on several questions concerning departed opponents of the colonial cause. Among these queries was whether there was any process under the laws of Pennsylvania for outlawing persons who did not appear for trial, and whether there were measures for seizure of the estates of such people. In his reply, McKean referred to the act of February 11, which had declared that joining the armies of the enemies of the commonwealth constituted treason. Basing his opinion on a law passed in 1718, he found that a Pennsylvania freeholder who committed such a crime might be indicted for it in the county where he had previously lived and a warrant could be issued for his arrest. If he could not be found, the sheriff could proclaim this fact in the Quarter Sessions Court and upon nonappearance of the accused the court could proceed to attain him. His whole estate would then be forfeited to the commonwealth.<sup>3</sup>

<sup>3</sup> *Pennsylvania Archives*, First Series, V, 400. "An Act for the Advancement of Justice," 4th year of George I, cited by McKean, actually provided that only half of the attainted person's possessions would be forfeited to the state; the other half would go to his wife and children.

On August 23, the *Post* reported that the people of New Jersey were considering a law for confiscating and selling the estates of those who helped the British, but, since the Assembly had adjourned until September 3, nothing could be done by Pennsylvania until fall, and by then the British were approaching Philadelphia. On September 17, a committee was appointed to draft a bill for confiscating defectors' estates. Six months would elapse, however, before such a law would be passed.

The next move was made by a Council of Safety, created by the Assembly to provide for emergencies that might arise while the Assembly was not in session. One of the first acts of this Council was to pass an ordinance authorizing the seizure without a prior trial of the personal property of any inhabitant of Pennsylvania who had or would in the future join the armies of Great Britain, or give intelligence or other aid to the enemy. Commissioners named for each county were empowered to take the belongings of an offender, inventory them, dispose of the perishable part, and store, sell, or otherwise dispose of all property that might fall into the hands of the enemy. The money and goods received were to be recorded and kept safe until future disposition by the legislature. The commissioners were given wide powers to search for and seize the goods of offenders. They were authorized to examine witnesses and papers, break open doors, jail those who resisted their authority, and call civil and military personnel to help them if needed.<sup>4</sup> While this ordinance gave the state the power to take produce away from farmers carrying it to the British in Philadelphia, as well as to seize and sell the personal property left behind by men joining the British, it did not cover real estate owned by Loyalists, although greater value lay in the realty.

Under the authority of this measure which would subsequently be approved by the Assembly, the personal property of only a few persons was actually confiscated by the state. Perhaps the first sales occurred in Reading in February 1778, when the effects of John Biddle and Reynold Keen were sold. In Northampton, in April, the property of Michael Whitman, William Thomas, and Joseph Sutton suffered the same fate, and in Lancaster, in May, Hugh Pugh's

<sup>4</sup> *Colonial Records*, XI, 329-331.

effects were also sold.<sup>5</sup> There may have been a few other sales under this law but probably not more than a dozen altogether.

In November 1777, the Continental Congress awakened to the economic value of the real as well as personal property of the émigrés and recommended its confiscation and sale. Congress wanted the states to use the money raised thereby to purchase Continental loan office certificates. But this possibility was far removed from the thoughts of Pennsylvanians caught in the spiral of rising prices and increasing war demands who saw such property as a way to partially mitigate their state's financial difficulties.<sup>6</sup>

Therefore, with the example of the measure already adopted by the Council of Safety to confiscate personal property and the recommendation by Congress to confiscate real estate as well, the new Assembly that convened in Lancaster had only to enact the final legislation. The same day that Congress had received its committee's report recommending confiscation, an Assembly committee was appointed to draft a law confiscating the estates of Pennsylvanians who had gone over to the enemy. Meanwhile, early in December, the ordinance passed by the Council of Safety was officially approved by the Assembly and made effective until further notice. A proposed law brought in by the committee was read for the first time in the legislature on the morning of December 23, for the second time that afternoon, and ordered to be published for public consideration. In accordance with the state Constitution, the matter was allowed to rest until the next session of the Assembly. Finally, February 27 and 28, it was read for the third time, debated, and on March 6, 1778, became law. This act declared that thirteen men "have most traiterously and wickedly, and contrary to the allegiance they owe to the said State, joined and adhered to, and still do adhere to, and knowingly and willingly aid and assist the army of the King of Great-Britain . . . and yet remain with the said enemies in the City and County of Philadelphia, where they daily commit divers treasonable acts without any sense of honour, virtue, liberty, or fidelity to this State." They were ordered to present

<sup>5</sup> *Pennsylvania Archives*, Sixth Series, XII, 29-34, 42-50, 289-291, 370-372, 378-379, 382-384.

<sup>6</sup> *Journal of the Continental Congress* (Washington, 1907), IX, 971; *Minutes of the Second General Assembly of . . . Pennsylvania* (Lancaster, 1778), 22.

themselves on or before April 20, 1778, for trial, or they would be attainted of high treason.

In the future, the Supreme Executive Council was empowered to proclaim the names of any inhabitants suspected of helping the enemy and require that they appear for trial. If they did not surrender before a stated date, which had to be at least forty days after the proclamation, they would suffer attainder. In other words, they would simply be declared guilty, without a trial. If they were caught or reported late, the judge before whom they were brought could only determine that they were the persons named in the proclamation and that they had indeed not reported on time. He was required then to sentence them to the mandatory death penalty. After the deadline, their real and personal estates, owned on July 4, 1776, or any time thereafter, were to be seized and sold, and the proceeds, after payment of any debts due by such estates, were to go into the state treasury, although judges might make provision for the support of the wives and children of the attainted.<sup>7</sup>

Between May 18, 1778, and April 27, 1781, the Supreme Executive Council issued ten more proclamations. Altogether, 500 names appeared on the eleven measures. Due to duplication and errors, this probably represents about 490 people. Of these, 113 are known to have reported by their deadlines, and, of the 113, the cases of only seventeen ever reached trial. Of the three convicted of treason, one was pardoned; the other two were executed and their estates forfeited. Of the remaining 377, the real estate of 118 persons was confiscated.

The act provided that the estates would not be sold until all claims against them had been presented, argued in court, and adjudged. A year later, this had proved to be a slow process and, in order to force the presentation of such demands within a reasonable time and prevent further waste and destruction of the estates, another act ordered them sold without delay except for suitable advertising to publicize the sales. The reason for this haste is clearly stated in the act, "to make seasonable provisions for the defence of the state, and the contingent charges thereof." Thus, the property

<sup>7</sup> *Minutes of the Second General Assembly of . . . Pennsylvania*, November 22, 27, and December 8, 23, 1777, pp. 10, 12, 18, 30, 31; *Laws Enacted in the Second Sitting of the Second General Assembly of . . . Pennsylvania* (Lancaster, 1778), 102-110.

of those considered traitors to the state was to help pay for its defense.

In April 1779, two and a half years after the constitutional convention had passed its ordinance concerning treason, the Supreme Executive Council finally ordered the actual sales of confiscated real estate to begin. Notification was made that the estates of thirty-seven men were to be sold at public auction.<sup>8</sup> The first sales were made in August and subsequent sales continued for many years. Long after the war was over, estates of attainted persons were still being discovered and sold. Land records were disorganized and incomplete, and settlers occasionally recorded land under assumed names, further complicating the job of identifying property of attainted refugees.

According to the law, sales were advertised in the newspapers thirty days ahead of time and were conducted as an auction, the land being sold to the highest bidder. The successful purchaser could pay in specie or Pennsylvania money and also in Continental money until this latter possibility was ended by a law of December 18, 1780. The rate of exchange between Continental money and specie was then established regularly by the Supreme Executive Council, and the exchange rate for Pennsylvania money was provided in the law creating and making it legal tender. Purchasers were required to pay one-fourth of their bid within ten days of the sale and the rest in thirty days. If they failed to carry out these conditions, the law penalized them one-fourth the price.

These are provisions one might expect of a state aiming to raise as much money as quickly as possible. One month after the first sales began, the Supreme Executive Council reported to the Assembly: "we have proceeded to the sale of the Confiscated estates, and . . . the sums arising therefrom are so considerable as to afford a great relief to the good People of the State from their Public Burthens."<sup>9</sup>

The people of Pennsylvania profitted not only in reduced taxes but also through an endowment fund established for the state university. In the fall of 1779, the Assembly invalidated the charter

<sup>8</sup> *Colonial Records*, XI, 745-747.

<sup>9</sup> *Ibid.*, XII, 99.

of the College of Philadelphia and appropriated that institution. In the act of expropriation was included a measure reserving to the university as many confiscated estates as was necessary to provide an income of £1,500 per year.<sup>10</sup> This was accomplished in two ways. First, ownership of some estates was assigned outright to the university for its use. Forty-five such assignments are recorded with a total valuation of £499,485. Second, another group of estates was sold to private buyers with the stipulation that one-fourth of the purchase price was to be paid to the trustees of the university over a period of fifteen years with interest. In order to counteract monetary depreciation, the payment was determined in equivalent bushels of wheat and that number of bushels or its current value was to be paid each year to the trustees by the purchaser. In practice, when one of these reserved estates was sold, the buyer paid one-fourth of his bid price in ten days, one-half a month later, and one-fourth was retained by him to be paid back with interest each year for fifteen years in wheat or equivalent cash.

Actually, more money was provided for the university than the law had specified. In addition to the income the university would receive from the estates assigned outright to it, sixty of the sales to private individuals set aside one-fourth of the price to be paid over a fifteen-year period to the university. Since the total of these sales was approximately £1,110,348, the one-fourth reserved came to £277,587, or £18,500 a year plus interest.

Estates of attainted persons were also used to help Pennsylvania soldiers whose salaries were paid in rapidly depreciating Continental certificates. By fall, 1780, they were suffering from loss of income in their service to their country. Several complaints from officers of the Pennsylvania Line were made to the Assembly, and in December an act was passed providing for the determination of such losses and their replacement by certificates good for the purchase of forfeited property. All Continental money that the soldiers had received in pay was to be calculated for its value in specie at the time received. Then the difference between the value received and the supposed pay of the soldiers was to be made up by the state.

<sup>10</sup> *Laws Enacted in the First Sitting of the Fourth General Assembly of . . . Pennsylvania* (Philadelphia, 1779), 271-274.



Men to whom the money was due were given certificates specifying the sums in specie. These certificates could then be used to pay for the purchase of any confiscated estates not already sold or appropriated to public use. The committee had recommended that the value of the estates in 1774 be determined and that they be sold at that price exclusively for the depreciation certificates. The final act, however, continued the auction sales and permitted payment in either specie or equivalent state money as well as the certificates, which were to be considered equal in value to specie. Continental money was no longer to be accepted.<sup>11</sup>

If the people of Pennsylvania were to receive full value for the confiscations, the sales had to be conducted honestly and according to the law, and the Supreme Executive Council did try to assure strict adherence to the required conditions of sale. Thus, in September 1778 with sales of personal property having taken place in York County, the Council reminded the York agents of their duty. Sales were not to be held until the inventory and appraisal had been sent to the Secretary of the Council. Agents were cautioned to forward the proceeds from sales promptly to the state treasurer. Later, in March 1780, Council minutes report that many of the purchasers were taking advantage of the depreciating currency and neglecting to make payments on time. A standing committee was appointed to check whether prompt payment had been made before any deeds were issued to future buyers. The next month, when the agent for Northampton County submitted the accounts of his transactions, including money received after the allotted time, the Council refused to dispense with the conditions. Instead, they ordered that three-fourths of the purchase price be returned to the buyers who had failed to comply. One-fourth was forfeited to the state, and the lands were to be sold again for the benefit of the state.<sup>12</sup>

With the Supreme Executive Council meeting in Philadelphia, it could not possibly supervise sales taking place all over the commonwealth. Agents in each county had the responsibility to conduct the

<sup>11</sup> *Minutes of the First Sitting of the Fifth General Assembly of . . . Pennsylvania* (Philadelphia, 1780), 311-312; *Laws of the First Sitting of the Fifth General Assembly of . . . Pennsylvania* (Philadelphia, 1780), 397-400.

<sup>12</sup> *Pennsylvania Archives*, Sixth Series, XIII, 85-86; *Colonial Records*, XII, 281, 322; *Pennsylvania Archives*, Sixth Series, XII, 385.

sales, and, for some, the opportunity to profit was too great a temptation for them to resist. As early as spring, 1778, a complaint was made to Council that the sale on May 1 in Lancaster of the personal effects of Michael Whitman had been conducted improperly. It was reported that part of the belongings had not been sold, and those that were had been "struck off at low prices very quick before anybody could bid." Whitman's wife had wanted to bid but was unable to do so. Both Whigs and Tories were complaining "loudly of such unjust and self motivated Practices, done under cover of public authority." In February 1780, Thomas Hale, Agent for Forfeited Estates in Philadelphia County, was accused of using public money for speculation. When a review of his books revealed a shortage of £50,000, he was relieved of his duties and his case turned over to the attorney general for prosecution. Late in the war, the agents in Bucks County were accused of collusion and intimidation of a prospective purchaser so that he was afraid to bid. As a result, property of Alexander Bartram was struck off to Dr. James Tate for £607 when the representative of a buyer had been instructed to go as high as £3,300.<sup>13</sup>

Perhaps the largest problem in connection with the sales of confiscated estates occurred because of the depreciation certificates. In spite of the requirement, designed to prevent speculation, that the original owner's commanding officer sign any transfer of the certificates to another person, such speculation occurred extensively. Andrew Elliot reported that speculators were able to buy certificates for two shillings six pence on the pound or even less. In June 1781, Lieutenant Colonel P. Mentges complained to President Joseph Reed about the use of depreciation certificates at sales in Reading. Officers had left their certificates with him to buy some of the Andrew Allen estate. But other people had bought certificates from soldiers at such reduced rates that they were able to bid a hundred pounds an acre, whereas he could not bid twelve. Mentges urged Reed to check whether the certificates had been signed by the commanding officers. Apparently the requirements did not tighten up

<sup>13</sup> Dr. W. Brown to Supreme Executive Council, May 12, 1778, *Pennsylvania Archives*, Second Series, III, 165-166; Thomas Holmes to *ibid.*, Jan. 3, 1783, Pennsylvania Historical and Museum Commission (PHMC hereinafter), RG 27, Forfeited Estates File; *Colonial Records*, XII, 256, 261, 263, 268-269.

appreciably over the years, because when Nicholas Brosius bought Andrew Allen's property in Bucks County in 1786 he paid the major part of the cost with certificates that had been issued originally to some thirty individuals.<sup>14</sup>

John Nicholson, the Comptroller General of Pennsylvania, was a heavy speculator in these certificates, although in his case there was at least some concern for the welfare of the state. In April 1787, a part of Andrew Elliot's estate, a small lot near South Street, Philadelphia, was auctioned and struck off to Nicholson for £20 which he paid in certificates. Subsequently, he sold his right to the lot for £20 specie. According to the law the certificates were supposed to be equal in value to specie. Yet, Nicholson reported in November 1787 that after repaying himself the original purchase money and expenses of the deed, he used the residue to buy depreciation certificates for the state and "thereby redeemed the sum of £58.10.0 of the public debt, beyond the £20 purchase money."<sup>15</sup> Nicholson bought at least six pieces of confiscated property—how much for the benefit of the state and how much for himself is difficult to tell.

Not only did the Comptroller General dabble in confiscated estates, individuals involved in running the sales bid for themselves. Six purchasers were Agents for Forfeited Estates (Charles Willson Peale, Peter Nagle, William McMullen, Henry Haller, Stephen Balliets, William McNair), and another, Henry Osborne, was Superintendent of Forfeited Estates. At the York sales, Thomas Armor, Jr., who made two purchases, was the surveyor of the auctioned land, and John McMaster who bought a lot was his assistant. Apparently there was no concern at that time over the possibility of conflict of interests.

The Secretary of the Supreme Executive Council was given the job of keeping complete records of confiscated estates, but indications are that this injunction was not strictly obeyed. Nevertheless, in the published *Pennsylvania Archives*, there are two volumes devoted exclusively to the records of their sales.<sup>16</sup> The extant original

<sup>14</sup> Andrew Elliot to Sir Gilbert Elliot, June 1783, *Pennsylvania Magazine of History and Biography*, XI (1887), 336; *Pennsylvania Archives*, First Series, IX, 216; PHMC, RG 27, Forfeited Estates File.

<sup>15</sup> Nicholson to President in Council, Nov. 19, 1787, PMHC, RG 27, Forfeited Estates File.

<sup>16</sup> *Pennsylvania Archives*, Sixth Series, XII, XIII.

records from which the contents of these volumes were selectively transcribed have been edited and are now available on microfilm in the Division of Archives and Manuscripts, Pennsylvania Historical and Museum Commission. Together they contain the inventories and appraisals of the personal property taken and lists of the selling price of each item. Here also may be found preliminary reports from the various county Agents for Forfeited Estates of real estate known to belong to attainted traitors, followed by the results of their sales with an accounting of expenses.

Through the use of both the printed volumes and the original documents that remain, clear records may be found of the confiscation of 372 units of land belonging to 121 persons. The names of all but one of these persons appeared either in the act of Assembly or in one of the subsequent proclamations. The exception, George Harding, was attainted after trial and conviction. Although his person was pardoned on condition he leave the state, his property was still confiscated.

The greatest losers of land were, of course, the heirs of William Penn. By act of November 27, 1779, the Pennsylvania Assembly deprived the Penns of all their proprietary rights and gave to the legislature the authority to dispose of the confiscated property. Although lands surveyed for the Penns in their private capacity before July 4, 1776, and also all the lands called proprietary tenths or manors were exempted from the divestiture, the Penns estimated their loss at more than 21,500,000 acres with a value of nearly £1,300,000.<sup>17</sup> To indemnify them for the lost land, the Assembly voted £130,000 sterling to be paid one year after the end of the war at the rate of £15,000 per year.<sup>18</sup>

The property of attainted persons came in all sizes and locations. The greatest number of land parcels were located in the city (79) and county (118) of Philadelphia—197 out of the 372. Many reasons could be cited for this. Land was most valuable around the city and therefore most profitable to the state. In the urban areas,

<sup>17</sup> Loyalist Transcripts, LI, 232-291, New York City Public Library.

<sup>18</sup> In addition, England granted the Penn family a pension of £4,000 a year. The major recipient of these funds was John Penn, the younger, son of Thomas Penn and grandson of William, who received three-fourths of the total estate. Nicholas B. Wainwright, "The Penn Collection," *Pennsylvania Magazine of History and Biography*, LXXXVII (1963), 399.

absences were more apt to be noted and reported than in a rural location. And, of course, opponents of the Revolution who lived in the Philadelphia area were tempted to defect to the British during the occupation when the enemy held out the offer of transportation to England or to other colonies for those who chose to leave.

Of the 372 units confiscated, 323 were sold to 196 individuals, forty-five were granted outright to the university, and four were set aside for the use of state officials. Six groups of three or more men combined to buy nine estates costing a total of £434,968. Another fourteen parcels were sold for £246,005 to ten pairs of buyers; the rest was bought by individuals. Although not liberally represented, six women bought land, three of them repurchasing family farms forfeited by their husbands' attainders.

Since the purpose of the confiscations was to raise money for the state, the property of the richest defectors was taken and sold under conditions that would discourage its purchase by anyone who was not moderately affluent. Thus, it is not surprising that among the 196 persons who bought estates, either singly or with others, were many prominent citizens. Fifty-two have been identified as army officers; John Bull, William Coates, and Charles Willson Peale served in the Assembly; James Smith represented Pennsylvania in Congress; and Thomas McKean was Chief Justice of the state. While the largest number were merchants, there were at least seven doctors, three ministers, and two lawyers.

Many of the buyers at various times during the war held important appointments. For example, Joseph Dean was an Auditor of Public Accounts and Commissioner of Philadelphia County. Andrew Bunner took subscriptions for the Continental loan in Philadelphia, John M. Nesbitt was appointed to settle the accounts of the Council of Safety, and Christian Wirtz was Commissioner of Purchases for Lancaster. Ephraim Blaine was Commissary General, John Chaloner Deputy Commissary of Purchases, and William Crispin Commissary for Supplying the State Fleet.

Thus, while not all 196 purchasers were prominent, most were well known. In any case, since all buyers had to have the necessary cash to complete their purchases in thirty days, it was unlikely that the poor participated in the sales. The confiscation of the estates was not intended to help landless individuals acquire property.

Even the shift in control over vacant land from the Penns to the state made little difference in its ease of acquisition by the propertyless, for land never was very hard to obtain in Pennsylvania. Elizabeth and Solon Buck have shown that settlers simply squatted on unoccupied land, built a homestead, and then demanded that the province recognize their rights. Long before the Revolution, improvement of vacant land had been recognized as creating a quasi title that could later be converted into complete ownership. After the treaty of Fort Stanwix in 1768, land was offered at £5 per 100 acres. It did not have to be paid for until the patents were taken out, and this was often deferred indefinitely.<sup>19</sup>

Perhaps the ease with which land could be acquired helps account for the lack of interest in buying refugees' estates. After a flurry of excitement about the first sales, there is some indication that the demand for the confiscated properties decreased markedly. By September 1787, when land of Andrew Allen in Northumberland County was slated to be sold, John Nicholson was concerned about the availability of purchasers. The rules required the sales to be held in the county where the land was located, and Nicholson thought that there might not be many persons in Northumberland who would want to buy or who would have certificates, so he instructed his agent to bid up the price. As it turned out, there was only one other bidder at the sale, and the land was struck off to Nicholson.<sup>20</sup>

Not only did buyer interest decline, but the Supreme Executive Council showed decided lack of vigor in proclaiming persons. Proclamations were issued only during the three-year period from March 1778 to April 1781, when the British seemed to be a threat, and by far the greatest number of persons were proclaimed between March and October 1778, when emotions were at a peak about the British occupation. During those seven months, 410 names, or more than 80 per cent of the total 500, appeared in the original act of Assembly and in four Council proclamations. Yet, those listed in the proclamations were not the only opponents of the Revolution

<sup>19</sup> Solon J. and Elizabeth H. Buck, *The Planting of Civilization in Western Pennsylvania* (Pittsburgh, 1939), 139-143. This is supported by the evidence of Andrew Allen, witness for the claim of James Rankin. Loyalist Transcripts, L, 345-347.

<sup>20</sup> Nicholson to Benjamin Franklin, Nov. 19, 1787, PMHC, RG 27, Forfeited Estates File.

who left Pennsylvania. The Council members knew there were others and that some of them owned property. The Agents for Forfeited Estates often had to forward the names of defectors over and over before Council would take action. Sometimes the Agents seized estates that subsequently had to be returned because Council never did proclaim the names of the owners. William Courtney's 150 acres in Westmoreland County were sold in October 1782, but the money had to be returned in March 1787 when it was discovered that Courtney never had been attainted, and this in spite of the Agents reporting his name at least twice.<sup>21</sup>

As a result of the Supreme Executive Council's reluctance to use its power, the total area of land included in the confiscated estates was relatively insignificant. With inland water deducted, Pennsylvania contains 28,828,800 acres. Confiscated by the state were 125 lots containing less than one acre and other parcels of land containing approximately 39,000 acres, or only a little over one-tenth of 1 per cent of all the land in Pennsylvania. Even if only the land already distributed by the proprietors is considered, the percentage involved is still very small. In their claim with the British, the Penns said that they had sold or given away 6,363,072 acres. The confiscated estates were six-tenths of 1 per cent of this figure. It might be argued that the Loyalists owned the best land, so that its sale was important beyond its size. But if this indeed had been the case, then the demand for it would certainly have been greater than it was.

Not only was the amount of land involved relatively small, but the number of people affected was equally so. The Revolutionary population of Pennsylvania has been variously estimated at anywhere from 250,000 to 300,000. Using the lower figure, one-tenth of 1 per cent of the land in the state was taken from five one-hundredths of 1 per cent of its people and sold to eight one-hundredths of 1 per cent of its people. Even if all 196 new owners had been destitute and the estates given to them, the redistribution of the land would not have made much difference. But this was not the case. As

<sup>21</sup> George Stewart to John Dickinson, July 2, 1783, *ibid.*, Lancaster County; Report of the Confiscated Estates in the County of Westmoreland, Feb. 4, 1782, and Proctor and Galbraith to Supreme Executive Council, Jan. 14, 1783, *ibid.*, Westmoreland County; *Pennsylvania Archives*, Sixth Series, XIII, 474.

shown before, the land was sold to those who could afford prompt payment of the highest price obtainable.

To the individual dissenter whose flight from the state in opposition to its new government meant the loss of all his property, confiscation was a very tragic and revolutionary occurrence. But in the total picture of the whole state and all its people, the confiscations were not of lasting significance. Other than the sizable benefit given to the state university, perhaps the most long-lasting effect of the confiscations was the post-Revolutionary revulsion from the principle of attainder that resulted in such acts being banned in the United States Constitution, thus assuring that they would never be used again.

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