There are many unsettling images that come to mind when one thinks of war, images that contrast starkly with commemorations that come after. Vulnerable, scared people dragged from their homes, animals carried off, and children ripped from their families all elicit very different sensations than that of a dignified memorial, a political treatise, or a celebratory account. Chaos swirls just under the surface, with more extreme acts of violence and cruelty looming. Against the backdrop of warfare, the lives of ordinary people are precarious. The safety and security of their day-to-day lives, and their identification with a given cause, leaves individuals, families, and communities unsure of who is an ally and who is an enemy. Possessions in all their various material forms that had once seemed so permanent—from land and homes to livestock and other domestic animals, food, and furniture, to clothes, and books, and keepsakes—become fleeting. In the aftermath of uncertainty and fear individuals, communities, and nations seek to situate their experiences in a larger story.

The American war for independence was no exception. And yet, as Howard Pashman argues in Building a Revolutionary State: The Legal Transformation of New York, 1776 – 1783, there were exceptional aspects of what transpired amidst the American Revolution. The narrative that emerged immediately following the end of the conflict did not always align the principles of the struggle with the practices. Nowhere was this contradiction clearer than in the treatment—before, during, and after the war—of property. Shortly after the fight for independence began, calls for wealth redistribution followed. Using New York state as a case-study, Pashman argues that property redistribution—as with other revolutionary movements around the globe—was fundamental to the lived experience of patriots, loyalists, and neutral New Yorkers alike. Distinctly, however, from other revolutionary outcomes, this property redistribution solidified support for the government and stabilised the legal regime.

This is a refreshingly straightforward thesis. Wealth redistribution often conjures those previously-mentioned images of chaos and disorder, violence and disruption. It also, particularly in the present-day, is critiqued as an exercise in giving away resources to those who do not, for whatever reason, deserve it. But, as Pashman demonstrates, wealth redistribution achieved quite the opposite in this case: order instead of chaos; justice (of a sort) rather than unmitigated violence. A “revolutionary state confiscating property from
supporters of the old regime appears foreign to most Americans,” contrasting with the usual framing of the American Revolution as a popular uprising underpinned by respect for private property. However, Pashman argues, “legal systems” were rebuilt “not in spite of harsh, partisan practices, but because of them.”

Although *Building a Revolutionary State* focuses solely on New York, it sets out to take a “broad perspective” and “highlight some of the larger processes that shaped America’s experience.” This experience manifested itself in three ways: the needs of regular people for basic subsistence; the enactment of revenge and punishment; and the linking of those regular people to the nascent state. This threefold rationale was and is part of a challenge faced by insurgents and uprisings around the world in different historical periods: how to redistribute property.

In focusing on the theme of property and the space of New York, *Building a Revolutionary State* draws on several sets of intersecting scholarship. Approaching the history of wealth reallocation in both its egalitarian and—in Pashman’s words—coercive elements, *Building a Revolutionary State* takes a social history approach to the law. Whereas legal histories of the late 18th century take a conceptual approach to periodisation, looking at the collapse of imperial legal practice and then the confederal and federal structures that came after the war, Pashman is more concerned with the experience of law during the conflict itself. “Legal history from below,” or “social norms and lived experiences” are regarded alongside formal and constitutional documentation in this approach, which aims to better understand the complexities of state formation.

Case-studies of families and individuals are central in the narrative of *Building a Revolutionary State*, much as the experiences of these people were central to the solidification of legal authority in the American Revolution.

Often when teaching the history of this period, I open discussion with the question of why we refer to the American war of independence as a revolution. The stories described in *Building a Revolutionary State*: of everyday people alongside elites; of those committed to independence as well as those against it; and of those with very little opinion on the matter, are key to illustrating the relevance of that question. In each of the four chapters, Pashman demonstrates how the distribution (and protection) of resources drove much of the demand placed on the legal regime between 1776 and 1783. The first chapter provides the background of legal culture in New York, particularly how the Dutch and English legacies created a unique set of circumstances, including demands to balance out wealth disparities, particularly in Tryon County. Chapter two describes how the incarceration, expulsion, or flight of loyalists set the groundwork for the reassignment of their goods and land by encouraging the trust of everyday people in the unstable government. Chapter three explores the early efforts of redistribution by incentivising people to accept the authority of the state. While the legal framework for this process was ad hoc initially, chapter four describes how a comprehensive regime was established by 1779 that tied the loss of property to being an ‘enemy of the state.’ These forfeiture laws, Pashman concludes, worked with such intensity that by the end of the war there had “culminated a process of consolidation” that “connect[ed] supporters to the independent state while also cutting off enemies and driving them away.”

Chapter One, “Law and Property in Colonial New York,” looks at the Johnson family and how their activities in the immediate lead-up to the revolution provide a lens into the larger roots of property redistribution in the colony. An extremely prominent family, the Johnsons had exceptional power in New York politics as well as alliances and relationships with the Iroquois, or Haudenosaunee, Six Nations. Johnson Hall, the family estate of William Johnson and his descendants, was located in Tryon county, originally part of Albany county and, by 1775, was arming tenants to protect the properties in the face of extralegal committees forming under the Patriot cause. The clash between the Johnson family-backed Sheriff White and many locals living in Tryon boiled over in physical altercations. As Pashman describes, “what began as a fight on a farm came to embody the mistreatment that many in Tryon had suffered from a high-handed local official and his wealthy patron.” The fundamental discrepancy in wealth and influence, embodied in the landownership of a few elites at the expense of tenant farmers and workers—like Rensselaerswyck and Cortlandt—created a “popular contempt for law enforcement” not easily solved when colonial government gave way to an independent one.

This tension carries over into Chapter Two, “Confronting Disorder.” A fundamental mistrust of government, born of the heavy-handedness of the colonial bureaucracy, was the first problem that a wartime provincial
government had to solve, especially in the midst of violence and fear that dominated the latter half of 1776. War in all its “ugliness and destruction” was managed, in some form, by the Committee for Detecting and Defeating Conspiracies. The Committee’s claim to authority lay in its ability to cultivate both a sense of safety and common ground amongst New Yorkers, even if at the expense of New Yorkers who were loyalists. Contradictorily, it was ultimately through means that could be seen as extralegal—a mix of intimidation and denouncement of rivals (at times, regardless of their actual political persuasions)—or ad hoc that would a more formal order was achieved.

Chapter Three, “A Bonanza of Tory Goods,” traces the rise of this order. Property redistribution “generated popular support for the regime at a time when it desperately needed New Yorkers’ active assistance to enforce its commands.” This “paradoxical process of revolutionary state building,” was a destabilising of property rights at the exact moment where the government was scrambling to stabilise legal authority. Bartholomew Crannell and other fleeing loyalists found their property requisitioned, initially to meet basic needs of New Yorkers deemed sufficiently patriotic and dedicated to the new state. Because there was not yet a stable court system or other means of formal redress, New Yorkers who were confronting substantial challenges, from inflation to food shortages to continued physical unsafety, had little opportunity to improve their day-to-day lives. Leasing land, appropriating goods—and the purchase of both—was in part a process of one person out patriot-ing the other, against a backdrop of revenge and desperation. The choice to align with a government which provided both financial necessities and the means of retaliation against enemies was an incentivised one.

Chapter Four, “The Enemies of the State,” observes how this dynamic worked under an emerging legal system. Through the creation and stabilisation of legislatures and court systems, the weak New York state was able to navigate through the particularly fraught period between 1778 and 1779. When the state did not meet “public demands for further confiscation,” New Yorkers began to “turn their backs on state institutions,” “convincing that institutions such as courts could not resolve their most basic needs.” A forfeiture law, passed in October of 1779, dramatically changed this landscape. Petitioners, Pashman describes, “announced that their support for the new legal order depended on whether the revolutionary state redistributed property.” Redistribution then, as a condition of support for the state, also held the potential to break down the barriers to land ownership and other elite privilege which dominated the colonial social structure. The removal of loyalists via the court system, resulting in their exit from the state or incarceration, left behind communities who were deeply invested in the new state. Take for example the town of Rhinebeck, where “miscreants,” i.e. loyalists, “shall not reside within this precinct.”

And yet, “revenge and persecution,” Alexander Hamilton would ultimately conclude, had no place in the Revolution which was, he mused, dictated by a respect for law and order, and of course, property. This revisionism speaks clearly to the first of many strengths of Building a Revolutionary State. Each chapter addresses one of the stepping stones for Building a Revolutionary State: first, a skepticism for a legal system that works on behalf of the people; second, extralegal efforts to cultivate authority; third, turning specifically to property redistribution; and fourth, the solidification of a legal regime around property redistribution. In each of these stages, there is a deep emphasis in this narrative on the lived experience of the law, or a lack of it. Building a Revolutionary State does an excellent job of emphasising why property redistribution was so critical to both everyday people and those in government, while also not diminishing the strain placed on those—from the very wealthy to those less so—who remained committed to Britain.

Given this attention to the immediate aftermath of independence, and particular focus on how commemoration of the war rapidly revised the role played by wealth redistribution, there is a second powerful strength which stands out in Building a Revolutionary State. Pashman likely did not predict how, in the year following publication, a heated discussion about reparations for the descendants of chattel slavery in the United States would arise. Reparations are of course distinct from wealth redistribution, and yet in the context of Reconstruction, they were very much intertwined through an unfulfilled promise to redistribute confederate land to formerly enslaved people. This is not at all intended to conflate loyalism with the white supremacy that undergirded the confederacy, but rather to point out that Building a Revolutionary State...
provides a valuable context for understanding the complex relationship between property and power.

This brings me, however, to one critique of Building a Revolutionary State. Another, previously unmentioned, virtue of this book is how concise, clear, and direct its arguments are. As a focused case-study on New York, the parameters of the narrative are very defined. But, despite the completely reasonable parameters, slavery is notably absent from Building a Revolutionary State. Pashman is thoughtful in addressing the shift in the scholarship towards recognising and studying the centrality of enslaved and Indigenous people—as well as women of all backgrounds—to the history of the American Revolution (as recognised clearly on page nine). In this nuanced discussion about property, possession, and ownership, I found myself asking what happened to enslaved people amidst these debates on redistribution. As unsettling, to say the least, as it is to view enslaved people in those terms, how was property in persons resolved in loyalist incarceration and flight? This need not be the central focus of the study by any means, but a brief address to this question would be helpful for the reader, especially given recent scholarship on later gradual emancipation from David Gellman, Sarah Levine Gronningsater, Paul Polgar, and others.

This sole critique of Building a Revolutionary State can no doubt be attributed to the tightness of the book. Put another way, it is wonderfully readable, and relatively short, making it a terrific resource for undergraduate classrooms. It is particularly valuable for yet another timely reason: the sesquicentennial of the American Revolution. In the immediate rewriting of the revolution as a movement in favor of property rights—which no doubt was a component, particularly in understanding the impact of Somerset v. Stuart—rather than one which had wealth redistribution at its core, we can see the use of historical memory. In the 250 years since the war for independence, the United States has grappled with its legacy. Understanding the role of property redistribution in that legacy seems that much more significant in 2019.

Notes

2. Pashman, Building a Revolutionary State, p. 14. [Back to (2)]
3. Pashman, Building a Revolutionary State, p. 7. [Back to (3)]
4. Pashman, Building a Revolutionary State, p. 13. [Back to (4)]
5. Pashman, Building a Revolutionary State, p. 19. [Back to (5)]
6. Pashman, Building a Revolutionary State, p. 60. [Back to (6)]
7. Pashman, Building a Revolutionary State, p. 60. [Back to (7)]
8. Pashman, Building a Revolutionary State, p. 86. [Back to (8)]
9. Pashman, Building a Revolutionary State, p. 90. [Back to (9)]
10. Pashman, Building a Revolutionary State, p. 106. [Back to (10)]

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